

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

ORIGINAL

THE STATE,

RESPONDENT.

V.

RICKY ANTHONY SHORT,

APPELLANT

APPELLATE CASE NO 2018-000782

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT'S ARE ON FILE WITH THIS COURT:

PRE-TRIAL HEARING EXHIBIT'S:

**COURT'S EXHIBIT NO. 1 (CD), COURT'S EXHIBIT NO. 2 (CD), STATE'S EXHIBIT
NO. 2 (CD)**

TRIAL EXHIBIT'S:

**STATE'S EXHIBIT NO. 13 (CD), DEFENSE EXHIBIT NO. 13 (CD), STATE'S EXHIBIT
NOS. 1-21 (PHOTOS), STATE'S EXHIBIT NOS. 23-28 (PHOTOS), STATE'S EXHIBIT
NOS. 32-48 (PHOTOS), STATE'S EXHIBIT NOS. 50-57 (PHOTOS), STATE'S EXHIBIT
NOS. 72-76 (PHOTOS), STATE'S EXHIBIT NO. 30 (DISK OF STATEMENT)**

STATE OF SOUTH CAROLINA	)	THE COURT OF GENERAL SESSIONS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	INDICTMENT NUMBERS: 2016-GS-10-1699
		2016-GS-10-1700
STATE OF SOUTH CAROLINA,	)	2016-GS-10-1701
	)	
Plaintiff,	)	
vs.	)	MOTION TO SUPPRESS STATEMENT
	)	
RICKY ANTHONY SHORT,	)	
	)	
Defendant.	)	

TO: SCARLETT WILSON SOLICITOR, AND BURNS WETMORE, ASSISTANT
SOLICITOR, NINTH JUDICIAL CIRCUIT:

PLEASE TAKE NOTICE that the Defendant above-named, by and through his undersigned attorney, A. Peter Shahid, Jr., hereby moves before the Charleston County Court of General Sessions ten (10) days after the date of service of this motion, or as soon as the matter may be heard, for an order suppressing any and all statements, oral, written and/or recorded, alleged to have been made by the above-named Defendant on or about October 10, 2015, obtained in violation of the right against self-incrimination as protected by the Fifth and Fourteenth Amendments to the United States Constitution and in violation of Article I, Section 12 of the Constitution of the State of South Carolina.

Respectfully submitted,



A. Peter Shahid, Jr.
Attorney for Defendant
89 Broad Street
Charleston, SC 29401
Phone 843/853-4500

FILED
2016 APR -3 AM 11:48
J. J. ARMSTRONG
CLERK OF COURT
BY [Signature]
Charleston, SC
April 3, 2018

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served via U.S. mail this 3rd day of April 2018 to: **Burns Wetmore, Assistant Solicitor**, 100 Broad St., Charleston, SC 29401.



Amy E. Haley

FILED
2018 APR -3 AM 11:48
JULIA S. ARMSTRONG
CLERK OF COURT
BY MA

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
STATE OF SOUTH CAROLINA)
)
)
)
)
v.)
)
RICKY ANTHONY SHORT,)
)
)
)
Defendant.)

FOR THE NINTH JUDICIAL CIRCUIT

IN THE COURT OF GENERAL SESSIONS

CASE NOS.: 2016-GS-10-1699
2016-GS-10-1700
2016-GS-10-1701

MEMORANDUM IN SUPPORT OF
DEFENDANT'S MOTION TO SUPPRESS
STATEMENTS

2016 APR 16 PM 12:48
CLERK OF COURT
MA

The Defendant filed a Motion to Suppress Statements on April 3, 2018, seeking to suppress any and all statements, oral, written and/or recorded, alleged to have been made by the above-named Defendant on or about October 10, 2015, obtained in violation of the right against self-incrimination as protected by the Fifth and Fourteenth Amendments to the United States Constitution and in violation of Article I, Section 12 of the Constitution of the State of South Carolina.

The Fifth Amendment of the Constitution states, “No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”

The Fourteenth Amendment of the Constitution states, “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of

the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Article I, Section 12 of the Constitution of the State of South Carolina states, “No person shall be subject for the same offense to be twice put in jeopardy of life or liberty, nor shall any person be compelled in any criminal case to be a witness against himself.”

The Defendant is charged with two counts of murder of an adult woman who was 25 weeks pregnant at the time of the assault. This incident allegedly occurred in the late evening of October 10, 2015. Ms. Frazier, who subsequently died from multiple stab wounds, was found lying on Railroad Avenue in North Charleston. Railroad Avenue intersects Montague Avenue. It is anticipated that evidence will be submitted to the Court reflecting that the Defendant and the victim had spend the greater part of that day together. At some point in time, following an argument, it is believed that the victim left the Defendant’s residence on Harper Street (Harper Street runs perpendicular to Railroad Ave.)

According to the 9-1-1 call record, Ricky Short called 9-1-1 at 11:23 pm. The first law enforcement officer to arrive at the scene is NCPD Officer O’Connell, who arrived at 11:28 pm. According to the in-dash camera and other NCPD recordings, the Defendant was handcuffed at 11:35 pm and placed inside a patrol car. At 11:41, an officer at the scene can be heard on a Body Worn Camera recording stating, “we need to read him his Miranda rights.”

The Defendant is subsequently transported to the North Charleston Police Department and can be seen in an interrogation room not wearing a shirt, at approximately 1:19 am on the

morning of October 11, 2015. An officer wearing a blue shirt enters the room shortly thereafter to begin questioning the Defendant.

Between 1:19 am and 4:25 am, other officers enter and exit the interrogation room. Throughout this interrogation, the Defendant is photographed and his body and mouth are swiped. It is not until approximately 4:26 am, two officers read the Defendant his *Miranda* rights, in spite of approximately three hours of off and on interrogation. Advice of Constitutional Rights, attached hereto as "Exhibit A". The Defendant is interrogated by at least three officers, including a black female officer, who is with a white male officer wearing a baseball cap. They questioned the Defendant from approximately 6:27 am to 6:52 am. From 6:54 am until almost 11:00, the officer wearing the baseball cap interviews the Defendant. At approximately 10:51, the Defendant questions whether or not he is a suspect and whether he is being charged with murder.

The interrogation continues with the black female officer returning at 11:36 am and questioning the Defendant until 12:09 that afternoon. Thus, the Defendant is subjected to just under 12 hours of interrogation. A copy of the time line is attached hereto as "Exhibit B."

Whether a suspect is in custody is determined by an examination of the totality of the circumstances, such as the location, purpose, and length of interrogation, and whether the suspect was free to leave the place of questioning. *State v. Evans*, 354 S.C. 579, 582 S.E.2d 407 (2003). It is an objective determination, that is, would a reasonable person have believed he was in custody. *State v. Navy*, 386 S.C. 294, 688 S.E.2d 838 (2010); *State v. Evans*, 354 S.C. 579, 582 S.E.2d 407 (2003).

In *Missouri v. Seibert*, 542 U.S. 600, 124 S. Ct. 2601, 159 L. Ed. 2d 643 (2004), the United States Supreme Court dealt with the police practice of questioning a suspect until

incriminating information is elicited, then administering Miranda warnings. Following the warnings, the suspect is again questioned and the incriminating information re-elicited. The post-warning statement is then sought to be admitted. *State v. Navy*, 386 S.C. 294, 688 S.E.2d 838 (2010). The factors to be considered in determining whether a constitutional violation occurred in this setting, according to the Seibert plurality opinion, are: (1) the completeness and detail of the question and answers in the first round of interrogation; (2) the timing and setting of the first questioning and the second; (3) the continuity of police personnel; and (4) the degree to which the interrogator's questions treated the second round as continuous with the first.

Justice Kennedy wrote separately, stating that while he agreed with much of the plurality opinion, he wished to emphasize that not every Miranda violation would require suppression. He explained that an exception should be made where the officer may not have realized that a suspect is in custody and therefore a warning was required, or where the officer did not plan to question the suspect at that juncture. Justice Kennedy noted that in *Seibert*, the two-step technique was used to deliberately avoid Miranda, using a strategy based on the assumption that Miranda warnings will mean less when given after an incriminating statement has already been made. Under these circumstances, Justice Kennedy agreed the statements must be suppressed unless "curative measures" were taken. As examples of curative actions, Justice Kennedy suggested a substantial break in time and circumstances between the pre-warning statement and the warned, or an additional warning before questioning resumes that the pre-warned statement is not admissible. *State v. Navy*, 386 S.C. 294, 688 S.E.2d 838 (2010).

It is undisputed that the Defendant was in police custody from the moment he was handcuffed within 15 minutes after the police arrive at the crime scene. The police obviously

were aware of the Defendant's custodial status and the need to advise him of his Constitutional rights. In spite of this clear violation, he is in custody and the police fail to provide those rights allowing him to be questioned for three hours. The Defendant is not allowed to rest, but is subjected to a late night through early afternoon barrage of questioning by three different officers.

In *State v. Navy*, Navy was convicted of homicide by child abuse in the suffocation death of his almost two year old son (who also had prior healing rib fractures) and received a twenty year sentence. During their initial investigation into the child's death, the officers began the questioning of Navy with knowledge that the child had been suffocated and with the intention of eliciting a confession. After Navy's first oral statement, the officers "sprang" the suffocation/healing rib fractures information on Navy, and began an unwarned custodial interrogation designed to elicit incriminating information, that is, questioning designed to have Navy admit to having hit the child and to having smothered him. Once those incriminating answers were given—i.e. after Navy admitted he had popped the child on the back and "patted" his mouth—Navy was permitted a supervised cigarette break, then given Miranda warnings, with interrogation by the same officer resuming immediately. The Supreme Court found the four elements outlined in *Seibert* were therefore met. Moreover, none of the curative measures suggested by Justice Kennedy, i.e. an additional warning that the answers given after the first statement but before the administration of Miranda warnings may not be admissible, a substantial break in time, or change of circumstances, occurred.

The *Navy* Court noted that in *Oregon v. Elstad*, 470 U.S. 298, 105 S. Ct. 1285, 84 L. Ed. 2d 222 (1985), the officer asked a few questions of the suspect at the suspect's home before transporting him to the police station for questioning. In contrast, in *Navy* the officers questioned

Navy at headquarters for almost three hours before giving the warning. Moreover, after the first round of detailed questioning resulted in the first statement, Navy was confronted with the autopsy results which stated that the cause of death was suffocation, and that there was evidence of old bone breaks, followed by more detailed questioning. Thus, the rule in *Seibert* applied to bar admission of the second and third statements. *State v. Navy*, 386 S.C. 294, 688 S.E.2d 838 (2010).

In *Navy*, the State argued that this case differed from *Seibert* in that there was evidence in *Seibert* of a deliberate police practice, the “question first” strategy. The Supreme Court held deliberate practice was not determinative in *Seibert*. The Court added, “Moreover, since *Seibert* had not been decided before Navy's trial, it is not surprising that defense counsel did not specifically question Investigator Smith whether he was using this strategy. Finally, the *Seibert* Court acknowledged that it was unlikely that law enforcement would admit it was using the ‘question first’ technique, and thus evidence that officers were following this protocol was not necessary in order for a *Miranda* violation to be found.” *State v. Navy*, 386 S.C. 294, 688 S.E.2d 838 (2010).

It is respectfully submitted that the Court look at the totality of these particular circumstances, in which the police obviously made a decision to arrest the Defendant within moments of observing the victim lying on the ground, having been stabbed numerous times. Without further investigation, the Defendant is deemed the prime suspect. The decision to read the Defendant his *Miranda* rights several hours into the investigation does not cure any Constitutional violation. The statements made by the Defendant are thus obtained in violation of his basic rights to remain silent and not be witness against himself.

Conclusion

Statements given by the Defendant, Ricky Short, were obtained in violation of the right against self- incrimination as protected by the Fifth and Fourteenth Amendments to the United States Constitution and in violation of Article I, Section 12 of the Constitution of the State of South Carolina and accordingly should be suppressed.

Respectfully submitted,



A. Peter Shahid, Jr.
Attorney for Defendant
89 Broad Street
Charleston, SC 29401
Phone 843/853-4500

Charleston, SC
April 15, 2018

FILED
2018 APR 16 PM 12:48
CLERK OF COURT
MK

EXHIBIT A

NORTH CHARLESTON POLICE DEPARTMENT

ADVICE OF CONSTITUTIONAL RIGHTS

OCA: 2015031868Full Name: Ricky Anthony ShortDate of Birth [REDACTED]Age: 26 Grade Completed in School 12TH~~Diploma~~ GED Wilson Cary Hs 2007

I, Ricky Anthony Short, have been advised by Det. KROGER of the North Charleston Police Department that:

I have the absolute right to remain silent and do not have to answer any questions or give a statement and this fact cannot be used against me. RS

If I do answer questions or give a statement, anything I say can and will be used against me in a court of law. RS

I have the right to consult with a lawyer of my choice before I answer questions or give a statement and also have him/her present while I am being questioned. RS

If I wish to talk to a lawyer or have him/her present, but I am unable to afford to hire a lawyer, one will be appointed to represent me free of charge. RS

If I decide to answer questions or give a statement without having a lawyer present representing me, I have the absolute right during this interview to stop answering questions and to remain silent. RS

I FULLY UNDERSTAND EACH OF THESE RIGHTS EXPLAINED TO ME.

Witness: [Signature] 114Signature: [Signature]Witness: [Signature] 114

Having these rights in mind, I wish to waive these rights and answer questions. No threats, force, or promises of any kind have been made to me by anyone to cause me to waive these rights and/or answer questions.

Witness: [Signature] 114Signature: [Signature]Witness: [Signature] 114Date: 10/11/2015 Time: 0426

EXHIBIT B

Interview with Ricky Short by Police

1:19:15 – RS walks in door

1:19:55 – unidentified NCPD officer walks in door

1:43:00 – NCPD (blue shirt) leaves

1:57:50 – Same officer (NCPD blue shirt) returns

2:16:00 – NCPD blue shirt leaves

2:31:25 – Same officer (NCPD blue shirt) returns to take photo

2:32:32 – NCPD blue shirt leaves

2:34:26 – Officer returns with photographer

2:37:32 – Photographer leaves

2:39:15 – Photographer returns

2:40:35 – Photographer returns with officer

3:36:51 to 3:37:44 – Officer returns to take body swipes

3:51:25 – two officers enter room (one blue shirt and one w/BB cap)

4:08:52 – Both leave

4:25:00 – same two NCPD return to advise RS of his rights. Ricky says am I being charged. Officer says we do it for everyone now.

5:12:00 – two officers leave

5:58:12 – two officers return

6:23:12 – officer in blue shirt leaves

6:27:17 – BFM enters with NCPD w/BB cap still there

6:31:00 – NCPD w/BB cap leaves

6:35:34 – NCPD w/BB cap returns

6:49:51 – NCPD w/BB cap leaves

6:50:40 – NCPD w/BB cap returns. Cut the shit; we have video, shut up.

6:51:00 – NCPD w/BB cap

6:52:49 – BFM officer leaves

6:54 – officer with BB cap tells RS his theory as to why RS comes back to scene. Officer says RS is guilty and remorseful or to make sure she is dead.

6:56 – BB cap officer: if you are a God fearing man, you are going to tell the truth

6:57:21 – NCPD BB cap leaves

6:58:40 – NCPD BF officer and W/M with BB cap; one chance to get forgiveness

7:21:40 - both officer leaves

7:30:15 – BB cap officer returns; one time to offer explanation or remorse; not asking for forgiveness;

7:33:11 – BB cap leaves

8:37:37 – BB cap officer returns

9:03:02 - BB cap officer leaves

9:34:00 - BB cap officer returns

9:36:00 – BB caps officer leaves

9:38:17 – RS leaves room

ROOM EMPTY

9:40 – RS returns

9:41:30 – NCPD w/blue shirt enters

9:43 – RS says “it ain’t by me”

9:48:57 – leaves

10:08:21 – BB cap returns; tells RS found jacket and knife / RS – what jacket & knife / NCPD your old navy jacket. It's done / RS – what do you mean it's done? What shirt?

10:10 – blue shirt enters

10:10:48 – blue shirt leaves

10:12 – A minimal

10:12:30 – unable to admit

10:12:48 – baby likely to die

10:13:20 – making a mends is the ability to admit

10:14:00 – I would like to know why the lady lost her life / RS – so would I

10:15:42 – forgiveness

10:16 – can't ask for forgiveness

10:18:20 – what makes a boy a man?

10:21:50 – (RS) you're saying that I fit in the category

10:32:00 – (RS) we all make mistakes

10:32:20 – NCPD w/BB cap leaves

10:34:10 – NCPD w/BB cap return

10:36:30 – (RS) I told you what I saw

10:37:08 – (RS) I know what I said

10:40:00 – (RS) Tell me what you know

10:40:30 – (RS) what detail

10:42 – (RS) I don't know what she said

10:44:44 – NCPD w/BB cap leaves

10:45:28 - BB cap returns and plays a recording to RS

10:24:19 - (RS) I was not walking behind her after she left

10:51:08 - (RS) It shouldn't have happened

10:51:15 - (RS) So I am a suspect / NCPD- The only, the only one

10:52:10 - (RS) I'm being charged with murder?

10:53:20 - (RS) You're trying to get to the truth

10:56:05 - NCPD leaves

10:59:35 - NCPD blue shirt & BB cap enter and collect his clothes

11:02:15 - both leave

11:36:02 - Black female officer enters; do you know what you're being charged with /
(RS) yes, murder

11:42:50 - (RS) say something

11:54:45 - what made you so mad / (RS) "I don't know"

11:59:30 - (RS) She showed up to go to the store

12:00 - (RS) I hit her back. She hit with the keys. She hit me and stormed off.

12:02:00 - (RS) tell Ms. Patricia I honestly don't know, I apologize. Can't bring her back.

I don't know why, I don't. It bothers me a little that I have no explanation for tonight's events

12:04:59 - (RS) I honestly don't know.

12:05 - (RS) I'm sorry I don't know what really happened. I never meant to bring a terrible situation to her family.

12:06 - (RS) Do right by her

12:09:10 - BFM leaves

STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON CASE NO. 2016-GS-10-01699
2016-GS-10-01700
2016-GS-10-01701

STATE OF SOUTH)
CAROLINA,)
PLAINTIFF,) TRANSCRIPT OF RECORD
vs.)
RICKY ANTHONY SHORT,) APRIL 16, 2018
Defendant.) CHARLESTON, SC
VOLUME 1 OF 5

B E F O R E:

HONORABLE DEADRA JEFFERSON, JUDGE, AND A
JURY.

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

BURNS WETMORE, ESQUIRE
RICHARD WARING, ESQUIRE
Attorneys for the State

PETER SHAHID, ESQUIRE
Attorney for the Defendant

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

I N D E X

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VOIR DIRE

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JURY SELECTION

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JACKSON V DENNO HEARING

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COURT'S

1-report

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1 (The following proceedings were held
2 April 21, 2018, Charleston County, South Carolina,
3 @ 11:23 a.m.)

4 THE COURT: Mr. Shahid, does your
5 client wish to have a formal arraignment or does he
6 wish to waive it?

7 MR. SHAHID: Yes, ma'am, he wants to do
8 the formal arraignment.

9 THE COURT: Was there an offer extended
10 to the Defendant, Mr. Short?

11 MR. WETMORE: Yes, Your Honor.

12 THE COURT: What was the offer?

13 MR. WETMORE: On January 2nd of this
14 year we made an offer to Mr. Short. That offer was
15 voluntary manslaughter two counts with a negotiated
16 30 years as to each to run concurrently with credit
17 for time served since October 10th, 2015.

18 THE COURT: What were you going to do
19 with the possession of a weapon charge?

20 MR. WETMORE: That was going to be
21 nolle prossed.

22 THE COURT: And did he reject that
23 offer on the record?

24 MR. WETMORE: He did, Your Honor.

25 THE COURT: And when was that?

1 proceed.

2 THE CLERK: Case number
3 2016-GS-10-01699, State of South Carolina versus
4 Ricky Anthony Short. Indictment for murder. If
5 you answer to that name please raise your right
6 hand. You stand indicted by the name Rick Anthony
7 Short?

8 THE DEFENDANT: Yes, ma'am.

9 THE CLERK: How say you, are you guilty
10 or not guilty?

11 THE DEFENDANT: Not guilty.

12 THE CLERK: How you will be tried?

13 THE DEFENDANT: By God and my country.

14 THE CLERK: May they extend you a true
15 deliverance. Are you ready for trial?

16 THE DEFENDANT: Yes, ma'am.

17 THE CLERK: Case number
18 2016-GS-10-0177, State of South Carolina versus
19 Ricky Anthony Short, indictment for murder. If you
20 raise your right hand to that name, please raise
21 your right hand. You may put it down. You stand
22 indicted by the name Ricky Anthony Short?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Sir, I need you to speak
25 up, please.

1 THE CLERK: How say you? Are you
2 guilty or not guilty?

3 THE DEFENDANT: Not guilty.

4 THE CLERK: How will you be tried?

5 THE DEFENDANT: By God and my country.

6 THE CLERK: May they extend you a true
7 deliverance. Are you ready for trial?

8 THE DEFENDANT: Yes, ma'am.

9 THE CLERK: Case number
10 2016-GS-10-01701, State of South Carolina versus
11 Ricky Anthony Short. Indictment for possession of
12 a weapon during the commission of a violent crime.
13 If you answer to that name please raise your right
14 hand. You can put it down. You stand indicted by
15 the name Ricky Anthony Short?

16 THE DEFENDANT: Yes, ma'am.

17 THE CLERK: How say you? Are you
18 guilty or not guilty?

19 THE DEFENDANT: Not guilty.

20 THE CLERK: How will you be tried?

21 THE DEFENDANT: By God and my county.

22 THE CLERK: May they extend you a true
23 deliverance. Are you ready for trial?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: You may be seated. Ladies

1 and gentlemen, as I have indicated, we are going to
2 select the jury for the case of the State of South
3 Carolina versus Ricky Anthony Short, indictment
4 2016-GS-10-1699 which is an indictment for murder
5 and that indictment alleges as follows: That in
6 Charleston County, South Carolina, on or about
7 October 10th of 2015 the Defendant, Ricky Anthony
8 Short, did kill and murder baby Miracle Frazier by
9 means of causing the complications of a premature
10 birth due to the murder of her mother and baby
11 Frazier did die in Charleston as a proximate result
12 thereof on or about October 25th of 2015 alleging a
13 violation of Code Section 16-3-10 of the code of
14 laws as amended.

15 Indictment 2016-GS-10-1700, the State
16 versus Ricky Anthony Short, an indictment for
17 murder and that indictment alleges that in
18 Charleston County, South Carolina, on or about
19 October 10th of 2015 the Defendant, Ricky Anthony
20 Short, with malice aforethought did kill and murder
21 Malakia Frazier by means of stabbing and cutting
22 and Malakia Frazier did die in Charleston County as
23 a proximate result thereof on or about October 10th
24 of 2015, alleging a violation of Code
25 Section 16-3-10 of the South Carolina Code as

1 amended.

2 And indictment 2016-GS-10-1701. The
3 State versus Ricky Anthony Short. An indictment
4 for possession of a weapon during the commission of
5 a violent crime. And that indictment alleges that
6 in Charleston County, South Carolina, on or about
7 October 10th of 2015 the Defendant, Ricky Anthony
8 Short, did possess a firearm or did visibly display
9 what appeared to be a firearm or did visibly
10 display a knife during the commission of or
11 attempted commission of a violent crime, to wit,
12 murder, alleging a violation of Code
13 Section 16-23-490 of the code of laws and alleging
14 all of these actions to be against the peace and
15 dignity of the State of South Carolina.

16 Ladies and gentlemen, we are going to
17 go through a process called voir dire which is
18 simply a legal term meaning that we are going to
19 ask you some questions so that the attorneys -- I
20 am going to ask you some questions so that the
21 attorneys can more effectively exercise their
22 peremptory challenges during jury selection.

23 If a question applies to you, please
24 stand and in a loud and clear voice give me your
25 name, your juror number, an answer to the question

1 THE COURT: You all have a good lunch.
2 I will see you at 2:00. You can leave your stuff
3 in here. The courtroom will be locked.

4 (A luncheon recess transpired.)

5 (STATE'S EXH. 1-3 marked for
6 identification.)

7 THE COURT: Is the State ready to
8 proceed?

9 MR. WETMORE: Yes, ma'am.

10 THE COURT: Defense ready to proceed?

11 MR. SHAHID: Yes, ma'am.

12 THE COURT: Call your first witness.

13 MR. WETMORE: State calls Detective
14 Bailey.

15 ROBERT BAILEY

16 having been duly sworn, testifies as follows:

17 THE WITNESS: My name is Robert Bailey,
18 last name is B-A-I-L-E-Y.

19 DIRECT EXAMINATION

20 BY MR. WETMORE:

21 Q. Detective Bailey, how long have you
22 been with North Charleston?

23 A. A little over 13 years.

24 Q. What are your duties primarily there?

25 A. Currently I'm the sergeant over the

1 white collar investigations which is the fraud
2 unit.

3 Q. In 2015 what were your responsibilities
4 as when this case happened?

5 A. I was a patrol officer in the persons
6 crimes unit.

7 Q. Now, let me take you back to October
8 the 10th, 2015 going into early the next day,
9 October 11th. Did you become involved in this case
10 against the Defendant, Ricky Short?

11 A. I did.

12 Q. How did you become involved?

13 A. I was on a call outside and I was
14 called to the area of [REDACTED] Railroad Avenue in
15 reference to a homicide at which time I was
16 assigned as the case agent.

17 Q. As the lead detective, the case agent,
18 were you able to delegate assignments?

19 A. I was.

20 Q. And did you respond to the scene of the
21 crime at Railroad?

22 A. I did.

23 Q. And at that crime scene did you have
24 any contact with the Defendant?

25 A. I did.

1 Q. At that moment initially did you view
2 him as a suspect?

3 A. I did not.

4 Q. While on the scene did you come to
5 believe that he had done it or was he still just a
6 person with whom --

7 A. No, he was just a person with
8 information.

9 Q. Okay. Now, did you take him or did you
10 have somebody from your agency take him to the
11 police station?

12 A. He was taken to the police station.

13 Q. And where was he taken specifically?

14 A. He was taken to the detective bay of
15 2500 City Hall Lane which is city hall for City of
16 North Charleston. He was placed into an interview
17 room which was audio and video record.

18 Q. So it was audio and video recorded?

19 A. That is correct.

20 Q. Was Mr. Short offered food, drink,
21 anything?

22 A. Yes, he was.

23 Q. Can you describe his appearance when
24 you first saw him in the interview room?

25 A. He had no shirt on. He was wearing

1 torn blue jeans and a pair of low top duck style
2 boots.

3 Q. Did you later on eventually collect
4 some of that clothing?

5 A. We did.

6 Q. Why was that?

7 A. It was covered in blood.

8 MR. SHAHID: I am sorry, I didn't hear
9 his answer.

10 THE COURT: Covered in blood.

11 MR. WETMORE: Judge, just for your
12 information, with this witness, I am asking about
13 the statement questions and also some questions
14 about the search warrant because that would very
15 efficient.

16 THE COURT: I need to keep the record
17 separate for the court reporter. It will make it
18 very difficult for her where these things are, am I
19 correct? It makes it cleaner. I understand.

20 MR. WETMORE: He is a little bit of the
21 search warrant and then the other officer will
22 follow up with his testimony.

23 THE COURT: Why don't you try to
24 confine those subject areas then to keep them
25 separate. Does that make sense what I am saying?

1 MR. WETMORE: Yes. I will.

2 BY MR. WETMORE:

3 Q. All right. So when you got him into
4 the interview room, at that point did you have him
5 as a primary suspect?

6 A. No, he was not.

7 Q. While he was at the station what was
8 your initial contact with him?

9 A. We tried to get a timeline from him due
10 to him possibly being the last one that saw the
11 victim alive and just information we gathered on
12 scene that he was the boyfriend and the child's
13 father of the victim. Just to get a timeline from
14 him and see if he might have any other information
15 that could help us solve the case.

16 Q. Right. So did you regard him as a
17 witness or a suspect?

18 A. At that time he was a witness.

19 Q. Were your questions with him very
20 direct or were they more open ended?

21 A. They were open ended, broad. It was
22 more like I said before just trying to obtain a
23 timeline for Malakia that day as it moved forward.

24 Q. And as you are hearing his information
25 of the timeline did that sync up with what you knew

1 from other witnesses?

2 A. At first I didn't really have much to
3 go on with other witnesses. I had to kind of wait
4 for other detectives to come back. But it started
5 not to -- some of the stuff that he was saying to
6 us was starting not to add together with what other
7 witnesses were telling us.

8 Q. But at this time had you determined he
9 was a suspect?

10 A. No.

11 Q. So what time does he initially arrive
12 at the police station?

13 A. I believe it was around 0100 hours in
14 the morning of October the 11th.

15 Q. One in the morning. How long did you
16 initially speak with him trying to get all
17 information?

18 A. That was two or three hours, I believe.
19 I was in and out of the room just trying to get as
20 much information from him. I was leaving the room
21 trying to get other information and more
22 information from him. So all in all together if I
23 had to say maybe an hour, but I was in the room
24 about two or three hours.

25 Q. It wasn't consistent questioning the

1 whole time?

2 A. No, it was not.

3 Q. And he wasn't being questioned as a
4 suspect at that point?

5 A. No, he was not.

6 MR. SHAHID: Your Honor, he's asking
7 leading questions.

8 THE COURT: This is in camera.

9 MR. SHAHID: I think he was leading,
10 Your Honor.

11 THE COURT: I will give him a little
12 latitude. We are in camera. But do watch the
13 leading, Mr. Wetmore.

14 MR. WETMORE: Yes, ma'am.

15 BY MR. WETMORE:

16 Q. After your initial encounter you leave.
17 What would you leave to go do?

18 A. Either answer a phone call, to call
19 someone, try to figure out from other detectives
20 that were still on the scene talking to other
21 witnesses or trying to figure out evidence through
22 our crime scene.

23 Q. And when you left was the Defendant
24 given a break from the interview?

25 A. Yes, he was.

1 Q. How many times do you think you went in
2 and tried to get some information and then left, do
3 you recall?

4 A. I do not recall. I would say several,
5 I wouldn't say --

6 THE COURT: I am sorry, sir. I
7 couldn't hear your answer.

8 A. I would say several, maybe two to
9 three, maybe four times. I'm not a hundred percent
10 positive.

11 Q. All right. At a certain point did you
12 return to the room and examine the Defendant's
13 body, his clothing?

14 A. I did.

15 Q. Tell me about what you noticed.

16 A. As I was sitting there talking to him
17 about his timeline I noticed that he had blood on
18 his forehead and I wanted to see what more blood he
19 had on him because I do know witnesses and from
20 what we saw on the scene from officers that he
21 attended the victim as she was lying on the ground.
22 It's why he did not have his shirt on at that time.
23 So I was just asking him to show me where he had
24 blood at on him just so we could try to verify the
25 blood that was on him through the evidence

1 collection on the scene.

2 So I had him stand up. He showed me
3 where he had blood on him. He had blood on his
4 hand. I asked to see his hand, at which time he
5 pointed his hands palms down to me. I said can you
6 turn them over so I can see, at which time he
7 turned his palms over and I could see on his right
8 hand a straight line cut from his index all the way
9 to his pinky finger.

10 Q. And were you able to confirm if he was
11 left or right handed?

12 A. I could confirm that he was right-hand
13 dominant.

14 Q. And did you see any other injuries to
15 his hands?

16 A. I didn't see any other injuries to his
17 hands, but he also had injuries to his face at the
18 bridge of his nose and on the side of his face
19 which was not that of blood splatter or any type of
20 blood that just got wiped on to his face. It was
21 an obvious injury to his face.

22 Q. And so what did the cut on his hand
23 signify to you?

24 A. It appeared to be something of a
25 straight edged object, a knife or razor blade,

1 something that would be consistent to go in a
2 straight diagonal line as it did on all fingers in
3 the same line with no jagged edges that appeared.

4 Q. And what did you take the scratches or
5 the injuries to his face to mean?

6 A. Possible self-defense-type stuff or
7 something that happened prior to the incident.

8 Q. All right. After the initial
9 information gave some concern and after seeing
10 these injuries you described at that point did he
11 begin to become your suspect?

12 A. Yes, he did.

13 Q. Did you begin to believe that he had
14 been the one that had done it?

15 A. That's correct.

16 Q. At that point did you leave the room,
17 give him a break?

18 A. I did.

19 Q. At that point did you offer him an
20 opportunity to drink or anything like that?

21 A. He was.

22 Q. So about what time would you say you
23 went back in there with another detective?

24 A. Detective Riedel and myself went back
25 in around 0424 in the morning.

1 Q. And at that point did you believe that
2 Mr. Short had done this?

3 A. Yes, I did.

4 Q. At that point was he advised of his
5 constitutional rights pursuant to Miranda?

6 A. Yes, he was.

7 Q. Tell me who advised him of his rights?

8 A. Detective Riedel advised him of his
9 rights.

10 THE COURT: I am sorry. Can you repeat
11 his name?

12 THE WITNESS: Detective Riedel,
13 R-I-E-D-E-L.

14 BY MR. WETMORE:

15 Q. And how did Detective Riedel do that?

16 A. It was on a form that we carry in our
17 office, notification of Miranda rights form.

18 Q. If I may approach, Your Honor?

19 THE COURT: You may.

20 Q. Show you what's been marked as State's
21 Exhibit 1 for purposes of this hearing.

22 MR. SHAHID: Judge, I have no
23 objection.

24 THE COURT: Marked and admitted.

25 (STATE'S EXH. 1 in evidence.)

1 MR. WETMORE: You said admitted, Judge,
2 right?

3 THE COURT: Um-hmm.

4 BY MR. WETMORE:

5 Q. Can you identify that?

6 A. Yes, I can. It's our advice of
7 Constitutional rights form that we keep, a carbon
8 copy.

9 Q. And that was the form used to read Mr.
10 Short his rights?

11 A. That is correct.

12 Q. And you can see, is your name on there?

13 A. It is. It's listed under I fully
14 understand each one of these rights. I am the
15 second witness on each one of those.

16 Q. Detective Riedel is on there as well?

17 A. Yes, he was the first witness on each
18 one.

19 Q. And what about Mr. Short? Did he make
20 any mark on that paper?

21 A. He signed his name at the signature
22 mark on both sides.

23 Q. And tell me again what time you think
24 this was?

25 A. According to time frame on the advice

1 of constitutional rights it was 0426 in the
2 morning.

3 Q. So it began at 4:24, took about two
4 minutes to do it, 4:26?

5 A. That's correct.

6 Q. And did Mr. Short waive his
7 constitutional rights and continue to speak with
8 you?

9 A. That he did.

10 Q. How did he waive his rights on that
11 form?

12 A. He waived his rights by signature and
13 the understanding that having all of the rights in
14 mind he wished to waive these rights and answer.
15 No threats, force or promises of any kind were made
16 to him by anyone to cause him to waive these rights
17 or answer questions. And he signed that.

18 Q. Now, I'm going to call this I guess the
19 second part of his statement. After Miranda. Was
20 your approach with him the same as before when you
21 initially met with him?

22 A. No, it was not.

23 Q. Were your questions more pointed?

24 A. Yes, they were.

25 Q. Did he provide new information?

1 A. Yes, he did.

2 Q. Did you make every effort to involve
3 other police officers?

4 A. Yes, we did or I did, sorry.

5 Q. At this point he began to be questioned
6 as a suspect?

7 A. That is correct.

8 Q. Not as a witness. So it's about 4:30
9 in the morning. Did you ask about the injuries
10 that you noticed on his face and his hand?

11 A. I did.

12 Q. Did he give you an explanation?

13 A. The explanation for the facial markings
14 was that him and Malakia were involved in a
15 domestic-type situation where she hit him with a
16 set of keys in his face and then walked off. In
17 reference to the cut on his hand, he provided me
18 with the statement of that a couple days prior he
19 was trying to be romantic while downtown and
20 attempted to pull rose bushes or flowers from a
21 standing pot or a window box, at which time that
22 cut his hand in the process of doing that.

23 Q. And he was obviously -- you mentioned
24 the cut on the face was involving Malakia Frazier?

25 A. That's correct.

1 Q. And then his romantic gesture of
2 picking flowers was also with Malakia?

3 A. With Malakia, that's correct.

4 Q. Was this the first time you had heard
5 of this explanation?

6 A. Yes.

7 Q. The first time he provided it?

8 A. Yes.

9 Q. So he didn't talk about that before
10 Miranda rights?

11 A. No, he did not.

12 Q. All right. Did you continue to discuss
13 with him what had happened that night?

14 A. I did.

15 Q. And did he ever admit to being
16 involved?

17 A. No, he did not.

18 Q. Now, you have described his appearance.
19 What was his demeanor like? Was he upset? Was he
20 mad, sad?

21 A. He had a really straight face if that's
22 a way of putting it. He really had no emotion on
23 his face during the whole time.

24 Q. And did you at some point inform him
25 that Malakia Frazier, his girlfriend and mother of

1 his children, was dead?

2 A. I did.

3 Q. What was his demeanor at that point?

4 A. Just kind of hung his head and that's
5 about it.

6 Q. At that point the status of the baby
7 victim was known or unknown?

8 A. It was known to the fact that they did
9 deliver the baby C-section through MUSC, but I did
10 not know the status of the child relative at the
11 time in the hospital. But at that time I knew that
12 the child was still possibly alive.

13 Q. All right. Now, I know later in the
14 day they found some evidence, Sergeant Webb did.
15 Did you confront the Defendant about that at all or
16 was that another officer or detective?

17 A. That was other detectives.

18 Q. All right. With regard to all your
19 encounters with the Defendant I need to ask you
20 some standard questions about the experience to
21 establish voluntariness. I think you covered the
22 date and place. Was North Charleston Police
23 Department, right?

24 A. That is correct.

25 Q. Initially you questioned him by

1 yourself?

2 A. That's correct.

3 Q. As a witness?

4 A. That is correct.

5 Q. Later did you involve other detectives?

6 A. I did.

7 Q. Who was that?

8 A. Detective Riedel and Captain Johnson.

9 Q. Did the Defendant appear to be under
10 alcohol, drugs, influence to impair his ability to
11 understand?

12 A. No, he did not.

13 Q. Any kind of physical or mental
14 disability to keep him from understanding?

15 A. Not that I'm aware of.

16 Q. Let's talk about the room. What was
17 the physical surrounding of the room like?

18 A. It was a sealed off room with a door,
19 one entry door, three walls, carpet floor, a table
20 and three chairs.

21 Q. Was it comfortable for him?

22 A. Yes.

23 Q. He was seated?

24 A. He was seated.

25 Q. And the length of time that you dealt

1 with him, what is your estimate in total length of
2 time that you talked with him?

3 A. I know he was there for several hours.
4 I think that if I was to estimate total length
5 three to four hours.

6 Q. Okay. And was that whole length of
7 time him being questioned?

8 A. No.

9 Q. Were there multiple breaks taken?

10 A. There was multiple breaks.

11 Q. Was he ever denied access to food,
12 drink, bathroom?

13 A. No, he was not.

14 Q. Ever denied access to telephone?

15 A. No, he was not.

16 Q. Was he offered, in fact, food and
17 drink?

18 A. Yes.

19 Q. Multiple times or just one time?

20 A. I don't recall.

21 Q. Did you give him any threats, any
22 promises, anything to get these statements?

23 A. I did not.

24 Q. Initially when he came to the police
25 station was he under arrest?

1 A. No, he was not.

2 MR. SHAHID: Sorry? What was that?

3 Q. When he first came to the police
4 station was he under arrest?

5 A. No, he was not.

6 Q. How was he being treated initially?

7 A. By us he was being treated humanly as a
8 witness.

9 Q. I think you already covered this. He
10 was a potential witness at this point?

11 A. Yes.

12 Q. And you said at that point when you
13 became convinced he was a suspect he was read his
14 Miranda rights?

15 A. That is correct.

16 Q. In writing using that form?

17 A. Correct.

18 Q. State's Exhibit 1. Did he appear to
19 have any trouble understanding his rights? Does he
20 understand English?

21 A. Yes, he does.

22 Q. Did he appear to be impaired in any
23 way?

24 A. No, he did not.

25 Q. What about his educational level or

1 intelligence level? Was he able to read, anything
2 like that? Did you --

3 A. According to his advice of rights he
4 has a GED from Wil Lou Gray High School in 2007.

5 Q. So the equivalency of a high school
6 diploma?

7 A. That's correct.

8 Q. And did his answers to your questions
9 appear rational, responsive, made sense?

10 A. Yes.

11 Q. Didn't necessarily agree with them, but
12 they were -- made sense based on what you are
13 asking?

14 A. That's correct.

15 Q. I think you said he was not overly
16 emotional such that he had a hard time
17 understanding what was going on?

18 A. Right.

19 Q. Did you or anyone in your presence
20 threaten or coerce him?

21 A. No, we did not.

22 Q. Offer him any kind of promise or hope
23 of reward?

24 A. No, we did not.

25 Q. How did he respond when he was asked a

1 particular question about whether he wanted an
2 attorney before he spoke?

3 A. Only thing I can tell you is he waived
4 his rights. I don't think he responded with
5 anything except that he was still willing to talk
6 to us.

7 Q. And did he sign a specific line where
8 it says waived his rights to an attorney?

9 A. That he did.

10 Q. Did he change his mind and say I want
11 to stop? I want to get an attorney?

12 A. No, he did not.

13 Q. So to the best of your knowledge is
14 that statement freely and voluntarily given?

15 A. Yes, it was.

16 Q. Court's indulgence one
17 moment.

18 (Off-the-record conference.)

19 Q. In general regarding all of his
20 comments to you before and after Miranda, did he
21 ever make any incriminating remarks or they were
22 mainly self-serving?

23 A. They were mainly self-serving.

24 Q. Did he ever directly admit his guilt?

25 A. No, he did not.

1 Q. He offered a story to explain some of
2 these things, but they were self-serving in your
3 opinion?

4 A. Yes.

5 MR. WETMORE: I don't have any further
6 questions.

7 THE COURT: Mr. Shahid.

8 CROSS-EXAMINATION

9 BY MR. SHAHID:

10 Q. Detective, my name is Peter Shahid.
11 Have we met before?

12 A. I do not believe we have.

13 Q. You have been law in enforcement for
14 how many years?

15 A. Thirteen with the City of North
16 Charleston.

17 Q. Total?

18 A. Right at 15 years.

19 Q. Fifteen years in law enforcement. Do
20 you know the difference between a person in custody
21 and a person not in custody?

22 A. I do, sir.

23 Q. Now, if you took my hands and put
24 handcuffs behind my back like this, am I in
25 custody?

1 A. You are detained.

2 Q. Am I in custody, detective?

3 A. You are detained.

4 Q. Am I free to leave? Am I free to
5 leave?

6 A. I guess not, no.

7 Q. Guess not or no not? I'm not free to
8 leave, am I?

9 A. No.

10 Q. If I tried to leave you and if you had
11 handcuffs behind my back like this, Judge, let the
12 record reflect my hands are behind my back in a
13 motion which I am being cuffed. Accurate
14 statement?

15 A. Yes.

16 Q. Detective? So if I am standing behind
17 with you and you put those bracelets on my hand
18 like this I am not free to leave, am I?

19 A. No, sir.

20 Q. If I tried to run you would chase me
21 down, aren't you?

22 A. Most likely.

23 Q. And have other officers chase me down
24 as well?

25 A. Yes.

1 Q. And when I am handcuffed I'm not free
2 to move my arms, am I?

3 A. No, sir.

4 Q. When you handcuffed Mr. Short did he
5 have the option of leaving Railroad Avenue that
6 evening?

7 A. I did not handcuff Mr. Short.

8 Q. You know he was handcuffed, don't you?

9 A. I knew he was handcuffed.

10 Q. He was handcuffed and put in the back
11 of a patrol car, wasn't he?

12 A. Yes.

13 Q. Now, Detective, you were at the scene?

14 A. Right.

15 Q. And while you were at the scene there
16 were people milling around; is that correct?

17 A. Yes.

18 Q. And I believe that officers interviewed
19 a Hispanic woman; is that correct?

20 A. That's correct.

21 Q. And you are the case agent so you know
22 who they were interviewing. My understanding,
23 Detective, there is only one witness statement in
24 this case; is that correct?

25 A. I believe so.

1 Q. That was from that Hispanic woman?

2 A. Yes.

3 Q. Tell me, when were the handcuffs put on
4 her? Never?

5 A. I couldn't answer that question.

6 Q. They were never put on her, were they?

7 A. Not that I am aware of, sir.

8 Q. You are the case agent. Would you be
9 aware of a person that was handcuffed?

10 A. Yes, I would be.

11 Q. So she was a witness, she makes a
12 statement on the scene that night. She is not
13 transported down to the police station, is she?

14 A. No, sir.

15 Q. And from my understanding of that
16 woman, Mrs. Flores, I believe that's her name,
17 correct?

18 A. Yes.

19 Q. She may have been an eyewitness to the
20 whole stabbing, right?

21 A. That's correct.

22 Q. Now, she did not speak any English?

23 A. Correct.

24 Q. So her information could have been
25 critical to this case, couldn't it?

1 A. Yes.

2 Q. Okay. And there are several -- if I
3 look at these videotapes, I see a bunch of police
4 cars, fire truck, EMS, lot of commotion going on,
5 fair to say?

6 A. Yes, sir.

7 Q. Lot of activity. So in spite of her
8 being an eyewitness no one thought it important to
9 handcuff her and take her down to the North
10 Charleston Police Department headquarters; is that
11 correct?

12 A. Yes.

13 Q. Were there any other people interviewed
14 that night?

15 A. I was there mainly with Mr. Short, but
16 I don't believe so.

17 Q. There is no other witness statements
18 done initially?

19 A. No.

20 Q. Now, you know Ricky's mom?

21 A. Yes.

22 Q. Would you stand up. Mona Kelly?

23 A. Yes.

24 Q. She was a witness, too?

25 A. Yes.

1 Q. Was she handcuffed?

2 A. She was not.

3 Q. Never handcuffed as a witness?

4 A. Correct.

5 Q. She came to the police station?

6 A. Right.

7 Q. Voluntarily?

8 A. Right.

9 Q. And she wasn't put in the back of a car
10 either, was she?

11 A. No, sir.

12 Q. Now, do you know the -- who called 911?

13 A. I believe it was --

14 Q. Mr. Short did?

15 A. Yes.

16 Q. And so police officers get to the scene
17 within five minutes of him making that 911 call?
18 All right? About five minutes?

19 A. Around that time, yes, sir.

20 Q. So if he called at 11:23 Officer
21 O'Connell I believe is the first officer to show up
22 on the scene at 11:28?

23 A. Okay.

24 Q. Would you agree with me that within
25 15 minutes of Officer O'Connell arriving at the

1 scene Mr. Short is handcuffed?

2 A. The whole time?

3 Q. Within 15 minutes from --

4 A. I would have to agree. I'm not --

5 Q. That's fine. Within 15 minutes he's

6 placed in the handcuffs and taken down to the

7 police station?

8 A. Yes, sir.

9 Q. Now, in questions that Mr. Burns

10 Wetmore asked you the first time that we see Mr.

11 Short inside the interview room without a shirt on

12 is at 1:19, 1:20 in the morning?

13 A. Okay.

14 Q. Right?

15 A. Yes.

16 Q. That about right. He stayed in that

17 room except for the few times there was some breaks

18 taken, he went to the bathroom one time and he

19 stayed in that room until uniformed officers came

20 in and arrested him -- took him out of that room in

21 handcuffs again, right?

22 A. Yes, sir.

23 Q. And that occurred around after noon,

24 after 12:00 on Sunday?

25 A. I don't have the booking, but I know it

1 was a lengthy interview.

2 Q. It was a long interview?

3 A. Yes.

4 Q. So he's in custody from 11:30-ish that
5 night until 12 hours later while he's in that
6 interview room, almost over 12 hours?

7 A. Yes, sir.

8 Q. You didn't get a cot for him to sleep
9 someplace, did you?

10 A. No.

11 Q. Now, you have Exhibit 1 in front of
12 you. So the hour on here, Detective Bailey, at
13 0426, that's an accurate hour, correct?

14 A. Yes, sir.

15 Q. So the Miranda warnings are read to him
16 five hours after handcuffs are put on him; is that
17 right?

18 A. From the initial incident time, yes.

19 Q. The initial time he is put in
20 handcuffs?

21 A. Yes, sir.

22 Q. Five hours have passed, okay? This
23 interview takes -- the whole time that he's
24 detained as you said to the time that he's led out
25 of that interview room over 13 hours, from 11:00 to

1 4:00, that's over five hours before he is read his
2 Miranda rights?

3 A. Yes, sir.

4 Q. Okay. And you did not handcuff or
5 detain any other witnesses out there?

6 A. I did not.

7 Q. Okay. There were other people walking
8 around as I saw on those videotapes; is that
9 correct?

10 A. I believe when I got there it was
11 officers walking around.

12 Q. Now, one thing so the record is clear,
13 Detective, the interview of Mr. Short is recorded?

14 A. That is correct.

15 Q. So beginning at that time we can tell
16 the exact hour because we see him inside the room,
17 the clock is running and the clock is continually
18 running until those other officers come in?

19 A. Yes.

20 Q. At some point in time during the
21 interview that you and Detective Riedel I think is
22 his name; is that correct?

23 A. Riedel.

24 Q. Have him take off all his clothes and
25 he puts on like a white jumpsuit of some sort?

1 A. Yes, sir.

2 Q. So in addition to that, Detective, you
3 interview him, you and Detective Riedel interview
4 him, Detective Riedel interviews him, Detective
5 Riedel and Johnson interview him, then Detective
6 Johnson interviews him. There is like this ongoing
7 sequence in combination of different detectives
8 interviewing him throughout the whole time?

9 A. Yes, sir.

10 Q. All right. Also during that time
11 another officer comes in and it looks like he takes
12 like a baby wipe of some sort and wipes his body,
13 am I correct?

14 A. That would be the crime scene officer,
15 yes.

16 Q. Came in and swabbed his body?

17 A. Um-hmm.

18 Q. That was before you got a search
19 warrant? Search warrant is not done until the next
20 day?

21 A. Warrant is done the same time he's in
22 custody with us at the station.

23 Q. But before that his body was wiped? Do
24 you remember that?

25 A. I don't remember. I don't recall that.

1 Q. It was during the interview?

2 A. No, I would have to refresh.

3 Q. There is another officer comes in with
4 a camera and takes picture of him?

5 A. Correct.

6 Q. So in addition to the officer who does
7 -- the technician comes in, does a body swipe,
8 photographer comes in, two officers that come in,
9 plus a third, there is five different officers who
10 were engaged in some fashion with Mr. Short
11 throughout the whole process?

12 A. Yes.

13 Q. Now, do you remember what either you or
14 Detective Riedel said to Mr. Short when you all
15 read to him his Miranda warning?

16 A. I do not.

17 Q. Did you say to him, Detective Bailey,
18 or did Detective Riedel say to him, Mr. Short, the
19 game has changed, you are now our No. 1 suspect.
20 Now we are going to read your Miranda rights.

21 A. I don't recall, but it is video
22 recorded. It's on there.

23 Q. So if it's on there it's there, if it
24 ain't it ain't?

25 A. Yes.

1 Q. If you said something along the lines
2 of we do this for everybody, that would be on there
3 as well?

4 A. Could be if it is recorded.

5 Q. It is clear, Detective, that you did
6 not advise him at the time reading the Miranda
7 warnings that he was not the primary suspect?

8 A. Can you repeat that?

9 Q. At 4:26 a.m. on Sunday morning when
10 those Miranda rights were read to him when he
11 initialled that sheet of paper, Exhibit No. 1, it's
12 clear that he was not advised at that point by
13 either law enforcement officer, you or your
14 partner, that he was a suspect?

15 A. I would have to watch that point. I
16 don't know if we told him he was a suspect or not.

17 Q. But in your mind -- as I understand
18 what you told Mr. Wetmore, in your mind he was a
19 prime suspect?

20 A. That is correct.

21 MR. SHAHID: One second please, Judge.

22 THE COURT: Um-hmm.

23 (Attorney confers with client.)

24 MR. SHAHID: That's all I have.

25 THE COURT: Any redirect?

1 MR. WETMORE: Yes, Your Honor.

2 THE COURT: You may proceed.

3 REDIRECT EXAMINATION

4 BY MR. WETMORE:

5 Q. Detective Bailey, you were discussing
6 the Defendant at the scene, he was detained, but
7 not in custody; is that correct?

8 A. Correct.

9 Q. Describe to me exactly how that -- what
10 that distinction is in your mind?

11 A. Officers usually use the word detained
12 as they detain somebody to either move them from
13 place to place or to take them somewhere or
14 possible charges might come about of that
15 situation.

16 Q. When somebody is in custody at that
17 point they are likely to be arrested?

18 A. If they are in custody you are actually
19 telling them that they are under arrest.

20 Q. And so whatever term you want to use
21 for your initial restraint of Mr. Short, he was not
22 being arrested at that point?

23 A. No, he was not.

24 Q. He was not being considered a suspect
25 at that point?

1 A. Not to my knowledge, no, he was not.

2 Q. He was someone that you needed some
3 information from trying to solve this case?

4 A. That's correct.

5 Q. All right. Now, Mr. Shahid asked about
6 Ms. Flores, the Hispanic female?

7 A. Correct.

8 Q. She was not detained?

9 A. No, she was not.

10 Q. Was she pulled to the side by several
11 officers?

12 A. Yes, she was.

13 Q. Was she interrogated as well?

14 A. Yes.

15 Q. And did she give a written statement?

16 A. She did.

17 Q. And based on the contents of that
18 statement there was no further detention; is that
19 correct?

20 A. That is correct.

21 Q. All right. Now, there's no question of
22 I think you said that you brought Mr. Short into
23 the interview room about 1:20 a.m.?

24 A. Yes, sir.

25 Q. So he is in the interview room for long

1 periods of time?

2 A. Yes, that is correct.

3 Q. Multiple, multiple breaks throughout
4 the night?

5 A. That's correct.

6 Q. Would you say over that period of time
7 you were talking to him more or outside the room
8 and not talking to him?

9 A. I was outside the room not talking to
10 him more than I was inside the room talking to him.

11 Q. And offered him all the comforts that
12 are reasonable, food, water, bathroom?

13 A. I did.

14 Q. And it is your memory that somewhere
15 about 4:30 in the morning you considered him to be
16 more of a suspect than a witness?

17 A. That's correct.

18 Q. And at that point is when he was given
19 his Miranda rights?

20 A. Correct.

21 Q. Did his Miranda rights include the
22 right to know that he was a suspect?

23 A. Correct, yes.

24 Q. Where in the Miranda rights is it
25 stated that he must be told he's a suspect?

1 A. Nowhere.

2 Q. So the right to know if you're a
3 suspect is not one of the Miranda rights?

4 A. That's correct, yes. I misunderstood
5 your question.

6 Q. That's okay. And you initially met
7 with him, you brought in Detective Riedel?

8 A. Yes, sir.

9 Q. And then you actually kind of stopped
10 questioning him if my memory is right?

11 A. I did.

12 Q. And then I know you weren't there, but
13 at some point in time did Detective Riedel bring in
14 Johnson?

15 A. He did.

16 Q. At the time she was one of the
17 supervisors?

18 A. That is correct.

19 Q. So you did have several detectives
20 involved in this succession?

21 A. Yes, sir.

22 Q. What was the rationale for that, to
23 beat him up or wear him down?

24 A. It is not to beat him up or wear him
25 down. It's to also get people to step out, other

1 detectives may have been on scene longer, had more
2 information that could better move the case forward
3 than what I had since I initially went back with
4 him to the station.

5 Q. So there was not a continual presence
6 of the same police officers?

7 A. That's correct.

8 MR. WETMORE: No further questions.

9 THE COURT: You may step down. Call
10 your next witness.

11 MR. WETMORE: State calls Detective
12 Riedel.

13 SAM RIEDEL

14 having been duly sworn, testifies as follows:

15 THE CLERK: State your name and spell
16 your last name for the record.

17 THE WITNESS: Sam Riedel, R-I-E-D-E-L.

18 DIRECT EXAMINATION

19 BY MR. WETMORE:

20 Q. Detective Riedel, how long have you
21 been with North Charleston?

22 A. I have been with the North Charleston
23 Police Department for a little over 14 years.

24 Q. Have you always been a detective?

25 A. I have been a detective now for about

1 two months shy of the last ten.

2 Q. So you were obviously a detective in
3 2015 when this happened?

4 A. I was.

5 Q. October the 10th of 2015 going into the
6 early morning hours of October 11, 2015, did you
7 become involved in a case against Ricky Short?

8 A. I did. I responded to a call out that
9 evening.

10 Q. Did you go to the scene?

11 A. Yes, I did respond initially to the
12 location on Railroad Avenue.

13 Q. So you went to the scene. When you
14 were at the scene did you have any contact with the
15 Defendant?

16 A. I believe by the time I had gotten
17 there he was either already in process to the
18 station or moving along that way. I didn't have
19 any direct contact with him.

20 Q. You didn't have any contact with him?

21 A. Not that I recall, no.

22 Q. And you know that he was taken to the
23 police station?

24 A. Yes.

25 Q. Where specifically was he taken?

1 A. To the detective bay for an interview.
2 Interview rooms are located in our area of the
3 department.

4 Q. Those rooms are audio recorded and
5 videoed?

6 A. Yes.

7 Q. All right. I'm sure you're aware that
8 Detective Bailey was initially speaking with him?

9 A. Yes, I am.

10 Q. Did you ever go in the room and speak
11 with him yourself?

12 A. After I returned from my portion of the
13 investigation at the scene I came back to city hall
14 and after speaking with Detective Bailey who had
15 been talking with him I did enter the room.

16 Q. Okay. Do you happen to know about what
17 time you went in there with him?

18 A. The initial time I would have gone in
19 was probably close to 3:30-ish, 3:45, somewhere
20 around there.

21 Q. Okay. You went in with Detective
22 Bailey?

23 A. I did.

24 Q. When you had contact with the Defendant
25 at that point or later in the night was he offered

1 food, drink, that sort of thing?

2 A. Yes, he had been throughout the
3 duration of it.

4 Q. All right. Describe what your version
5 and your observations of his appearance at that
6 time in the room?

7 A. Sort of -- I mean he was awake,
8 coherent. I mean he had some dirt and other things
9 on him, but I learned that was from being at the
10 scene prior to us arriving.

11 Q. Okay. Did he have a shirt on?

12 A. I don't believe at that point, no. I
13 am not 100 percent sure if he did when I entered
14 the room or not.

15 Q. Okay. And when you go in with
16 Detective Bailey at this point are you -- is your
17 plan to consider him to be a suspect?

18 A. No. Upon my entering -- like I said, I
19 had been at the scene with the other witnesses and
20 overhearing their statements, things of that nature
21 so I had one point of view and one set of details.
22 Upon my returning I entered with Detective Bailey
23 with the intent of trying to gather more details or
24 see which details didn't obviously match up with
25 what I had already known to collect a more overall

1 picture of everything that was more than one point
2 of view. Having more points of view is obviously
3 beneficial.

4 Q. So initially you regarded him as a
5 person with information?

6 A. Correct.

7 Q. Not as a suspect?

8 A. No.

9 Q. Let me take you to about 4:30 that
10 morning. At that point did you believe he was a
11 suspect or a witness?

12 A. At that point after hearing his
13 recollection coupled with the other facts that I
14 knew from the other witnesses it was determined at
15 that point that it was likely that he was a suspect
16 rather than a witness because of the finite details
17 that hadn't matched up.

18 Q. So at about 4:30 in the morning was he
19 given his Miranda rights?

20 A. He was.

21 Q. Did you do that?

22 A. Myself along with Detective Bailey.

23 MR. WETMORE: If I may approach, Your
24 Honor?

25 THE COURT: You may.

1 BY MR. WETMORE:

2 Q. I think it's right here. State's No.
3 1, can you identify that?

4 A. This is a copy of the North Charleston
5 Police Department advice of rights form which I
6 filled out with Mr. Short's information. I read
7 him each of these rights. He acknowledged. I
8 witnessed, Detective Bailey witnessed and then that
9 is the waiver of rights at the bottom of that which
10 is also signed by Mr. Short and acknowledged by
11 myself and Detective Bailey.

12 Q. All right. I'm going to get you to
13 look at that document. Who filled in the top part
14 of that document? Case number, his name, birth
15 date, that sort of thing.

16 A. Actually it looks like there was
17 portions of it that were filled out by Detective
18 Bailey and myself actually.

19 Q. So you created the information on the
20 top. What's the deal with his education? What's
21 that crossed out and circled GED?

22 A. Yes. That was a misunderstanding I
23 believe in the initial --

24 Q. Okay. This says I, Ricky Short, have
25 been advised by Detective Riedel, being you?

1 A. Yes.

2 Q. And so you read these rights to him?

3 A. I did.

4 Q. And then did he initial each right?

5 A. Yes. The norm for myself when reading
6 rights to someone is actually having the form
7 facing them and I am capable of reading the rights
8 upside down. As I read them each individual one
9 there's a spot for them to sign. I ask for them to
10 acknowledge that they understand, have them initial
11 it and then ask them most times if they have a
12 question about that before I proceed to the next
13 one. And I do that all the way to the end. The
14 final one would be actually I let them know that
15 the other four are the ones they most mostly
16 commonly hear on almost every cop show known to man
17 when they are reading rights in the interview room.
18 However, the fifth on there is the one that is very
19 seldom heard on the police shows so I go over that
20 one in detail.

21 Q. So you read over every one of these
22 rights with Ricky Short?

23 A. I did.

24 Q. And did he initial that he understood?

25 A. He did.

1 Q. And then to cover everything, says I
2 fully understand each of these rights above
3 explained to me. And did you sign there?

4 A. I did as well as him.

5 Q. And Detective Bailey?

6 A. Yes.

7 Q. Did the Defendant, Ricky Short, sign?

8 A. Yes.

9 Q. Initial each right, sign he fully
10 understood all the rights?

11 A. Correct.

12 Q. At the bottom, what is the bottom of
13 the form?

14 A. The bottom is our portion that we
15 concluded that is an acknowledgement and waiver of
16 your rights indicating that they do wish to speak
17 with us regarding whatever the investigation would
18 pertain.

19 Q. By his signature there he's waiving the
20 rights?

21 A. Correct. It is a waiver, however, it
22 is explained at the top part even if he signs that
23 waiver he still has the right to stop answering
24 questions or remain silent. So waiver is not an
25 overall, they still have that right.

1 Q. Not a permanent waiver?

2 A. Correct.

3 Q. Says no threats, force or promises of
4 any kind have been made causing me to waive these
5 rights?

6 A. Correct.

7 Q. And signed there. And what is the time
8 when y'all finished that process?

9 A. 0426.

10 Q. That was roughly?

11 A. 4:26 a.m.

12 Q. Three hours after he was brought in?

13 A. Roughly.

14 Q. All right. After he received his
15 Miranda rights did the tone of the interview
16 change?

17 A. Yes. The method of the interview
18 changed.

19 Q. Before Miranda was it broad
20 questioning?

21 A. I would say very broad.

22 Q. Because detectives at that point didn't
23 really know what had happened?

24 A. Correct.

25 MR. SHAHID: Objection, Your Honor.

1 THE COURT: Basis?

2 MR. SHAHID: Based on what he may know
3 and other officers may or may not have known.

4 THE COURT: Speculation.

5 MR. SHAHID: Speculation.

6 THE COURT: You need to establish that
7 he knows this as his own rational perception.
8 Sustained, speculation.

9 BY MR. WETMORE:

10 Q. So initially before Miranda did you
11 know what had happened in this incident or you were
12 trying to figure that out?

13 A. Trying to figure it out.

14 Q. After you came to view the Defendant as
15 a suspect was it more of an interrogation of him?

16 A. Correct.

17 Q. Did you get more detailed in your
18 questioning?

19 A. Very detailed.

20 Q. And did this create new information
21 that did not come out initially before Miranda?

22 A. Yes, it did. I actually generated
23 several additional points of information.

24 Q. And you're new to the interview room at
25 that point, right? Not knew to this case.

1 A. Yes, to this portion of it, yes.

2 Q. You hadn't been there with him before
3 earlier than that?

4 A. No, I had been at the scene all the way
5 until probably around 3:30-ish give or take.

6 Q. All right. So after he got his Miranda
7 rights and waived them did Detective Bailey ask
8 about the injuries to his hands?

9 A. He did pose that question directly,
10 yes.

11 Q. And what exactly did he say to you
12 about how he injured his hands?

13 A. I believe at that point his indication
14 to the laceration that was on his hand he stated it
15 had happened a few nights prior while being
16 downtown Charleston and he had tried to pick some
17 flowers out of a flower box in front of one of the
18 houses as they were walking by.

19 Q. They being who?

20 A. Himself and Ms. Frazier.

21 Q. The victim?

22 A. Yes.

23 Q. And how did he indicate he cut his hand
24 doing that?

25 A. He said it was a thorn had cut him as

1 he was pulling the flower out of the box.

2 Q. And let me take you now to two hours
3 later about 4:30 -- I am sorry -- about 6:30. Did
4 Detective Johnson join you in the interview room?

5 A. Yes, she did.

6 Q. And at that time did you discuss with
7 Mr. Short what had happened that night leading up
8 to the incident?

9 A. Yes, we did another recap to better
10 allow Detective Johnson to get an understanding as
11 he would tell.

12 Q. Was this at roughly 6:30 in the
13 morning, is that the first time Detective Johnson
14 was meeting with the Defendant?

15 A. That's true.

16 Q. What account did he -- what statement
17 did he give Detective Johnson at roughly 6:30 in
18 the morning?

19 A. He had gone through pretty much the
20 same general basics that he had talked to myself
21 and Detective Bailey to that point; however, he
22 added small details to include I believe there was
23 some activity of being at Wal-Mart and some sexual
24 activity that occurred prior to that. But also he
25 had indicated that a jacket that he had previously

1 worn he had given away which had evaded his stories
2 all the way leading up to that point from my
3 initial contact to this point, roughly two hours
4 later. And upon the jacket being mentioned he
5 stated he had given it to a homeless individual.

6 Q. That's new information that you heard
7 for the first time?

8 A. Correct.

9 Q. He indicated he gave his black jacket
10 to a homeless person?

11 A. Yes.

12 Q. Did he know who that person was?

13 A. No.

14 Q. He said he did that several weeks
15 before the incident?

16 A. He said it was a substantial amount of
17 time before the incident, yes. I can't remember if
18 he had phrased it as several weeks or weeks or how.
19 It was a substantial amount of time.

20 Q. So when you and Detective Johnson talk
21 to him at 6:30 in the morning he said in the past
22 he had given the jacket to a homeless person. What
23 did he say about that particular night leading up
24 to the incident? What was his statement about the
25 night?

1 A. That he had obviously been with the
2 victim. They of course had gone out, they had done
3 some errands. They had visited Park Circle area.
4 They returned to the residence on Harper Street.
5 At some point they had had a little bit of a verbal
6 altercation. The victim he said then left and
7 after a short period he went off to find her. I
8 think it was during that point when he had
9 mentioned that that jacket being given away.

10 Q. Now, in that account did he say the
11 victim stormed off one time? Did she storm off and
12 then appear to come back several times, do you
13 remember?

14 A. I believe it was -- I think it was
15 twice.

16 Q. Twice. So she left and then came back
17 and then left again?

18 A. Correct.

19 Q. And the Defendant indicated they were
20 having an argument?

21 A. Yes.

22 Q. Did he mention what it was about or did
23 he say anything like that?

24 A. I don't think he got very detailed on
25 what the argument was. He didn't give a reason,

1 just it was an argument.

2 Q. Did he mention any kind of actual
3 physical component to their disagreement?

4 A. He indicated that the victim had hit
5 him with a set of keys or threw keys at him.

6 Q. So the victim struck him with car keys?

7 A. Yes.

8 Q. Do you know where?

9 A. It was the face. I think he said that
10 she threw car keys and they hit him in the face.

11 Q. Did you notice anything on his face
12 that would corroborate that?

13 A. He had some slight abrasions on his
14 face that could -- I mean could have been caused by
15 being struck with keys.

16 Q. So after this argument after being
17 struck he said that the victim left?

18 A. Correct.

19 Q. And what did he indicate that he did
20 after she left?

21 A. He had waited there at the house for a
22 short period of time and then he said he had gone
23 after her to try and get her to come back. At some
24 point he indicated to us that he heard her
25 screaming and he ran up to see an individual was

1 assaulting her and the individual ran off and that
2 was one of the key points that we had keyed in on
3 as his being inconsistent with the independent
4 witness and their account. Because they had
5 indicated that Mr. Short had not come back to the
6 scene until they had already witnessed the assault
7 driving around the block and came back and then he
8 came up after they were already there.

9 Q. So he didn't admit to doing this at
10 6:30 in the morning with you?

11 A. No.

12 Q. No you said?

13 A. No.

14 Q. What was his demeanor like the entire
15 thing? Was he mad, sad, upset?

16 A. No. He was pretty much even keel. No
17 -- I guess no extreme emotion either way toward
18 anger or sadness.

19 Q. And he was made aware of the death of
20 Malakia Frazier?

21 A. He was.

22 Q. And his demeanor was still flat?

23 A. Totally flat.

24 Q. Then we come to find out that the
25 evidence is found. Did you confront the Defendant

1 with this discovery?

2 A. Yes, he was eventually confronted with
3 that.

4 Q. And he still maintained his innocence?

5 A. Yes. He never gave a full admission of
6 any kind.

7 Q. So at all times with you his statements
8 were self-serving?

9 A. Correct.

10 Q. Offer an explanation for what happened
11 that didn't involve his guilt?

12 A. Correct.

13 Q. Now, when you look at all these
14 encounters with the Defendant, standard questions
15 to establish voluntariness, was he under the
16 influence of alcohol or drugs in your opinion?

17 A. In my opinion, no. He had mentioned
18 possibly having a beer earlier in the evening I
19 think, but he was not intoxicated, no.

20 Q. Any kind of physical or mental
21 disability cause him to have a hard time
22 understanding?

23 A. Not to my knowledge nor his
24 volunteering that information, no.

25 Q. The room itself was relatively

1 comfortable, not pressed in any way?

2 A. No.

3 Q. Obviously that time he's in that room
4 is fairly significant. Was he being questioned the
5 entire time?

6 A. There was ample periods of downtime
7 coupled with offers of food, water, bathroom
8 opportunity.

9 Q. Any threats, any promises made to him
10 in exchange for his statement?

11 A. No.

12 Q. You have fully covered his Miranda
13 rights?

14 A. I did.

15 Q. Given to him by you?

16 A. Yes.

17 Q. Did he have a hard time understanding
18 these rights?

19 A. He did not appear to have. He answered
20 each one.

21 Q. And you already established his
22 education level is the equivalency for high school?

23 A. Correct.

24 Q. Appeared he could read the document, no
25 problem?

1 A. Yes.

2 Q. Were his answers to your questions, did
3 they appear rational, did they make sense with what
4 you were asking him?

5 A. Yeah. I would ask a question and
6 receive an answer. That wouldn't be --

7 Q. Not to say that you agreed with his
8 answers necessarily, but they matched your
9 questions?

10 A. Correct.

11 Q. And you indicated he was not overcome
12 with emotion?

13 A. No.

14 Q. Did anyone -- did you or anybody else
15 in your presence threaten or coerce him in any
16 fashion?

17 A. No.

18 Q. Did you ever offer him any kind of
19 reward, promise of hope or reward?

20 A. No.

21 Q. All right. Specifically with regards
22 to the right about his right to have an attorney,
23 did he understand that right and sign off on that?

24 A. He did.

25 Q. And did he appear to hesitate or have

1 any questions about that?

2 A. No.

3 Q. Did he ever stop and change his mind
4 and say I want an attorney now?

5 A. Not to my recollection.

6 Q. To the best of your knowledge this is a
7 freely and voluntarily given statement?

8 A. Yes.

9 Q. Court's indulgence.

10 (Off-the-record conference.)

11 BY MR. WETMORE:

12 Q. You weren't really involved in
13 discussions with the Defendant before his Miranda
14 rights were given, were you? Was that Detective
15 Bailey?

16 A. That was Detective Bailey short of my
17 return, then asking for a timeline.

18 Q. Okay. So the statements you have
19 discussed today are post-Miranda --

20 A. Yes.

21 Q. -- rights. Okay. And to the best of
22 your understanding they are not admitting guilt
23 necessarily, they're self-serving?

24 A. Yes. There was no admission of guilt
25 in the statements that I witnessed at all.

1 MR. WETMORE: No further questions.

2 THE COURT: Any questions for the
3 witness?

4 CROSS-EXAMINATION

5 BY MR. SHAHID:

6 Q. Detective, did you say that you did
7 arrive at the scene on October the 10th?

8 A. Yes, I did.

9 Q. What time did you get there?

10 A. I can't give you an exact time.

11 Q. What time did the incident take place?

12 A. Shortly after 11:00.

13 Q. 11:30 sound about right?

14 A. Sound about right.

15 Q. And was it your understanding that the
16 first officer to arrive at the scene Mr. Short was
17 there?

18 A. I believe somebody mentioned he was
19 there when the officers arrived, yes.

20 Q. He was -- and this woman who had just
21 been assaulted is laying on the ground at Railroad
22 Avenue; is that correct?

23 A. In a driveway in a trailer park area.

24 Q. And he was leaning over her body?

25 A. I don't know where he was when they got

1 there.

2 Q. You don't recall what time you got
3 there?

4 A. Not exactly, no.

5 Q. Did you file a police report on that?

6 A. My notes go along with Detective
7 Bailey's since I was with him the entire time.

8 Q. You were with Detective Bailey the
9 entire time.

10 A. I was with Detective Bailey for the
11 interview portion. For the portion out on the
12 scene I was with Officer Bordallo.

13 Q. Is that the female officer?

14 A. Yes.

15 Q. And she is the officer who was talking
16 to the Hispanic woman?

17 A. Correct.

18 Q. She was the officer who was
19 interpreting from Spanish to English and English to
20 Spanish; is that correct?

21 A. Correct.

22 Q. So the information that you had that
23 you were aware of that Hispanic woman, Ms. Flores,
24 saw the assault?

25 A. Yes.

1 Q. And the description she gave was a
2 person wearing a black sweatshirt with a hoodie; is
3 that correct?

4 A. I would have to see the statement to
5 see her exact words on that, but it was a male
6 wearing a black shirt I believe.

7 Q. With a hoodie?

8 A. May have been a hoodie, yes.

9 Q. Now, Detective, as I understand what
10 the police are equipped with, the police officers
11 who arrived at the scene on October the 10th, they
12 have cameras inside their cars; is that correct?

13 A. Most do, yes.

14 Q. And those cameras are running, there's
15 a recording of what's going on when they arrive at
16 the scene; isn't that correct?

17 A. They would if their lights were
18 activated.

19 Q. And some of the officers have on body
20 cameras; is that correct?

21 A. At that time some did, yes.

22 Q. So I've been handed a bunch of CDs that
23 have Officer Dalton and Evans and George. Some
24 says the in-car body camera, Bordallo, Washington.
25 Those are officers who were at the scene that

1 night? Do you recall them being there?

2 A. Sounds like a fair recollection.

3 Q. So if their recording was taking place
4 at the scene those are accurately recording what is
5 being said and observed; is that accurate?

6 A. Should be.

7 Q. So if Officer Bordallo is interpreting
8 and she says on the recording that Hispanic woman
9 said the person you are looking for is a black male
10 wearing a hooded sweatshirt, then you would have to
11 abide by what was on the recording; is that
12 correct?

13 A. Right. The only disagreement I have
14 was I don't recall the statement off the top of my
15 head.

16 Q. If that's what she is interpreting
17 that's recorded you would have to abide by that
18 statement; is that right?

19 A. Yes.

20 Q. Now, if an officer is overheard saying
21 early on in that night -- let me back up before I
22 get to that particular point. The interview room
23 in which Mr. Short is placed in is being recorded?

24 A. Yes.

25 Q. So from around 1:19, 1:20 until 12:00

1 the next day or 12:00 the noontime that recording
2 is running?

3 A. Yes.

4 Q. And is it your understanding that Mr.
5 Short arrived at the police station in handcuffs in
6 the back of a patrol car?

7 A. It's possible that he arrived that way.
8 I couldn't tell you. I wasn't there.

9 Q. You said you weren't even at the
10 detective bay the whole time?

11 A. No. I was at the scene with Officer
12 Bordallo. I was at the station with Detective
13 Bailey.

14 Q. Let's make sure we are clear. You
15 don't recall today how long you were on the scene;
16 is that what you're telling us right now?

17 A. The scene? I got back around roughly
18 3:00. I would say three in the morning roughly.

19 Q. Back before?

20 A. Back to the police station.

21 Q. So you were at the scene until
22 3:00 that morning?

23 A. Roughly in that area, yes.

24 Q. Did you -- were you there when the EMS
25 arrived?

1 A. I don't think I was. I don't think I
2 got there yet.

3 Q. Now, the recording that is running
4 while you and other officers are interviewing Mr.
5 Short, that is an accurate recording of what is
6 being said and what's being done; is that correct,
7 interviewing?

8 A. Yes.

9 Q. Did you ever hear one of the officers
10 say that we need to read the Defendant his rights,
11 we need to read to him his rights around 11:30,
12 11:40 that night?

13 A. I don't recall that.

14 Q. If that's recorded that would be an
15 accurate recording of what was being discussed by
16 officers on the scene?

17 A. If it's recorded it's recorded, but I
18 have no idea what anyone else said.

19 Q. In response to a question asked by Mr.
20 Wetmore concerning a statement that Mr. Short made
21 about an individual giving chase, something along
22 those lines, do you recall that line of
23 questioning?

24 A. Um-hmm.

25 Q. That occurred prior to the Miranda

1 warning being issued; is that correct?

2 A. I would have to go back and see if that
3 was amongst the timeline that he had given me prior
4 to Miranda.

5 Q. Do you remember, Detective, around
6 10:00 in the morning that you come back into the
7 room and you play a recording for him?

8 A. If that's on the video then --

9 Q. In preparation for your testimony
10 today, Detective, did you go back and review the
11 video?

12 A. I didn't watch the entire interview,
13 no.

14 Q. You did not?

15 A. No, I did not.

16 Q. Did you watch the part that you were
17 involved in?

18 A. Watched portions.

19 Q. Not all of it?

20 A. No.

21 Q. Judge, I thought I could hook this up
22 to the TV, but I don't have the right -- if I may
23 just play this for him.

24 THE COURT: Only if that's of his
25 personal knowledge. He can't comment on something

1 that he was not a part of.

2 Q. So, Detective, this is what I have
3 given to me as the recording of the interview. And
4 the individual right here, is this Mr. Short?

5 A. Looks like Mr. Short, yes.

6 Q. And the fellow in the baseball cap?

7 A. Me.

8 Q. And the fellow in the black jacket?

9 A. That would be Detective Bailey.

10 Q. Now, if I can cue this up, Judge. If I
11 could have the Court's indulgence for a few
12 seconds. Detective, do you recognize you and Mr.
13 Short? This is showing around 10:43 on October 11,
14 2015. Do you see an item in your hand right there?

15 A. I do.

16 Q. Right there?

17 A. Looks like a recorder.

18 Q. Do you remember playing a recording for
19 Mr. Short at that time?

20 A. It's on video.

21 Q. Sir?

22 A. It's on video.

23 Q. After seeing this does that refresh
24 your memory that you played a recording for Mr.
25 Short?

1 A. I see a recording, yes. What it
2 entails I couldn't tell you that.

3 Q. Let's play a little bit about that and
4 see if this refreshes your memory a little bit
5 more.

6 (Video playing.)

7 It looks like you tried to make some
8 adjustments to the recording, sound right?

9 A. Looks like it would be trying to find
10 the recording, yes.

11 Q. Can you hear that okay?

12 A. Um-hmm.

13 (Video playing.)

14 Q. You leave the room and you come back in
15 and according to the video you now are moving
16 closer to Mr. Short to play for him; is that
17 correct? Do you recall this now taking place?

18 (Video playing.)

19 Q. You know that now, Detective?

20 A. Yes.

21 Q. Do you remember that that was based
22 upon a recording of either one of the body cameras
23 one of the detectives had on him or one of the
24 other --

25 A. Patrol officers. We did not have them.

1 Q. Patrol officer, right. And it was
2 something along the lines of you were confronting
3 him whether or not he had chased someone down or
4 saw somebody; is that what you recall happening?

5 A. I think there was something to do with
6 that statement that he made to one of the patrol
7 officers; however, for our point we didn't have
8 that from the beginning because it takes several
9 hours for that stuff to download. So we didn't
10 have access to that for a while.

11 Q. Now, do you recall coming back into the
12 room before that took place with Detective Johnson?

13 A. I mean I have been in there with her
14 earlier in the morning, yeah.

15 Q. And do you remember yelling at him and
16 telling him to cut the crap or words to that
17 effect?

18 A. Words to that effect.

19 Q. Because you said you had listened to a
20 tape from another detective or another officer? Do
21 you remember that taking place?

22 A. I don't remember the specific verbiage
23 that you are referring to, but --

24 Q. You told him to shut up and cut the
25 crap out or words to that effect, didn't you?

1 A. You have the recording. I don't
2 remember the exact verbiage.

3 Q. That happened right around before 7:00
4 in the morning. Do you recall that part of it
5 also, Detective?

6 A. Not the exact time, no. If you're
7 saying that's when it is, you have the recording
8 and I'm assuming that you are giving the true and
9 accurate time stamps to me not to deceive me so I
10 will agree with you.

11 Q. I am just reading what's on the CD that
12 was handed to me by the North Charleston Police
13 Department?

14 A. Right.

15 Q. Unless those numbers are incorrect. I
16 am relying on what was provided to me.

17 A. There are accurate.

18 Q. Okay. Now, was Mr. Short able to get
19 out of that room and leave?

20 A. At what point?

21 Q. At any point?

22 A. I will assume up until the point where
23 they read him Miranda probably yeah.

24 Q. So in spite of what someone else may
25 perceived with him being detained your version he

1 wasn't detained?

2 A. To my -- we don't usually detain
3 witnesses so him being a witness would not be
4 detained.

5 Q. If he was a witness he's not being
6 detained; that's your testimony?

7 A. Shouldn't be.

8 Q. Shouldn't be. But if he is detained
9 he's not a witness; is that your understanding?

10 A. Probably the legal definition of
11 detained. I would say most witnesses aren't.

12 Q. If an individual is detained they are
13 not free to go?

14 A. Correct.

15 Q. If they are detained they have to stay
16 there?

17 A. Right.

18 Q. Now, are you aware that Ricky's mom was
19 interviewed by the police?

20 A. At some point in the night she was.

21 Q. And is it your understanding she
22 voluntarily came down to the police station?

23 A. I don't know how she got there or what
24 manner.

25 Q. Were you involved in going to her house

1 the next morning?

2 A. No, I never went to the house.

3 Q. Sorry?

4 A. I never went to the house.

5 Q. Now, the statement, State's Exhibit

6 No. 1, is the advisement of rights?

7 A. Correct.

8 Q. On that advisement of rights does it
9 say to him that you are not a suspect anywhere on
10 that advisement of rights form?

11 A. Does it say that he is not a suspect?

12 Q. Or is a suspect?

13 A. No.

14 Q. Do you recall what you said to him when
15 you read those rights to him?

16 A. Not word for word.

17 Q. Did you -- did you tell him he was a
18 suspect then?

19 A. I don't believe so.

20 Q. But in your mind was he a suspect at
21 that point?

22 A. Yes, he was bordering on being a
23 suspect, yes. But I have no obligation to tell him
24 whether he was a suspect or not so we usually don't
25 do that to make anybody on edge.

1 Q. Do you remember Mr. Short saying or
2 asking directly am I being charged?

3 A. I believe he may have asked that.

4 Q. What was your response?

5 A. Probably not right now.

6 Q. Do you remember saying to him words to
7 the effect we do this for everyone now?

8 A. I may have used similar to that.

9 Q. In your mind you don't consider him a
10 suspect?

11 A. At that point he was on the verge of
12 becoming a suspect, yeah.

13 Q. Okay. He was on the verge of becoming
14 a suspect?

15 A. Officially.

16 Q. Let me ask you to double check with
17 you, Detective. I am a little confused. Prior to
18 4:25 on the morning of October the 11th, 2015, was
19 Mr. Short considered a suspect?

20 A. Not by me.

21 Q. Did you discuss with Detective Bailey
22 whether or not he was considered a suspect?

23 A. Probably right before we decided to do
24 his Miranda rights.

25 Q. At the time you walked into the room to

1 read him the Miranda warning, Exhibit No. 1, was he
2 a suspect?

3 A. He was at the point where he was no
4 longer going to be considered solely a witness, but
5 was bordering on becoming a suspect, yes.

6 Q. Did you discuss with Detective Bailey
7 whether he considered him to be a primary suspect?

8 A. We did have some conversation, yes.

9 Q. What was Detective Bailey's response to
10 you whether or not he was a suspect?

11 A. He believed that he was.

12 Q. So the two of you were in the room at
13 the time of reading the Miranda warnings; is that
14 correct?

15 A. Yes.

16 Q. His signature is on that form as a
17 witness along with yours?

18 A. Correct.

19 Q. I want to play to you that portion of
20 the tape.

21 A. If I stepped out for any reason I would
22 have been within earshot of the video.

23 Q. Who is that?

24 A. Detective Bailey. Our video is
25 unfortunately very loud in our squad bay.

1 (Video played.)

2 Q. Entering the room at this point at
3 4:25:08. Mr. Short is still in the interview room
4 and you and Detective Bailey both enter the room;
5 is that correct?

6 A. Um-hmm.

7 (Video played.)

8 Q. At this point you are about to go over
9 the Miranda warnings, correct?

10 A. Correct.

11 Q. At this point in time, Detective, you
12 are going over the questionnaire with the Miranda
13 rights talking about the form?

14 A. Yes.

15 Q. Is this recording accurate?

16 A. It is.

17 Q. Yes?

18 (Video played.)

19 Q. Did you hear what he said?

20 A. I couldn't make all out on the video.

21 Q. I will give you some headphones so you
22 can hear a little bit better, Detective. Rewind
23 this a little bit.

24 (Video played.)

25 Q. What did you hear him say, Detective?

1 A. I missed part of it.

2 Q. Let me back it up for you.

3 (Video played.)

4 A. He asked read me my rights.

5 Q. Does he say am I being charged?

6 A. He does say am I being charged.

7 Q. And your answer is we do it for
8 everyone now? That's what you said?

9 A. Um-hmm.

10 Q. Okay. So I am Ricky Short and I ask a
11 question am I being charged and your response is we
12 do it for everyone now, that indicates to him that
13 he may not be being charged; is that a fair
14 assessment?

15 A. My response to his personally being
16 charged was no.

17 Q. Okay. He's not being charged, but you
18 also say we do it for everyone now. Everyone now
19 regardless?

20 A. Right.

21 Q. He is asking directly whether or not
22 he's being charged with a crime?

23 A. He did ask that, yes.

24 Q. And so all of a sudden, Detective, from
25 when he was initially detained around 11:30 at

1 night to 4:00, 4:30, no rights were read to him?

2 A. No.

3 Q. And when asked specifically am I being
4 charged, he gets a negative response?

5 A. If by negative you mean the answer is
6 no.

7 Q. Not being charged?

8 A. Correct. At that point he was not
9 being charged.

10 Q. Not being charged, okay. At that
11 particular time then, Detective, when you read his
12 Miranda you made a decision he's no longer free to
13 leave?

14 A. Correct.

15 Q. He can't get up and walk out?

16 A. At that point he was being detained.

17 Q. In your mind regardless what else you
18 may have thought, regardless how you may have
19 gotten there, at that particular point he's being
20 detained, but prior to that you don't think he's
21 being detained in your mind?

22 A. No.

23 Q. Now, we talked about other recordings
24 made by other patrol officers and other folks who
25 might have been on the scene. Did you listen to

1 any of those recordings as to Mr. Short showing --
2 I am sorry -- showing concern for Ms. Frazier?

3 A. I didn't watch the entirety of the
4 recordings.

5 Q. Did you hear anyplace where he is
6 saying would you please contact the ambulance to
7 see how she is doing, you need to get her to the
8 ambulance, anything along those lines?

9 A. I don't recall hearing that part.

10 Q. But if that's on the recording,
11 Detective, that would be an accurate reflection?

12 A. If it's on the recording, yes.

13 Q. Make one more point. The information
14 that came off when we went over the recording that
15 you had in your hand, those were recordings that
16 came off of those other officers either body
17 cameras or other dash cameras?

18 A. Yes.

19 Q. And that was well before the 4:25
20 reading of his rights?

21 A. Time out.

22 Q. Let me back up. I showed you a clip of
23 the interrogation?

24 A. Yes.

25 Q. And the interrogation started around

1 1:19, 1:20 in the morning of October 11th?

2 A. The interview would have started then.
3 The interrogation didn't start until after the
4 arrest.

5 Q. You call it interview, then you call it
6 interrogation?

7 A. There's a distinction between the two.

8 Q. And then everything is over around
9 12:00?

10 A. Yes.

11 Q. Sunday afternoon, okay? Now, when you
12 confront Mr. Short with the recordings, those
13 recordings were made prior to 4:25?

14 A. I would assume so because it was his
15 voice and he was obviously back at the station by
16 1:00 a.m.

17 Q. Okay. So it didn't happen any other
18 time until after he was -- before he was at the
19 station?

20 A. Right. It would have been before the
21 station.

22 Q. And before he was at the station he was
23 at the scene?

24 A. Yes.

25 Q. So those recordings took place at the

1 scene?

2 A. Yeah.

3 Q. Thank you. That's all I have of his
4 witness, Your Honor.

5 THE COURT: Any redirect?

6 MR. WETMORE: Yes, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. WETMORE:

9 Q. Detective Riedel, Mr. Shahid began by
10 asking about a Hispanic female, Ms. Flores-Urbina,
11 who was a witness?

12 A. Yes.

13 Q. You indicated that Officer Bordallo
14 translated from Spanish into English?

15 A. Yes.

16 Q. Were you actually the one taking the
17 statement and she was translating? How did that
18 work?

19 A. Yes. I was writing as she was
20 translating.

21 Q. You yourself speak Spanish too,
22 correct?

23 A. I do.

24 Q. If I showed you the witness statement
25 of Ms. Flores-Urbina would it refresh your

1 recollection with that statement?

2 A. It would.

3 Q. What does it say at the very beginning
4 of the narrative?

5 A. Starting from the statement written in
6 English by Detective Riedel as told by witness in
7 Spanish.

8 Q. Exactly right there. So you are
9 writing the statement as it's being translated?

10 A. Correct.

11 Q. Toward the end of that statement is Ms.
12 Flores-Urbina able to give a description of the
13 jacket of the suspect?

14 A. She indicated black male, black jacket,
15 part zipped up.

16 Q. Black jacket; is that right?

17 A. Correct.

18 Q. No mention of a hooded sweatshirt?

19 A. No.

20 Q. I'm basically trying to elicit through
21 you two sets of statements for the Defendant.

22 First is after Miranda about 4:30 in the morning
23 with Detective Bailey. Was that the first time
24 that the Defendant gave you his account of how he
25 cut his hands?

1 A. That was the first account to me, yes.

2 Q. That was the first he had mentioned
3 that to anybody; is that right?

4 A. I believe so, yes.

5 Q. And the second statement that I am
6 trying to elicit took place at 6:30, two hours
7 later with Detective Johnson. At that time did the
8 Defendant make statements about his interactions
9 with the victim before the incident?

10 A. Yes.

11 Q. Leading up to the incident?

12 A. Yes.

13 Q. And that's the first time that
14 Detective Johnson was hearing about that, right?

15 A. Correct.

16 Q. The 6:30 interview was the Defendant
17 providing new details about the events leading up
18 to the incident?

19 A. Yes. There were additional details
20 that hadn't been related in the statements prior to
21 me and after review prior to Detective Bailey new
22 information came out each time we went back.

23 Q. And was one such new revelation the
24 mention of the black jacket?

25 A. Yes.

1 Q. That he indicated he gave to a homeless
2 person?

3 A. Yes.

4 Q. Was he specific about that jacket, do
5 you recall? Did he give any specific details with
6 the jacket at 6:30 in the morning?

7 A. I can't remember specifically details
8 that he gave.

9 Q. If you don't remember that's fine.

10 A. I don't remember.

11 Q. And the Defendant was brought to the
12 station around 1:20; is that correct?

13 A. I believe that's when the interview
14 started.

15 Q. You were still at the scene?

16 A. Yes.

17 Q. Mr. Shahid questioned terminology
18 whether he was detained or in custody. Whatever
19 term he was obviously questioned, right?

20 A. At the 1:20 mark? Yes, he was asked
21 for a timeline.

22 Q. And initially with the other detectives
23 with you he was treated as a witness or a suspect?

24 A. At that point he was treated as a
25 witness. He was the last person to have contact

1 with the victim.

2 Q. Now, several hours later did you begin
3 to view him more as a suspect?

4 A. Yes.

5 Q. And was that when you went in and did
6 the Miranda warning?

7 A. Yes.

8 Q. Now, I assume you have given Miranda
9 rights countless times.

10 A. Yes.

11 Q. In that setting the Defendant is read
12 his constitutional rights, correct?

13 A. Correct.

14 Q. Do you have a duty to inform the
15 suspect that he's being treated as a suspect?

16 A. No.

17 Q. In your mind you had made that jump,
18 but you did not inform the Defendant of that?

19 A. Correct.

20 Q. It's your opinion you don't have a duty
21 to inform him?

22 MR. SHAHID: Objection.

23 THE COURT: Basis? What was the
24 objection?

25 MR. SHAHID: He asked him in your

1 opinion he did not have to do that.

2 THE COURT: He's an officer. That's
3 what he does every day. He would know as an
4 officer what the legal requirements are of him as
5 an officer. He does it everyday. He's qualified
6 to answer the question. Sir, you may answer the
7 question.

8 THE WITNESS: No.

9 BY MR. WETMORE:

10 Q. It is your duty to inform him of his
11 constitutional rights?

12 A. Yes, to inform him of his rights.

13 Q. Do you have a duty to inform him that
14 you are starting to consider him to be a suspect?

15 A. No.

16 Q. So you didn't inform of that, did you?

17 A. No.

18 Q. He specifically asked you if he was
19 being charged at the time, correct?

20 A. He did ask that.

21 Q. And that was the question he asked,
22 right?

23 A. He said am I being charged.

24 Q. And you told him at the time he wasn't
25 being charged?

1 A. I said no.

2 Q. And he wasn't charged at that time, was
3 he?

4 A. No.

5 Q. He wasn't charged until several hours
6 later?

7 A. Correct.

8 Q. Mr. Shahid asked you about the
9 Defendant's statements to other officers on the
10 scene. Did you happen to overhear any of these or
11 just --

12 A. I only overheard them after we were
13 able to gain access to the video.

14 Q. So you can only testify about the
15 statements he made to you?

16 A. Correct.

17 Q. And the purpose of this hearing is to
18 admit the Defendant's statements to you?

19 A. My understanding.

20 Q. And can you specifically testify as to
21 the statements he made to you at approximately 4:30
22 after Miranda about his hand?

23 A. Yes.

24 Q. And at approximately 6:30 about his
25 interactions leading up to the incident?

1 A. Yes.

2 Q. Other than that you are not very well
3 qualified to describe what other people were told?

4 A. No.

5 MR. WETMORE: Nothing further. Thank
6 you.

7 THE COURT: Sir, you may step down.
8 Call your next witness.

9 MR. WETMORE: State calls Detective
10 Johnson.

11 ANGELA JOHNSON

12 having been duly sworn, testifies as follows:

13 THE CLERK: Please state your full name
14 and spell your last name for the record.

15 THE WITNESS: Angela Johnson, last name
16 is J-O-H-N-S-O-N.

17 DIRECT EXAMINATION

18 BY MR. WETMORE:

19 Q. You are a captain now, correct?

20 A. Yes.

21 Q. Have you been with North Charleston for
22 a long time?

23 A. Yes, sir, 22 years.

24 THE COURT: I need you to speak
25 directly into the microphone.

1 BY MR. WETMORE:

2 Q. What were your duties in 2015?

3 A. I was the lieutenant over
4 investigations.

5 Q. Were you in charge of that department?

6 A. Yes, sir.

7 Q. And did you come on duty in the morning
8 of October the 11th, 2015?

9 A. It was actually a little after, yes,
10 after midnight yes, sir.

11 MR. SHAHID: I am having a hard time
12 hearing.

13 THE COURT: Can you pull that
14 microphone? That works.

15 BY MR. WETMORE:

16 Q. You came on at some point early on
17 October the 11th, 2015?

18 A. Yes, sir.

19 Q. And did you become involved in the case
20 against the Defendant, Ricky Short?

21 A. Yes, I did.

22 Q. Did you go out to the scene at all or
23 did you stay at the station? How did that work?

24 A. I was called out and I responded to
25 Railroad Avenue.

1 Q. So you went to the scene?

2 A. Yes, sir.

3 Q. Did you have any contact with the
4 Defendant at the scene?

5 A. No, sir, I didn't.

6 Q. Do you know if he was taken to the
7 police station at some point that night?

8 A. Yes. Prior to my arrival I was advised
9 that the victim's boyfriend had been transported to
10 the detective bureau.

11 Q. The victim's boyfriend being obviously
12 the Defendant, Ricky Short?

13 A. Yes.

14 Q. And where was he taken?

15 A. He was taken to the detective bureau.

16 Q. Put in an interview room, correct?

17 A. Yes, sir.

18 Q. So let me take you to 6:30 in the
19 morning that morning. Same morning. You had been
20 out on the scene, but at that time at 6:30 did you
21 have any contact with the Defendant?

22 A. Yes, sir, I did.

23 Q. And did you go into the interview room
24 with him?

25 A. Yes, sir.

1 Q. Were you with another detective?

2 A. I was. I was with Detective Riedel.

3 Q. And that point did you or Detective
4 Riedel take steps to make sure the Defendant was
5 okay in terms of food, drink, bathroom?

6 A. I believe when I initially went into
7 the room I asked him if he wanted anything to drink
8 or anything to eat.

9 MR. SHAHID: I am sorry. I am still
10 having trouble.

11 THE COURT: She said when she arrived
12 initially she asked him if he wanted anything to
13 eat or drink. Ma'am, I do need you to speak up.
14 You are very soft-spoken. Can you turn the mic up?
15 BY MR. WETMORE:

16 Q. What did you notice about the
17 Defendant's appearance when you entered at 6:30 in
18 the morning?

19 A. He didn't have a shirt on. He just had
20 on a pair of pants.

21 Q. Right. At that point at 6:30 in the
22 morning had he already been given his
23 constitutional rights pursuant to Miranda to the
24 best to your knowledge?

25 A. Yes, sir.

1 Q. He had?

2 A. Yes, sir.

3 Q. As a lieutenant you confirmed that, you
4 are sure of that?

5 A. Yes.

6 Q. And did he waive those rights and speak
7 with you about 6:30 in the morning?

8 A. Yes, he did.

9 Q. What did he tell you happened leading
10 up to this incident?

11 A. He had explained that he was with
12 Malakia most of the day. They had gone to
13 Wal-Mart. They had been to Park Circle together.
14 They went to I believe his grandmother's house, his
15 mother's house. They had done a number of things
16 that day together.

17 Q. Did he -- in his statements to you at
18 6:30 in the morning, did he mention that they had
19 had any kind of argument?

20 A. Yes, sir, they did.

21 Q. What did he tell you about an argument
22 between he and the victim?

23 A. He said that she had seen a number on
24 his phone, just a number, and she was upset about
25 it and believed that it may have been another girl.

1 Q. And what did he tell you that the
2 victim did?

3 A. I believe he said that she hit him with
4 a set of keys or something like that.

5 Q. And then what did he tell you she did?

6 A. That she walked off.

7 Q. Do you remember if this was the first
8 time she walked off? Did he describe multiple
9 times when she walked off or is this the only time
10 you remember?

11 A. He said that she walked off twice and
12 the second time he didn't immediately follow her as
13 far as I remember.

14 Q. The second time or first time?

15 A. He didn't immediately follow her the
16 second time she had walked off.

17 Q. So he describes an argument about a
18 possible other girl on his phone?

19 A. Yes.

20 Q. She walked off and then she comes back?
21 Is that what he described to you?

22 A. I believe that she walked off once,
23 came back and then they got into -- they were still
24 arguing and she walked off again.

25 Q. And that second time they were arguing,

1 is that when he told you that he was struck with
2 the keys?

3 A. Yes, sir.

4 Q. And then she walked off again; is that
5 what he told you that?

6 A. Yes.

7 Q. And then what did he tell you he did?

8 A. He said that he didn't immediately
9 follow her and then he heard screams. So then he
10 ran down the road and saw I believe a black male.

11 Q. So he didn't admit to doing this? He
12 said he simply came upon it?

13 A. Right.

14 Q. Did you ask him anything about the way
15 he was dressed?

16 A. I did. It was somewhat cold that day
17 and I believe it was raining and he said that -- I
18 asked where was his clothes. He said that he had
19 given his shirt, placed it under Malakia's head
20 when she was laying on the ground. And then I
21 asked him well, was it a short sleeve or a long
22 sleeve shirt. He said it was a short sleeve shirt
23 and I kind of inquired like it was really cold, had
24 been raining today, so what other clothes did you
25 have on? And he said that he just had those items,

1 that he had given his -- first he said that he had
2 a large -- that he a large down jacket which it
3 wasn't cold enough for something like that. I
4 asked him if he had owned a lighter jacket and he
5 said he did. He used to own a black Old Navy
6 jacket that he had given to a homeless person a few
7 weeks before. And when asked why did he give it to
8 a homeless person he said the person asked for
9 money at first and then said he was really cold so
10 he felt sorry for him and gave him his jacket.

11 Q. And he described it as an Old Navy
12 jacket? Did he describe the color of it?

13 A. Black jacket.

14 Q. This was before the police actually
15 found that black Old Navy jacket?

16 A. Yes, sir.

17 Q. And he voluntarily told you that he
18 gave it to a homeless person?

19 A. Yes, sir.

20 Q. Did he know who this homeless person
21 was?

22 A. He didn't. He said he met him at the
23 bus stop in front of the Ferndale neighborhood.

24 Q. Did you ask him about the cut on his
25 hands?

1 A. I did.

2 Q. And what did he -- how did he explain
3 those?

4 A. He said that a few days prior he was
5 reaching into a flower box downtown to pull some
6 flowers for Malakia and he cut his hand on a thorn.

7 Q. So this was all the account he gave you
8 about 6:30 in the morning?

9 A. Yes.

10 Q. This was the first time that you are
11 hearing this?

12 A. Yes.

13 Q. And these are relatively new details to
14 you?

15 A. Yes, sir.

16 Q. But he did not admit any kind of guilt
17 at this point?

18 A. No, sir.

19 Q. Basically self-serving statement to
20 you?

21 A. Yes.

22 Q. Describe what he looked like when he
23 said -- what was his demeanor like? Was he upset?

24 A. He did seem somewhat upset, but he
25 didn't seem like he was actually worried about what

1 actually had happened.

2 Q. He didn't seem like he was worried
3 about what happened?

4 A. He didn't seem like he was remorseful
5 or he wasn't crying. He knew that Malakia was gone
6 and he didn't seem like -- he didn't cry about it
7 at all.

8 Q. So you're aware now that later that
9 morning the patrol officers found the evidence, one
10 part of which being the black jacket?

11 A. Yes, sir. We had searched all night
12 and was pretty dark. So that morning I had sent
13 out an e-mail to our day shift requesting that they
14 search the area for possible clothing and maybe a
15 weapon of some sort. And he found the items behind
16 like a garage-type building.

17 Q. And the jacket that was found resembled
18 the one the Defendant described to you?

19 A. Yes.

20 Q. Hours before?

21 A. Yes, sir.

22 Q. Did you at that point believe it was
23 his jacket?

24 A. Yes, sir, I did.

25 Q. Did you confirm that with his mother?

1 A. I did.

2 Q. She indicated it was his jacket?

3 A. She described the exact jacket that we
4 found and we showed her the jacket and she said she
5 believed that that was his jacket.

6 Q. Did you ever confront the Defendant
7 with this recovery of finding of the evidence?

8 A. Yes, sir. Later that morning I went
9 back into the interview room and confirmed that he
10 was told what we had found and he said that he was
11 aware of what we had found.

12 Q. So this was about what time?

13 A. Around 11:30.

14 Q. So about 11:30 you let the Defendant
15 know that officers had found the knife, black
16 jacket, long sleeved shirt all together covered in
17 blood?

18 A. Right.

19 Q. And you confronted him with that?

20 A. Yes, sir.

21 Q. And at that point did he fully admit
22 his guilt?

23 A. He didn't directly admit his guilt.

24 Q. Still somewhat of a self-serving-type
25 statement?

1 A. Yes, sir.

2 Q. What precisely, though, did he say to
3 you? What comments did he make to you at that time
4 about 11:30?

5 A. Well, I asked him what I could tell
6 Malakia's mother. I asked him, you know, what
7 could I tell Ms. Patricia, you know, coming from
8 you and he said that you can tell her that I'm
9 sorry, I'm sorry that she ever started -- ever met
10 me. I'm sorry of everything that transpired
11 tonight. But he said that he really didn't know
12 exactly what happened, that he couldn't remember.

13 Q. Okay. So you talked to him for about
14 30 minutes?

15 A. Yes.

16 Q. That entire time did he continue to
17 make comments like that expressing his regret that
18 it happened?

19 A. Right. He repeatedly said that he was
20 sorry.

21 Q. Did these comments cause you to believe
22 that he was the one that had stabbed her?

23 A. Yes, sir.

24 Q. They were of a nature that admits some
25 sort of responsibility?

1 A. Yes, sir.

2 Q. Didn't come out fully and admit full
3 guilt, but comments of a guilty man in your
4 opinion?

5 A. Right. I advised him what he was being
6 charged with. He was not upset about being charged
7 with murder and at that time it was attempted
8 murder. He just said that he was just sorry of
9 everything that had happened that night.

10 Q. And you have viewed that interaction,
11 30 minute interaction with the Defendant?

12 A. Yes.

13 Q. And you have viewed the disk that we
14 have in evidence?

15 A. Yes.

16 Q. If I may approach, Your Honor?

17 THE COURT: Um-hmm.

18 BY MR. WETMORE:

19 Q. This is what is marked as State's
20 No. 2. Can you identify that?

21 A. Yes. It is Ricky Short interview clips
22 and it has my initials on the right-hand corner of
23 the disk.

24 MR. WETMORE: Judge, I would like to
25 admit that. I think you have already reviewed so I

1 won't play it.

2 THE COURT: Any objection?

3 MR. SHAHID: Judge, make sure that I am
4 clear. That exhibit, Mr. Wetmore, that exhibit No.
5 2 only contains the recording around 11:30, 11:36
6 to 12:09?

7 MR. WETMORE: That is correct.

8 MR. SHAHID: So it does not contain the
9 information on the examination that occurred with
10 her around 6:27, 6:30.

11 MR. WETMORE: It does not contain that.

12 MR. SHAHID: Okay.

13 MR. WETMORE: And also I have edited
14 out and I told you a brief part where he describes
15 previous domestic because of relevance. I did that
16 for his protection, Judge. Based on that I would
17 like it to be admitted at this point.

18 THE COURT: Any objection?

19 MR. SHAHID: No. Thank you, Judge.

20 THE COURT: Any objection?

21 MR. SHAHID: No.

22 THE COURT: Marked and admitted without
23 objection.

24 (STATE'S EXH. 2 in evidence.)

25 BY MR. WETMORE:

1 Q. Go through my sample questions to make
2 sure we have covered everything for voluntariness.
3 You were in there in the interview room with
4 Detective Riedel initially?

5 A. Yes.

6 Q. And then the last time you were by
7 yourself, correct?

8 A. Yes, sir.

9 Q. Either of two those times did you
10 notice that he was under the influence of alcohol
11 or drugs?

12 A. No, sir.

13 Q. Anything like that? Did you have any
14 questions about his physical or mental ability?

15 A. No, sir.

16 Q. The room itself was not the most
17 comfortable, but they are reasonably comfortable?

18 A. Yes, sir.

19 Q. Was he given opportunity for breaks in
20 between questioning?

21 A. Yes, sir.

22 Q. Was he denied access to bathroom, food,
23 drink, anything like that?

24 A. No, sir.

25 Q. Any threats, any promises?

1 A. No, sir.

2 Q. And you indicated that he had already
3 been Mirandized or given his rights before you even
4 began speaking with him at 6:30?

5 A. Yes.

6 Q. And you were as you are meeting with
7 him first at 6:30 in the morning and then 11:30 in
8 the morning, you were getting pretty detailed
9 information from him, correct?

10 A. Yes, sir.

11 Q. This is the first time you had been
12 involved with him, correct?

13 A. At 6:30.

14 Q. The first time the information was
15 coming out in such detail; is that correct?

16 A. Yes, sir.

17 Q. But largely self-serving trying to
18 explain around what had happened?

19 A. Yes, sir.

20 Q. To the best of your knowledge was this
21 statement freely and voluntarily given?

22 A. Yes, sir.

23 MR. WETMORE: I have no further
24 questions. Thank you.

25 THE COURT: Any questions of the

1 witness?

2 CROSS-EXAMINATION

3 BY MR. SHAHID:

4 Q. Detective Johnson, would it be fair to
5 classify you as a senior officer on the scene that
6 night?

7 A. I came after the fact of the incident.
8 I came there when I believe crime scene was
9 gathering the evidence. So the actual scene, the
10 initial scene when the Defendant was there, I was
11 not on scene then.

12 Q. Let me back up and ask a question. At
13 the time of this incident back in October of 2015
14 you held the rank of lieutenant; is that correct?

15 A. Yes, sir.

16 Q. So if you were there on the scene at
17 some point were you considered the senior ranking
18 officer out there that evening?

19 A. I believe there was another lieutenant
20 on scene at the time.

21 Q. Would you all be considered coequal in
22 rank?

23 A. Yes.

24 Q. As a lieutenant you have supervisory
25 authority?

1 A. Yes, sir.

2 Q. And so part of your responsibilities is
3 to make sure that whatever they're doing out there
4 they are doing right?

5 A. Right.

6 Q. Fair statement?

7 A. Yes, sir.

8 Q. As far as taking statements?

9 A. Yes, sir.

10 Q. Obtaining information?

11 A. Yes, sir.

12 Q. Collecting evidence?

13 A. Yes, sir.

14 Q. Taking reports?

15 A. Yes, sir.

16 Q. And part of what you did, officer, as I
17 understand your report of interviewing Mr. Short
18 wasn't done until three months later?

19 A. I'm not exactly sure how long later it
20 was done.

21 Q. Did you file a report contemporaneous
22 with this incident taking place?

23 A. I believe the night -- the morning of
24 the incident I did an initial report in the system
25 and then did a supplement later, added more to it.

1 Q. That report indicated your brief
2 summary of your interview with Mr. Short?

3 A. Yes, sir.

4 Q. That was done back in January of 2016;
5 is that fair to say?

6 A. The initial report -- my initial entry
7 was not done. I may have done a supplement and
8 added more information to it in January. But not
9 -- I believe I did an actual report on that morning
10 and then did a supplement later in January.

11 Q. And that supplement report was done in
12 January of 2016; is that fair to say?

13 A. Yes, sir.

14 Q. Is that what you expect your officers
15 to do, write a report three months after the fact?

16 A. Sometimes that happens. We have a lot
17 of major incidents at North Charleston. We're
18 human. Yes, sir, sometimes it happens.

19 Q. Sometimes it happens.

20 A. Yes.

21 Q. You expect your officers to write a
22 report three months after the incident took place?

23 A. Not an incident report.

24 Q. Or a supplemental report?

25 A. A supplemental report, if they did the

1 actions three months later they would write a
2 supplemental.

3 Q. But your interview of Mr. Short took
4 place on the morning of --

5 A. Yes, sir.

6 Q. -- the 11th of October and you wrote
7 your report three months later?

8 A. I wrote the supplement part of it three
9 months later.

10 Q. And you would expect your officers to
11 do a better job than that wouldn't you, Detective?

12 A. Yes, sir.

13 Q. Detective, the CD that you have in
14 front of you, Exhibit No. 2, is that CD and
15 recordings on this accurate?

16 A. As far as I know, yes, sir.

17 Q. You are not going to submit an
18 inaccurate version of that, are you, Detective?

19 A. No, sir.

20 Q. So whatever questions you asked of Mr.
21 Short, that's an accurate question that you made at
22 the time the recording was made; is that a fair
23 statement?

24 A. Yes.

25 Q. And his response, whatever he said on

1 there is an accurate answer to those questions; is
2 that correct?

3 A. You mean an accurate representation of
4 the answers to the questions?

5 Q. No, ma'am. I am asking you is the
6 recording reflecting what Mr. Short said in
7 response to your questions?

8 A. What he said, yes.

9 Q. So if we were going to rely on what
10 took place, the recording is more reliable than
11 your memory; is that fair to say?

12 A. Yes, sir.

13 Q. So if there's something that's on the
14 recording is different than what you said, we are
15 going to rely on the recording; is that fair?

16 A. Yes.

17 Q. Now, you were not present, Detective,
18 when the Miranda warnings were read to Mr. Short at
19 4:25; is that correct?

20 A. I was present in the detective bay, but
21 not in the actual interview room.

22 Q. Did you overhear that taking place?

23 A. No, sir, I don't believe I did.

24 Q. Now, it was your understanding,
25 Detective Johnson, that Mr. Short was transported

1 from the scene to North Charleston headquarters?

2 A. Yes.

3 Q. And when he was transported he was
4 handcuffed; is that your understanding as well?

5 A. I believe he was.

6 Q. So your understanding is when he was
7 brought to the stationhouse he was being detained;
8 is that fair?

9 A. Yes, sir.

10 Q. And being detained means he was not
11 free to leave; is that correct?

12 A. Well, he was a witness at the time. I
13 don't think he was trying to leave at the time.

14 Q. So he was detained as a witness?

15 A. As far as I know.

16 Q. As far as you know?

17 A. Yes, sir.

18 Q. So is that standard operating procedure
19 that you detain witnesses, Detective?

20 A. I was not on the scene when he was
21 transported so I don't know the reasoning behind
22 the officers placing handcuffs on him.

23 Q. The decision was made by somebody to
24 put handcuffs on him and transport him to the
25 stationhouse in a patrol car?

1 A. Yes, sir.

2 Q. He was not free to leave once that
3 happened?

4 A. I am not sure of that, sir.

5 Q. Well, when you put handcuffs on
6 somebody you are restraining them?

7 A. I don't know the reasons behind the
8 responding officers.

9 Q. My question was once he is put in
10 restraints he is not free to leave; is that fair?

11 A. I'm not sure if I would say that that
12 would be a fair statement.

13 Q. Detective, if I walked up to you and
14 put my hands behind my back and you put handcuffs
15 on me am I detained by you?

16 A. Yes, sir.

17 Q. Okay. So when a person is put
18 handcuffs on and their hand is behind their back
19 they are detained?

20 A. Pretty much, yes.

21 Q. Ain't pretty much. They are detained,
22 Detective?

23 A. Yes.

24 Q. So if tries to run off someone is going
25 to chase him down?

1 A. Yes, sir.

2 Q. Ain't going anywhere, are they?

3 A. Huh-uh.

4 Q. Okay. Now, when he was brought down to
5 the police station he's placed into a room; is that
6 correct?

7 A. Yes, sir.

8 Q. He is not free to leave that room at
9 that point either, is he? He's not free to leave
10 the room, is he, Detective?

11 A. He was a witness.

12 Q. Not my question to you, Detective. Was
13 he free to leave that room?

14 A. I don't even think that came up whether
15 or not. He was free to leave. He was a witness at
16 the time.

17 Q. Detective, he was transported to the
18 police station in handcuffs; is that right?

19 A. As far as I know. I was not there when
20 he was transported. I was not there when he
21 arrived at the station so I never saw him in
22 handcuffs.

23 Q. Let me ask you this way. Presuming
24 that he was, he was detained if he was transported
25 in handcuffs to the police station; fair statement?

1 A. Yes, sir.

2 Q. So he's detained in handcuffs and
3 brought to the police station, put into an
4 interview room, he's not free to leave, is he?

5 A. No.

6 Q. No. Detective, are you familiar with
7 the report, there is a woman by the name of O-N-G;
8 is that right?

9 A. I am familiar with crime scene tech
10 Ong, yes.

11 Q. Jacqueline Michelle Ong?

12 A. Yes.

13 Q. Have you read her report?

14 A. I have not read her report.

15 Q. Have you seen her report at all? That
16 look like a report done by her as part of her
17 official duties?

18 A. Yes, sir.

19 Q. And I want to -- I have highlighted it.
20 She reports on the weather conditions that night?
21 Do you see on the very bottom part right here?
22 Does she report that the temperature on that night
23 is 68 degrees?

24 A. Yes.

25 Q. Thank you, Detective. Detective, there

1 was a question asked by you regarding this black
2 jacket and I think you testified that you met
3 Ricky's mom at her house?

4 A. Yes.

5 Q. She's in the courtroom over there with
6 the blue jacket on?

7 A. Yes.

8 Q. That's her. And were you present along
9 with the evidence technician Ms. Ong?

10 A. Yes.

11 Q. And there was a Sergeant Webb?

12 A. Yes.

13 Q. He had on a body camera?

14 A. Yes.

15 Q. He was recording this exchange between
16 you and Ms. Kelly with the information about the
17 jacket and the knife; is that correct?

18 A. Yes, sir.

19 Q. Have you reviewed that tape?

20 A. I have.

21 Q. Do you remember that there was nowhere
22 at all in that recording that shows the
23 presentation of a jacket to Ms. Kelly?

24 A. You can't see the jacket.

25 Q. Camera pointed at the sky and trees.

1 You can hear dogs barking and noises going on?

2 A. Right.

3 Q. But at no point at all is there a
4 recording of the actual item, actual jacket being
5 shown to Ms. Kelly; is that right?

6 A. Right.

7 Q. At some point in time an adjustment is
8 made, looks like Ms. Ong is showing a box to Ms.
9 Kelly?

10 A. Right.

11 Q. So the recordings on that CD whatever
12 is being said in that CD is an accurate reflection
13 of what transpired on the morning of October the
14 11th; is that fair to say as well?

15 A. Yes.

16 Q. Were you aware, Detective, also that
17 during the assembling of other patrol officers at
18 the scene some of them were wearing body cameras?

19 A. Yes, sir.

20 Q. So the sounds they heard and the images
21 that they were seeing were recorded by those body
22 cameras; is that correct?

23 A. Yes.

24 Q. And at some point during the interview
25 you and Detective Riedel were in the room together?

1 A. Yes.

2 Q. At some point during that interview
3 Detective Riedel comes back into the room, he is
4 very animated?

5 A. Yes, sir.

6 Q. And he cusses Mr. Short out, says cut
7 out the crap or words to that effect and he says
8 something that I have seen the tapes. Do you
9 remember that taking place?

10 A. Yes, sir.

11 Q. Now, so did you listen to any or review
12 any of the recordings of Mr. Short's voice being
13 picked up when he is asking about Ms. Frazier? Did
14 you hear those tapes at all?

15 A. Yes, sir.

16 Q. He wanted to know her condition. He
17 said call the ambulance, call the ambulance. Let
18 me know what's going on. Did you hear those?

19 A. The 911 tapes?

20 Q. Before -- after the 911?

21 A. I have not.

22 Q. So you don't remember hearing or
23 listening to any of those recordings when he was
24 expressing concern about Ms. Frazier?

25 A. I have not.

1 Q. It's your understanding he's the one
2 who made the 911 call?

3 A. Yes, sir.

4 Q. Give me just one second, please.

5 (Attorney confers with client.)

6 Q. Were you present when this Hispanic
7 woman was being interviewed?

8 A. I was not.

9 Q. You don't know if you were or present
10 or you don't recall?

11 A. I was not present when she was actually
12 being interviewed.

13 Q. Do you remember getting some kind of
14 information that the suspect they were was looking
15 for was a black male chubby wearing a hoodie?

16 A. Yes, sir.

17 Q. The information you had was a chubby
18 black male. Would you describe Mr. Short as being
19 chubby?

20 A. No.

21 Q. And but there was a dark jacket or
22 black jacket with a hoodie?

23 A. Or a hoodie, yes, sir. I believe it
24 was described as either the subject was wearing a
25 black jacket or a jacket with a hoodie.

1 Q. With a hoodie and that -- to your
2 understanding that individual, that Hispanic woman,
3 was the only eyewitness to what may have occurred
4 that night?

5 A. I believe there was several people in
6 the car, but I am not sure. I believe there were
7 several other people in the car.

8 Q. Do you have any statements collected
9 besides Ms. Flores?

10 A. Not that I know of.

11 Q. Not that you are aware of. If I
12 understand correctly, at some point during the
13 interview that you have with Mr. Short he mentions
14 that he hears a cry after Ms. Frazier left the
15 second time?

16 A. A scream.

17 Q. Like a noise, a cry or scream and he
18 goes chases after?

19 A. Right.

20 Q. Down the street. For the Court's
21 information, Mr. Short lives with his mom on Harper
22 Street; is that right?

23 A. At that time.

24 Q. He was living with his mom on Harper
25 Street. And Harper Street runs into Railroad?

1 A. Yes.

2 Q. Then Railroad makes a right and
3 Railroad ends up eventually at Montague Avenue?

4 A. Yes, sir.

5 Q. And the distance from Harper Street to
6 Railroad where Ms. Frazier was found is about half
7 a mile or so?

8 A. I would say like a quarter of a mile
9 maybe.

10 Q. Between a quarter and half of a mile?

11 A. Um-hmm.

12 Q. So it is possible he could have heard
13 her scream?

14 A. It is possible, yes, sir.

15 Q. And did he make mention about seeing
16 somebody else?

17 A. He said that he saw someone running
18 away, I believe.

19 Q. Sorry?

20 A. He saw someone running away.

21 Q. And your understanding of the black
22 jacket being located as a result of an e-mail you
23 sent out either the night before or that morning
24 asking uniformed officers to do a canvassing of
25 sorts?

1 A. Yes, sir.

2 Q. To be on the lookout for a jacket and a
3 knife and any other items; is that correct?

4 A. Yes, sir.

5 Q. And that's how for lack of a better way
6 of saying they kind of stumbled upon that; is that
7 right?

8 A. They were searching for it.

9 Q. They were searching and they stumbled
10 upon it?

11 A. They found, it yes, sir.

12 Q. By chance?

13 A. They were searching for those
14 particular items.

15 Q. They were searching randomly, they did
16 not have a specific reason to go to a specific
17 location to go find a specific item; that is your
18 understanding?

19 A. In my e-mail I asked them to search
20 like the 1900-block of the streets in that area for
21 such items.

22 Q. And they just happened to come across
23 it. There was nothing that directed them to go to
24 a particular point or particular location?

25 A. Not a particular exact location.

1 Q. Thank you.

2 MR. SHAHID: No further questions, Your
3 Honor.

4 THE COURT: Any redirect?

5 REDIRECT EXAMINATION

6 BY MR. WETMORE:

7 Q. Thank you, Judge. Captain Johnson, Mr.
8 Shahid asked you about Ms. Flores-Urbina's
9 statement given at the scene. If I show you the
10 North Charleston Police Department witness
11 statement would that refresh your memory of the
12 statement? Yes or no?

13 A. Yes.

14 Q. Is Ms. Flores-Urbina asked to give a
15 description of the suspect?

16 A. Yes, sir.

17 Q. And what does she say exactly is the
18 description of the suspect?

19 A. Black male, black jacket, part zipped
20 up, white shirt, medium height, could not see if he
21 was really skinny, but he was not fat, kind of
22 short hair and jeans.

23 Q. Black jacket and not fat?

24 A. Not fat.

25 Q. Later was -- when Mr. Short was brought

1 to the interview room you talked with him two
2 times, correct?

3 A. Yes, sir.

4 Q. And in those instances, those
5 statements I am trying to elicit through you, one
6 at 6:30 in the morning; is that correct?

7 A. Yes, sir.

8 Q. Did he describe incidents leading up to
9 the incident to you?

10 A. Yes, sir.

11 Q. At that time was he being questioned as
12 a suspect?

13 A. At 6:30, yes, sir.

14 Q. And was he handcuffed then or was he in
15 the interview room just speaking with you?

16 A. No, sir. I never saw Mr. Short with
17 handcuffs.

18 Q. You never saw him in handcuffs in the
19 interview room?

20 A. No, sir.

21 Q. But in all honesty he was being
22 interrogated as a suspect at 6:30?

23 A. Yes, sir.

24 Q. After Miranda?

25 A. Yes, sir.

1 Q. Similarly at 11:30 a.m. he was being
2 questioned as a suspect, correct?

3 A. At 11:30?

4 Q. 11:30 a.m.?

5 A. Yes, sir.

6 Q. And still not handcuffed, though,
7 correct?

8 A. No, sir.

9 Q. And did he make some comments to you
10 about his remorse, regret, that sort of thing?

11 A. Yes, sir.

12 MR. WETMORE: I have no further
13 questions.

14 THE COURT: You may step down. You may
15 call your next witness.

16 MR. WETMORE: Judge, no further
17 witnesses as to the three specific post-Miranda
18 statements I am seeking to admit.

19 THE COURT: Any witnesses, Mr. Shahid?

20 MR. SHAHID: Excuse me one second,
21 Judge.

22 (Attorney confers with client.)

23 MR. SHAHID: No witnesses, Your Honor.

24 THE COURT: Glad to hear any argument.

25 MR. SHAHID: Judge, I submitted --

1 THE COURT: I read your brief.

2 MR. SHAHID: Attached to -- I found it.

3 My memorandum, Attachment 2 item No. 1 which has
4 already been submitted was the advice of rights.
5 It is undisputed that his advice of rights was not
6 given until 4:26. I would tell the Court that the
7 time of the interview is an actual reflection of by
8 numerous reviews of the interview of Mr. Short
9 which begins when he walks in the room around 1:19,
10 1:20 until he -- Ms. Johnson is the last person to
11 interview him at 12:09. So there's no question
12 that length of time that we are dealing with. It's
13 not just the length of time. This is 1:19, 1:20 in
14 the morning on Sunday morning. And normally most
15 of us are asleep trying to get our rest. So this
16 is a 12-hour ordeal. There is no other way of
17 describing that how this is transpiring.

18 You have heard from Detective Johnson
19 and you heard from Detective Bailey without
20 question that he was detained. That he wasn't free
21 to leave. He was handcuffed, he was transported
22 and there's clearly a distinction the police have
23 made with him as opposed to two other witnesses who
24 we at least know about who were interviewed, his
25 mom who voluntarily walked into the police station

1 to be interviewed and this other lady, Ms. Flores,
2 who was interviewed on the scene.

3 So the police tried to make a
4 distinction between he's a witness, he's not a
5 witness, just doesn't hold any water. Within
6 15 minutes of the 911 call and police arriving on
7 the scene Mr. Short is handcuffed and detained.
8 They make that distinction how they are going to
9 treat him in his status as a person who is now in
10 custody. So from that moment until 4:25 he is
11 detained and in handcuffs and no rights are being
12 read to him.

13 Now, the case law is pretty clear on
14 this. I think the case I cited reenforces some
15 U.S. Supreme Court cases that our Supreme Court has
16 upheld. You can't cure. You can't cure what has
17 transpired. What he feels, what is going on, the
18 reality of all this is that he's detained. So his
19 rights are being trampled upon as to what is
20 transpiring with him and him being held in
21 detention.

22 I think Mr. Wetmore has tried to elicit
23 these folks, these witnesses, that nothing that he
24 said is a direct admission as to I did this. I
25 committed this particular crime. That is not what

1 is happening. But if this is played for the jury,
2 if these tapes are played for the jury, they are
3 going to hear statements that he has made that they
4 are going to try to use as evidence against him.
5 There is no other way of clarifying that. So,
6 Judge, based on the totality, that's what the Court
7 has to look at, the totality of circumstances, he
8 is detained, he's held in their possession for lack
9 of a better way of saying it from 11:30 until the
10 questioning is over 13 hours later. And they
11 elicit from him statements that are incriminating
12 and that's why they want this information presented
13 to the jury. I would ask the Court to wipe out and
14 not allow any of this information coming in because
15 his rights were just violated. There is no other
16 way of putting it. Thank you.

17 THE COURT: Would you like to respond,
18 Mr. Wetmore?

19 MR. WETMORE: Yes, ma'am. Thank you,
20 Judge. Obviously North Charleston didn't select
21 the time of day this happened. They respond to the
22 call. Yes, they found Mr. Short shirtless, blood,
23 boyfriend of the victim and yes, they did detain
24 him. He was not arrested, he was detained and
25 brought to the police station around 1:30. At that

1 time they have been abundantly clear that he was
2 not a suspect.

3 They were trying to determine what
4 exactly happened because they didn't know. The
5 detectives did not jump to conclusions. And they
6 gave him the benefit of the doubt. I think we
7 probably would have faulted them if they hadn't.
8 In the time after he's brought in they have talked
9 to him and the detective becomes concerned he's not
10 being truthful. Later on that morning they noticed
11 scratches as his face which they believe to be from
12 a struggle, cuts on his hands which they believe to
13 be from a knife. At that point it does shift and
14 he was considered to be a suspect, given his
15 Miranda warning about 4:30 in the morning.
16 Detective Riedel, the form in which used, State's 1
17 was valid, the advisement was valid. No indication
18 he didn't fully understand it. He fully waived it
19 and continued to speak with him. But after Miranda
20 the tenor changed. It was much more an
21 interrogation, it was very detailed. New
22 information was coming out and new people were
23 being involved on the police side.

24 What I would like to introduce at
25 trial, Judge, I told you there are three portions

1 from the Defendant's post-Miranda statements. The
2 first is 4:30 in the morning self-serving statement
3 about how he cut his hand. That's made for the
4 very first time to Bailey and Riedel. The second I
5 would like to introduce is about 6:30 that morning,
6 again a self-serving statement from the Defendant
7 describing his interactions leading up to the
8 incident. He states for the very first time to
9 Detective Johnson, also has said to Riedel before,
10 but the very first time to Johnson and has a lot
11 more detail, lot of new information. Most notably
12 his black jacket that he states he gave to a
13 homeless person.

14 Finally I would like to introduce
15 around 11:36 a.m. the clip that I have provided to
16 you for the very first time to anyone the Defendant
17 gives statements regarding his lack of memory,
18 sorry, regret, that sort of thing to Detective
19 Johnson, all new information. That final piece
20 that I gave you the video of, that's the only piece
21 that I would seek to actually play to the jury.

22 Judge, as to all three of these
23 statements I would argue that they are all
24 voluntary. There has been no threats, promises, no
25 denial of reasonable comforts. Mr. Short is not a

1 child. He's reasonably educated, reasonably
2 intelligent, not impaired at all. He's not
3 disabled. Therefore I would argue they are
4 voluntary statements.

5 In response to the defense's motion,
6 they quoted the Seibert test, four part test.
7 Judge, I would first argue to you that that
8 analysis doesn't even apply. That case deals with
9 incriminating information. The Defendant's
10 statements are not incriminating. He gives
11 self-severing statements with no real admission of
12 guilt.

13 Secondly, the Seibert test doesn't
14 apply because they're not simply re-eliciting
15 previously information. The post-Miranda
16 statements here all detail new information to new
17 people. Again still self-serving.

18 So I would argue that it doesn't apply,
19 but I will go through, Judge, the four factors just
20 to fully respond to their brief. The Seibert case
21 talks about four factors. They are trying to guard
22 against a question first strategy. That is one
23 where the police talk to somebody without Miranda,
24 get an incriminating statement, read Miranda, then
25 simply have them repeat that incriminating

1 statement.

2 Judge, we are not talking about
3 incriminating information. It is self-serving, but
4 going through the factors, the first is
5 completeness in detail of the first round of
6 questions. With regards to the first round of
7 questions pre-Miranda in this case, very broad,
8 Defendant is not a suspect. He is being treated to
9 get information.

10 The second test deals with timing and
11 setting of the first round pre-Miranda and the
12 second round post-Miranda. Understanding he was in
13 there for a long while. I count to be about
14 11 hours. We recently had a court of appeals case
15 in this state that held 11 hours was not an
16 involuntary statement.

17 Judge, he was given breaks for food,
18 water, that sort of thing. And before Miranda it
19 is important that he was treated merely as a
20 witness. As they became more concerned that he was
21 a suspect the tone changed. Miranda was given. He
22 was treated more like a suspect and gives much more
23 information.

24 The third factor in the test is the
25 continuity of the police. In this case it's

1 certainly not a situation where one detective gets
2 a statement and then give Miranda and then gets the
3 statement again. There are three detectives that
4 are rotating through this. And so there's
5 certainly not the continuity of the police. Many
6 breaks for the Defendant. Detectives leave the
7 room for periods of time. In fact, most of the
8 information that I am seeking to elicit comes from
9 Detective Johnston and she was never involved in
10 any interrogation before Miranda.

11 Finally the fourth part of the case Mr.
12 Shahid cites to you is the degree in which the
13 interrogator's questions in the second round is
14 continuous with the first. And before Miranda is
15 completed, different ball game. Very vague, being
16 treated as someone with information. They have
17 questions. But after Miranda they are questioning
18 him. There is no doubt. There's more of an
19 interrogation. It is not the same information.
20 New information is being brought up.

21 So, Judge, we would argue that the
22 three statements being sought to be introduced are
23 voluntary pursuant to Jackson v. Denno. They do
24 not apply in the Seibert case because they are
25 self-serving and they are not being re-elicited,

1 but even if you do believe that case applies,
2 Judge, I think we are okay with those four factors
3 and we ask these three particular statements be
4 admitted to the jury.

5 MR. SHAHID: May I respond? Judge, the
6 first question is whether or not he's in custody.
7 And it is clear, at least two officers admitted
8 he's being detained. Detention equal sign is
9 custody. And in the Navy case the very first part
10 of the inquiry whether a suspect is in custody is
11 determined by an examination of the totality of the
12 circumstances. Location, purpose and length of
13 interrogation. His location, the North Charleston
14 Police Department. The purpose is to elicit
15 information from him. The length of interrogation,
16 the whole span is 11 hours. And whether the
17 suspect was free to leave the place in question.
18 He wasn't free to leave. There's no question about
19 that. He is in custody, a custodial interrogation
20 beginning at 1:19 in the morning. They should have
21 read his Miranda warnings to him at that
22 particulate point and they failed to do so. They
23 come back, Detective Johnson talks about this. She
24 comes back --

25 THE COURT: Let me ask what may seem

1 like a superfluous question. What did they ask him
2 before then that could have been used against him?

3 MR. SHAHID: They asked him questions
4 about --

5 THE COURT: But are they seeking to use
6 any of it against him and did any of it lead to
7 something that they are using against him? That's
8 the only way the cases you cited would be
9 applicable.

10 MR. SHAHID: And I think, Judge, what
11 happened is that they are getting bits and pieces
12 of information from him because that's when
13 Detective Riedel comes in and fusses at him and
14 says cut the crap. We don't like your story.

15 THE COURT: Isn't that after Miranda?

16 MR. SHAHID: That was before -- well,
17 that was after Miranda and Detective Johnson comes
18 back and then reviews that a second time. Judge,
19 we are using that Miranda timeline at the 4:25 mark
20 as a cut-off point and I think that the problem is
21 when you look at the whole interrogation they just
22 wore him down. Literally they just wore him down.
23 And all of a sudden they decide poof, now we decide
24 even though he is in custody now we ask him
25 questions, now give him his Miranda warnings? They

1 should have done that at the very beginning.

2 The whole line of questioning, this is
3 the other point I wanted to read into the record
4 for the Court's information. This is what Justice
5 Kennedy said about the Seibert case Mr. Wetmore is
6 talking about. Justice Kennedy, while he agreed
7 with much of the opinion, he wished to emphasize
8 that not every Miranda violation would require a
9 suppression. He gives an example. He explained an
10 exception should be made where the officer may not
11 have realized that a suspect was in custody and
12 therefore a warning was not required.

13 Well, there was no question there was a
14 good faith misunderstanding of what transpired.
15 The second portion of what he said is that Justice
16 Kennedy is talking about you can't deliberately
17 avoid Miranda requirement by coming back later on
18 and giving the Miranda warnings later.

19 THE COURT: But factually that's not
20 what we have here, is it?

21 MR. SHAHID: Judge, I think it's
22 exactly what we have here. That is --

23 THE COURT: That case is on point when
24 you have people who inculcate themselves and then
25 you Mirandize them after which is what the police

1 used to do. They would let you sit in the back of
2 a car and inculcate yourself and then once you got
3 to the station they would Mirandize you when they
4 knew that they would elicit that type of a --
5 what's the word I am looking for -- when you are
6 riding in -- I think that the circumstance that you
7 are talking about is when you arrest someone, you
8 put them or have them in a custodial situation and
9 you initiate conversation with him and they start
10 inculcating themselves and when you get to the
11 police station you give them a Miranda warning.
12 You have them repeat what they say. That's the
13 kind of circumstances those cases, line of cases
14 talk about, when you try to cure something that was
15 defective to begin with. I don't think factually
16 it's analogous to what happened here.

17 MR. SHAHID: But, Judge, I agree with
18 you on that point, but I think the dicta out of the
19 Navy case and Seibert case is this: You don't all
20 of a sudden create a poof of magic line and say now
21 we are going to give him the Miranda warnings when
22 we are four hours into the questioning and then the
23 questioning continues. That's probably what
24 happened with this case. They should have -- if
25 they would have given Miranda, that should have

1 been given right at the time that he was brought
2 into the headquarters. That's what they should
3 have done and they didn't do it. They tried to
4 cure that because the damage is already done with
5 him. Because he asked the question specifically.

6 THE COURT: They don't have to tell him
7 that.

8 MR. SHAHID: It goes to the
9 voluntariness of the whole thing.

10 THE COURT: They don't have to be
11 honest with him. Once someone Mirandizes you you
12 know whatever you say could be used against you.
13 That's the trigger. The police can use -- although
14 deception, bald-face deception is not favored, but
15 they can use reasonable deception. They can play
16 good cop, bad cop, they can flat out lie to you.

17 Once they Mirandize you and they say
18 you understand everything you say we can use
19 against you, a reasonable person should know that
20 anything I say is going to be used against me.
21 That's your trigger that they are no longer your
22 friends. Really once they pick you up you should
23 know.

24 MR. SHAHID: Once you are put in the
25 back of that patrol car, I don't disagree with

1 that.

2 THE COURT: Anything further?

3 MR. SHAHID: That's all I have.

4 THE COURT: I have listened very
5 intently to the testimony of the officers. I do
6 find the testimony of the officers to be credible
7 and believable, that being Detective Robert Bailey,
8 that being of Officer Riedel and that of Captain
9 Johnson. I find all of their testimony to be
10 credible on the issue of regarding -- their
11 testimony regarding the issue of the voluntariness
12 and the admissibility of the Defendant's statement.
13 And I'm going to try to take this in the order that
14 it was presented.

15 Custody in and of itself does not
16 trigger Miranda. What triggers Miranda is custody
17 coupled with interrogation, in other words, when
18 the police know that they are going to attempt to
19 elicit from you what would be inculpatory
20 statements that they can then use against you for
21 the purpose of prosecuting you. I find credible
22 that when they originally took him into custody
23 that he was not considered a suspect, that he was
24 considered a witness.

25 And under the circumstances, while I

1 have not heard any direct testimony as to what
2 precipitated him being placed in handcuffs, and the
3 record is void of any testimony regarding that so I
4 don't know why they originally put him in
5 handcuffs, but I think it is reasonable for the
6 police to have transported him from the scene of
7 the incident to the police station when they
8 consider him a witness for a myriad of reasons.
9 One, he is the person that called 911, he would
10 have in light of the circumstances potentially and
11 most probably been the last person to have seen the
12 victim and would have possessed the most
13 information frankly that could have exculpated him
14 and could have led to the quick and timely search,
15 taking him into custody, getting most information
16 for lack of a better way of putting it any more
17 articulately of the person who he would have
18 claimed actually or the police would have surmised
19 actually attacked Ms. Frazier on this evening.
20 Because at the time that they encountered him they
21 did not believe him to be a suspect. There would
22 have been no purpose to have taken Ms. Flores into
23 custody based on what has been presented pursuant
24 to the witness's testimony. Her knowledge of the
25 incident, at least what I have heard at this point,

1 would have been limited and they had maximized the
2 information they had been able to receive from her.

3 Now, at the point that he became a
4 suspect it is appropriate that he should have been
5 Mirandized and he was Mirandized. And looking at
6 State's 1, this is the Miranda form which indicates
7 that he had a GED from Wil Lou Gray in 2007. He
8 initialled each of his advisement of rights
9 indicating that they had been read to him or that
10 he had read them and that he understood them, that
11 he understood that if he needed a lawyer one would
12 be appointed to him if he couldn't afford one and
13 that at any time he could stop questioning.

14 And there's no indication to me but
15 that that advisement of rights was given to him,
16 that it was articulated to him and that he signed
17 it freely, voluntarily, knowingly and
18 intelligently, that he had sufficient education,
19 that he was not under any duress, in fact, the
20 officer, and I made a note to myself, testified
21 that he was even keel, that he had no extreme
22 emotion.

23 There's no evidence in the record that
24 his will was overborne in any way. There was no
25 indication that he was under any mental disability,

1 that he was intoxicated. He was offered food and
2 drinks as well as bathroom breaks on multiple
3 occasions. There's no evidence in the record that
4 he was offered any promises, any hope of promises,
5 any threats, coercion or otherwise in signing the
6 Miranda forms or then proceeding to waive those
7 rights and to then proceed to give a statement to
8 the police regarding this incident.

9 And again sort of taking things out of
10 order, even for argument if they spoke to him as a
11 witness and he gave a timeline of the events, there
12 would be no reason for the police to believe based
13 on his representation to them that he had no
14 involvement in this incident. That anything he
15 said would have been inculpatory to him. He
16 indicated he called 911, he was the last person to
17 see her of sorts, he was there to comfort. Her
18 took off his shirt to aid her and so in terms of
19 getting a continuum of what happened on that
20 afternoon, that would be completely reasonable to
21 elicit that from a witness and not suspect that
22 that would inculcate that witness. And, in fact,
23 and I think he said it did inculcate. Not that
24 that's determinative, but it is worth noting.

25 The Court in determining whether a

1 statement is admissible or statements are
2 admissible after someone has been Mirandized looks
3 at the totality of the circumstances. And while
4 the defense has noted both the Seibert and Navy
5 cases, I do not find them to be factually analogous
6 to this situation. And I would be the first to
7 acknowledge that in many counties throughout South
8 Carolina, not just Charleston, that there used to
9 be, may still be, I don't know, I haven't
10 encountered a case of that kind in a very long
11 time, used to be par for the course where the
12 police would skirt Miranda hoping that someone
13 would give an inculpatory statement and then later
14 Mirandize them after the fact to then sort of clean
15 it up. But that is not factually analogous to this
16 situation. That is not what happened.

17 When looking at the factors that are
18 dispositive that our Supreme Court has articulated,
19 all of those come from United States Supreme Court
20 precedent and have been adopted by our courts, bear
21 with me one moment. The Court is required to look
22 at several factors and weigh them accordingly. As
23 I have indicated, custody in and itself is not a
24 trigger to Miranda. What triggers Miranda is
25 custodial interrogation. In other words, that

1 coupled with custody the police intend to elicit
2 information from the Defendant that they know they
3 will use against him which flies in the face of his
4 constitutional rights.

5 There is also testimony in the record
6 and I find credible that he was free to leave if he
7 had so requested it and he was not -- while he had
8 handcuffs on when he was being transported, when he
9 was at the police station he was not handcuffed.
10 That was observed by Officer Johnson who indicated
11 that at the time that she saw him he was not in
12 handcuffs. And to her knowledge once he was
13 transported was not in handcuffs. To her knowledge
14 he was free, could have asked to have left at any
15 time if he so desired, but remained there
16 voluntarily when he was in a witness posture. And
17 then after having been Mirandized, waived his
18 Miranda warnings and proceeded to give what -- I
19 have watched the statement. It is at best
20 self-serving. But of course self-serving or not it
21 still could be used against him and would be
22 subject to Miranda.

23 And the Court would find he was
24 appropriately advised of his Miranda warnings, that
25 he waived those warnings. When looking at the

1 totality of the circumstances considering his
2 background and his experience, he had a GED which
3 certainly he would have understood the advisements
4 of rights which I understand is generally at about
5 a tenth grade level. And when I speak to
6 elementary kindergarten kids they know Miranda
7 which is sort of sad in and of itself. Most
8 kindergarten kids will tell you you have the right
9 to remain silent when you start talking to them
10 about the legal process. They are very well versed
11 and I think the average person is well versed what
12 Miranda means even if they don't know it is
13 Miranda. They certainly know I have the right to
14 remain silent and I think probably heard it enough
15 on television if not otherwise to know what the
16 plain and ordinary meaning of those words are.

17 His experience, his conduct at the
18 time, I have already addressed that. And there's
19 been much made about the length of the detention.
20 This is not a situation where for 11 hours --
21 generally when you talk about length of detention
22 you are talking about when someone is closed up in
23 a room where they are not allowed to go to the
24 restroom, they have no food, they are clearly sleep
25 deprived where they are subject to constant

1 pressuring usually, multiple officers in terms of
2 being questioned and that certainly is not this
3 circumstance. He was in a very comfortable room.
4 He was offered food, bathroom breaks, drinks,
5 otherwise and there was not a consistent or
6 constant questioning of him. Again at any time he
7 was advised that he can cease questioning. He
8 opted not to do that. There was no promises made
9 to him of leniency, there were no at least that I
10 could discern from the record no threats, coercion
11 or otherwise. Custody in and of itself while
12 sometimes under the circumstances I have already
13 described could be considered coercive, that was
14 just not present under these circumstances.

15 And there were no hopes made of
16 leniency, although our courts have indicated that a
17 mere hope of leniency is not enough to invalidate
18 or to suppress a statement. I may have missed -- I
19 don't think I missed anything. Give me one moment.

20 There has been much made that once he
21 asked the police whether he was a suspect or not
22 the officer testified that he told him no and at
23 that time he did not consider him to be a suspect.
24 But then soon -- I believe I am talking about
25 Officer Riedel, but then soon after that he did

1 become a suspect and he was Mirandized.

2 Let's just say for argument sake even
3 after he was Mirandized -- before he was Mirandized
4 he was -- police said you are not a suspect. I
5 don't believe that to be dispositive and would find
6 that it's not dispositive of the issue of the
7 voluntariness of his statements. I think that the
8 average citizen knows that once you are Mirandized
9 that's a trigger to let you know that anything that
10 you're being -- at that point no matter how kind
11 the police are being to you, no matter how
12 self-deprecating they are being, no matter how much
13 they tell you I'm your friend, once somebody said
14 everything you say can be used against you, I think
15 in the average citizen's mind that triggers and
16 lets them know that this is now an adversarial
17 process and that it is in your best interest not to
18 speak and certainly you're on notice that anything
19 you say can be used against you.

20 So I don't think any representation to
21 him in that regard would rise to the level of being
22 coercive or amount to any type of promise that
23 would negate the voluntariness of his statement. I
24 reserve the right to amend my ruling in the
25 morning.

1 It's 5:00 and we have been going since
2 2:00. I am a little weary. I know you all must
3 be. So if I have omitted anything I apologize. If
4 I look over it again this evening and there is
5 anything that needs to be added I will, but based
6 on the totality of the circumstances clearly he was
7 Mirandized and the statements are admissible.

8 Now, are we going to have -- I assume
9 you will be in touch with Officer Serrudo?

10 MR. WETMORE: Yes, ma'am.

11 THE COURT: He will be here at 9:00 in
12 the morning?

13 MR. WETMORE: I also have a few
14 questions for Officer Bailey again because I tried
15 to bifurcate those as you suggested.

16 THE COURT: That's fine. It might go a
17 little easier. Sometimes it really helps court
18 reporters when you separate the issues and they
19 have to transcribe things, it makes it a lot easier
20 for y'all. Instead of having to weed through
21 things you are able to get to the point what you
22 are looking for.

23 I have signed that order. Here is a
24 copy for you, Mr. Wetmore, and here are your
25 copies, Mr. Shahid. If you all have any exhibits

1 that you have agreed upon it would be very helpful
2 if you could compile a list of those and have them
3 -- find out from the court reporter what system she
4 is going to use to mark those so that we can
5 premark those and admit them before we get started.
6 That makes things go a lot smoother, eliminates a
7 lot of misunderstanding for lack of a better word.

8 And anything that you all disagree on
9 just mark for ID and then when you begin I can mark
10 and admit those that you have agreed upon and then
11 I can just have the other ones that you have not
12 agreed upon marked for ID only. Then what I will
13 do is anything that is marked for ID only a
14 contemporaneous objection will be required and if I
15 need to create a proffer I will do that.

16 Also I don't take speaking objections.
17 So if you have an objection I expect you to tell me
18 you object. I will ask the basis of the objection
19 and you need to be able to tell me whether that's
20 pitting, leading, foundation, relevance, bolster,
21 whatever it be. And if I need argument I will --
22 sometimes I can do it at the bench, I have a
23 microphone, I don't generally -- I record all my
24 bench conferences. But if it requires extensive
25 discussion I will send the jury out and we will

1 take it up in camera or if I need to create a
2 proffer I will do that as well.

3 Is there anything else we need to deal
4 with before we break for the evening?

5 MR. WETMORE: Judge, simply I want to
6 retrieve those items of evidence for the hearing
7 because they will be used for the trial.

8 THE COURT: Well, you don't have
9 copies? That makes it easier for the court
10 reporter. I can give you my copies.

11 MR. WETMORE: This is the one that's
12 been redacted.

13 THE COURT: Mine has been redacted,
14 too.

15 MR. WETMORE: This is the one that's
16 been redacted to eliminate the mention of another
17 incident. I will reuse this and put new stickers
18 on them.

19 THE COURT: It creates a problem for my
20 court reporter. Do you want to use the one you
21 gave me?

22 MR. WETMORE: No, ma'am, because it has
23 the mention of the previous domestic violence.

24 THE COURT: I skipped ahead.

25 MR. WETMORE: I thought that was

1 probably too prejudicial.

2 THE COURT: I agree with that. You
3 have to -- actually what we need to do is the one
4 that I have then we will need to mark as a Court's
5 exhibit so that on appeal they will have the full
6 statement and then you have to do another redacted
7 one to be used at trial because my court reporter
8 has to keep a complete record and it is hard for
9 her to be having those double stickers. It also
10 makes reference to a pretrial hearing which is not
11 appropriate for the jury to know about.

12 MR. WETMORE: Do you mind if I take
13 this and make a copy of it and return it?

14 THE COURT: That's fine. I'm going to
15 give Ms. Ruth the one -- the one that you gave Ms.
16 Ruth, which is the full report and that will be
17 marked as a Court's exhibit. Any exception, Mr.
18 Shahid?

19 MR. SHAHID: No, ma'am.

20 THE COURT: I think that covers
21 everything, doesn't it, until the morning?

22 MR. WETMORE: Thank you, Judge.

23 (COURT'S EXH. 1 marked for
24 identification.)

25 (These proceedings were adjourned at

1 5:05 p.m., April 17, 2018, Charleston County, South
2 Carolina.)
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STATE OF SOUTH CAROLINA COURT OF GENERAL SESSIONS
COUNTY OF CHARLESTON 2016-GS-10-01699
2016-GS-10-01700
2016-GS-10-01701

STATE OF SOUTH)
CAROLINA,)
PLAINTIFF,) TRANSCRIPT OF RECORD
vs.)
APRIL 17, 2018
CHARLESTON, SC
RICKY ANTHONY SHORT,)
Defendant.) VOLUME 2 of 5

B E F O R E:

HONORABLE DEADRA JEFFERSON, JUDGE, AND A
JURY.

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

BURNS WETMORE, ESQUIRE
RICHARD WARING, ESQUIRE
Attorneys for the State

PETER SHAHID, ESQUIRE
Attorney for the Defendant

* * * * *

Ruth C. Weese, RDR
Official Court Reporter
Ninth Judicial Circuit

I N D E X

JACKSON V DENNO HEARING

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1 (The following proceedings were held
2 April 17, 2018, Charleston County, South Carolina,
3 @ 9:43 a.m.)

4 (STATE'S EXH. 1-73 marked for
5 identification.)

6 THE COURT: Do you have a list of the
7 exhibits you have agreed on?

8 MR. WETMORE: Yes, ma'am.

9 THE COURT: Did you all agree on any
10 exhibits?

11 MR. SHAHID: I think we got pretty
12 much, Judge --

13 THE COURT: Tell me the numbers you
14 have agreed on.

15 MR. WETMORE: Judge, I can go through
16 them --

17 THE COURT: I am only dealing in
18 numbers. I need to know the numbers you have
19 agreed on so I can mark and admit them.

20 MR. WETMORE: 1 and 2, I believe we
21 have 1 and 2, 3 through 10.

22 MR. SHAHID: I will look through these.

23 THE COURT: Fine.

24 MR. WETMORE: 3 through 9 are
25 photographs.

1 MR. SHAHID: Those are okay.

2 THE COURT: You said 3 through 10.

3 MR. WETMORE: 3 through -- 10 is the
4 diagram.

5 MR. SHAHID: That's fine.

6 MR. WETMORE: 11 through 21 are
7 photographs.

8 MR. SHAHID: Okay.

9 MR. WETMORE: No objection?

10 MR. SHAHID: No objection on those.

11 MR. WETMORE: 22 is the Defendant's
12 boxer shorts.

13 MR. SHAHID: Judge --

14 THE COURT: I don't need to hear
15 objections. I just need to know the numbers you
16 agreed on so I can mark them.

17 MR. WETMORE: 22.

18 MR. SHAHID: Judge --

19 THE COURT: If you haven't agreed on
20 it, I just need to know the numbers you agreed on.

21 MR. WETMORE: 22, do you agree on that?

22 MR. SHAHID: Let's move on from that.
23 I will come back.

24 MR. WETMORE: 23 and 28.

25 THE COURT: 23 through?

1 MR. WETMORE: 23 through 28.

2 THE COURT: Okay.

3 MR. SHAHID: Those are okay, Judge.

4 THE COURT: Okay.

5 MR. WETMORE: 29.

6 MR. SHAHID: Okay.

7 MR. WETMORE: 30.

8 MR. SHAHID: This is the one that's
9 been screened.

10 MR. WETMORE: Yes.

11 MR. SHAHID: Yes.

12 MR. WETMORE: 31.

13 MR. SHAHID: That's what we are talking
14 about today. The swab, that's what this motion is
15 right here.

16 MR. WETMORE: So 31 is not.

17 MR. SHAHID: Not yet.

18 MR. WETMORE: 32 through 48.

19 MR. SHAHID: Those are photographs.
20 That's fine.

21 MR. WETMORE: 49.

22 MR. SHAHID: That's the same thing as
23 31, swab.

24 MR. WETMORE: So we don't agree on
25 that, Judge. 50 through 57.

1 MR. SHAHID: Okay.

2 MR. WETMORE: Okay? And then 58.

3 MR. SHAHID: We will hold off 58 to
4 through 61.

5 MR. WETMORE: Okay. 62.

6 MR. SHAHID: 62, that came from the
7 street?

8 MR. WETMORE: Autopsy.

9 MR. SHAHID: Autopsy. Okay.

10 THE COURT: 62 you are fine with?

11 MR. SHAHID: Yes, ma'am.

12 MR. WETMORE: 63.

13 MR. SHAHID: Fine. I think I
14 understand what 64 and 65 are. That's part of our
15 motion we are doing right so now hold off on those.

16 MR. WARING: It's the jacket cutting
17 front right chest area of jacket and the swab.

18 MR. SHAHID: Actually I can just tell
19 you from 64 down reserve on those until we have
20 laid a foundation.

21 MR. WETMORE: Then the final one is 72.

22 MR. SHAHID: That's the photograph. 72
23 is -- that's a report.

24 MR. WETMORE: You agree to that?

25 MR. SHAHID: As you bring the witnesses

1 in.

2 MR. WETMORE: Yes.

3 MR. SHAHID: After you lay the
4 foundation.

5 THE COURT: Did you agree on 72 or not?

6 MR. SHAHID: As soon as he lays a
7 foundation for it, Judge, we will agree to it.

8 THE COURT: I only need to know what
9 you have agreed on. I'm trying to --

10 MR. SHAHID: At the right time I will
11 agree to it, Judge.

12 MR. WETMORE: You don't agree to that.

13 MR. SHAHID: That's the autopsy photos.

14 MR. WETMORE: Correct.

15 THE COURT: As I understand it you all
16 agreed to State's 1 through 10, 11 through 21, 23
17 through 28, 29, 30.

18 MR. SHAHID: Right.

19 THE COURT: 32 through 48.

20 MR. SHAHID: Correct.

21 MR. WETMORE: 50 through 57.

22 MR. SHAHID: That's right.

23 THE COURT: And 62 through 63.

24 MR. SHAHID: Correct.

25 THE COURT: Those will be marked and

1 admitted without objection. Are we ready to
2 proceed with Officer Serrudo?

3 MR. WETMORE: Yes, Your Honor.

4 THE COURT: I apologize.

5 MR. WETMORE: He made it back from
6 Texas for us. State calls Ruben Serrudo. Is that
7 all right, Judge?

8 THE COURT: Yes.

9 MR. WETMORE: Sorry, I would like to
10 call Detective Bailey first.

11 (STATE'S EXH. 1-28, 30, 32-48, 50-57,
12 62, 63 in evidence.)

13 THE COURT: Okay.

14 MR. WETMORE: I was thinking about the
15 evidence items, I'm sorry.

16 ROBERT BAILEY

17 having been duly sworn, testifies as follows:

18 THE CLERK: State your full name and
19 spell your last name.

20 THE WITNESS: My name is Robert Bailey,
21 B-A-I-L-E-Y.

22 DIRECT EXAMINATION

23 BY MR. WETMORE:

24 Q. Detective Bailey, how long have you
25 been with North Charleston?

1 A. A little over 13 years.

2 Q. And back in 2015 what were your duties
3 and your responsibilities?

4 A. I was assigned to the persons crimes
5 unit as a master control officer which we
6 investigate all violent crimes and homicides.

7 Q. And on 10-10-15 going into 10-11-15 you
8 were on duty?

9 A. I was on call, correct.

10 Q. And did you become involved with the
11 case against the Defendant, Mr. Short?

12 A. I did.

13 Q. How did that take place?

14 A. I was called out in reference to a
15 homicide at [REDACTED] Railroad Avenue at which time I
16 responded, on call detective.

17 Q. When you responded were you designated
18 a lead detective?

19 A. At the time I was not designated, but
20 throughout the night I became the case agent on the
21 call.

22 Q. Okay. And as the lead detective did
23 you make assignments or assign folks to help you?

24 A. I did.

25 Q. As the lead detective did you

1 eventually decide to get a search warrant to
2 collect the Defendant's DNA?

3 A. I did.

4 Q. Why did you do that?

5 A. To compare to evidence that was located
6 on the scene in the area of [REDACTED] Railroad and
7 various paths.

8 Q. And did you delegate this task to get a
9 search warrant to another detective?

10 A. I did.

11 Q. Who did you delegate that to?

12 A. At that time it was Detective Ruben
13 Serrudo.

14 Q. And did you share information you had
15 with Detective Serrudo to create the search
16 warrant?

17 A. I did.

18 Q. As the lead detective with experience
19 in this is a search warrant a collaborative effort,
20 a compilation of everybody?

21 MR. SHAHID: Object to the leading
22 form, Judge.

23 THE COURT: I will give him a little
24 latitude in light all of the time we have lost this
25 morning.

1 THE WITNESS: Yes, it is a
2 collaboration of everyone's witness statements and
3 coming together, try to figure out the best way to
4 write the warrant to get -- to obtain the DNA.

5 BY MR. WETMORE:

6 Q. Okay. So you gathered all the
7 information that you had?

8 A. That's right.

9 Q. And did you communicate that to
10 Detective Serrudo?

11 A. I did.

12 Q. And did he create the search warrant?

13 A. He did.

14 Q. Okay. And did you review the search
15 warrant?

16 A. I did review it.

17 Q. Did anybody else review it?

18 A. After I reviewed it I told him it was
19 okay to send it to the on call sergeant who made
20 the final decision.

21 Q. You reviewed it and the sergeant
22 reviewed it?

23 A. That's correct.

24 Q. And based on everything that you knew
25 at the time about the case it was accurate?

1 A. Correct.

2 Q. I'm going to -- if I may approach, Your
3 Honor?

4 THE COURT: You may.

5 BY MR. WETMORE:

6 Q. Show you what's been marked as No. 8.
7 Search warrant. I am sorry, No. 3. Can you
8 identify that document?

9 THE COURT: That's No. 3 for this
10 hearing?

11 MR. WETMORE: Three for this hearing,
12 yes, ma'am.

13 THE WITNESS: This is the search
14 warrant that Detective Serrudo drafted and a copy
15 of that search warrant for the Defendant's buccal
16 swab.

17 MR. WETMORE: Judge, I would like to
18 admit State's Exhibit 3 for purposes of this
19 hearing.

20 THE COURT: Any objection?

21 MR. SHAHID: No, ma'am.

22 THE COURT: Marked and admitted without
23 objection.

24 (STATE'S EXH. 3 marked and admitted in
25 evidence.)

1 BY MR. WETMORE:

2 Q. In the search warrant did you and
3 Detective Serrudo and any other detectives, did you
4 specifically describe what evidence you were
5 looking to find?

6 A. We did.

7 Q. What is that?

8 A. We were specifically looking for a DNA
9 profile from the Defendant, Mr. Short, in reference
10 to creating a profile with evidence that was
11 located on the scene.

12 Q. What does it say in the search warrant
13 that you were specifically looking for?

14 A. We were looking to get a buccal swab
15 which is usually the cotton Q-tip sterile device
16 that goes into the Defendant's mouth to swab for
17 saliva that would be sent up to SLED.

18 Q. And the buccal swab is what you
19 typically used?

20 A. That's the most safest and unobtrusive
21 practice that we have, yes.

22 Q. Now, did you specifically describe who
23 was to be searched and who was to have the DNA
24 collected?

25 A. We did.

1 Q. And how did you describe that?

2 A. It was described as the Defendant's
3 name full name as Ricky Anthony Short, described
4 him as a black male with a date of birth of

5 [REDACTED] They also gave his height, his
6 weight, his last known -- correction and where he
7 currently was at the time which was at city hall.

8 Q. Because he was in the interview room?

9 A. That is correct.

10 Q. And in the search warrant did you and
11 your team specifically describe the probable cause,
12 basically the rationale for this collection of DNA?

13 A. Yes, we did.

14 Q. All right. And was this a compilation
15 from all the information from all the officers that
16 you had at the time?

17 A. This is a compilation that we all
18 provided to Detective Serrudo who drafted it and
19 was reviewed.

20 Q. And describe what was your probable
21 cause or rationale for this search or collection of
22 DNA?

23 A. The reference to the probable cause in
24 this is due to the cuts along the face and the
25 abrasions on his face, also with markings on his

1 hands, his right hand, which is his primary hand to
2 include his middle, index and middle and pinky
3 finger, appeared to be made with the same type of
4 instrument with a straight edge blade. It was
5 later determined the Defendant after Miranda
6 appeared to made at the time -- it was later
7 determined the Defendant was read Miranda rights
8 which he waived, the victim and the Defendant were,
9 in fact, engaged prior to her death in a verbal
10 altercation in front of the residence of [REDACTED]
11 Harper Street. The Defendant and it stated that
12 the victim left the residence on foot toward
13 Railroad, at which time moments later he also went
14 in that same direction in an to attempt to talk
15 with her. The Defendant stated that he heard the
16 victim screaming for someone to stop as he came to
17 Railroad Avenue and he began to run to her.
18 However, upon him rounding the corner he did not
19 notice anyone except the victim lying on the
20 ground.

21 Pretty much basically he was the last
22 one to see the victim alive. He's -- according to
23 him at that time he was the first one to find her
24 when he arrived on the scene.

25 Q. All right. I know this is tedious, but

1 please for the purposes of this hearing pick up
2 where you left off and continue describing the
3 probable cause, please?

4 A. However, upon him rounding the corner
5 on foot he did not notice anything except the
6 victim lying on the ground with people standing
7 over her. Those witnesses stated that they were
8 arriving home when they observed a black male
9 wearing a black jacket assaulting the victim on the
10 on the ground near the residence. They then drove
11 from the area stopping at different locations to
12 use the phone to call 911 since their cell phones
13 were dead. They were unable to use a phone at that
14 location so they returned home to find the victim
15 laying bleeding in front of the house on the side
16 of the road. But the subject was gone. While
17 standing there the Defendant showed up taking his
18 white t-shirt off and putting it under the head of
19 the victim. The witnesses will be unable to
20 identify the subject they viewed. A black Old Navy
21 jacket, a steak knife with blood on both were
22 discovered in a path of direct flight of the
23 suspect by detectives on Fuller Street. The jacket
24 positively identified by the Defendant's mother to
25 be his.

1 Q. Okay. That was basically the
2 justification you all came up with for the search
3 or collection of the DNA?

4 A. That's correct.

5 Q. That was from you and from everybody?

6 A. Correct.

7 Q. Now, the last paragraph there, why were
8 you collecting this DNA sample? What did you
9 intend to do with it?

10 A. We intended to A, to compare to the
11 evidence that we had on the scene, also we intended
12 to keep the highest interest of the community in
13 mind here when we were doing to make sure that we
14 were doing everything possible to either prove the
15 innocence or guilt of the Defendant.

16 Q. So you intended to take his sample to
17 compare it to other things?

18 A. Correct.

19 Q. And did you believe that material
20 evidence of his innocence of his guilt would be
21 found by collecting that DNA?

22 A. That is correct.

23 Q. And I know from experience y'all don't
24 take DNA in every case. Was it the seriousness of
25 this case that caused you to make that call?

1 A. It was the seriousness of this case and
2 it was also the amount of evidence that we had
3 recovered with obvious signs of DNA on them.

4 Q. And I think you also mentioned that you
5 believe that the community that you were charged
6 with policing had a high interest in solving this
7 case?

8 A. That's correct.

9 Q. Now, how was the DNA collection to take
10 place?

11 A. It was to take place inside the
12 interview room upon the service of the search
13 warrant to the Defendant. He was provided with a
14 search warrant, at which time a detective went
15 inside the room with a sterile Q-tip swab. He was
16 able to read the search warrant if he wished to, at
17 which time he was asked to open his mouth. The
18 detective's hands were gloved with latex gloves and
19 he was swabbed on both sides of his cheeks, at
20 which time the DNA swab or the buccal swab was
21 placed back into that sterile container, then boxed
22 up to be sent to SLED.

23 Q. Okay. And the collection process
24 itself, that's the one you all commonly use
25 now-a-days?

1 A. That is correct.

2 Q. Are there any other less intrusive
3 means for collecting the DNA?

4 A. There is no other less intrusive means
5 except the buccal swab.

6 Q. Did that process you describe in any
7 way threaten the Defendant's health or his safety?

8 A. No, it did not.

9 Q. Did it present a major intrusion on his
10 body?

11 A. No, it did not.

12 Q. So was -- the search warrant once it
13 was completed, was it taken to a ask judge to for
14 permission to do this swab to collect this DNA?

15 A. Yes. It was taken by Detective Serrudo
16 to a judge for the affidavit to be signed.

17 Q. Do you know who?

18 A. Judge Young, the Charleston County
19 magistrate.

20 Q. Judge Kelly Young?

21 A. Yes.

22 THE COURT: I am sorry. Repeat that
23 first name.

24 THE WITNESS: Judge Kelly Young.

25 BY MR. WETMORE:

1 Q. And was she -- is that when she was the
2 weekend bond judge?

3 A. That's correct.

4 Q. So she was in the police station?

5 A. No, she was on Leads Avenue. She was
6 in Charleston County on Leads Avenue with the bond
7 hearings they had there.

8 Q. Okay. And so what time was that search
9 warrant taken to her, roughly?

10 A. It was taken around -- it was signed at
11 11:43 by Judge Young.

12 Q. Okay. So she saw all the information
13 that was presented in the warrant?

14 MR. SHAHID: Objection, Judge. He is
15 not present.

16 THE COURT: I am sorry. I didn't hear
17 you.

18 MR. SHAHID: Objection to this part of
19 the testimony. He's not present for this part of
20 -- for this part of what may have happened. He did
21 not submit this affidavit.

22 THE COURT: Was he present when this
23 was signed?

24 MR. WETMORE: He was -- no, he was not.

25 THE COURT: Then he can't testify.

1 MR. WETMORE: Did the judge sign this
2 search warrant?

3 MR. SHAHID: Objection. He wasn't
4 present.

5 THE COURT: I think it begs the
6 question. Apparently it was issued. Someone
7 signed it. She had to sign it. I think it's a
8 superfluous issue.

9 BY MR. WETMORE:

10 Q. Did Detective Serrudo bring back to you
11 a signed search warrant?

12 A. He did.

13 Q. And who signed this search warrant?

14 A. Judge Young, Kelly Young.

15 Q. And in your opinion that gave the
16 authorization to conduct the collection?

17 A. That is correct.

18 Q. And looking at the Document No. 3
19 exactly what day and what time did she authorize
20 the search?

21 A. She authorized the search on the 11th
22 day of October 2015 at 11:43 a.m.

23 Q. This was after obviously the evidence
24 had been found, the knife, the jacket and shirt?

25 A. That is correct.

1 Q. Because that's mentioned in there?

2 A. Correct.

3 Q. And the timing is afterwards?

4 A. That is correct.

5 Q. Now, did -- was it immediately
6 executed, immediately swabbed?

7 A. Yes. As soon as it arrived back to the
8 station in a timely fashion it was done the same
9 day.

10 Q. It was done in the interview room?

11 A. Correct.

12 Q. Who was in there?

13 A. Detective Serrudo along with the
14 Defendant, Ricky Short.

15 Q. Were you outside the room?

16 A. I was outside preparing paperwork, but
17 also watching via video.

18 Q. Okay. And could you see exactly what
19 was done?

20 A. Yes.

21 Q. What was done?

22 A. Detective Serrudo advised Mr. Short of
23 the reason he was there. He provided him with a
24 copy of the search warrant. He also advised that
25 he could read the search warrant if he needed to.

1 MR. SHAHID: Judge, this is all
2 hearsay.

3 THE COURT: Why don't you ask the
4 officer who actually did this about that.

5 MR. WETMORE: Yes, ma'am.

6 BY MR. WETMORE:

7 Q. What day and what time was the search
8 warrant executed?

9 A. October 11th, 2015 at 1:00 p.m.

10 Q. So shortly after it was signed by the
11 judge?

12 A. Correct.

13 Q. In your viewing of the interview was
14 his health or safety compromised?

15 A. No.

16 Q. The intrusion was as minimal as
17 possible?

18 A. Correct.

19 Q. Now, in dealing with this search
20 warrant, all search warrants, do you have to follow
21 up with the judge once the search warrant is --

22 A. We do.

23 Q. -- executed. Was that done on this
24 search warrant?

25 A. It was, by Detective Serrudo.

1 Q. And the time frame in which you are
2 supposed to report back to the judge?

3 A. It's usually within ten days.

4 Q. And can you see when this search
5 warrant was returned back to Judge Young?

6 A. I do. It was on January 30th, 2016.

7 Q. And who returned that to the judge?

8 A. Detective Serrudo did.

9 Q. Okay. You are outside the ten day time
10 frame?

11 A. Correct.

12 Q. Any idea for what the delay was about?

13 A. Sometimes it is hard to track down a
14 magistrate judge. We like to get the search
15 warrant signed by the same judge who allowed us to
16 do that, signed the probable cause and affiant and
17 also I believe Judge Young was on maternity leave
18 at that time.

19 MR. SHAHID: Objection, Judge, as to
20 unless he has personal knowledge of all this stuff.

21 THE COURT: Does he have personal
22 knowledge?

23 MR. WETMORE: He does.

24 THE COURT: Have you laid the
25 foundation to establish that?

1 MR. WETMORE: Detective Bailey, in
2 preparation of this case --

3 THE COURT: No, he needs to have been
4 there. That's what rational perception and
5 personal knowledge is based on, not him reviewing
6 somebody else's records.

7 MR. WETMORE: Judge, the way that it
8 happened, I asked Judge Young what happened, where
9 she was.

10 THE COURT: I am sorry?

11 MR. WETMORE: The way that it took
12 place is I asked Judge Young if she had any idea
13 why this was late and she said that she was on
14 maternity leave so I shared that with the officer
15 to refresh his recollection.

16 THE COURT: Is it even germane to the
17 issue?

18 MR. WETMORE: Judge, I don't think that
19 it is. There's no prejudice to the Defendant. I
20 am just trying to cover --

21 THE COURT: Returns are delayed all the
22 time. I am just trying to figure out -- the issue
23 that they raise is probable cause. I don't think
24 the issue is about the insufficiency of the
25 affidavit.

1 MR. WETMORE: Okay.

2 THE COURT: Isn't that correct?

3 MR. SHAHID: Yes, ma'am.

4 MR. WETMORE: Judge, if that's -- if
5 the delay return is not an issue then I won't go
6 into that.

7 THE COURT: The problem is you run into
8 bringing into evidence something none of these
9 witnesses know about and you make yourself a
10 witness and you make the magistrate a witness. I
11 don't think it matters.

12 MR. WETMORE: Okay. If I'm convinced
13 that it is not an issue then I won't address it.

14 MR. SHAHID: If I back into that door
15 somehow you can come back, but I do not intend to
16 go that way.

17 THE COURT: They are not challenging
18 the return. They're challenging the original basis
19 of probable cause.

20 MR. WETMORE: I will stay away from it
21 then.

22 BY MR. WETMORE:

23 Q. Any prejudice that you noticed with the
24 delay?

25 A. There was no prejudice.

1 MR. WETMORE: I have nothing further.

2 THE COURT: You may proceed.

3 CROSS-EXAMINATION

4 BY MR. SHAHID:

5 Q. Thank you. Detective, do you still
6 have Exhibit No. 3 in front of you?

7 A. I do.

8 Q. So I understand from yesterday's
9 testimony that you were in the interview room with
10 Mr. Short early in on this process; is that
11 correct?

12 A. Throughout his statement?

13 Q. Well, let's just go more specific. The
14 assault took place on October the 10th?

15 A. Correct.

16 Q. Mr. Short is brought to the police
17 station shortly after the 911 call is made?

18 A. Correct.

19 Q. And an interview starts around 1:20 on
20 the morning of October the 11th?

21 A. Correct.

22 Q. You are the first officer to come in to
23 interview him?

24 A. That is correct.

25 Q. There were other officers who came in

1 subsequent to that, but you were the primary
2 officer interviewing Mr. Short?

3 A. That is correct.

4 Q. At the initial stage of this
5 investigation?

6 A. That's correct.

7 Q. At some point in time I think what you
8 said yesterday was that you were present at the
9 scene at one particular point, but then returned to
10 headquarters?

11 A. That's correct.

12 Q. That was when you were made the chief
13 case agent on this matter?

14 A. Correct.

15 Q. In answer to a question from Mr.
16 Wetmore, that gave you the ability to make
17 assignments to officers, detectives and patrol
18 officers what you need to collect for this case?

19 A. Correct.

20 Q. So the one piece of information that's
21 contained in the affidavit of Exhibit No. 3 that
22 you have personal knowledge of is which is based
23 upon your interview with Mr. Short; is that a fair
24 statement?

25 A. I'm trying to figure out which piece of

1 information.

2 Q. Well, particularly as to the paragraph
3 that sentence begins 1, 2, 3, 4, 5 lines down with
4 the word "however, upon further investigation"?

5 A. That's right.

6 Q. So you personally observed the
7 Defendant's hands and face. Let me get some water.
8 Excuse me for one second.

9 So the part that starts off with
10 however, you personally observed the Defendant's
11 hands and face?

12 A. Yes.

13 Q. That was your personal observation.
14 Then you also noted in the next sentence the
15 Defendant has small cuts and abrasions on his face
16 along with slight markings on his right hand to
17 include his index, middle and pinky finger?

18 A. Correct.

19 Q. So those observations about what you
20 saw on his hands and face were made by you?

21 A. That is correct.

22 Q. All right. Then you were present when
23 his Miranda warnings were read to him?

24 A. Yes.

25 Q. So that was information that you had

1 about the Miranda warnings and the other agent or
2 officer who had information about Miranda was
3 Detective Riedel?

4 A. Correct.

5 Q. And so statements made immediately
6 after the Miranda warnings were given, you were
7 present and Detective Riedel was present?

8 A. Correct.

9 Q. So Detective Serrudo was not present
10 with you concerning the observations of the hands
11 and fingers?

12 A. Correct.

13 Q. Okay. And he wasn't present during the
14 part dealing with the Miranda warnings?

15 A. No, he was not.

16 Q. As I read his report he was back on the
17 scene doing field work?

18 A. Correct.

19 Q. Doing other things. Okay. At some
20 point during the draw process on the morning of the
21 19th the North Charleston officers received
22 information concerning what he said at the Miranda
23 warnings and he gave a statement that I understand
24 about hearing a cry for help and running towards
25 her direction on Railroad Avenue; is that correct?

1 A. Correct, on the morning of the 11th.

2 Q. Sorry?

3 A. On the morning of the 11th. I think
4 you said the 19th.

5 Q. I am sorry. I meant to say 11th.
6 Post-Miranda the information that you had was he
7 made a statement about hearing cries for help and
8 running to her aid?

9 A. Correct.

10 Q. And that was something that you had
11 personal knowledge as well?

12 A. That is correct.

13 Q. Now, on line 13 in the middle part of
14 that it says something about those witnesses stated
15 they were arriving home. That is what would be
16 defined as the Hispanic woman who was Mrs. Flores
17 is that right? You did not interview her?

18 A. No, I did not.

19 Q. You were not present during?

20 A. I was not.

21 Q. And I think Officer Cindy Bordallo was
22 involved in her, talking to that woman mainly?

23 A. Correct.

24 Q. So that is not personal information
25 that you had?

1 A. Correct.

2 Q. Okay. So in response to a question
3 from Mr. Wetmore, when you briefed Detective
4 Serrudo you were briefing him initially on
5 something that you had personal knowledge of?

6 A. Correct.

7 Q. Such as the fingers, the hands, your
8 personal observations of him?

9 A. Correct.

10 Q. You relayed to him personal
11 observations you had about the Miranda warnings?

12 A. Correct.

13 Q. And you had personal observations of
14 what he said post-Miranda warning?

15 A. That is correct.

16 Q. So then you received information from
17 another law enforcement officer about those
18 witnesses that begin on line 13?

19 A. That's correct.

20 Q. So when you get that information it's
21 information that you have from another source that
22 you now are giving to another person?

23 A. That is correct.

24 Q. To Detective Serrudo. Okay. Excuse
25 me. And so that goes all the way down to when

1 those witnesses, line 13, 14, 15 and I think about
2 line 16, that's all what you got from Officer Cindy
3 Bordallo?

4 A. I think it was other officers as well,
5 to deal with the witness was Bordallo.

6 Q. Bordallo?

7 A. Cindy Bordallo.

8 Q. I mispronounced her name. So that was
9 more of a combination of from her and maybe other
10 officers as well?

11 A. Correct.

12 Q. So you were getting it secondhand or
13 thirdhand and then by the time you pass it on to
14 Detective Serrudo, it is now third or fourth-hand
15 information to him; is that correct?

16 A. You could say that, yes.

17 Q. He was the one who drafted the
18 affidavit?

19 A. Correct.

20 Q. Now, I understand that he may have been
21 present and personally observed the discovery of
22 the knife and the jacket and the shirt; is that
23 correct?

24 A. Correct.

25 Q. So the only thing he has personal

1 knowledge of only is the jacket and the shirt and
2 the knife?

3 A. Correct.

4 Q. That's as contained in this affidavit
5 as we confine it on our inquiry for this affidavit?

6 A. Right.

7 Q. Now, is there anywhere on this search
8 warrant, Detective, in which Detective Serrudo is
9 stating to the magistrate this information is based
10 upon the following source of information?

11 A. Following source of which information?

12 Q. Well, that's what I am talking about?

13 A. Collaborative information?

14 Q. It is not --

15 A. Detectives working jointly together to
16 obtain a full understanding.

17 Q. Yes.

18 A. Doesn't state that specifically, no.

19 Q. At all, does it?

20 A. No.

21 Q. So have you gone to a magistrate before
22 to get a search warrant?

23 A. Multiple times.

24 Q. So sometimes when you present a search
25 warrant to a magistrate or to a judge of record

1 they have a question?

2 A. Correct.

3 Q. And it is permissible to respond to the
4 magistrate's question?

5 A. That is correct.

6 Q. So the magistrate may have information
7 that they want to clarify?

8 A. Correct.

9 Q. And the basis of going to a magistrate
10 is as a check and balance between the police and
11 the person you are trying to search?

12 A. Correct.

13 Q. On the item you are trying to obtain
14 through the search warrant. Those magistrates are
15 there to make sure that it's reasonable what you
16 are trying to do?

17 A. Correct.

18 Q. And within the bounds of the law?

19 A. Within probable cause, yes, sir.

20 Q. And so Detective Serrudo, if he goes
21 there, he doesn't have the information, he can't
22 relay to that judge what may be missing?

23 A. I wasn't there.

24 Q. If he doesn't have the personal
25 information and there's a question raised by the

1 judge he can't answer it?

2 A. I can't speak on his personal -- what
3 he knew.

4 Q. What he knew -- the only information he
5 had personal knowledge of, Detective, was the
6 observation of the knife and the jacket and the
7 shirt; that's what you just testified about?

8 A. Correct, but he was also on scene the
9 whole time, too, as well.

10 Q. But you had to brief him on your
11 observations of Mr. Short?

12 A. Correct.

13 Q. You had to brief him on the
14 observations concerning the statements he made
15 post-Miranda?

16 A. Correct.

17 Q. You had to brief him on what Mrs.
18 Flores may or may not have said?

19 A. Correct, along with other detectives.

20 Q. So he did not have that personal
21 information. Now, are you familiar with the
22 statement, I think I attached it, of Ms. Flores?

23 A. I'm briefly familiar with it, yes.

24 Q. I thought -- did we not mark that
25 yesterday as an exhibit?

1 MR. WETMORE: Flores statement? No.

2 BY MR. SHAHID:

3 Q. I'm going to hand you my copy. If you
4 could identify that witness statement.

5 A. That is the statement of Elizabeth
6 Flores-Urbina.

7 Q. And do you recall, Detective, in her
8 statement in which she makes mention she observed
9 the assault occurring?

10 A. Give me one second to reread. I have
11 read a lot of stuff in the past couple of days.

12 Q. Go ahead.

13 A. (Reading.) What was the question
14 again, sir?

15 Q. Are you familiar with the part in which
16 she talks about observing the assault occur?

17 A. Yes, I see that.

18 Q. Then she also describes that the
19 assailant leaves or runs off?

20 A. Correct, toward Montague.

21 Q. Towards Montague. I'm going to borrow
22 State's Exhibit No. 1 and this is a diagram of the
23 area?

24 A. Right.

25 Q. And it's been premarked that the

1 clothing was found off Fuller Street?

2 A. Correct.

3 Q. And Ms. Frazier was found over here on
4 Railroad?

5 A. That is correct.

6 Q. And then Montague is this way?

7 A. Correct.

8 Q. So when she talks about the assailant
9 running away he's actually running away opposite
10 the direction of where the items were found; isn't
11 that accurate?

12 A. That's what she stated here. Then she
13 also said in there he turned right.

14 Q. He turned right. Which right is this
15 way?

16 A. Correct.

17 Q. Down Dalton Street. She didn't
18 describe what street he ran down to or Graham
19 Street?

20 A. No, Graham is up.

21 Q. I am sorry. It would be either Emden
22 or Dalton. She didn't describe a street he turned
23 right onto. So in the direction that he is running
24 is away from the direction of the clothes are
25 found?

1 A. At the beginning, yes.

2 Q. Not in the direction as is stated in
3 the affidavit that the clothes were found in the
4 direction of flight; that's not accurate, correct?

5 A. If he made a right-hand turn in the
6 mirror who is to say what direct path. I believe
7 the clothes there being -- the clothes there with
8 blood on them would have proved the right direction
9 path of flight.

10 Q. It wouldn't have been the direct path,
11 Detective. If he ran towards Montague and took a
12 right, that is not in the direct path?

13 A. He had several yards to go right back
14 to the clothes.

15 Q. He would have to hook back around?

16 A. Well, he made a right. Whose to say
17 which way he went after he made the right.

18 Q. You have the affidavit in front of you,
19 Detective?

20 A. Which?

21 Q. The affidavit concerning --

22 A. Yes, I am familiar what the affidavit,
23 states the clothes were located in the direct path
24 of the suspect.

25 Q. It was not in the direct path of the

1 suspect, was it, sir?

2 A. Whose to say the clothes weren't in a
3 path in which the suspect shed them?

4 Q. That's exactly my point, Detective.
5 Who is to say because you don't know. All you know
6 from the witness statement is he ran towards
7 Montague and maybe took a right at some point. But
8 that's not in the direct path of flight as observed
9 by the witness. At that point the witness is not
10 observing him any longer?

11 A. That's correct.

12 Q. Okay. And the location was important
13 enough to contain that in the affidavit, correct?

14 A. Correct.

15 Q. And that's inaccurate information given
16 to the magistrate?

17 A. It's still to the point that she stated
18 that she saw him turn right which is within a block
19 radius where the clothes were located.

20 Q. Within the block radius. It was not in
21 the direct flight of what the witness observed?

22 A. Due to the clothes being there that
23 would constitute a direct path, the clothes being
24 there with fresh blood on them.

25 Q. Detective, you understand directions,

1 north, south?

2 A. Absolutely.

3 Q. So the guy is running away from what
4 the witnesses is observing headed towards Montague
5 Avenue, makes a right-hand turn?

6 A. Correct.

7 Q. At that point the witness loses him?

8 A. Correct.

9 Q. Anything after where he headed is
10 speculation?

11 A. That's correct on that part, yes.

12 Q. Okay. So the clothes being found in
13 the area away from where he was running is not in
14 the direct flight?

15 A. But the clothes themselves with fresh
16 blood on them would constitute as a direct path.

17 Q. Detective, it is not a direct path.
18 Direct path means he's headed in the same exact
19 direction. When he made the right-hand turn he was
20 running perpendicular to Fuller Street?

21 A. Fuller. Show me the map again.

22 Q. Yep. Can you see that okay? Here is
23 Fuller Street.

24 A. That is correct.

25 Q. This is Emden and Dalton. They run

1 perpendicular?

2 A. That is correct.

3 Q. So it is not a direct path, Detective?

4 A. They said they saw him in the rear view
5 mirror. Whose to say that he did not make it all
6 the way back down to Emden either.

7 Q. That's exactly the point, Detective.

8 A. Correct. But we stated that the
9 clothes were found with fresh blood on them would
10 constitute the direct path of the Defendant.

11 Q. Detective, how was that in direct path?

12 A. Some of those yards you are able to cut
13 through the yard.

14 Q. That would not be direct. You have to
15 make another turn?

16 A. Okay.

17 Q. Fair statement?

18 A. On that statement that's fair.

19 Q. He had to -- so it was not direct, it's
20 away from where he was running?

21 A. It all points down to where he made
22 that right turn.

23 Q. The location of the clothes was
24 important to put in the affidavit, correct?

25 A. Correct.

1 Q. Because the position of the clothes
2 being tied to the Defendant was important, that's
3 why you added the other sentence in there that you
4 took the jacket -- someone took the jacket to Mr.
5 Short's mother to have her attempt to identify the
6 jacket?

7 A. Correct.

8 Q. You were trying to connect the dots?

9 A. Yes.

10 Q. Showing ownership of the jacket to Mr.
11 Short?

12 A. Correct.

13 Q. And ownership of the jacket in
14 relationship to the crime scene to where Ms.
15 Frazier lay in the street to where the knife and
16 the jacket was observed?

17 A. Right. Say that again.

18 Q. Okay.

19 A. I lost you.

20 Q. You tried to connect the dots
21 connecting the knife and the jacket and the shirt
22 to Ricky Short?

23 A. Correct.

24 Q. And you are trying to connect him to
25 being the assailant?

1 A. Correct.

2 Q. One way of connecting him is to get DNA
3 off the items that you located?

4 A. Correct.

5 Q. And one way of identifying the clothes
6 is to get the DNA sample?

7 A. To identifying the clothes with a --

8 Q. To Mr. Short?

9 A. Short's mother and she identified the
10 jacket.

11 Q. And the DNA off that to tie into him?

12 A. Correct.

13 Q. One of the key elements of that is the
14 location of the clothes?

15 A. Okay.

16 Q. Is that correct?

17 A. Yes.

18 Q. Regardless of how less intrusive the
19 swab is, it's still an intrusion to the person's
20 body; would you agree with me?

21 A. By the definition of intrusion, yes, it
22 would be.

23 Q. You stick an item in someone's mouth?

24 A. Correct, on their cheek.

25 Q. And inside their mouth. They got to

1 say, you are not a dentist, you are not doing it
2 for medical reasons. You are doing this to collect
3 evidence?

4 A. Right.

5 Q. Without his permission?

6 A. Correct.

7 Q. Now, at some point in time, Detective,
8 during the interview that we have discussed that
9 happened on the early morning of January -- not
10 January -- October the 11th, an officer does come
11 in and appears to be taking some kind of cloth and
12 wiping the body of Mr. Short; is that right?

13 A. And I believe I testified to that
14 yesterday that that's what the video showed then,
15 yes. However, upon my review of the video again
16 that is not accurate.

17 Q. It is not accurate?

18 A. No.

19 Q. Did someone walk into the room and --

20 A. There was a crime scene officer came in
21 with me to take photographs of Mr. Short and the
22 white placard which I think you saw was a
23 measurement placard in which she used against his
24 hand to measure the cuts. I did not observe anyone
25 taking evidence off of his body. And I know what I

1 testified to yesterday.

2 Q. Judge, excuse me one second. Que this
3 up.

4 MR. WETMORE: Judge, I object. The
5 purpose of this --

6 THE COURT: I'm trying to figure out
7 what we are doing. The purpose of the hearing --

8 MR. WETMORE: Buccal swab.

9 THE COURT: The purpose of a hearing
10 like this is not to conduct discovery. You have a
11 very limited argument. I expect your questions to
12 be limited to that.

13 MR. SHAHID: I am, but there's at some
14 point in time, I asked the detective this
15 yesterday, but at some point in time somebody goes
16 into the room, the interview room, and to me it
17 appears take looks like a baby wipe kind of cloth
18 and wiping the body of Mr. Short.

19 THE COURT: What does that have to do
20 with establishing probable cause for a warrant?

21 MR. SHAHID: I don't know what they did
22 after that happened.

23 THE COURT: What does that have to do
24 with the warrant and the requirement of whether
25 there is sufficiency of probable cause? You are

1 getting afield of what you want to prove to the
2 jury. I'm not a jury. I don't make that decision.

3 MR. SHAHID: That's all I have.

4 THE COURT: That's about the
5 sufficiency of an investigation.

6 MR. SHAHID: That's all the questions
7 have.

8 THE COURT: Any redirect of the
9 witness?

10 MR. WETMORE: Yes, Your Honor.

11 REDIRECT EXAMINATION

12 BY MR. WETMORE:

13 Q. Now, Detective Bailey, you gathered
14 obviously some information from the Defendant?

15 A. Correct.

16 Q. Observations of him?

17 A. That is correct.

18 Q. Statements from him?

19 A. That is correct.

20 Q. Did you relay those -- that information
21 to other detectives?

22 A. Yes, I did.

23 Q. Specifically Serrudo?

24 A. Correct.

25 Q. Okay. And you mentioned also that

1 Officer Bordallo gathered information from a
2 witness?

3 A. Correct.

4 Q. Do you know if Detective Riedel was
5 with her?

6 A. He was with her and he also signed the
7 witness statements stating that he was with her.

8 Q. And so they have some observation
9 statements they passed along to you?

10 A. Correct.

11 Q. And other detectives?

12 A. That is correct.

13 Q. Is it fair to say that a search warrant
14 is a group effort?

15 A. That's correct.

16 MR. SHAHID: Judge, asked and answered
17 already.

18 THE COURT: Overruled. You may answer
19 the question.

20 THE WITNESS: It is just -- it is a
21 collaborative effort because unfortunately though
22 I'd like to be in multiple places at once I just
23 can't.

24 BY MR. WETMORE:

25 Q. As lead detective you tasked Serrudo

1 with preparing this?

2 A. That's correct.

3 Q. Using the information that everyone
4 gathered together?

5 A. That's correct.

6 Q. And you rely on your fellow detectives
7 and officers?

8 A. Correct.

9 Q. And you trust them to provide you with
10 a lot of information?

11 A. Correct.

12 Q. Now, Mr. Shahid asked you about the
13 fact that the source of this information is not
14 laid out in the body of the search warrant?

15 A. Correct.

16 Q. Do you typically do that?

17 A. No.

18 Q. To the best of your knowledge is that
19 required?

20 A. No, it is not.

21 Q. It's fair to say the source would be a
22 group effort?

23 A. That's correct.

24 Q. And is that a pretty common way a
25 search warrant is created?

1 A. Yes, it is because we all take an oath.

2 Q. All right. And dealing with the
3 questions he asked about Ms. Flores being a
4 Hispanic witness, in reviewing her statement she
5 indicated what way the suspect initially ran?

6 A. Correct, towards Montague, made a
7 right. She saw him in her mirror.

8 Q. Now, does anybody that you dealt with
9 besides the suspect himself know where his path
10 went?

11 A. No.

12 Q. Where was at the time Mr. Short living,
13 do you know?

14 A. I believe it was [REDACTED] Harper Street.

15 Q. Okay. And where was the evidence
16 found?

17 A. It was located on Filmore Street which
18 is a dead end street between Emden and --

19 Q. Would you like to use this? Would it
20 help refresh your memory?

21 A. Please. And Graham I believe.

22 Q. So where was the victim, Malakia
23 Frazier, found?

24 A. Victim was found at [REDACTED] Railroad which
25 if Fuller Street would come all the way to Railroad

1 that's where it would come out.

2 Q. Is that an accurate pen placement?

3 A. Yes, it is.

4 Q. And the knife and clothing was found
5 here is an accurate pen placement?

6 A. That's correct.

7 Q. Then where is the Defendant's
8 residence?

9 A. Directly across Graham to Harper
10 Street, next two streets over.

11 Q. So what you understand is that Mr.
12 Short or the suspect initially came out towards
13 this way?

14 A. Correct.

15 Q. But then the knife and clothes was
16 found here?

17 A. That is correct.

18 Q. And his house is here?

19 A. Correct.

20 Q. But you weren't there so you have no
21 idea what his winding path may have been?

22 A. That is correct.

23 Q. And at the time what was your best idea
24 of the way the suspect traveled?

25 A. Best idea I had was that he made a

1 right and possibly went through some backyards to
2 stay hidden to get back towards where he was
3 living.

4 Q. And the fact that the items, the knife,
5 the jacket and the shirt, the fact they were found
6 indicate to you that the suspect's path came that
7 way?

8 A. Correct.

9 Q. Wouldn't that make logical sense that
10 his path came that way if the items were there?

11 MR. SHAHID: Objection to leading form,
12 Judge.

13 THE COURT: Watch the leading. Please
14 don't replew what we have already heard.

15 THE WITNESS: Correct.

16 BY MR. WETMORE:

17 Q. In the search warrant that you assisted
18 in creating and you reviewed you write the path of
19 direct flight, is that a knowingly false statement?

20 A. No, it is not.

21 Q. Does that accurately reflect your
22 belief of the way his path led?

23 A. Yes, it does.

24 Q. Finally, Mr. Shahid asked about the
25 buccal swab. There is obviously some intrusion?

1 A. Correct.

2 Q. Available to you were there any less
3 intrusive?

4 A. Not available to us.

5 MR. WETMORE: No further questions.

6 THE COURT: You may step down. Call
7 your next witness.

8 MR. WETMORE: Call Detective Ruben
9 Serrudo.

10 RUBEN SERRUDO

11 having been duly sworn, testifies as follows:

12 THE CLERK: Please state your full name
13 and spell your last name.

14 THE WITNESS: My name is Ruben Serrudo,
15 S-E-R-R-A-U-D-O.

16 THE COURT: Could you spell your first
17 name, please.

18 THE WITNESS: R-U-B-E-N.

19 DIRECT EXAMINATION

20 BY MR. WETMORE:

21 Q. Mr. Serrudo, you are no longer with
22 North Charleston?

23 A. No, sir.

24 Q. What are you doing now?

25 A. I'm in construction.

1 Q. How long were you in law enforcement
2 before you left for construction?

3 A. About six and-a-half years.

4 Q. Were you in North Charleston that
5 entire time?

6 A. Yes, sir.

7 Q. October 2015 what were your duties?

8 A. I was an investigator with North
9 Charleston.

10 Q. And did you assist in the investigation
11 of the case against the Defendant, Mr. Short?

12 A. Yes, sir, I did.

13 Q. Who was the lead detective to the best
14 of your memory on this case?

15 A. Detective Robert Bailey.

16 Q. Did you assist him and other officers
17 that were investigating?

18 A. I did.

19 Q. Specifically today we're here talking
20 about the search warrant. Did you work with the
21 lead Detective Bailey and others to create the
22 search warrant?

23 A. Yes, sir, I did.

24 Q. And was that search warrant to collect
25 the Defendant's DNA?

1 A. It was.

2 Q. Did you get information from officers
3 working the case?

4 A. I did.

5 Q. These are fellow officers?

6 A. Correct.

7 Q. Found them to be reliable and truthful?

8 A. Yes, sir, absolutely.

9 Q. Is the process of a search warrant a
10 group effort?

11 A. Absolutely, especially with a case this
12 large.

13 MR. SHAHID: Judge, we are leading
14 again.

15 THE COURT: I'm going to give him some
16 latitude. We are very far behind. It's me. In
17 front of a jury it makes a greater difference to
18 some extent, but I'm going to let him -- don't take
19 it to an extreme.

20 MR. WETMORE: I think we are both
21 trying to speed this along, Judge.

22 THE COURT: Basic things he can lead.

23 BY MR. WETMORE:

24 Q. Did you take all the information you
25 received and put it in the search warrant?

1 A. Yes, sir, I did.

2 MR. WETMORE: If I may approach, Your
3 Honor?

4 THE COURT: You may.

5 BY MR. WETMORE:

6 Q. Show you what's been marked as State's
7 No. 3 for purposes of this hearing. Do you
8 recognize that document?

9 A. Yes, sir. It's a copy of the search
10 warrant that I served.

11 Q. It's already been admitted as State's
12 Exhibit No. 3. In that search warrant did you
13 specifically describe what evidence you were
14 looking to find?

15 A. Yes, sir, I did.

16 Q. Describe what you were looking to find.

17 A. Evidence collected consists of DNA
18 samples that will be tested later and compared to
19 evidence found during the course of this
20 investigation. Affiant is informed and believes
21 that material evidence of guilt will be found by
22 obtaining buccal swab of Ricky Anthony Short to
23 obtain his DNA profile which will be compared to
24 evidence collected from the incident.

25 Q. In the first very part of that

1 description of the property what are you trying to
2 get?

3 A. His DNA.

4 Q. How?

5 A. By using the buccal swab sterile Q-tip.

6 Q. If you will just look at Exhibit No. 3.

7 And I will go through it with you. You are
8 specifically trying to find a buccal swab with his
9 DNA?

10 A. Correct.

11 Q. In the search warrant did you
12 specifically describe what was to be searched and
13 collected?

14 A. I did, yes, sir.

15 Q. Okay. Please describe what you stated.

16 A. Describe Mr. Ricky Anthony Short as the
17 Defendant person of interest who was to have DNA
18 swab conducted upon.

19 Q. So you described the Defendant, Ricky
20 Short, as the person to be searched?

21 A. Correct.

22 Q. You give specific particulars about his
23 details, correct?

24 A. Correct.

25 Q. Now, in the third section, your

1 probable cause section, rationale section, all this
2 information is what you gathered from the other
3 officers, correct?

4 A. Correct, as well as my direct
5 knowledge.

6 Q. So it comes from others and what you
7 knew?

8 A. Correct.

9 Q. And describe exactly what probable
10 cause you put in this search warrant?

11 A. All right. I state on October 10th,
12 2015, at approximately 11:20 p.m. North Charleston
13 police respond --

14 THE COURT: I need you to slow down for
15 the court reporter.

16 A. Yes, ma'am. Responded to the area of
17 Graham and Railroad Avenue which is located in the
18 City of North Charleston in the Ferndale community
19 to reports that an assault just occurred. Upon
20 officers arrival they found the victim Malakia
21 Frazier lying on the ground with multiple stab
22 wounds to her neck, chest and abdomen area. Also
23 on the scene was the listed Defendant Ricky Short
24 whom the two shared a child in common and the
25 victim was pregnant with another. The Defendant

1 was brought back to city hall where he was being
2 questioned as a possible witness to the case.
3 However, upon further investigation and
4 observations of the Defendant's hands and face it
5 appeared that he may have had been involved. The
6 Defendant had small cuts and abrasions on his face
7 along with a slice marking on his right hand to
8 include his index, middle and pinky finger. This
9 mark was all in the same direction, appeared to be
10 made at the same time and with the same instrument.
11 It was later determined after the Defendant was
12 given his Miranda rights which he waived that he
13 and the victim were, in fact, engaged prior to her
14 death in a verbal and physical altercation in front
15 of his residence of [REDACTED] Harper Street. The
16 Defendant stated that the victim left the residence
17 on foot towards Railroad Avenue at which time
18 moments later he also went that direction in an
19 attempt to talk with her. The Defendant stated
20 that he heard the victim scream for someone to stop
21 as he came near Railroad Avenue and began to run to
22 her. However upon him rounding the corner on foot
23 he did not notice anything except the victim lying
24 on the ground with people standing over her. Those
25 witnesses stated that they were arriving home when

1 they observed a black male wearing a black jacket
2 assaulting the victim on the ground near the
3 residence. They then drove away from the area
4 stopping at a different location to use a phone to
5 call 911 since their cell phones were dead. They
6 were unable to use the phone at the location so
7 they returned home to find the victim lying
8 bleeding in front of their house on the side of the
9 road. The subject was gone. While standing there
10 the Defendant showed up taking his white T-shirt
11 off and putting it under the head of the victim.
12 The witnesses will be unable to identify the
13 subject. They viewed a black Old Navy jacket,
14 steak knife with blood on both discovered in the
15 path of the direct flight from suspect by detective
16 on Fuller Street. The jacket was positively
17 identified by the Defendant's mother to be his.

18 Q. That's sufficient. Thank you for that.
19 This was a compilation of information from
20 everyone?

21 A. Yes.

22 Q. Plus what you yourself --

23 A. Yes.

24 Q. -- observed. In that last paragraph
25 why were you collecting the DNA sample from the

1 Defendant?

2 A. So this states the affiant is further
3 informed and believes that Ricky Anthony Short has
4 been suspected of comitting a serious crime. There
5 is no less obtrusive means to obtaining a
6 biological sample from him. Obtaining a sample
7 possesses no major intrusion on his person. The
8 community's highest interest to fairly and accurate
9 determine the guilt or innocence of Mr. Ricky
10 Anthony Short will be served performing the
11 requested procedure.

12 Q. Did you intend to collect his DNA
13 sample to compare it to other items of evidence?

14 A. Yes, sir.

15 Q. And did you believe at the time that
16 material evidence of his innocence or his guilt
17 would be found by collecting DNA?

18 A. Absolutely.

19 Q. Why was DNA taken in this case
20 particularly?

21 A. Concerning how significant the case was
22 and the direct contact the Defendant had with the
23 victim.

24 Q. And so it's your belief that the nature
25 of the case caused high interest in solving it?

1 A. Absolutely.

2 Q. How was the DNA collection to take
3 place?

4 A. I would use a buccal swab which is a
5 Q-tip that's contained prior to me opening the
6 package. I swab the inside cheek of Mr. Ricky
7 Short and place it back into the container.

8 Q. And the collection process itself, is
9 there any less intrusive means of collecting the
10 DNA?

11 A. No, sir.

12 Q. Does the process in any way threaten
13 his health or his safety?

14 A. No, sir, it does not.

15 Q. Does it present a major intrusion on
16 his person?

17 A. No, sir, it does not.

18 Q. Did you take this search warrant that
19 you completed with others to the judge to ask for
20 permission to do the swab?

21 A. Yes, sir, I did.

22 Q. Which judge did you take it to?

23 A. Judge Kelly Young.

24 Q. Do you recall where she was at the
25 time?

1 A. Yes, sir. She was on Leads Avenue.

2 Q. And did you present her this search
3 warrant?

4 A. I did.

5 Q. And did she review it?

6 A. She did.

7 Q. Did she authorize you to do this search
8 warrants or swab?

9 A. She did.

10 Q. Did she sign the form authorizing?

11 A. Yes, sir, she did.

12 Q. Exactly what day and what time did she
13 authorize it?

14 A. It was on the 11th of October, 2015
15 approximately 11:43 a.m.

16 Q. After getting her signature did you
17 immediately go and do the swab of the collection?

18 A. I did, yes, sir, in a timely fashion.

19 Q. And where was that done?

20 A. In North Charleston city hall
21 detective's room.

22 Q. And besides yourself anybody else --
23 and Mr. Short was there, anyone else present?

24 A. No, sir.

25 Q. Describe exactly what you did.

1 A. So I entered the room. I placed the
2 latex glove on my hand at which time I opened the
3 package containing the sterile swab. I presented
4 Mr. Short with the signed search warrant and read
5 it with him. And at that point in time I conducted
6 the search warrant by -- conducted the swab of the
7 inside of his cheek.

8 Q. Exactly what day and time did you do
9 that swab?

10 A. It was on the 11th at 1:00 p.m. --
11 October 11th, 2015, at 1:00 p.m.

12 Q. Just over an hour --

13 A. Correct.

14 Q. -- after it was authorized. Was the
15 Defendant's health or safety at all comprised?

16 A. No.

17 Q. Was the intrusion as minimal as you
18 could make it?

19 A. Yes, it was.

20 Q. You were late in returning the search
21 warrant?

22 A. Yes, sir.

23 Q. Was there any prejudice to the
24 Defendant because of that?

25 A. Absolutely not.

1 MR. WETMORE: I have nothing further.

2 THE COURT: Any questions for the
3 witness?

4 CROSS-EXAMINATION

5 BY MR. SHAHID:

6 Q. You were a detective at the time of
7 this search warrant?

8 A. Yes, sir, I was.

9 Q. You are now back in the private world?

10 A. Yes, sir.

11 Q. You do construction work?

12 A. Yes, sir.

13 Q. I heard you had a long travel from
14 Texas?

15 A. Yes, sir, I did.

16 Q. Thanks for coming back.

17 A. Yes, sir.

18 Q. The affidavit is in front of you right
19 now?

20 A. Yes, sir.

21 Q. I know this may have taken place almost
22 two years ago. The only information that you had
23 personal knowledge is of the recovery of the
24 jacket, the thermal shirt and the knife; is that
25 correct?

1 A. Correct.

2 Q. All the other information contained in
3 this affidavit which was part of Exhibit No. 3 has
4 been relayed to you by other law enforcement
5 officers?

6 A. Correct.

7 Q. Was it your understanding, sir, that
8 there was no eyewitness testimony, no one
9 eyewitnessing and saying Mr. Short was the
10 assailant; was your understanding at the time?

11 A. Correct.

12 Q. The area that we're talking about on
13 Railroad Avenue is mostly a residential area; is
14 that correct?

15 A. Yes, sir.

16 Q. Did you personally go out to try to
17 knock on doors to try to obtain any witness
18 statements from anybody who may have heard or saw
19 anything?

20 A. Yes, sir.

21 Q. That came up with negative results?

22 A. Correct.

23 Q. So what was important for law
24 enforcement to address this case was linking Mr.
25 Short to the crime and that was through the DNA?

1 A. Correct.

2 MR. SHAHID: That's all the questions I
3 have, Judge.

4 THE COURT: Any redirect?

5 MR. WETMORE: Nothing further, Your
6 Honor.

7 THE COURT: Sir, you may step down.
8 Anything further from the State?

9 MR. WETMORE: Nothing, Your Honor.

10 THE COURT: From the defense?

11 MR. SHAHID: No, ma'am.

12 THE COURT: Be glad to hear argument.

13 MR. SHAHID: Judge, the purpose of a
14 search warrant is to obtain a neutral detached
15 judicial officer to review what the police are
16 attempting to do that they cannot do directly. In
17 other words, in order to obtain this swab they have
18 to get permission from a neutral and detached
19 judicial officer regardless of how intrusive or
20 un-intrusive this may be. It is intrusive. They
21 didn't ask Mr. Short for his consent. I don't know
22 he would have given his consent if they had asked
23 him that or not, but they have to go to an
24 independent person who is removed to review what
25 they wanted to do. That's true if the search

1 point so to speak to communicate with the Court.

2 Ma'am, I will give you further
3 instructions about the verdict at the conclusion of
4 the case. In order to preserve everyone's rights
5 I'm going to give counsel the opportunity to take
6 exception to anything that the Court has said by
7 way of opening instruction. Are there any
8 exceptions from the State?

9 MR. WETMORE: No, Your Honor.

10 THE COURT: From the defense?

11 MR. SHAHID: No, Your Honor.

12 THE COURT: Ladies and gentlemen, I
13 would ask that you give counsel your undivided
14 attention in opening argument. You may proceed,
15 Mr. Wetmore.

16 MR. WETMORE: Thank you, Judge. May it
17 please the Court, counsel, can you all see that
18 okay? Let me know if for some reason you can't.
19 First and foremost, thank you all for your service.
20 We can't resolve these very important cases without
21 you. So I appreciate it. I introduced myself
22 yesterday. My name is Burns Wetmore and I am a
23 prosecutor. Helping me is Richard Waring with our
24 office. This is Detective Bailey right here with
25 North Charleston and seated behind him is the

1 victim's family. This is their day in court, too.
2 As I told you, Richard Waring has been helping me.
3 I appreciate his help. And he asked me what is
4 your theme for this case? And what I told him is I
5 said lots of times lawyers will have a theme for
6 their story, theme in their presentation. And I
7 said I don't have a theme for this case. This case
8 is just too sad. This is too sad of a case to even
9 come up with something like that.

10 I'm going to tell you what happened
11 happened back in October 2015 in North Charleston
12 in the Ferndale community. And this is a map of
13 that community and you will see this is Rivers
14 Avenue to the west, Railroad borders to the east.
15 Down here will be like Montague area so you can
16 kind of get a feel for what we are talking about.
17 And then this is zooming in a little further on
18 that neighborhood, same area. What we call the
19 Ferndale community in North Charleston. This is
20 where this took place.

21 It took place on October the 10th of
22 2015. And that was a Saturday night. The
23 Defendant, Ricky Short, had spent the day with his
24 girlfriend. His girlfriend was the victim in this
25 case. Her name is Malakia Frazier. They had been

1 together for about six years. They had a child in
2 common. And she was six months pregnant with
3 another one of his children, a baby girl. Towards
4 the end of that night they spent together they were
5 sitting at the Defendant's residence and he lived
6 right up here on Harper Street. He lived with his
7 mother. It was her house. They were sitting up
8 there and they were sitting in the victim's car.
9 It was something that they did. The victim, his
10 girlfriend, was in her driver's seat and he was
11 sitting in the passenger seat.

12 And unfortunately they got into an
13 argument. There was something real petty, about
14 something on his phone, another girl or something.
15 And so the victim got out of the car, and she took
16 a walk around this neighborhood to cool off and
17 hopefully end the argument.

18 After a period of time she came back to
19 the Defendant's house. And I sure wish she had
20 never done that. We wouldn't be here today. When
21 she returned she got right back into the same
22 argument. And this time she had had enough.
23 Sitting in the driver's seat she smacked him. She
24 had her car keys in her hand and she smacked him.
25 And that time she set out to leave the

1 neighborhood. She got out of the car right here on
2 Harper Street and she walked down this way to
3 Railroad Avenue and was leaving the neighborhood
4 like this.

5 And she got as far as Emden Street.
6 This is the start of the crime scene right here
7 because as she was walking out of the neighborhood
8 she got to the point right here on Emden Street
9 when the Defendant caught up to her. And when he
10 caught her he was armed with this rather large what
11 I call a steak knife, something you would see at
12 Outback or something. Big knife. He was armed
13 with that knife and he proceeds to viciously attack
14 her. And I apologize to the family, but he stabbed
15 her 30 times all through her chest area, upper body
16 area, he even stabs her in the abdomen where she is
17 carrying his child. She, of course, tries to get
18 away. And he continues to attack her. And she
19 starts to come as hard as she can back to where her
20 car is and you will see the photographs of her
21 horrible, graphic, bloody trail as she weaves back
22 and forth up Railroad Avenue trying her best to get
23 back to her car to get away. And he continues to
24 attack her and she makes it almost a block to right
25 here, but she is hurt far too badly. And she falls

1 right there where the pin is on Railroad Avenue and
2 comes to rest on her back. This man continues to
3 stab her.

4 And I want you to think about it. To
5 say it is one thing, but I want you to think about
6 what it takes to stab this knife 30 times. The
7 amount of effort and the amount of time that would
8 take is staggering to me. And you'll see the tip
9 on the knife is bent. That's what kind of force,
10 what kind of time this took.

11 And as the victim is literally laying
12 there dying what did the Defendant do? He comes
13 out of this way, cuts back through here somehow.
14 This street doesn't go all the way through as you
15 can see. He somehow works his way back to this
16 point right here on Fuller Street and that's kind
17 of a residential area, tight little spot where
18 there's a shed and a fence and in that tight little
19 spot this man tries to get rid of the evidence,
20 okay? He's obviously covered in blood at that
21 point and so he throws down this knife right here,
22 throws it down on the ground. He takes off his
23 jacket, his black jacket, and he takes off his
24 white long sleeve thermal shirt all covered in
25 blood. He tries to hide it less than a block from

1 where it happened. And he returns after doing that
2 to where she lays. He returns there. And at this
3 point some people already started to come out of
4 their houses trying to help her. And this man
5 walks up. He is just wearing his undershirt at
6 that point because he had gotten rid of the other
7 stuff. Already hidden the other stuff. And he
8 takes off his white undershirt and he puts it
9 underneath her head as if to comfort her.

10 The police arrive very quickly. I was
11 proud to see how fast they got there and they did
12 their very, very best to treat the victim. They
13 did CPR, tried to do compression on her wounds, but
14 they did the best that they could until EMS
15 arrived. The whole time they were there this man
16 simply stood there and sadly, tragically Malakia
17 Frazier dies either there or on the way to the
18 hospital.

19 Like I said, the Defendant was there
20 and the police immediately say we need to talk to
21 this guy. They brought him to the police station.
22 They are trying to put together -- piece together
23 what happened. First they don't know that he is
24 the person that did this. And they talk to him and
25 they see he's wearing nothing from his waist up in

1 October at night which is a little bit unusual.
2 They could see that he is covered in blood, covered
3 in dirt. And they start to consider him as a
4 suspect.

5 They see scratches on his face,
6 abrasions, small abrasions on his face and that to
7 them signifies a struggle. That is the victim
8 trying to defend herself. And they also notice
9 something else very important. On his dominant
10 right hand the police notice very fresh straight
11 cuts on his right hand. And that is his dominant
12 hand. And that's what happens when you take this
13 knife with your right hand and you stab somebody 30
14 times. That amount of force, that amount of blood
15 causes your hand to slip and you cut your hands.
16 And the detectives, they have been doing this for a
17 while.

18 And they know what that means. And so
19 they begin to become sure that he's the one that
20 did this. Furthermore, his stories, his statements
21 are not consistent. They are not believable. They
22 don't add up. And so based on all this the police
23 give him his constitutional rights, his Miranda
24 rights as you probably have heard, and he waives
25 those rights. And he elects to talk to the police

1 about what happened. And he gives them some pretty
2 amazing stories.

3 First of all, he says that a few weeks
4 before the incident happened he gave his black
5 jacket to a homeless person. Doesn't have any idea
6 who the homeless person is, but that homeless
7 person got his black jacket, specifically a black
8 Old Navy jacket. That's exactly the jacket that he
9 was wearing during the crime. That's exactly the
10 jacket that he hid. The police did not believe
11 that. You shouldn't believe that.

12 The second story he tells is a few days
13 before this incident happened he and the victim
14 were downtown historic Charleston and they are in a
15 neighborhood and the Defendant goes to one of those
16 flower boxes that they have downtown and he tries
17 to pick some thorny flowers to be romantic with the
18 victim. And in so doing, he cuts his hands on the
19 thorns. That's how he explained the cuts on his
20 hands. That's what he told the police. He cut
21 them on thorny flowers trying to be romantic with
22 the victim. The police did not believe that and
23 you should not believe that.

24 Third, at the time of the incident the
25 Defendant acknowledged that he was in an argument

1 with the victim. He acknowledged she smacked him
2 with the car keys and stormed off and he went after
3 her. And inexplicably somebody else that night
4 stabbed her 30 times. That's not believable. He
5 indicates he got down on the ground with her in an
6 effort to comfort her and that's how he got his
7 blood all over her -- her blood on his clothes.

8 It's illogical that they would be in an
9 argument, he would be following behind her and
10 someone else randomly would stab her 30 times.

11 Police didn't believe that and you
12 should not believe it.

13 Now, the Defendant is represented by
14 Mr. Shahid. It is his job to raise questions about
15 this. I'm sure he will do that. But please use
16 your common sense. These stories are not
17 reasonable. Sure, anything is possible. But these
18 aren't reasonable stories. It's starting to get
19 light out. The police were able to find what the
20 Defendant hid and what they found was his black
21 jacket, his long sleeved white thermal shirt with
22 the knife. It is right there. It is hard to see.
23 Too small, so I blew it up a little bit more. The
24 jacket, shirt, there's the blade of the knife.
25 Even further than the black jacket there is a

1 silver blade of the serrated knife. That's this
2 knife right here. I wanted to blow this up so you
3 could see it.

4 The police find all this stuff
5 together. It is all covered in blood. The
6 victim's blood. I would urge you that's that a
7 pretty compelling story. Pretty compelling case.
8 But I want you to be confident.

9 And so what North Charleston did, what
10 I did, is I had all this evidence sent to the lab
11 for testing. Irrefutable scientific DNA testing.
12 So you don't have to wonder. You can be sure.
13 Here's the results of the testing.

14 This knife right here has the victim's
15 blood on it and the Defendant's blood on it. The
16 black jacket that they found is covered in the
17 victim's blood and also has the Defendant's DNA on
18 it. The white long shirt that's found, again,
19 covered in the victim's blood, also has the
20 Defendant's DNA on it. This is strong evidence as
21 to his guilt. You should be confident in that.

22 Now, the lab also tested some other
23 items. They tested the Defendant's boxer shorts,
24 his underwear and down to the underwear he was
25 soaked in what they tested to be the victim's

1 blood. They also tested her fingernails, the
2 victim's fingernails and under her fingernails is
3 large amounts of his DNA which tells you that there
4 was a struggle. Again, this was strong evidence.

5 After finding this stuff the detectives
6 go back to this man right here and confront him
7 with what they had found and he knew that he was
8 caught. He hangs his head and he makes all kinds
9 of comments; you will hear them all. I will play
10 them for you on a video. Comments like I don't
11 remember what happened. I'm sure it was all my
12 fault. I never meant to bring on this terrible
13 situation. I'm sorry she was ever involved with
14 me. I don't deserve forgiveness. There is nothing
15 I can do about it.

16 I am going to play these comments for
17 you. You can hear him making these comments after
18 he is confronted. Yes, Malakia Frazier died. But
19 the doctors at MUSC quickly realized that she was
20 six months pregnant with a viable baby. They
21 delivered the baby by emergency C-section. The
22 family named the baby Miracle, Miracle Frazier.
23 And the doctors were right. Miracle lived for two
24 weeks in their care. She struggled. There's no
25 doubt about it. The attack on her mother deprived

1 her of oxygen and blood for far too long. And she
2 was never able to fully recover and after two weeks
3 Miracle Frazier died. And the way they described
4 her death is due to complications of a premature
5 birth caused by the Defendant's assault on her
6 mother. And I personally can't fathom how a man
7 could do this to the mother of his children,
8 especially while she was six months pregnant. I
9 hope you can't fathom that either and I hope that
10 you will not let him get away and at the end of
11 this I will be asking you to find him guilty.
12 Thank you.

13 THE COURT: Mr. Shahid.

14 MR. SHAHID: May it please the Court.

15 THE COURT: Yes, sir.

16 MR. SHAHID: Good afternoon. My name
17 is Peter Shahid. I'm a lawyer in Charleston. I
18 represent Mr. Ricky Short. Yesterday you were
19 introduced to Mr. Short. He stood up. He was
20 requested to answer to these charges. And he
21 answered not guilty. And he answered how did you
22 wish to be tried? By God and my country. That's
23 God, the Bible. Witnesses will take the witness
24 and swear an oath what happened. What the evidence
25 will be. You're his country. You are the people

1 who are going to determine his fate. The judge
2 instructed you a few moments ago that you have the
3 awesome responsibility for weighing evidence and
4 you have to wait and reserve how you will weigh
5 that evidence until after you hear all the evidence
6 and she gives you his -- her jury instructions.
7 After hearing the opening statement by Mr. Wetmore
8 are you still prepared to do that? Are you
9 prepared to sit in these chairs through several
10 days of testimony and listen to this evidence to
11 give Ricky Short a fair trial?

12 That's the first question you have to
13 ask yourself. Because the information that you
14 heard was awful. You heard about a woman being
15 stabbed 30 times. You heard about a blood trail.
16 You heard about a woman who was pregnant and whose
17 fetus died. Are you prepared to listen to all the
18 evidence and give Ricky Short a fair trial? That's
19 the first question you have to ask yourself right
20 now. Does Ricky Short who stands in this courtroom
21 to be presumed innocent, which means he's innocent.
22 We have nothing to prove. The burden is on the
23 State to prove that he's guilty beyond a reasonable
24 doubt and that presumption stays with him. When
25 you hear horrible information are you going to be

1 able to do that? If you can't do that then you
2 have violated your oath. Each one of you, the 12
3 of you who are selected to sit on this jury, each
4 of you have that responsibility to overcome, to
5 master and to decide throughout the entire course
6 of this trial. That's an awesome responsibility.

7 I want to first thank you for sitting
8 here today. This is a civic obligation that we
9 impose on our citizens and our criminal justice
10 system, our civil justice system, cannot operate
11 without jurors sitting in courtrooms like this one.
12 Your service is important to move the slow process
13 of justice forward. So thank you for your time out
14 from your everyday work in sitting today.

15 Now, on October 10th of 2015 you are
16 going to hear information and testimony about Mr.
17 Short and Ms. Frazier being together for the better
18 part of the day. You may even hear testimony that
19 they went to stores together, Wal-Mart and Target,
20 things of that nature. And they sat in their car,
21 her car which is parked at Mr. Short's mother's
22 residence right over here in North Charleston.

23 If you look at this photograph of this
24 area, you will notice that this is a pretty good
25 residential community. Lot of modest homes and

1 trailers around this area. You will notice the
2 street is called Railroad Street because there's a
3 railroad that runs over here and these streets run
4 in alphabetical order, Dalton, Graham and Harper
5 where they live.

6 They are asking you to find Ricky
7 guilty of killing the mother of his child and
8 killing the child that she was carrying. But you
9 have to listen to all the evidence to piece this
10 together. Because it is undisputed I think that
11 you will hear that they are together the whole
12 time. It is undisputed that her body was found way
13 over here. None of this makes any sense.

14 If Ricky Short had a prenotion to
15 murder somebody why would he go over here in this
16 residential community at night to do that when they
17 are together almost all day and sitting in her car.
18 It doesn't make sense that she is walking over here
19 with her car keys in her hands. Her car is parked
20 over here. She is trying to get away from Ricky.
21 She's got the car. It is her car, not his car.
22 You are going to hear testimony about the location
23 of these items. There are some other photographs
24 that you are going to notice something about these
25 photographs. There is moisture. Wetness. Ricky

1 Short, these items weren't found until the next
2 day. The incident happened around 11:15, 11:30 on
3 the night of 10th of October. These items were
4 found on the 11th around 10:30, 11:00 the next day.
5 And the officer who found these items made note
6 that these items were dry. It was inconsistent
7 because of the wetness. Even though the dew, the
8 humidity that was formed on these plants were
9 obvious, the items were dry indicating that those
10 things were placed there after the fact.

11 You are going to hear evidence, Mr.
12 Wetmore talked about this, about DNA. The two
13 types of DNA that you are going to hear about, hear
14 about a blood DNA and another type of DNA called
15 ownership DNA. That's what the experts refer to.
16 If I put my hand on something I may leave markings
17 of DNA on them. I am wearing a shirt and T-shirt.
18 I may perspire and my shirt may pick up my DNA. I
19 have on a collared shirt and because I have a
20 collared shirt my DNA may appear on this collar, on
21 my sleeves.

22 The testimony you will hear from the
23 DNA experts is going to be about that type of DNA,
24 ownership DNA, which means somebody was wearing the
25 jacket or the shirt or the DNA on the knife handle

1 means someone had to pick it up and touch it.

2 There is not going to be one piece of
3 information from the witness stand in which anybody
4 is going to physically identify the assailant.
5 There's no eyewitnesss that are going to come
6 forward and say Ricky Short did it. There is not
7 going to be one piece of fingerprint evidence
8 that's going to say he handled that and he touched
9 that knife. And you would suspect in a residential
10 community at night in this area where this terrible
11 crime took place maybe someone coming forward and
12 saying I saw what happened and that guy did it.

13 Or off that knife that the solicitor
14 showed you earlier the fingerprints on it. Or that
15 the jacket he wore has got some metal buttons on
16 it, his fingerprints on there as well. You won't
17 hear quite a bit of information about that
18 whatsoever. That's something you need to consider
19 when you are deliberating, is lack of information.
20 The solicitor has the responsibility as he
21 mentioned to you a few moments ago, the solicitor
22 has the responsibility of proving Ricky Short
23 guilty of murder beyond a reasonable doubt.

24 That doesn't mean all doubt. Some
25 doubt we may have. Reasonable doubt. He's got to

1 connect the dots. That's difficult to do. And
2 that -- those things that are missing are things
3 you need to take into consideration. Mr. Wetmore
4 mentioned statements that Mr. Short made. What he
5 didn't tell you is that Mr. Short is the person who
6 called 911. He is the person who called for aid to
7 come to her. Nobody else did. He did. What he
8 did not tell you is that he was present when the
9 officers showed up leaning over her body which may
10 account for why there is blood on his underwear or
11 his pants. What he didn't tell you and you need to
12 take into consideration is this: Within
13 15 minutes, within 15 minutes the police handcuffed
14 Mr. Short. They made a decision at that point that
15 he was a critical person they need to talk to and
16 they handcuffed him and took him against his will
17 to the police station where they interrogated him
18 from 1:30 in the morning nonstop until 12:00 the
19 next day.

20 He made some statements. Imagine that.
21 Imagine that. What a surprise. Somebody
22 interrogated for that length of time made some
23 statements. I ask you to do this: When you listen
24 to that tape, listen to the recording because they
25 record the whole thing from 1:19 in the morning

1 until he's led away at 12:09 the next day. Listen
2 to exactly what he says. Not what we think you
3 should hear, but what is actually said by Mr. Short
4 when asked questions. Listen to his comments.
5 That's important. That's the evidence. That's why
6 I mentioned to you, ladies and gentlemen, are you
7 prepared to give him a fair trial. After hearing
8 the State's opening statement are you prepared.

9 I have given you some information that
10 you did not know and you will hear about that
11 information or the lack of that information as you
12 make your decision. And that's important. There
13 is an interesting phenomenon that we use here in
14 country. We take 12 folks, citizens of our
15 community, all strangers to one another. And we
16 throw you in a back room. We bring you food, let
17 you take breaks and we ask you to come to a
18 collective decision. I suspect you don't have
19 anything in common. You may find out you have
20 things in common as the day goes on as the trial
21 proceeds.

22 You come here with 12 different sets of
23 eyes and 12 different sets of ears. And we are
24 asking you to collectively with different sets of
25 eyes and ears and backgrounds and experiences that

1 you had in life, we are asking you to do something
2 that's unhuman, to pass judgment on another human
3 being. Your decision has got to be unanimous.
4 Your decision can be as follows: You can decide
5 Ricky is guilty, you also have the opportunity to
6 say he's not guilty of these crimes.

7 Because the State has got to connect
8 the dots and prove him guilty of each of those
9 crimes beyond a reasonable doubt.

10 I suspect also that the judge is going
11 to be giving you an instruction because there will
12 be some testimony about arguments taking place and
13 fights happening. Mr. Wetmore made comments about
14 that and alluded to that. That killing, murder, is
15 done premeditated, the unlawful killing of a human
16 being that has some element of it being planned out
17 and premeditated. Another charge is manslaughter.
18 Manslaughter is an unlawful killing of a human
19 being where there is passion involved or some type
20 of emotion that was involved. And that is another
21 one of the verdicts that you can decide on to
22 render a verdict as to Mr. Short. Called a lesser
23 included offense of murder.

24 This is a tough case. It is tragic. A
25 young woman is cut down in the prime of her life.

1 She is pregnant. Six-month old child. She's the
2 mother of Mr. Short's other child. His family over
3 here wants closure. They are entitled to that.
4 They need that. They are entitled to justice. We
5 should give that to them. But, and again to be
6 fair to Mr. Short, you have an obligation not to be
7 swayed by emotion. You have an obligation not to
8 be swayed by prejudice. You have a responsibility
9 not to be swayed by some knee-jerk reaction to
10 something you see or hear. You are to sanitize
11 yourself to a certain degree. That's hard to do.
12 That's the oath you just took. That oath stays
13 with you throughout every stage of this trial. The
14 judge said earlier that things that Mr. Wetmore or
15 things that I may say are not evidence. We give
16 you a roadmap how to proceed. When I sit down the
17 next that will happen is Mr. Wetmore is going to
18 call a series of witnesses. I suspect those folks
19 are going to be police officers and SLED agents and
20 SLED analysts. I will have the opportunity to
21 cross-examine them. When that is over we may or
22 may not call any witnesses to testify. We have
23 nothing that we have to prove. That may be our
24 defense, cross-examination evidence and what comes
25 in and our explanation.

1 When that is over we will come back in
2 front of you like we are doing right now to give
3 you our closing arguments and we will argue our
4 respective positions and the judge will then charge
5 the jury.

6 Since the State has the burden of
7 proving guilt in this case the State gets to go
8 first to argue, I follow, then he has the
9 opportunity to provide a reply argument. So if I
10 don't come back after that it is not because I
11 don't want to, it is because by the rules I can't.
12 I am asking you to listen, pay attention, take into
13 account all the things that you hear and things
14 that you may not be hearing and render a verdict
15 that is fair to Mr. Short. I think when you do
16 that it will be not guilty or at least guilty of
17 manslaughter only. Thank you for your time and
18 thank you for listening to me.

19 THE COURT: State may proceed.

20 MR. WETMORE: State calls officer John
21 O'Connell from Charleston.

22 THE COURT: Ladies and gentlemen, we
23 have ordered your lunch. As soon as it arrives we
24 can break so you all can have your lunch.

25 JOHN O'CONNELL

1 having been duly sworn, testifies as follows:

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

4 THE WITNESS: My name is John Justin
5 O'Connell. My last name is spelled
6 O'-C-O-N-N-E-L-L. I work for the North Charleston
7 Police Department.

8 DIRECT EXAMINATION

9 BY MR. WETMORE:

10 Q. Officer O'Connell, how long have you
11 been with North Charleston?

12 A. I have been with North Charleston since
13 July of 2012.

14 Q. What are your duties and
15 responsibilities with the police department?

16 A. I'm a patrol officer. I typically
17 patrol zone five which is part of central bureau,
18 but we often answer calls all over central bureau.

19 Q. And were those your duties back in 2015
20 when this case happened?

21 A. Correct. I worked central bureau at
22 the time as well.

23 Q. And did you receive any kind of
24 training or experience in helping you do you job?

25 A. Yes. As far as first responder goes,

1 yes, we received first responder medical aid
2 attention classes, that sort of thing. I've also
3 been EMT certified in the past when I was in the
4 military.

5 Q. So you're specifically trained with EMT
6 stuff?

7 A. First responder medical aid and
8 attention, specifically bandaging wounds, giving
9 CPR, that sort of thing, very basic stuff.

10 Q. Now, were you on duty late October 10,
11 2015, in the early morning hours of October 11th,
12 2015?

13 A. Yes, I was.

14 Q. And did you become involved in the case
15 we are here for today against Ricky Short?

16 A. Yes, I did.

17 Q. Tell us how you came to be involved.

18 A. I had just returned to central to start
19 some paperwork. Central is city hall, central
20 bureau officer. At the time I had just pulled into
21 the parking lot when the call came out for a
22 possible stabbing at the location that was given,
23  Railroad Avenue.

24 Q. Did you say what time that was exactly?

25 A. 2326 hours, so it would be 11:26 p.m.

1 Q. Now, I want to show you what's
2 previously been admitted I believe as State's
3 Exhibit No. 1. Is that a fair and accurate map of
4 the area you responded to?

5 A. That is the Ferndale neighborhood,
6 correct.

7 Q. The same question with No. 2, is this a
8 fair and accurate depiction of the area?

9 A. Also correct, that's Ferndale.

10 Q. Zoomed in a little bit more?

11 A. Um-hmm.

12 Q. Judge, I believe these are already in
13 evidence.

14 THE COURT: They are already admitted.
15 BY MR. WETMORE:

16 Q. That's the area that you responded to,
17 right?

18 A. Yes, sir.

19 Q. Is this area in the City of North
20 Charleston?

21 A. Yes, it is.

22 Q. Is that Charleston County?

23 A. Yes, it is.

24 Q. What did you see when you arrived?

25 A. When I arrived on scene I saw what

1 appeared to be a female lying face up on the ground
2 at the edge of the driveway right at the edge of
3 Railroad Avenue at that address listed below, [REDACTED]
4 and several people standing around her.

5 Q. And if you want to step down and look
6 at this, is this the spot where the pin is, is this
7 accurate where you found the victim in this case?

8 A. Well, yes, it would have been between
9 Emden and Graham, Fuller would go through if it
10 were able to go through to Railroad.

11 Q. And can you show me how you arrived?

12 A. I came down Emden Street, made a left.
13 I came from Rivers Avenue, made a right on to
14 Emden, came down, made a left. Actually I stopped
15 right here at Railroad, looked left and right
16 because I wasn't exactly sure where [REDACTED] was there.
17 Saw a bunch of people and was flagged down by
18 somebody pointing down this way towards Fuller
19 where Fuller is with Emden Street. I made a left.
20 That's where I found a short distance down a female
21 lying face up.

22 Q. Right there where the pin is?

23 A. Yes, sir.

24 Q. And please take your seat.

25 A. (Witness complies with request.)

1 Q. So you saw the victim in this case, Ms.
2 Malakia Frazier?

3 A. Correct, sir.

4 Q. What was her condition?

5 A. At the time she was unresponsive.

6 There was very little movement from her, was more

7 of a bit of twitching if I remember correctly.

8 Seemed like there was possibly some movement from

9 her possible breathing at first, but I couldn't

10 find any vitals on her whatsoever. So I don't know

11 if that was just the body's natural reaction to

12 trauma. So I checked her pulse. I checked for

13 breathing, couldn't find any. I believe someone

14 had stated behind me she was not breathing. Once I

15 felt she had not been breathing I started CPR on

16 her.

17 Q. So is it correct to say your focus was
18 on that victim?

19 A. Correct. Absolutely 100 percent it
20 was. I didn't feel any threat from anyone else
21 around me at the time so I focused on the victim.

22 Q. Focused on the victim. What exactly
23 did you do to try to assist the victim?

24 A. Again, I checked for vitals at first.
25 When I found none I immediately started CPR. I

1 called for aid for other officers to bring
2 compression such as bandages. I could see several
3 what appeared to be stab wounds in her upper torso,
4 her neck, arms, face if I am not mistaken, but
5 definitely in her upper torso, her arms and her
6 neck.

7 Q. Badly stabbed?

8 A. Appeared to be yes, sir.

9 Q. And did other officers arrive to help
10 and assist you?

11 A. They did.

12 Q. And did you continue to treat the
13 victim?

14 A. I did. I continued CPR until EMS
15 arrived on scene a few minutes later and at which
16 time they took over.

17 Q. Now, this is Ricky Short. Did you see
18 him at the scene when you arrived?

19 A. Yes, I did.

20 Q. Do you know his relationship to the
21 victim?

22 A. I do now. I did not at the time when I
23 arrived on the scene.

24 Q. Describe to the jury what was he
25 wearing when you came in contact with him?

1 A. I believe he had on jeans and no shirt
2 whatsoever.

3 Q. Do you note anything about his
4 appearance?

5 A. He just happened to be standing at the
6 feet of the victim. He and several other people
7 were standing there. I don't know if it was him or
8 someone else said she is not breathing. At some
9 point in time as I was performing CPR he mentioned
10 and it was his voice and the only reason I know it
11 was his voice is because the other people were
12 standing with him didn't speak English. He said
13 that -- I believe he said she's not breathing and
14 she's six months pregnant.

15 Q. So he told you she was six months
16 pregnant?

17 A. Yes.

18 Q. So he knew?

19 A. I would say that's a safe assumption,
20 yes, sir.

21 Q. And you said he was standing at the
22 victim's feet?

23 A. Correct.

24 Q. Was he holding the victim in his arms?

25 A. He was not.

1 Q. Was he cradling her, hugging her,
2 anything like that?

3 A. He was not. I believe he was standing
4 up upright when I arrived on scene. Should be on
5 my dash cam on my car.

6 Q. What was his demeanor? Was he upset?

7 A. I wouldn't say visibly upset other than
8 he was just sort of pointing at her and at some
9 point in time said she's not breathing. I didn't
10 notice any sort of outward motion from him or
11 anyone else there. Just the fact that they were
12 standing around the victim and that again at some
13 point in time said she's not breathing and I was
14 checking for vitals at the time.

15 Q. Did he appear to be sad, crying,
16 anything like that?

17 A. No, sir.

18 Q. Safe to say that your focus was more on
19 the victim than the Defendant?

20 A. Yes.

21 Q. Why is that?

22 A. I was more concerned with her
23 well-being. I didn't perceive any threat when I
24 arrived on scene. There was several people
25 standing around the victim. None of them seemed to

1 be distraught or saying so and so did it or so and
2 so ran that way. So I didn't feel any immediate
3 threat to myself or other officers so my focus was
4 on the victim and getting her treated. And then
5 once I found no vitals trying to get her breathing
6 again. We didn't realize how bad the injuries were
7 at the time.

8 THE BAILIFF: Your Honor, we have a
9 note. A juror needs to use the restroom.

10 THE COURT: Ladies and gentlemen, we
11 will take a brief restroom recess. During the
12 break please do not discuss the case and please
13 leave your note pads in your seats.

14 (Thereupon, the jury exited the
15 courtroom at 12:54 p.m.)

16 THE COURT: We will be at ease for a
17 few moments. Sir, you can walk around if you would
18 like, but please don't discuss your testimony with
19 anyone. The jury's lunch has arrived. It is hot
20 so once they are done using the restroom I will
21 have them brought back in. We will break for lunch
22 for an hour and then resume at two. Is there any
23 exception from the State?

24 MR. WETMORE: No, Your Honor.

25 THE COURT: From the defense?

1 I don't think we will get through more than that
2 today.

3 THE COURT: Let's see how far we can
4 get.

5 MR. WETMORE: Certainly not past that.
6 Thank you.

7 THE COURT: You're welcome.

8 (Defendant entered courtroom.)

9 (Whereupon the jury entered the
10 courtroom at 2:12 p.m.)

11 THE COURT: Ladies and gentlemen, I
12 hope you all had a great lunch. We are going to
13 resume the testimony of the witness. I would ask
14 that you give counsel your attention. You may
15 proceed.

16 BY MR. WETMORE:

17 Q. Thank you. Officer O'Connell, I think
18 as we were leaving off I was asking you, our focus
19 was on the victim or the Defendant when you arrived
20 at the scene?

21 A. On the victim.

22 Q. Okay. And why was that?

23 A. She was in obvious need of care. I saw
24 no other threat at the time when I first arrived on
25 scene. I had other officers with me that arrived

1 immediately after. But she was my first focus
2 because she was lying on the ground. She did
3 appear to have several stab wounds and she did
4 appear to have an amount of blood around her on the
5 ground.

6 Q. So fair to say that the Defendant was
7 not a threat to you at the time you arrived?

8 A. I wasn't aware he was a Defendant at
9 the time. I didn't know who he was, if he was just
10 some person walking down and saw her or part of a
11 group that was there waving us down. I didn't know
12 anything about him at that time.

13 Q. Did you have any ability to judge his
14 threat level five minutes before that for instance?

15 A. No, sir.

16 Q. You don't have any idea if he was a
17 threat five minutes before?

18 A. Well, even arriving on scene five
19 minutes before that we had not been given any
20 information other than a male approximately five
21 seven, what somebody thought was a little more
22 heavysset, possibly 180, 190 pounds. Again, when I
23 arrived on scene and it was apparently a black male
24 that we were given, the only black male there was
25 the Defendant here. He was not wearing a shirt or

1 a jacket or anything at the time. He just had on a
2 pair of jeans. Everyone else there was a Hispanic
3 male or female, much shorter and again I saw there
4 was no threat and my focus was solely on the
5 victim.

6 MR. SHAHID: May I ask him to speak up
7 a little bit?

8 THE COURT: Yes, sir. And we can't
9 move the microphone so if you can just sort of bend
10 it towards you.

11 THE WITNESS: Be happy to, Your Honor.
12 BY MR. WETMORE:

13 Q. Anything else you did? Sounds like you
14 did your very best, but anything else you need to
15 tell the jury about what you did out there?

16 A. Again, when I arrived on scene my focus
17 was on the victim. Once I found no vitals I
18 immediately performed CPR and I did that for
19 several minutes until EMS arrived. I had other
20 officers assisting placing bandages on her to try
21 to stop bleeding. She had already lost a large
22 amount of blood which we seen on the ground around
23 her. Other than that my focus 99.9 percent was on
24 her, not so much what was going on around me.

25 Q. Did you do any further steps in working

1 on the case?

2 A. In working on this case? No, other
3 than once it was turned over and who is now in the
4 courtroom as the Defendant made a statement,
5 uttered a statement that it was his girlfriend and
6 they were in an argument. That was the only other
7 steps we took and at that time we went and detained
8 him. Put him in the back of my patrol vehicle.

9 Q. Why did you do that?

10 A. Because at that point he was possibly a
11 person of interest obviously being in a
12 relationship. Being the seriousness of the crime
13 we have to consider him a person of interest just
14 as in any investigation. When it becomes a
15 domestic issue boyfriend, girlfriend, husband,
16 wife, anything like that. So he was detained at
17 that time as a possible person of interest just to
18 be on the safe side. He was not placed under
19 arrest. He was just detained.

20 Q. Because of what he told you?

21 A. Yes. He didn't necessarily tell me.
22 He uttered it. I don't know if he meant it
23 directly toward me or not, I don't recall. But I
24 do remember saying that. I turned to Sergeant
25 Evans at the time and let him know. That's when we

1 went ahead and made the decision to detain him and
2 that was pretty much the extent of my involvement
3 other than holding the Defendant in my vehicle for
4 a while until we transferred him to another
5 vehicle.

6 Q. And was the Defendant turned over to
7 the detectives?

8 A. Correct, correct.

9 Q. Because that's more of their role?

10 A. Correct. I wouldn't have conducted the
11 interview with him. He made a few statements to me
12 in my vehicle. Asked if I could ask somebody to
13 check on or call the ambulance to check on the
14 victim. At the time I told him we could not, that
15 she was in the best care possible and being taken
16 care of by medical professionals.

17 Q. All right.

18 MR. WETMORE: I don't have any further
19 questions at this time. Thank you.

20 THE COURT: Any questions of the
21 witness?

22 MR. SHAHID: Yes, ma'am.

23 THE COURT: You may proceed.

24 CROSS-EXAMINATION

25 BY MR. SHAHID:

1 Q. Officer, thank you for your service.

2 A. Yes, sir.

3 Q. Now, you have your report with you?

4 A. I do, sir.

5 Q. So you are at the stationhouse at the
6 North Charleston Police Department?

7 A. Correct, sir.

8 Q. And you get a notification by your
9 dispatch?

10 A. Um-hmm.

11 Q. And to go to this particular area on
12 Railroad Avenue; is that correct?

13 A. Yes, what we have are called tones.
14 Tones are to alert all officers of all bureaus of
15 an emergency or possible emergency that's in
16 progress taking place. When the location and the
17 type of incident was given I realized I was about
18 less than a mile away. So even though I was on my
19 way to do paperwork I knew I was close enough to
20 respond and assist. So I just happened to be first
21 officer on the scene.

22 Q. And so on your report, you received
23 that report at what hour?

24 A. 2326, that would be 11:26.

25 Q. And you have the incident report at

1 2320; is that correct?

2 A. The time of the report could be a typo.
3 If I put in there that at 2326 hours we were
4 dispatched. That could be confirmed with dispatch,
5 but that should be the correct dispatch time.

6 Q. But the incident takes place before you
7 get the report or the notice to go out there?

8 A. Correct. The incident would have to be
9 called in.

10 Q. You don't get a simultaneous call when
11 the incident is in progress, well, you may, but
12 normally you get a call saying there is a stabbing,
13 go to this location?

14 A. Correct.

15 Q. And so according to the information you
16 had that occurred at 2320 which is 11:20 at night?

17 A. Yes. So could have taken several
18 minutes for the 911 call to get through to dispatch
19 to get to us and that we respond, so that's
20 probably my response time.

21 Q. Six minutes later?

22 A. Correct.

23 Q. You dispatch and you arrive within two
24 minutes?

25 A. Probably so. It's a short distance

1 away.

2 Q. Now, your -- when you get there you are
3 the first officer on the scene?

4 A. That's correct, sir.

5 Q. And shortly thereafter other officers
6 arrive as well?

7 A. Yes, sir.

8 Q. But you are the first guy there?

9 A. Yes, sir.

10 Q. Now, in your patrol car you got a dash
11 camera?

12 A. Yes, sir.

13 Q. So you flip the lights on and the
14 camera on at some particular point when you are
15 responding to an incident; is that right?

16 A. That camera comes on when we activate
17 our blue lights and sirens and actually records for
18 approximately 30 seconds prior to it being turned
19 on. So that's why when it starts my vehicle is
20 stationary and it's a good seven minutes before the
21 vehicle actually moves.

22 Q. So this is mounted inside the car so
23 it's -- the angle of the camera is the angle of the
24 hood?

25 A. Roughly. It's a wide angle camera so

1 it catches most everything that's in front of you.

2 Q. Direction where the hood is?

3 A. Yes, faces forward.

4 Q. So as you are driving the camera is
5 picking up images as you are going down a
6 particular street or avenue?

7 A. That's correct.

8 Q. Then you have a microphone on
9 someplace; is that correct?

10 A. Yes.

11 Q. And that's on your body?

12 A. I have my microphone, my personal one
13 that goes in my portable radio. We have an in car
14 radio. There is also an in car microphone that's
15 on cameras that are inside the car.

16 Q. So if I am listening to this tape and
17 you get out of the car I can still hear your
18 interaction with other individuals?

19 A. Correct. The belt microphone that we
20 use picks up everything that is forward facing
21 camera. There is another microphone that picks up
22 everything, the rear facing camera towards the back
23 seat where a Defendant or suspect would be placed
24 picks up.

25 Q. I may need you to speak up a little bit

1 louder because your voice trails off.

2 A. The belt microphone that we carry is
3 activated automatically either by hand or with a
4 little button we press. This is what it looks
5 like. Okay? Or it is activated when we hit our
6 blue lights and/or sirens in the vehicle.

7 Q. Now, on this particular evening of
8 October the 10th of 2015 those things were
9 operating?

10 A. Yes, sir.

11 Q. And so it would be recorded what you
12 saw when you arrived at the scene?

13 A. Yes, sir.

14 Q. Now, officer, when you arrived there as
15 I understand this, you are driving down heading
16 Railroad, there are other people who were waving
17 you on or sort of giving directions?

18 A. Correct, sir. When I came down what I
19 believe was Emden Street, could have been Dalton,
20 but I believe it was Emden Street, there is several
21 entrances. Ferndale is shaped like a ladder so
22 there's two main streets that go on each side.
23 There's also several cross streets. The street I
24 came down, as I got to the corner of Railroad and
25 Emden I believe it was someone to my left was

1 waving me in that direction. I turned that
2 direction assuming that's where the incident was
3 going to be. I knew it was in that general
4 location and as I turned down I saw several more
5 people and then I saw a person lying on the ground
6 so that's when I assumed that was going to be the
7 correct location.

8 Q. So when you -- there's people out there
9 assisting to get to the location?

10 A. Correct.

11 Q. Now, when you get to the area on
12 Railroad Avenue you were dispatched to, there is a
13 woman lying on the ground?

14 A. Yes.

15 Q. And when you approach her it is obvious
16 there is a large pool around her; is that correct?

17 A. Yes, sir.

18 Q. And there were three other people
19 there, Mr. Short without a shirt on?

20 A. Yes.

21 Q. And two other folks. Hispanics?

22 A. Two or three. I can't remember exactly
23 how many.

24 Q. When you got there, officer, wasn't Mr.
25 Short kneeling on the ground?

1 A. I don't remember him kneeling at that
2 time. I thought he was standing at that time. At
3 some point he did kneel and touched either her feet
4 or shin area. I'm not sure. I don't recall
5 whether he was standing or kneeling, but he did
6 both at some point in time.

7 Q. So he was leaning over her at some
8 point in time?

9 A. At some point in time.

10 Q. Underneath her head was a white
11 T-shirt; is that correct?

12 A. I don't recall that.

13 Q. You didn't see a shirt on him?

14 A. I did not.

15 Q. At some point another officer shows up
16 on the scene?

17 A. Within a second or two after myself.

18 Q. Other officers and EMS comes and
19 transports her?

20 A. Correct.

21 Q. In the meantime you were trying to
22 administer first aid?

23 A. I immediately administered first aid
24 when I didn't find any vitals on her. That's the
25 point it started.

1 Q. And at some point in time that while
2 you were there Mr. Short says to you about her --
3 makes a comment to you about her being pregnant?

4 A. Correct. I believe he said she was six
5 months pregnant.

6 Q. And that she was his girlfriend?

7 A. At that point he first -- at first he
8 did not. That was later. I want to say that was
9 -- if I remember correctly it was after I had
10 transferred the CPR ability over to EMS. I'm not
11 one hundred percent on that, but he did mention
12 that. I believe when I had gone back and actually
13 reviewed the video he did mention that, but I want
14 to say it was shortly after EMS took over CPR.
15 That's when he said that she was my girlfriend and
16 we had an argument.

17 Q. And then a decision is made to place
18 him in the back of your car?

19 A. To detain him at that time as a
20 possible person of interest, yes, sir.

21 Q. Are you the one that made that
22 decision?

23 A. No, sir, Sergeant Evans did.

24 Q. Now, when you talk about detaining,
25 officer, what you did is you took his hands behind

1 his back and he was handcuffed?

2 A. Correct, sir.

3 Q. He was put in the back of a patrol car?

4 A. Correct, sir.

5 Q. Your patrol car?

6 A. Yes.

7 Q. At that point he is free to leave, is
8 he?

9 A. He is not.

10 Q. And he made the comment to you she is
11 pregnant and at some other point in time he said to
12 you she was my girlfriend; is that right?

13 A. He had said that prior to him being
14 detained.

15 Q. Prior to being detained?

16 A. I'm almost 100 percent, yes.

17 Q. Now, also as he is sitting in the back
18 of your patrol car with his hands behind his back
19 y'all take away from him his personal items like
20 his wallet and his keys; is that correct?

21 A. I don't recall doing that personally,
22 but typically we will remove wallets, cell phones
23 once someone is lawfully detained. That's for our
24 safety and to keep them from harming themselves or
25 possibly calling or communicating with someone else

1 to come to the scene and say try to distract us or
2 try to free him from that lawful detention.

3 Q. Now, you testified a few moments ago
4 that when you got there you looked on Ms. Frazier?

5 A. Correct.

6 Q. And that you did not feel any type of
7 imminent threat from anybody on the scene; is that
8 correct?

9 A. That's absolutely correct.

10 Q. And Mr. Short was definitely there on
11 the scene?

12 A. Yes, he was.

13 Q. And you said he had on blue jeans?

14 A. I believe he had on jeans and no shirt.

15 Q. Okay. Then at some point while he's in
16 the back of your car handcuffed and detained he
17 engages with you some conversation about asking you
18 to call the ambulance?

19 MR. WETMORE: Objection.

20 THE COURT: Basis?

21 MR. WETMORE: Hearsay.

22 THE COURT: Please approach.

23 (Bench conference outside hearing of
24 jury.)

25 THE COURT: What are you seeking to

1 elicit?

2 MR. SHAHID: He opened the door for
3 that, Judge, wide open.

4 THE COURT: Not when it comes to
5 hearsay. If you didn't object that doesn't mean he
6 opened the door, just means you let it in. You
7 didn't object. Now he has a made contemporaneous
8 objection that was hearsay.

9 MR. SHAHID: I don't know how he can
10 all a sudden decide that his --

11 THE COURT: He can ask hearsay in terms
12 of how continuing the investigation is proceeding.
13 So I'm trying to figure out what it is that you are
14 trying to elicit from this witness.

15 MR. SHAHID: Just cross-examining him
16 as to what did he say and when did he say it.

17 MR. WETMORE: That's hearsay.

18 THE COURT: Well --

19 MR. SHAHID: I think he is going to say
20 that Mr. Short asked several times about the
21 condition of this woman and asked about the police
22 to call the ambulance and check on her.

23 THE COURT: He did testify that he
24 asked about where she was and his response was that
25 she was in the best care possible.

1 MR. WETMORE: I think the officer kind
2 of went off and told that, but he can't elicit his
3 own statement. That's hearsay.

4 THE COURT: What's the prejudice if
5 your witness already said it? Your witness said
6 that he asked about her. And he said she's in the
7 best care possible. I want to hear what he is
8 going to say.

9 (End sidebar conference.)

10 THE COURT: Madam forelady, ladies and
11 gentlemen, I have a brief matter of law I need to
12 take up outside your presence. Please leave your
13 note pads in your seats. Please don't discuss the
14 case and you have them stand right out in the
15 hallway.

16 (Thereupon, the jury exited the
17 courtroom at 2:30 p.m.)

18 THE COURT: Sir, do you remember the
19 question?

20 THE WITNESS: Yes, ma'am. I believe he
21 had asked about him uttering a statement about the
22 girlfriend being pregnant.

23 THE COURT: Do you need me to have him
24 repeat the question or have the court reporter read
25 it back? Repeat the question, please.

1 BY MR. SHAHID:

2 Q. My question to you was that while he
3 was in the back of your patrol car he made a
4 comment to you asking about the status of his
5 girlfriend, status of Ms. Frazier, asked you to
6 call the ambulance?

7 A. Yes.

8 Q. And your response was don't worry about
9 it or she's in the best care, something to that
10 effect.

11 A. I have no way of contacting the
12 ambulance and I advised him we couldn't do that and
13 that she was in the best possible care being
14 transported to a medical facility or hospital and
15 that there was nothing we could do about it at that
16 time, which there was nothing we could do about it
17 at that time.

18 THE COURT: Is that the extent of what
19 you plan to elicit?

20 MR. SHAHID: Yes, ma'am.

21 THE COURT: What's the -- I guess I am
22 trying to figure out --

23 MR. WETMORE: Judge like I said, that
24 is not an 801(b)(2) situation. That's a Defendant
25 trying to introduce his own statement which is

1 hearsay.

2 THE COURT: Once your witness already
3 elicited it why can't he follow up on it on cross?
4 I guess I am trying to figure out what's the harm?
5 He's just repeating what he already said on direct.

6 MR. WETMORE: And, Judge, perhaps part
7 of this is preemptory and that I think that
8 whenever defense tries to enter his own statements
9 that's a problem. And if he wants to do that
10 there's a way he can do that, but any time he is
11 trying to introduce his own statements that's
12 hearsay. So you are right, this is a situation
13 it's already been blurted out.

14 THE COURT: This one is kind of a
15 little different. In theory I agree with you, but
16 I am just trying to figure out where the harm or
17 foul is. He already said it.

18 MR. WETMORE: You pointed out a good
19 station that Mr. Shahid didn't object and I am
20 objecting so therefore --

21 THE COURT: We are still at the
22 prejudice prong at this point. The problem is once
23 it does come in it's a fine line you walk in him
24 being able to follow up on it on cross. But I am
25 just trying to figure out -- other than him

1 reiterating what's already been said what's the
2 purpose --

3 MR. WETMORE: Obviously the point --

4 THE COURT: I am asking Mr. Shahid a
5 question. What's the purpose of you trying to
6 elicit it where he has already said it?

7 MR. SHAHID: Because he did say it.

8 THE COURT: What's the point of saying
9 it twice?

10 MR. SHAHID: Just want to make sure I
11 understand what he said and I was going to --

12 THE COURT: Do you really have a good
13 faith understanding?

14 MR. SHAHID: Now I do.

15 THE COURT: You didn't understand what
16 he said the first time?

17 MR. SHAHID: I heard him say something
18 about an ambulance, and as I said, Judge, I had to
19 ask him to repeat.

20 THE COURT: I think we had turned the
21 mic down because of feedback and I had the clerk
22 turn it back up. Maybe that should cure all of us
23 being able to hear, but he's already said it. I'm
24 going to let it slide this time, but be very
25 careful not to elicit your client's statements.

1 MR. SHAHID: Judge --

2 THE COURT: At some point they are
3 hearsay unless they fall under one of the
4 exceptions. They are self-serving.

5 MR. SHAHID: We are going to let a lot
6 of self-serving statements in apparently.

7 THE COURT: Yeah, but you know, it's
8 not my job to object. I am just the umpire.

9 MR. SHAHID: I understand.

10 THE COURT: And if you let it in
11 there's a reason I assume you did. All I can do is
12 rule on objections that are contemporaneously made.
13 And once it is made I have to rule on it and so in
14 this instance it really becomes cumulative because
15 he has already said it. I really can't discern any
16 prejudice to the State in him repeating what he
17 just said because he really isn't stating exactly
18 what the Defendant said. It is more of a continuum
19 of events res gestae kind of a situation. But
20 unless it falls under an exception you don't get to
21 just elicit what your client said because they
22 don't have any way to cross-examine it. They have
23 the burden of proof and they are supposed to have a
24 level playing field, too.

25 MR. SHAHID: Not to argue with the

1 Court, but I think that this is cross-examination.

2 THE COURT: It is, but it is still
3 subject to the rules of evidence.

4 MR. SHAHID: Which is true, but once
5 they bring it out I am entitled --

6 THE COURT: Not always. If you don't
7 object keep that in mind because it's not my job.
8 If y'all let it in I assume there's some strategy.
9 Get the jury for me, please. Sir, are you going to
10 need the question repeated? I doubt you remember
11 at this point. You can ask that question. I'm
12 going to allow you to.

13 THE WITNESS: If he wants to ask it
14 once more, Your Honor, I will certainly not want to
15 answer the wrong question.

16 THE COURT: I'm going to let him repeat
17 it so you can fully understand what he is asking.

18 THE WITNESS: Sure.

19 (Whereupon the jury entered the
20 courtroom at 2:34 p.m.)

21 BY MR. SHAHID:

22 Q. Officer, I think when we left off was
23 that I was asking you a question about Mr. Short
24 while he was in the back of your patrol car being
25 detained. He asked you about calling the ambulance

1 and checking on Ms. Frazier; is that correct?

2 A. That is correct.

3 Q. And your response to him was?

4 A. Was that I couldn't do that and that
5 she was in the best possible medical care and being
6 transported to the hospital and there was nothing
7 that he or I could do about that situation at the
8 time. There was -- we don't just call the
9 ambulance and check on the status of them.

10 Q. I'm going to play a part of your dash
11 tapes to see if you can identify them.

12 MR. SHAHID: This is the first part
13 when he arrives on the scene.

14 MR. WETMORE: It's not in evidence.

15 BY MR. SHAHID:

16 Q. Officer, my apologies. You testified
17 earlier, Officer, that your vehicle was equipped
18 with a camera?

19 A. Correct, sir.

20 Q. And you showed us that you had also on
21 your body a microphone to pick up?

22 A. The audio from outside the vehicle,
23 yes, sir.

24 Q. And that which you have in your car, is
25 that able to be transferred on to a CD?

1 A. It is.

2 Q. Have you had a chance to review that
3 beforehand?

4 A. I have.

5 Q. Okay. I have got a copy of a CD with
6 initials on there that would appear to have a
7 recording of what took place on the night of
8 October the 10th early part?

9 A. Correct. Appears to be several
10 responding officers to the incident.

11 Q. Okay. And what you reviewed prior, was
12 that an accurate recording of your vehicle pulling
13 up to the scene around 11:25, 11:30 on that
14 evening?

15 A. Yes. It would have recorded everything
16 that happened from my response time to my arrival
17 on the scene and my time on scene.

18 Q. Your Honor, I want to show the early
19 part of this. He can identify and authentic the
20 recording before I play it any further.

21 THE COURT: Any exceptions?

22 MR. WETMORE: No, Your Honor.

23 THE COURT: Proceed.

24 MR. SHAHID: Sorry. I got ahead of
25 myself.

1 THE COURT: That's okay. You see the
2 purple on the screen?

3 MR. SHAHID: I can bring my computer to
4 them and I have it from that, Judge. It was
5 working this morning.

6 BY MR. SHAHID:

7 Q. Officer, would you step down for one
8 second.

9 A. (Witness complies with request.)

10 Q. Is this the beginning part of the
11 recording?

12 A. Appears to be, yes, sir.

13 Q. And then is this your vehicle moving
14 out of the police station headed toward --

15 A. Shows my angle.

16 Q. Shows the date and time this is
17 occurring?

18 A. Correct.

19 Q. Judge, I will take this out and mark
20 it. I can do it now or mark it later as Exhibit
21 No. 4. I want to show the jury one portion of the
22 CD.

23 THE COURT: We got to go through the
24 process and determine if there is an objection. Is
25 there any exception?

1 MR. WETMORE: Judge, there's not. And
2 further I was trying to get your attention. If you
3 want to publish, this is our machine. You are
4 welcome to use it.

5 THE COURT: Defendant's Exhibit 4
6 marked and admitted without objection.

7 MR. WETMORE: Judge, we have no
8 objection as to this car camera.

9 BY MR. SHAHID:

10 Q. This car, Officer, this is where you
11 are at the headquarters?

12 A. Correct. We have just gone back to
13 headquarters.

14 Q. Now you are traveling headed towards
15 the -- how do I stop it?

16 MR. WARING: Down at the bottom. We
17 will leave this for right now.

18 (Video playing.)

19 BY MR. SHAHID:

20 Q. Officer, right now you see an image of
21 a person with those car lights on?

22 A. Yes. That person appears to be
23 flagging me down in that direction.

24 Q. And then there is another person doing
25 the same thing right there; is that correct?

1 A. That's correct.

2 Q. Now, there is another person at this
3 point also flagging you down?

4 A. I see several people on the side of the
5 road right here.

6 Q. Now, do you make out that person
7 standing up -- there is Ms. Frazier; is that
8 correct?

9 A. I am sorry? Say again.

10 Q. The woman on the ground is Ms.
11 Frazier?

12 A. That's what we later determined.

13 Q. To the immediate left is another
14 individual?

15 A. Correct.

16 Q. And then appears to be -- all right.
17 Now, the fellow on the ground kneeling with no
18 shirt on, do you recognize that person?

19 A. That's the Defendant, yes.

20 Q. And then the other two people over
21 here?

22 A. They were -- I believe they resided
23 right near there. I believe one of them may have
24 called, I am not 100 percent on that, but they were
25 Hispanic male and Hispanic female if I am not

1 mistaken.

2 Q. When you arrived Mr. Short certainly is
3 with his knees on the ground around Ms. Frazier?

4 A. He appeared to be kneeling down next to
5 her, yes.

6 MR. SHAHID: Officer, that's all the
7 questions I have.

8 THE COURT: Any redirect?

9 MR. WETMORE: Judge, I don't have
10 anything else for this officer.

11 THE COURT: Any objection to the
12 witness being excused?

13 MR. WETMORE: No, Your Honor.

14 THE COURT: From the defense?

15 MR. SHAHID: No, ma'am.

16 THE COURT: Sir, you are excused. Call
17 your next witness.

18 MR. WETMORE: Justin Infinger, North
19 Charleston.

20 JUSTIN INFINGER

21 having been duly sworn, testifies as follows:

22 THE CLERK: Please state your full name
23 and spell your last name for the record.

24 THE WITNESS: My name is Justin Lee
25 Infinger, I-N-F-I-N-G-E-R.

DIRECT EXAMINATION

BY MR. WETMORE:

Q. Officer Infinger, how long have you been with North Charleston?

A. I have been with North Charleston a little over three years now.

Q. And what are your duties and responsibilities?

A. I'm a patrol officer that normally takes calls for service and any other activity, do patrols in certain neighborhoods.

Q. Was that your job back in October of 2015 when this happened?

A. It was.

Q. Briefly describe the training, your experience and how it helps you do your job?

A. Well, I did two weeks at the police academy. I did nine weeks with a field training officer. I'm also prior service with almost two years in Iraq. I think that played a big part and I have some advanced education as well.

Q. Thank you for that. Were you on duty October the 10th of 2015?

A. I was.

Q. Did you become involved in the case

1 against the Defendant Ricky Short?

2 A. I did.

3 Q. How you become involved?

4 A. I was the second one on scene. Myself
5 and O'Connell were at city hall which is the police
6 station and we pretty much left almost at the same
7 time from city hall to go to the incident.

8 Q. What time did you have that down as?

9 A. Approximately 11:26 and 11:30 I got
10 there, p.m.

11 Q. And tell me what you saw when you
12 arrived?

13 A. I saw a female that was either -- had
14 either had a large stomach or pregnant laying on
15 the ground either very close to the shoulder of the
16 roadway almost in the parking lot of the little
17 miniature trailer park. I saw multiple people
18 standing around, somewhere between four to seven
19 people there. And they were -- at least one of
20 them, I think one of the females was flagging us
21 down.

22 Q. Did you come into contact with the
23 victim in this case?

24 A. I did. So I saw O'Connell pull up. I
25 was a little way down the road. Whenever I got on

1 scene I got out of the car. And already saw
2 O'Connell trying to give the female that was on the
3 ground, there was a large pool of blood. He was
4 trying to assess her injuries. As I was walking up
5 I tried to look at the people that were standing by
6 and to see if since it was a stabbing to see if
7 anybody would possibly be holding a knife or
8 concealing a knife or anything like that and I
9 didn't so I immediately started assisting Officer
10 O'Connell with rendering first aid to the victim.

11 Q. And what did you observe about her
12 condition?

13 A. I noticed that she wasn't moving. She
14 had lost a large amount of blood. There was blood
15 almost everywhere. You could imagine, especially
16 her neck. I got some compressions and put some
17 pressure on her neck because there was a large
18 wound there. Or at least I saw blood there that
19 looked like it was a wound there and then I saw
20 that there was another cut somewhere on her lower
21 stomach area and I could see although it wasn't
22 profusely bleeding like her neck was, I did see
23 some of her body coming out of the cut. It was a
24 pretty large laceration. I tried to get a pulse.
25 I felt a very minor pulse, however, it could have

1 been from the compressions that Officer O'Connell
2 was trying to give her CPR. She wasn't -- at no
3 time did I hear her say anything or move on her
4 own. She was laying on the ground.

5 Q. And what did you do to try to help her?

6 A. I tried to put pressure right there on
7 her neck because I figured there was -- I know
8 there was -- it could be by her throat. It was a
9 large amount of blood so I put as much pressure as
10 I could right there by her neck while Officer
11 O'Connell was giving her CPR.

12 Q. Fair to say that your immediate focus
13 was attending to the victim?

14 A. Absolutely.

15 Q. And at a certain point did EMS arrive
16 and take over her care?

17 A. They did. Once they took over her care
18 they are definitely more qualified for first aid so
19 I let them take over.

20 Q. Sure. Did you see the Defendant at the
21 scene?

22 A. I did.

23 Q. Were you able to determine anything
24 about him?

25 A. No. My concern was the victim since

1 she was lying in a pool of blood. I did notice
2 that he didn't have a shirt on. The only thing I
3 remember him mentioning is that she was pregnant.
4 I remember him mentioning and that I remember him
5 holding his arms above his head. That's about all
6 I remember of him and his shirt off with his arms
7 above his head and that he said that she was
8 pregnant.

9 Q. Arms above his head like how?

10 A. (Indicating.) Like this.

11 Q. Was he visibly upset when you saw him?

12 A. No. No, he looked like just everybody
13 else that was standing there. I didn't see him
14 showing any type of other emotion. I just saw his
15 hands above his head. Whenever he did say that she
16 was pregnant it wasn't like he was in a frantic
17 motion or anything like that.

18 Q. You said he didn't appear to be -- I
19 guess did you consider him to be a threat to you
20 when you were there?

21 A. No. I could hear -- myself and
22 O'Connell was there on scene already. I could hear
23 on the radio and the sirens, I could determine that
24 there was a large amount of police officers coming
25 to the scene. And he didn't have a shirt on. And

1 he didn't look to be any threat to me by holding a
2 knife. I couldn't -- I figured that he wasn't
3 hiding a knife anywhere on his person which it
4 helped because of his shirt was off.

5 Q. So at that time he wasn't a threat?

6 A. I did not feel that he was a threat to
7 me, no.

8 Q. Do you have any idea if he was a threat
9 say five minutes before that?

10 A. No, I couldn't determine that. I was
11 not there and --

12 Q. And if I get you to step down and take
13 a look at this. This has been previously admitted
14 as State's Exhibit No. 2 I think. Did you have any
15 -- tell us first of all, where you responded and
16 saw the victim lying?

17 A. I parked my car somewhere in that area
18 here. And she was laying, there was some trailer
19 park right here like a U-shape kind of and she was
20 laying somewhere with these bushes where the tree
21 line is right here partially in the roadway,
22 partially off the roadway.

23 Q. So this pen is accurate, this is where
24 Ms. Frazier was found?

25 A. Yes, sir.

1 THE COURT: Which exhibit is that?

2 MR. WETMORE: No. 2.

3 THE COURT: Thank you.

4 BY MR. WETMORE:

5 Q. And were you able to get any kind of
6 feel for how large the crime scene was?

7 A. I was not initially. I was not able to
8 determine that until the EMTs and the fire fighters
9 arrived on scene and they took over for the first
10 aid administering medical assistance. And by that
11 time it was a large presence of police officers
12 there and I noticed that nobody had put up crime
13 scene tape. So I started putting up tape.
14 Whenever doing that everybody kept telling me how
15 there is more blood back here, there's blood over
16 here and that's whenever I could figure out. It
17 was a much larger than just this little area.

18 Q. Sure. And you marked off the crime
19 scene with some tape?

20 A. I did.

21 Q. What's the basis for doing that?

22 A. Well, in our training we do it so that
23 nobody else disturbs the evidence on the scene. We
24 also keep the evidence from leaving the scene. If
25 somebody's already on scene we try to keep them on

1 scene until we can interview them and keep anybody
2 else from coming from in.

3 Q. And as you're expanding the crime
4 scene, how far did it appear to expand?

5 A. I remember at first I was trying to
6 close it off right about the street and then 50 to
7 a hundred feet before the street and then I
8 realized once I was doing that it went back a
9 little bit further and further so I just went
10 almost to where all the cop cars were parked. I
11 just went through the end of the cop cars just to
12 make sure that we got it all. I started looking up
13 underneath the cars to make sure that we didn't
14 drive over something like some of us tend to do.

15 Q. Right. And so it was your opinion that
16 where the pen is about the beginning of the crime
17 scene?

18 A. Yes. I agree with that.

19 Q. And leads from there all the way to
20 where she was found here?

21 A. Yes.

22 Q. That's the area you marked off?

23 A. That is the area that I marked off.

24 Q. Is there anything at the beginning of
25 this crime scene that lets you know --

1 A. I remember there was a flip flop, one
2 individual flip flop in the middle of the roadway
3 and there was blood seems to be going back and
4 forth, back and forth. We use business cards to
5 kind of put in the roadway and other officers had
6 marked where blood was in the roadway and then I
7 just kept trying to follow it and was kind of
8 staggered in the roadway. There was a random flip
9 flop which I didn't know if it had anything to do
10 with the case so I went ahead and just to be on the
11 safe side included that in the site of the crime
12 scene tape.

13 Q. Obviously these initial efforts are
14 just right on the spot trying to preserve as best
15 you can?

16 A. Correct.

17 Q. You guys called the professional crime
18 scene out to document this?

19 A. We did.

20 MR. WETMORE: I have no further
21 questions.

22 THE COURT: Any questions for the
23 witness?

24 MR. SHAHID: Yes, ma'am.

25 THE COURT: Sir, you may take your

1 seat.

2 THE WITNESS: Thank you.

3 THE COURT: You may proceed.

4 CROSS-EXAMINATION

5 BY MR. SHAHID:

6 Q. Officer, you served in the military
7 before you became a police officer?

8 A. I did.

9 Q. Thank you for your service.

10 A. Thank you, sir.

11 Q. You were the second officer to arrive
12 behind Officer O'Connell?

13 A. I was.

14 Q. And Mr. Short was present there?

15 A. He was.

16 Q. And there were other people on the
17 scene as well, correct?

18 A. You are correct.

19 Q. And there was some handful of people
20 standing next to Ms. Frazier?

21 A. They were standing -- I don't know
22 whether to say next to, but very close by, within
23 10, 15 feet, yes, sir.

24 Q. And then there were other people who
25 were for lack of a better way of saying this, they

1 were kind of lining Railroad Avenue pointing to
2 where to go or another location?

3 A. There was somebody in the roadway
4 pointing, yes, before that, yes.

5 Q. Now, did you interview any of those
6 other folks who were around?

7 A. I personally did not.

8 Q. Were you ever instructed to go
9 interview those other folks around?

10 A. No, sir.

11 Q. How long do you think that you were
12 present for this once you got there? How long do
13 you think you were present?

14 A. At least two and-a-half hours, more
15 than two and-a-half hours.

16 Q. And at any point in time were you
17 instructed to go interview any witnesses?

18 A. No, I was not. I was walking the ditch
19 line between the road and the railroad tracks
20 hoping to find a knife; so I was walking the ditch
21 line trying to find evidence. There's an empty
22 field right there where it started. I walked that
23 a little bit and then I started assisting moving
24 cars and trying to clear the crime scene of all the
25 police vehicles.

1 Q. You mentioned a few moments ago on
2 direct examination that you found a flip flop you
3 thought belonged to Ms. Frazier. Do you remember
4 what kind of shirt she had on?

5 A. You talking about Ms. Frazier? I do
6 not. I remember that her shirt was when I got
7 there between her belly and her breasts and there
8 was very, very small -- I remember wasn't like a
9 long sleeve shirt, was very small. I know it was
10 light colored. I couldn't tell you it if was a
11 short sleeve or tank top, but I know it was pushed
12 up above the stomach and squished between the
13 breasts and the stomach.

14 Q. So she did not have a long sleeve shirt
15 and you didn't see her wearing a coat of any sort
16 as well?

17 A. No, sir, I did not see a coat.

18 Q. Are you generally familiar with the
19 area?

20 A. I'm generally familiar, yes, sir.

21 Q. So would you agree with me that a large
22 part of the area between Piedmont and Railroad is
23 residential?

24 A. I agree with that.

25 Q. And at some point Railroad runs into

1 Montague?

2 A. You are correct, yes.

3 Q. So what is not showing on here is more
4 residential areas that goes all up to Montague and
5 I think at the corner is like a little store of
6 some sort?

7 A. Yes, sir. Goes from A through M and so
8 it's about the same almost like a stepladder. It's
9 about the same size streets all the way down.

10 Q. Right. I caught on that it's
11 alphabetical.

12 A. Yes, sir.

13 Q. D, E, F, G and then Harper?

14 A. Yes.

15 Q. Were you aware, Officer Infinger, about
16 Ms. Frazier's car being located at the residence of
17 Mr. Short?

18 A. I was not. I was not. I never went to
19 the residence. I only stayed where we found her in
20 that general area of the crime scene where she was
21 found.

22 Q. Excuse me one second, Judge.

23 (Attorney confers with client.)

24 Q. Did you notice whether or not there was
25 a white shirt underneath Ms. Fraizer's head when

1 you arrived?

2 A. There was a lot of blood everywhere. I
3 couldn't -- I don't remember a shirt. There may
4 have been. But I remember the large amount of
5 blood and it had been raining. It wasn't currently
6 raining, but the road was a little wet and I don't
7 remember any shirt rolled up.

8 Q. Excuse me one second.

9 (Attorney confers with client.)

10 MR. SHAHID: Thank you, officer.

11 THE COURT: Any redirect?

12 MR. WETMORE: No, Your Honor.

13 THE COURT: Any objection to the
14 witness being excused?

15 MR. WETMORE: No.

16 MR. SHAHID: No, ma'am.

17 THE COURT: Thank you, sir. You are
18 excused. Call your next witness.

19 MR. WETMORE: Cindy Bordallo with North
20 Charleston Police Department.

21 MR. SHAHID: Your Honor, may we
22 approach?

23 THE COURT: Yes.

24 (Off-the-record conference.)

25 THE COURT: Proceed.

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CINDY BORDALLO

having been duly sworn, testifies as follows:

THE CLERK: Please state your full name
and spell your last name for the record.

THE WITNESS: My name is Cindy
Bordallo, B-O-R-D-A-L-L-O.

DIRECT EXAMINATION

BY MR. WETMORE:

Q. Officer Bordallo, how long have you
been with the North Charleston Police Department?

A. Approximately 12 years, sir.

Q. What are your duties and
responsibilities?

A. Currently I'm the accreditation manager
for North Charleston Police Department.

Q. Back in October of 2015 what were you
doing with the police department?

A. I was on patrol, sir.

Q. Patrol. Very briefly, training and
experience that helps you do your job?

A. I have my basic law enforcement Level 1
certification. I have worked in the narcotics
unit.

THE COURT: I need you to speak up a
little bit more for me. Speak directly into the

1 mic.

2 THE WITNESS: Yes, ma'am. I apologize.

3 THE COURT: You don't need to. Our
4 technical stuff is trial and error today. I
5 apologize.

6 THE WITNESS: So I have had various
7 trainings in narcotics, vice, human trafficking
8 along with my basic law enforcement training that I
9 received from the Criminal Justice Academy, South
10 Carolina Criminal Justice Academy. It's a long
11 list, sir. I'm not sure how detailed you want.

12 BY MR. WETMORE:

13 Q. That is sufficient. We appreciate it.
14 Take you to October 10th of 2015. Were you on
15 duty?

16 A. Yes, I was, sir.

17 Q. Did you get involved in this case
18 against Ricky Short?

19 A. Yes, sir.

20 Q. How did you become involved?

21 A. I was dispatched to the location that
22 night.

23 Q. What time do you think you were sent
24 out?

25 A. Was approximately 11, right before

1 11:30. I think on my narrative I have 11:26.

2 Q. And you responded to [REDACTED] Railroad
3 Avenue where the victim was?

4 A. Yes, sir.

5 Q. What did you initially see when you
6 were there?

7 A. When I arrived on the scene there were
8 other officers already on scene that had gotten
9 there before me. I was instructed to direct myself
10 towards a potential witness that was there that
11 spoke Spanish.

12 Q. Before you get to that witness, was the
13 victim still there or had she been transported?

14 A. I believe she was already transported,
15 but I can't remember because I specifically went to
16 my supervisor who directed me to go to where I
17 needed to go.

18 MR. SHAHID: Your Honor --

19 THE COURT: We are having difficulty
20 hearing you, ma'am.

21 THE WITNESS: I will lean over more.

22 BY MR. WETMORE:

23 Q. So you think the victim had already
24 been transported by EMS?

25 A. I believe so.

1 Q. What about the Defendant Ricky Short,
2 was he still on the scene?

3 A. I don't know. I don't remember.

4 Q. So you were focused on the witness?

5 A. Yes.

6 Q. Was this witness Hispanic?

7 A. Yes.

8 Q. Did she speak Spanish as her primary
9 language?

10 A. Yes.

11 Q. And you speak Spanish too, right?

12 A. Yes, sir.

13 Q. And is that why you were asked to talk
14 with her?

15 A. Yes, sir.

16 Q. Did any other officers assist you in
17 dealing with this potential witness?

18 A. Yes.

19 Q. Who was that?

20 A. Detective Riedel.

21 Q. Do you have a copy of that witness's
22 statement?

23 A. I don't have it in front of me, sir.

24 Q. Would that be helpful to refresh your
25 memory as you testify?

1 A. It would, sir.

2 Q. If I may approach, Your Honor?

3 THE COURT: You may.

4 Q. Can you identify this document?

5 A. Yes, sir.

6 Q. Is that the statement of the witness

7 that you were involved in taking?

8 A. Yes, sir, it is.

9 Q. And what was the witness's name?

10 A. It was Elizabeth Flores-Urbina.

11 Q. And was she speaking Spanish?

12 A. Yes.

13 Q. And were you translating it to English?

14 A. Yes, I was.

15 Q. And who was recording that written

16 statement, writing it down?

17 A. Detective Riedel was writing as I was
18 getting it from her in Spanish, then translating it
19 to English to him.

20 Q. All right. So Ms. Flores-Urbina, did
21 you determine where she lived?

22 A. Yes, she told me her address.

23 Q. As what?

24 A. [REDACTED] --

25 MR. SHAHID: Objection, Your Honor. We

1 are getting into hearsay.

2 THE COURT: Approach.

3 (Bench conference outside hearing of
4 jury.)

5 THE COURT: You want her to read that
6 statement verbatim to the jury? That's not what
7 the rules provide for. Generally you do that by
8 simply saying I took the statement, I did this, as
9 a result the person told me in generalities. We
10 are not going to read that statement. It is
11 hearsay. They are entitled to cross-examine her.

12 MR. WETMORE: I don't want her to read
13 it.

14 MR. SHAHID: I think you can ask what
15 she did as a result of.

16 THE COURT: She can say what the person
17 told you, say that that directed the course of the
18 investigation, but she is not going to read that
19 statement.

20 MR. WETMORE: No.

21 THE COURT: You are not going to skirt
22 some of the rules. You need to call her as a
23 witness.

24 MR. WETMORE: I am not trying to do
25 that.

1 THE COURT: Okay. All right. Proceed.

2 (End of bench conference.)

3 BY MR. WETMORE:

4 Q. Did this witness -- did she live at the
5 incident location?

6 A. Yes.

7 Q. The victim actually fell right there at
8 her house?

9 A. Yes.

10 Q. When you were talking with this witness
11 what was her demeanor like?

12 A. She was very distraught.

13 MR. SHAHID: Objection, Your Honor.

14 THE COURT: Please approach.

15 (Following proceedings were held at the
16 bench.)

17 THE COURT: Why is that relevant?

18 MR. SHAHID: It is irrelevant.

19 THE COURT: I am asking why that is
20 relevant.

21 MR. WETMORE: She is saying the witness
22 was upset.

23 THE COURT: How is that relevant to any
24 element of this event?

25 MR. WETMORE: She just witnessed the

1 crime.

2 THE COURT: Why is that relevant? You
3 need to call her and let her say how upset she was.

4 MR. WETMORE: This officer can say what
5 she saw.

6 THE COURT: That's hearsay, not just
7 written statements, also activities.

8 MR. WETMORE: What she observed of this
9 witness, how upset she is, not anything she said,
10 but just her demeanor.

11 THE COURT: That's the same thing.

12 MR. WETMORE: That's this witness's
13 observations.

14 THE COURT: Still hearsay, not just
15 what you speak out of your mouth.

16 MR. WETMORE: That's fine.

17 THE COURT: That's an affirmative act
18 meant to communicate something. I still don't
19 understand how it is relevant to anything, her
20 being upset. It is not going to make the statement
21 an excited utterance.

22 MR. WETMORE: I think that it does,
23 but --

24 THE COURT: If you want that witness
25 you better find her and call her.

1 MR. WETMORE: I understand that. What
2 I am trying to do is lay a foundation for an
3 excited utterance, Judge.

4 THE COURT: I won't qualify that
5 statement as an excited utterance and then him not
6 be able to cross-examine that witness. That's an
7 appeal issue waiting to happen. Sustained.
8 Relevance.

9 (End of sidebar conference.)

10 BY MR. WETMORE:

11 Q. Now, was it apparent that she had seen
12 the crime?

13 A. Yes, sir.

14 Q. She had seen the victim actually
15 getting stabbed?

16 A. Yes, sir.

17 Q. In your talk with this witness without
18 getting into any particular statements was she able
19 to help you focus North Charleston's investigation?

20 A. Yes, she was.

21 Q. And she was able to give you a
22 description?

23 A. She was, sir.

24 Q. And then did that description help to
25 focus North Charleston's investigation?

1 A. It did.

2 Q. Based on your interaction with this
3 witness what did you do? What was your
4 investigation? How did it progress?

5 A. From the information I received I was
6 able to relay that to other officers who were on
7 the scene helping to investigate trying to locate
8 further evidence.

9 Q. Based on your discussions with the
10 witness she directed your investigation, what were
11 you looking for?

12 A. First and foremost we were looking for
13 the suspect getting the description relayed since
14 she had witnessed the crime. Getting the
15 description of the suspect relayed to other
16 officers, clothing the suspect had on, anything in
17 his hand. She had witnessed the crime and she saw
18 something in his hands and trying to gather that
19 information as I was supposed to in Spanish, then
20 relay that to a non-speaking Spanish officer so
21 that he can go ahead and canvass the area, proceed
22 appropriately with the investigation.

23 Q. And based on the way she was assisting
24 you with your investigation what particularly were
25 you looking for?

1 A. The suspect, the murder weapon, any
2 other witnesses that could have seen it.

3 Q. Now, were you -- based on your
4 discussion with her was -- she helped you with your
5 investigation. Were you looking for a particular
6 person or particular type of dressed person?

7 A. Yes, she gave us description of the
8 person she said was committed the crime.

9 Q. That's where you focused your
10 investigation?

11 A. Yes, sir.

12 Q. So what was that focus?

13 A. The description that she gave was that
14 it was a black male wearing jeans.

15 MR. SHAHID: Your Honor --

16 THE COURT: Yes, sir. Is there an
17 objection?

18 MR. SHAHID: Objection.

19 THE COURT: Basis?

20 MR. SHAHID: Hearsay.

21 THE COURT: Overruled.

22 BY MR. WETMORE:

23 Q. What was the description that you were
24 looking for?

25 A. The description that she gave was black

1 male, jeans, a white shirt and some sort of black
2 sweater or jacket half zipped up.

3 Q. And that statement led you in that
4 direction?

5 A. It did, sir.

6 Q. That directs your investigation along
7 with that description?

8 A. Yes, sir, it did.

9 Q. Now, have you spoken to Ms. Flores
10 since you took this statement?

11 A. I have not.

12 Q. Do you know if she is around or has
13 left the area?

14 A. I do not know where she is.

15 Q. Did you take any steps, make any calls,
16 anything to locate her for court?

17 A. Yes.

18 Q. Were you successful in those attempts
19 to find her?

20 A. No, sir.

21 Q. In your experience as police officers
22 dealing with the Hispanic community do they
23 typically move around?

24 MR. SHAHID: Objection, Your Honor.

25 THE COURT: Basis?

1 MR. SHAHID: Relevance.

2 THE COURT: I'm going to give him a
3 little latitude. Overruled.

4 BY MR. WETMORE:

5 Q. Based on your experience do those
6 people in that sort of position, do they move
7 around or they put down roots and stay put?

8 A. They tend to move around because some
9 of the work that they find isn't long term.
10 Sometimes it's seasonal and in Charleston it's very
11 seasonal during the summer months. It's focused on
12 tourism, so cleaning hotels, construction, just in
13 the winter months everything kind of dies down so
14 they tend to move a lot following the work.

15 Q. Certainly no criticism. A Hispanic
16 individual in this case was very helpful?

17 A. Yes.

18 Q. Flagged down the police officers and
19 gave you a statement?

20 A. Yes, sir.

21 Q. You were not able to locate Ms.
22 Flores-Urbina?

23 A. I was not, no, sir.

24 Q. Did you do any other investigations in
25 this case that are relevant?

1 A. No, sir.

2 MR. WETMORE: I don't have any further
3 questions for you.

4 THE COURT: Any questions for the
5 witness?

6 CROSS-EXAMINATION

7 BY MR. SHAHID:

8 Q. I think I mispronounced your name. Is
9 it Bordallo?

10 A. It's Bordallo, sir.

11 Q. Officer Bordallo, thank you for your
12 service and your testimony today.

13 A. Thank you.

14 Q. Now, as I understand it what happened
15 is that you were summoned to talk to this
16 particular woman who spoke only Spanish; is that
17 correct?

18 A. Yes, sir.

19 Q. And then was she accompanied by another
20 male figure?

21 A. Yes, sir.

22 Q. That person I understand was unable to
23 speak at all?

24 A. Correct.

25 Q. And so you were getting information

1 from her and it's obvious to you that this person
2 is an eyewitness; is that correct?

3 A. Yes, sir.

4 Q. And what you obtained as a statement
5 from her that she's -- strike that question, Judge.
6 At this point in time while you were talking to
7 this particular woman do you see Mr. Short?

8 A. While I'm speaking with her?

9 Q. Yes.

10 A. No.

11 Q. Were you aware that Mr. Short was
12 placed in a patrol car?

13 A. I don't remember where he was or if he
14 was there. There was a lot going on.

15 Q. The place that you were talking to this
16 woman, was it close to the area that you understood
17 to be like the crime scene for lack of a better way
18 of saying?

19 A. When I spoke to the eyewitness Ms.
20 Urbina when I arrived they were standing in the
21 driveway on Railroad Avenue. Once I obtained
22 initial information, the description of the person
23 who she said she saw committing the crime we moved
24 when Detective Riedel got there so that we would
25 have lighting to be able to take her statement and

1 to be able to kind of control the environment so
2 that she could calm down and that we were able to
3 hear her and because there was a lot going on.
4 There were people around. So we did -- after when
5 I first got on the scene we did move.

6 Q. But on State's No. 1 they have a pin
7 saying where Ms. Frazier's body was found at 4497
8 Railroad Avenue. Is that where you were standing
9 when you initially made contact with this witness?

10 A. I am sorry. I can't see.

11 Q. You are entitled to come down and take
12 a look.

13 A. (Witness complies with request.)

14 Q. So on Exhibit No. 1 is a pin that says
15 Frazier found [REDACTED] Railroad?

16 A. Yes, sir.

17 Q. And is that the point that you were
18 standing when you initially made contact with this
19 witness?

20 A. We were more towards -- we were out
21 towards more on the roadway.

22 Q. In this general location?

23 A. Yes, sir.

24 Q. And did you see Patrolman O'Connell's
25 car being occupied by Mr. Short?

1 A. I don't know what unit he had been in.
2 There were a lot of cruisers there that night.

3 Q. The witness had made reference to a
4 person in the patrol car?

5 MR. WETMORE: Objection.

6 THE COURT: Basis?

7 MR. WETMORE: Hearsay.

8 THE COURT: Please approach.

9 (Following proceedings were held at the
10 bench.)

11 THE COURT: We are back to this.

12 MR. SHAHID: I asked whether or not if
13 the witness ever made reference to a person in the
14 patrol car, that's all.

15 THE COURT: I didn't hear you.

16 MR. SHAHID: I asked if a witness made
17 reference to a person in the patrol car.

18 MR. WETMORE: This witness said --

19 THE COURT: How would she know that? I
20 guess I'm confused. She wouldn't know where he
21 was.

22 MR. SHAHID: Right. I just asked if he
23 was in the patrol car.

24 THE COURT: If that were the case in
25 response to his question she would have said the

1 witness told me.

2 MR. SHAHID: Okay.

3 THE COURT: Sustained. I think it's an
4 improper question.

5 (End of sidebar conference.)

6 BY MR. SHAHID:

7 Q. How long were you in the general area
8 this particular evening?

9 A. It was a while. But I don't remember
10 the exact time, sir.

11 Q. An hour?

12 A. When I began and I first got there and
13 then took a while for us to interview the witness
14 and write it all down so I don't know, sir.

15 Q. At least an hour?

16 A. I'm sure it's probably more than an
17 hour probably. I'm not sure. I would have to go
18 back and look at the video to give you a specific
19 time.

20 Q. Based on your contact with this witness
21 were you aware of whether or not an arrest was made
22 of any suspect that night?

23 A. I did not know what was going on with
24 the suspect.

25 MR. SHAHID: That's all the questions I

1 (Whereupon the jury entered the
2 courtroom at 3:40 p.m.)

3 THE COURT: Ladies and gentlemen, hope
4 you enjoyed your break. We will resume the
5 testimony. You may call your next witness.

6 MR. WETMORE: State calls Sergeant
7 Webb.

8 THE COURT: Sir, if you would come
9 forward to be sworn.

10 RON WEBB

11 having been duly sworn, testifies as follows:

12 THE CLERK: Please state your name and
13 spell your last name for the record.

14 THE WITNESS: My first name is Ronald.
15 Last name is spelled W-E-B-B.

16 DIRECT EXAMINATION

17 BY MR. WETMORE:

18 Q. Officer Webb, how long have you been
19 with North Charleston?

20 A. Almost 15 years.

21 Q. And let's go directly to October 2015.
22 What was your responsibility?

23 A. Patrol sergeant.

24 Q. You are a sergeant?

25 A. Yes, sir.

1 Q. Supervisor of the patrol division?

2 A. Correct.

3 Q. Can you please briefly state your
4 training and experience that helps you do your job?

5 A. I worked for two previous agencies
6 prior to coming to North Charleston. Came to North
7 Charleston with approximately six and-a-half years
8 experience. Part of that time was as a corporal
9 for another agency. I got some supervisor training
10 there, training that I picked up over the years in
11 North Charleston.

12 THE COURT: Sir, could you speak
13 directly into the microphone for us? That's as
14 best as we can move it. Thank you. You may
15 continue.

16 BY MR. WETMORE:

17 Q. Sergeant Webb, were you on duty early
18 October the 11th, 2015?

19 A. Yes, sir, I was.

20 Q. Did you come on that morning or had you
21 been there all night?

22 A. We came on 6:45.

23 Q. And so did you become involved in this
24 case we are here for today against Ricky Short?

25 A. I did.

1 Q. How did you become involved?

2 A. If I recall correctly, we were called
3 to go and assist to help look for some items that
4 were involved in this incident.

5 Q. And Officer Bordallo already testified
6 that your investigation was looking for a suspect
7 wearing a black jacket?

8 A. I was looking for a black jacket.

9 Q. And were you looking for a weapon as
10 well?

11 A. A knife.

12 Q. Looking for a black jacket and a knife?

13 A. Yes, sir.

14 Q. What time did you start that search,
15 6:45 when you came on?

16 A. Came on 6:45. We normally have roll
17 call around 7:00. And it was probably within that
18 hour, seven to eight-ish hour we got over there and
19 I had to also pull one of our patrol guys to come
20 and assist.

21 Q. You all were looking for the black
22 jacket and the knife?

23 A. Correct.

24 Q. You believed to be involved in this
25 stabbing?

1 A. I was, yes, sir.

2 Q. If you can take a look, can you step
3 down and show the jury on State's Exhibit No. 2, is
4 this the general area that you were targeting for
5 your search?

6 A. Yes, sir.

7 Q. That map is obviously accurate in your
8 opinion and reflects the neighborhood?

9 A. Yes, sir.

10 Q. Very familiar with that neighborhood I
11 would assume?

12 A. Somewhat, yes, sir.

13 Q. And if you could, just show the jury
14 using this map exactly how you went about your
15 search. This is Railroad Avenue obviously.
16 Rivers?

17 A. I started down here. It was an
18 abandoned trailer. I can't tell if it's here. And
19 we started looking around this trailer going house
20 to house every yard up to the first block. I
21 believe I had Patrolman Ivey at the time work his
22 way on the opposite side of the road and across the
23 street. I was going to work the inner blocks. I
24 was working inner blocks until I come to the
25 address on Graham Street.

1 Q. Tell us about how that played out when
2 you first came to Graham Street you say?

3 A. Until I worked my way up to Graham
4 Street.

5 Q. And then did you hit this street first?

6 A. I did. Fuller Street comes before
7 Graham Street. I did yard to yard, received a lot
8 of cooperation from the residents. Not one
9 resident denied us access to the property. The
10 problem I ran into here on Graham Street, the
11 address where I found the objects is surrounded by
12 a fence and there's an open yard where a few years
13 previous to this incident I responded there and the
14 gentleman had several large dogs so I knew not to
15 just go into his yard unannounced. I didn't have a
16 way to announce my presence.

17 So what we did is when I searched this
18 yard I was able to look for the dogs and when I
19 searched this yard I didn't see them. I didn't
20 want to take a chance on the property. I worked my
21 way, kept searching, searching until I got to the
22 Graham Street address, [REDACTED] Graham Street where I
23 made contact with Mr. Wilson. I explained to him
24 the situation. He was very cooperative. He
25 unlocked his gates and let us search his backyard.

1 Q. So that's coming from Graham Street?

2 A. Yes, sir.

3 Q. And did you find anything of any note
4 in this case on Graham Street?

5 A. So as I was on Graham Street in the
6 backyard walking the back of the fence line which
7 also partially backs up to the property line I was
8 unable to search off Fuller Street. I was able to
9 see a black jacket and a white shirt over the fence
10 and a real -- a lot of overgrown area. Also
11 noticed what was different about this incident
12 these two addresses, they shared a fence, a gate
13 leading to each property which is something that
14 you don't see in North Charleston a lot. Chain
15 link fence was three or four feet. When I opened
16 the gate I could tell it hadn't been opened in a
17 while, had to play with it back and forth.

18 Once I entered the gate I walked on the
19 back side of the garage-like building at the back
20 of the property of [REDACTED] Fuller Street. No dogs
21 were present. I didn't see any dogs. I took that
22 chance. As I walked to the corner of the
23 garage-like building I was able to see the black
24 jacket and I went to get them out.

25 Q. Just so I understand correctly, you

1 found this evidence at [REDACTED] Fuller?

2 A. Yes, sir.

3 Q. But you couldn't come in the front
4 because of the fear of the dogs?

5 A. Fear of the dogs and I believe the gate
6 was locked.

7 Q. But you had cooperation on Graham
8 Street?

9 A. I did.

10 Q. When you were on the Graham Street
11 property you were able to see this evidence on the
12 Fuller Street property?

13 A. Yes, sir.

14 Q. And you mentioned there was a gate,
15 chain link fence that hadn't been opened. That was
16 between the two properties?

17 A. It was.

18 Q. You said there was a fence around this
19 front yard too, right?

20 A. Yes, sir.

21 Q. That's where you thought the dogs were
22 kept.

23 A. There was a dog right there. House
24 right there. Looked run down. Still I know he had
25 those large dogs. I was not going to walk in

1 unannounced. I don't want something to go wrong
2 there.

3 Q. Sure. And there was a fence basically
4 all the way around [REDACTED] Fuller?

5 A. Yes, sir.

6 Q. But in the back side it wasn't very
7 high?

8 A. No, it was not.

9 Q. Certainly something that someone could
10 have either gone through the gate or climbed over?

11 MR. SHAHID: Objection, Your Honor.
12 Leading.

13 THE COURT: Please repeat the question.
14 BY MR. WETMORE:

15 Q. Was the gate that you or any of these
16 fences or gates or anything too tall that someone
17 can't climb over?

18 A. The best I can recall the gate on or
19 the fence on Fuller Street is something that you
20 can climb over. The fence leading to this yard you
21 can climb over. The fence from Graham Street you
22 can climb over. The fence right here, I do not
23 recall whether it was higher than the other one.

24 Q. Okay. No question you found the
25 property on [REDACTED] Fuller in the back?

1 A. Correct, it was the back one.

2 Q. Along the property line it shares with
3 the Graham Street address?

4 A. Just off the property line.

5 Q. And when you saw that you said I got
6 it?

7 A. Yeah, pretty much.

8 Q. I'm going to ask you to step down if
9 you would be more comfortable.

10 A. (Witness complies with request.)

11 Q. These photos, can you identify these
12 photos? I will publish them in a second, just make
13 sure that you can identify them.

14 A. Those are what I observed that day.

15 Q. This is the area that you were
16 searching?

17 A. Yes, sir.

18 Q. All right.

19 MR. WETMORE: Judge, State's 3 through
20 9 are already into evidence. Permission to publish
21 to the jury?

22 THE COURT: You may proceed.

23 BY MR. WETMORE:

24 Q. Sergeant Webb, can you look on your
25 screen?

1 THE COURT: He can look at the one in
2 front of him.

3 THE WITNESS: Thank you.

4 BY MR. WETMORE:

5 Q. You can mark with your finger --

6 THE COURT: You need somebody over
7 there to clear it. You can show him how to clear
8 it on his monitor right there.

9 Q. Is this -- which property is this
10 showing?

11 A. This would be the [REDACTED] Fuller Street
12 address.

13 THE COURT: I need you to say which
14 number that is.

15 Q. State's Exhibit No. 3. This is coming
16 into the Fuller Street address?

17 A. Yes, sir. That would be approaching
18 from the Fuller Street side.

19 Q. And if you can show us the way you
20 traveled in there?

21 A. I came in from back in this area
22 somewhere back in here. There was a gate between
23 the two properties.

24 Q. That's where you found the evidence?

25 A. No, sir. The evidence would be on the

1 different -- it would be back behind the building,
2 different photo, back in that area.

3 Q. I will keep going.

4 THE COURT: Sir, if you would tap? See
5 right there it says clear? We got it. Thank you,
6 Mr. Waring.

7 Q. Show you State's Exhibit 4. This is
8 coming into the property more. Show us again where
9 you were able to locate the evidence?

10 A. The evidence would have been on that
11 back area of the garage-like building back behind
12 it between the two properties.

13 Q. Okay. Show you State's No. 5. Zeroing
14 in on the area that you found the evidence?

15 A. Yes, I would have. If you were to take
16 -- go to the evidence from the Fuller Street
17 address you would have to walk up, take a left and
18 walk.

19 Q. Right there where the officer is kind
20 of peeking?

21 A. You have to go to the end of the
22 building.

23 Q. Show you next what's State's No. 6.
24 What is that?

25 A. All right. This is the fence.

1 Obviously the fence shares a property line. Back
2 here there's an opening and behind that opening
3 there's a little leafy area, real leafy area and
4 the items were laying back in that area.

5 Q. Okay. No. 7, we are getting closer.
6 State's No. 7. Are we progressing towards the area
7 again?

8 A. Yes, sir, just on the little section
9 past the little wooden fence there.

10 Q. State's No. 8, I assume this is that
11 wooden fence; is that right?

12 A. Appears to be, yes, sir.

13 Q. And then show us exactly what you
14 found?

15 A. I seen the black jacket and white
16 shirt. As I stood there, I'm not sure if I already
17 called the crime scene and dispatch, let them know
18 that I had located the items at that time.

19 Q. Go ahead. Sorry.

20 A. I stand there and looked. I also
21 noticed a blade to a knife.

22 Q. Okay.

23 A. Not far away from those items.

24 Q. So it was between that wooden fence and
25 that chain link fence?

1 A. Yes, sir.

2 Q. Show you what's marked -- been admitted
3 as State's No. 9. Is that the black jacket you are
4 looking for and white shirt you were looking for?

5 A. Looks consistent with the items that I
6 saw that day.

7 Q. That's how they looked when you came
8 across them?

9 A. Yes, sir.

10 Q. If I can have you pop down one more
11 time and show you what's been admitted as State's
12 No. 10. This is the jacket and the shirt that you
13 found?

14 A. Looks consistent with the jacket and
15 shirt, yes.

16 Q. And show us where the knife is in
17 relationship to the jacket and the shirt?

18 A. Start this one right here. You can see
19 the blade if you look right there up here, appears
20 to be a blade of a knife. Same, just a larger
21 picture. You can see the blade a little more and
22 then over here you can see it.

23 Q. And so you were able to notice the
24 serrated blade as you peered down into the
25 evidence?

1 A. Yes, sir.

2 Q. So this diagram fairly reflects kind of
3 how you looked down and got a closer look; is that
4 correct?

5 A. I don't remember what angle other than
6 being above the items looking down. I just don't
7 remember exactly where I would have been standing
8 when I observed the items. The knife didn't
9 obviously -- didn't obviously appear. I had to
10 look for a little bit and then I saw the blade as I
11 was looking. I don't remember where I was standing
12 at.

13 Q. This is the edge of the black jacket;
14 is that correct?

15 A. Appears to be, yes, sir.

16 Q. And this is the serrated silver blade?

17 A. Yes, sir.

18 Q. How close are these two things to one
19 another? Are they inches?

20 A. I have noted in my report that they are
21 within a foot.

22 Q. Less than a foot. Thank you. You can
23 be seated now.

24 A. (Witness complies with request.)

25 Q. That has previously been admitted as

1 No. 10 for the State. Now, did you make any notes
2 about how you saw this evidence when you came --
3 when you take a close look at it what did you note
4 in your report about it, if anything?

5 A. I did notice that the items -- I noted
6 that the items appeared to be dry being
7 inconsistent with their surroundings which the
8 leafy area had condensation on it, obvious
9 condensation that was visible to us.

10 Q. Did you actually touch these items?

11 A. No, sir.

12 Q. So you don't know if they were wet or
13 dry; you just know what you saw?

14 A. Just what I saw.

15 Q. Why didn't you grab that stuff with
16 your hands and touch it?

17 A. It's evidence to a crime. I believed
18 it to be evidence to a crime.

19 Q. So how did you handle it? What did you
20 do when you found it?

21 A. Left it there and called the crime
22 scene.

23 Q. Called crime scene?

24 A. Notify dispatch.

25 Q. And the professional crime scene

1 officers were the ones who collected it?

2 MR. SHAHID: Objection, Your Honor,
3 leading.

4 THE COURT: Sustained, leading,
5 rephrase.

6 BY MR. WETMORE:

7 Q. Who collected it?

8 A. The crime scene tech.

9 Q. Did you notice any reddish blood or
10 anything on these items?

11 A. I noted in my report on the white shirt
12 that I noticed what appeared to be blood on it.

13 Q. Did you note any reddish blood
14 substance on the stainless knife blade?

15 A. I have noted in my report with what
16 appeared to be --

17 MR. SHAHID: Objection, Your Honor. He
18 is reading from his report.

19 THE COURT: He can to refresh his
20 memory.

21 MR. SHAHID: I don't think he laid the
22 foundation.

23 THE COURT: I think he did. Overruled.

24 THE WITNESS: I don't recall right now.

25 BY MR. WETMORE:

1 Q. That's okay.

2 A. All I had noted in my report was that I
3 specifically observed a red substance or red
4 colored items.

5 Q. You definitely saw a shirt?

6 A. On the shirt.

7 Q. And the shirt was with the knife?

8 A. Within a foot apart, approximately.

9 Q. And you noticed obviously that the ivy
10 or whatever it is had moisture on it; is that
11 correct?

12 A. Correct.

13 Q. But you didn't touch the clothing to
14 see if it was moist or not, did you?

15 A. No, I did not.

16 MR. WETMORE: I have no further
17 questions for the witness.

18 THE COURT: Any questions for this
19 witness?

20 MR. SHAHID: Yes, ma'am.

21 THE COURT: You may proceed.

22 CROSS-EXAMINATION

23 BY MR. SHAHID:

24 Q. Sergeant Webb, I'm Peter Shahid. I
25 represent Mr. Short. Few questions for you,

1 please, sir. Thank you for your service and
2 testimony this afternoon. State's Exhibit No. 3,
3 what's not shown in that photograph is a fence, is
4 that correct, on the front part of the property?

5 A. From this angle you are shooting the
6 front part of the property, shooting the back part
7 of the property.

8 Q. I am sorry?

9 A. This camera angle here is shooting
10 towards the back of the property, is not shooting
11 towards the front of the property.

12 Q. So the very front part of this property
13 is a fence?

14 A. There is.

15 Q. And I think what you have mentioned
16 earlier in your testimony elicited by Mr. Wetmore
17 is that you had some experience with the property
18 before; is that correct?

19 A. I did.

20 Q. And that there's some doghouses on the
21 property, there was some dogs on that property?

22 A. During my first experience on the
23 property, yes, sir.

24 Q. How long ago was that prior to this
25 incident?

1 A. I can guess approximately two years,
2 within two years of this incident.

3 Q. And so this property is reflected on
4 State's Exhibit No. 2? You may want to come down
5 for a second.

6 A. (Witness complies with request.)

7 Q. So on State's Exhibit No. 2 where this
8 pin is, that photograph is standing in this roadway
9 looking back; is that correct?

10 A. It is not standing in the roadway
11 because you don't see the fence. It's standing
12 within the fence obviously very low and you have a
13 fence.

14 Q. So you are within the fence line of
15 that point?

16 A. Assuming. Appears to be consistent
17 with what I am looking at.

18 Q. So this reddish looking building with a
19 tin roof that I have my pen pointed at, that's that
20 red building with the tin roof showing on Exhibit
21 No. 3?

22 A. Yes, sir.

23 Q. And then this other building behind
24 that is the other part of that shed?

25 A. Right. Garage-like area.

1 Q. So when you approached this area based
2 on your prior experience you didn't want to take
3 the chance getting bit by dogs?

4 A. Yes, I didn't want to put myself in
5 that situation because I know he has the dogs.

6 Q. So and then you came from the Graham
7 Street side?

8 A. I did.

9 Q. Now, at this point on Exhibit No. 2,
10 right where the letter F and R are superimposed on
11 this, this is a dead end?

12 A. The road does end.

13 Q. So this was Fuller.

14 A. Yes, sir.

15 Q. Fuller comes to a dead end, there's a
16 fence right here, too, right?

17 A. I don't recall.

18 Q. And there's other houses or trailers in
19 this general area?

20 A. Best I recall I think there was a red
21 brick house somewhere among here because I remember
22 the yard was real soft. And there was a large area
23 search. I believe they had some type of gardening
24 around there. We were searching all around.

25 Q. So as you were canvassing this area

1 would you agree with me, Sergeant, that this is a
2 lot of residential area consistent within this
3 framework?

4 A. Yes.

5 Q. Thank you. And State's Exhibit No. 4,
6 there appears to be another officer right here. Is
7 that you?

8 A. I have no idea.

9 Q. You didn't pose for the photograph?

10 A. If I did it was not intentional.

11 Q. On Exhibit No. 5, there is a closer
12 view of that; is that right?

13 A. Yes, sir.

14 Q. So what's shown in Exhibit No. 5 and
15 Exhibit No. 4 back here is a fence; is that
16 correct?

17 A. Yes, sir.

18 Q. Is that the fence that separates Mr.
19 Wilson's property from Fuller Street?

20 A. Yes, sir, partially separates the
21 property.

22 Q. Now, if you would look you see the
23 shoulder of that particular officer?

24 A. I do.

25 Q. And would you agree with me, sir, that

1 that fence is almost up to their shoulder?

2 A. Talking in height?

3 Q. Right, yes.

4 A. Yes, sir.

5 Q. Then this is Exhibit No. 6. And this
6 is a fence back in here as well; isn't that right?

7 A. Yes, sir.

8 Q. And that's the fence that was shown at
9 a distance on Exhibit No. 5?

10 A. You know, the more I look at the
11 picture, person looks like Lieutenant Washburn and
12 I believe she was about five foot tall, between
13 four and five foot tall.

14 Q. So that was about at least four feet in
15 height, that picture, that fence?

16 A. I can't say.

17 Q. It's almost up to her shoulder?

18 A. I don't know her height. I'm sorry.

19 Q. That's okay. Now, this fence right
20 here in Exhibit No. 5 is also shown in Exhibit
21 No. 6 right here; is that correct? That's the same
22 fence?

23 A. Yes, sir, appears to be.

24 Q. And also appears to be the same fence
25 back on 7, correct?

1 A. Correct.

2 Q. And then back here is another fence?

3 A. Correct.

4 Q. So this whole area is fenced off?

5 A. If I remember correctly, yes, sir.

6 Q. And then you mentioned like a pass gate

7 between the two properties?

8 A. Yes, sir.

9 Q. Where was that pass gate?

10 A. So I haven't seen it in any of the
11 photos, but along the fence line between Mr.
12 Wilson's property and the incident location where
13 the items were found there's a gate that I had to
14 access using that access on to the Fuller Street
15 address.

16 Q. So when you located these items shown
17 in Exhibit No. 8 you were on the Graham Street side
18 of this?

19 A. No, sir, I was on the Fuller Street --
20 wait. When I first saw it I was on the Graham
21 Street side. Before I could get to it to get a
22 good look at it I had to go through the gate and go
23 along the back side of the garage-like building.
24 When I looked around the tall wooden gate at the
25 back of that building that's when I got a good look

1 at the items.

2 Q. You were initially on Graham -- Mr.
3 Wilson's property and you came to this fence line,
4 that's where you saw the items?

5 A. Yes, sir, and whatever glimpse I saw I
6 do recall as soon as I saw it I knew there are our
7 items right there. I need to confirm it.

8 Q. As you go back around the area you
9 notice that the ground is wet; is that correct?

10 A. I have noted in my report there was
11 condensation in the area.

12 Q. How long have you been in the
13 Charleston area?

14 A. Almost 15 years.

15 Q. And are you familiar with humidity?

16 A. Somewhat.

17 Q. Humidity is moisture?

18 A. Yes, sir.

19 Q. And are you familiar with morning dew?

20 A. I am.

21 Q. And so what you were seeing was morning
22 dew on the vegetation?

23 A. Appeared that the leafy area was wet,
24 appeared to be wet.

25 Q. Had it rained that night before?

1 A. I don't recall.

2 Q. And did you notice, officer, any foot
3 tracks back in the area?

4 A. I don't recall any foot tracks.

5 Q. If you had noticed any foot tracks
6 would you have included that in your report?

7 A. Yes, sir.

8 Q. And there was nothing noteworthy about
9 the tracks?

10 A. I don't recall seeing any foot tracks.

11 Q. You do recall as noted that these items
12 seem to be inconsistent with the surrounding area
13 because the surrounding area was wet?

14 A. Yes, sir.

15 Q. And if I recall, Officer Webb, the pass
16 gate you said looked like it hadn't been used for a
17 while?

18 A. Correct. I remember having to force it
19 back and forth to loosen up the ground so I could
20 open it enough to get through it.

21 Q. In this neighborhood, Sergeant, are
22 there other neighborhoods or residents in this area
23 that we are looking at on Exhibit No. 2 that have
24 dogs around there? Do you recall?

25 A. I don't recall.

1 Q. On Exhibit No. 10, the moisture that
2 you referred to in your report is shown in this
3 third photo of Exhibit No. 10; is that accurate?

4 A. Can I walk over there?

5 Q. Please do, I'm sorry.

6 A. (Witness complies with request.)

7 Q. Is this what you are referring to?

8 A. Yes, sir, it is.

9 Q. It's also shown in the middle
10 photograph of Exhibit No. 10; is that correct?

11 A. Yes.

12 Q. And also further away, very far left
13 photograph as well?

14 A. Correct.

15 Q. Excuse me one second. You may return
16 to your seat.

17 A. (Witness complies with request.)

18 (Attorney confers with client.)

19 BY MR. SHAHID:

20 Q. Just to make sure I'm clear, I
21 apologize for repeating this question. But your
22 initial observation of these items came from the
23 Graham Street, not the Fuller Street side of the
24 property; is that correct?

25 A. Correct.

1 MR. SHAHID: Thank you. That's all the
2 questions I have.

3 THE COURT: Any redirect?

4 REDIRECT EXAMINATION

5 BY MR. WETMORE:

6 Q. Sergeant Webb, I think you correctly
7 identified Washburn by the fence. She is a shorter
8 officer, correct?

9 A. She is.

10 Q. Would you estimate that fence to be
11 about four feet?

12 A. Between three to four feet,
13 approximately.

14 Q. And Mr. Shahid asked about fencing in
15 the area. Were there any fences out there that
16 were too high for a healthy young man to climb
17 over?

18 MR. SHAHID: Objection, calls for
19 speculation.

20 THE COURT: You need to establish the
21 foundation and do it without leading.

22 BY MR. WETMORE:

23 Q. In your general life experiences were
24 these fences too tall to climb over?

25 A. Myself I could climb over a fence.

1 Q. Yourself you could?

2 A. I could.

3 Q. Now, Mr. Shahid also has made mention
4 of the moisture on the leaves here. You obviously
5 don't have any idea when it got there, correct?

6 A. Correct.

7 Q. You don't know how it got there?

8 A. Correct.

9 Q. I know you said you didn't touch the
10 jacket and the shirt; is that correct?

11 A. Correct.

12 Q. So you don't know if they were wet to
13 the touch?

14 A. I do not.

15 Q. Could you tell what material the jacket
16 and shirt were?

17 A. No, sir.

18 Q. Could you tell if they were fabric or
19 if they were leather?

20 A. The jacket to me -- when crime scene
21 took the jacket and hung it up so it can dry a
22 little bit while they got ready to bag it, it
23 looked to me like a plastic and some type of
24 felt-like material.

25 Q. Felt?

1 A. That's what it looked like to me.

2 Q. And in your life experience something
3 like felt fabric, would you expect it to absorb the
4 moisture?

5 A. It could.

6 Q. In your life experience have you ever
7 known moisture to pool up on fabric or felt?

8 A. If it's been sprayed with Scotchgard.

9 Q. Court's indulgence.

10 THE COURT: Yes, sir.

11 (Off-the-record conference.)

12 BY MR. WETMORE:

13 Q. You were there when the crime scene
14 officers collected it or were you not?

15 A. I was.

16 Q. Did they have to hang it up to dry it?

17 A. They hung it up for just a minute, but
18 I don't remember the exact reason why she did it.
19 I know we gloved up and I just remember the jacket,
20 she hung it up for a just a minute. I can't
21 remember if they let it dry fully; I don't remember
22 exactly the reason.

23 MR. WETMORE: No further questions.

24 THE COURT: Any objection to the
25 witness being excused?

1 MR. SHAHID: Can I ask one followup
2 question?

3 THE COURT: Limit it only to redirect
4 and I am being liberal.

5 MR. SHAHID: Well, I want to make sure
6 I understand the time frame when he located, that
7 was my question.

8 THE COURT: I'm going to allow you to
9 do it this time.

10 RECROSS-EXAMINATION

11 BY MR. SHAHID:

12 Q. Do you remember what time this was when
13 you collected these items, officer?

14 A. I have noted in my report it was
15 approximately 10:05 when I made contact with Mr.
16 Wilson's property.

17 MR. SHAHID: Thank you. That's all I
18 have, Judge.

19 THE COURT: Anything further?

20 MR. WETMORE: No, Your Honor.

21 THE COURT: From the State? Any
22 objection to the witness being excused from the
23 State?

24 MR. WETMORE: No.

25 THE COURT: From the defense?

1 MR. SHAHID: No, ma'am.

2 THE COURT: Sir, you are excused. Call
3 your next witness.

4 MR. WETMORE: State calls Detective
5 Robert Bailey. May we approach.

6 (Following proceedings were held at the
7 bench.)

8 MR. WETMORE: There was a younger male
9 in the front.

10 THE COURT: I am watching. I have
11 jurors that wear glasses that keep their eyes
12 closed the whole time.

13 MR. WETMORE: I believe that. I want
14 to make sure you're aware of it.

15 THE COURT: I am watching.

16 (End of sidebar conference.)

17 THE COURT: You may
18 proceed.

19 ROBERT BAILEY

20 having been duly sworn, testifies as follows:

21 THE CLERK: Please state your name and
22 spell your last name for the record.

23 THE WITNESS: Robert Bailey,
24 B-A-I-L-E-Y.

25 DIRECT EXAMINATION

1 BY MR. WETMORE:

2 Q. Officer Bailey, how long have you been
3 with North Charleston?

4 A. Little over 13 years.

5 Q. And what were your duties and
6 responsibilities in October of 2015?

7 A. I was assigned as a master patrol
8 officer in the persons crime unit which handles all
9 violent crime within the City of North Charleston
10 to include homicides.

11 Q. And tell us briefly about your
12 training, your experience, whatever you use to help
13 you do your job?

14 A. I completed at the time a nine-week
15 basic course with South Carolina Law Enforcement
16 Division. I have also been to multiple homicide
17 schools, interview tactics and also spent several
18 times in different areas of the department.

19 Q. And were you on duty the evening of
20 October 10th, 2015, and the next day?

21 A. Yes, I was on call.

22 Q. And did you become involved in the case
23 against the Defendant Ricky Short?

24 A. I did.

25 Q. How did you become involved?

1 A. I was called out in reference to
2 responding to a crime scene at [REDACTED] Railroad Avenue
3 which is in the City of North Charleston reference
4 to a victim had been stabbed multiple times.

5 Q. At some point in your involvement were
6 you designated as the lead or the head --

7 A. I was.

8 Q. -- detective. Did you respond to the
9 crime scene?

10 A. I did.

11 Q. If you would please using State's No. 2
12 show us the lay of the land as you experienced it
13 for the crime scene.

14 A. When I responded to the crime scene I
15 came off of Montague Avenue and I came down
16 Railroad. Due to being advised it was a large
17 crime scene I parked prior to Emden Street. There
18 was crime scene tape from Emden Street all the way
19 down. As I usually do, I assess every situation in
20 every crime scene when I get there. Upon my
21 assessment I walked the crime scene where I
22 believed it started. It appeared that it started
23 at the corner of Emden and Railroad where some
24 items were located, some blood. You could follow a
25 blood trail that was zigzagging down Railroad

1 Avenue. We had to go between some cars because
2 some officers pulled on scene, did not recognize
3 the crime scene was that large where the victim had
4 been found in front of [REDACTED] Railroad Avenue.

5 Q. And as the lead detective were you able
6 to start making assignments, delegate
7 responsibilities?

8 A. I was.

9 Q. What did you have everyone doing?

10 A. At the time when I responded I was just
11 pretty much assessing the situation trying to get
12 any information on the victim, the wounds that she
13 did have, she was still alive, what is the status,
14 because I knew she was actually pregnant at the
15 time, what the status of the unborn child was at
16 that time. Also knew that I had a Hispanic witness
17 on scene. I do have a bilingual detective that was
18 on call with me, Detective Riedel. I assigned him,
19 asked him to speak with the witnesses that were
20 there who had seen this incident. I believe him
21 and Officer Bordallo spoke with them, at which time
22 I gathered as much information as I could. Due to
23 patrol having possibly another witness I responded
24 back to the station to interview him.

25 Q. So you said that the victim was still

1 laying there at the scene when you got there?

2 A. She was not -- I believe when I arrived
3 on scene EMS was just pulling off of there.

4 Q. So she was in the care of EMS?

5 A. Care of the EMS.

6 Q. Did you have any contact with the
7 Defendant there at the scene?

8 A. I did speak with him very briefly in
9 the back seat of the patrol car. I'm not sure
10 whose car I spoke with, actually sat down in the
11 car with him and told him we are trying to get to
12 the bottom to find out what happened to her and I
13 would like to take him to the situation.

14 Q. At that moment you didn't know he was a
15 primary suspect?

16 A. I did not.

17 Q. And while you were there at the scene
18 initially you didn't conclude that he was your
19 suspect?

20 A. I did not.

21 Q. Anything else of note in seeing him
22 there at the scene?

23 A. In seeing him there at the scene he was
24 obviously in the back seat of a patrol car. He did
25 not have a shirt on. He was wearing what appeared

1 to be blue jeans that was torn, didn't see shoes
2 readily, but he wasn't saying much to me except I
3 understand.

4 Q. Was he visibly upset?

5 A. I did not see any -- he demeanor was
6 very -- I use the term straight face. He really
7 didn't have much demeanor, not really saying much
8 to me on the scene.

9 Q. I am sorry. I have kept you standing.
10 You can sit down.

11 A. (Witness complies with request.)

12 Q. So at your direction or your
13 understanding Mr. Short was taken to the police
14 station?

15 A. Correct.

16 Q. Where was he specifically taken?

17 A. He was taken to the second floor of
18 2500 City Hall which is the North Charleston city
19 hall which also houses the police department for
20 the central bureau and detective bureau. He was
21 placed in an interview room which was audio and
22 video recorded.

23 Q. Was he offered food, drink, reasonable
24 comforts?

25 A. Yes.

1 Q. And you came into contact with him in
2 that interview room?

3 A. I did.

4 Q. Is this the first time you were seeing
5 him in the full light?

6 A. Yes, it was.

7 Q. Can you describe in detail the
8 Defendant's appearance?

9 A. First time seeing him in a very lighted
10 situation instead of a crime scene. He was again
11 shirtless wearing blue jeans which was ripped on
12 one of the legs. Looked ripped or torn on one of
13 the legs. He also had low cut duck boot style
14 boots on. He had blood on his hands, his arms, his
15 body. His underwear were visible over the top of
16 his pants due to his pants falling down a little
17 bit. There was blood on his underwear. There was
18 blood on his pants. He also appeared to have blood
19 on his face.

20 Q. Was he also kind of dirty or muddy?

21 A. Yes, he was dirty, muddy. Dirt, there
22 was a lot of dirt on his shoes. I do remember that
23 on his boots.

24 Q. If I may approach, Your Honor? Show
25 you what's been previously admitted as State's

1 Exhibits 11 through 21. Ask you if you can just
2 identify those. I will publish them to the jury in
3 a little bit.

4 A. These are all photos that were taken
5 inside our interview room.

6 Q. Do they fairly and accurately depict
7 how the Defendant looked when you were first
8 meeting with him?

9 A. That's correct.

10 Q. I'm going to show you State's No. 10.
11 All these kind of show the jury what you were just
12 talking about, the description you just gave. Use
13 these to show them what you were talking about.
14 Can you see that okay, jurors?

15 A. It is kind of hard to tell. But you
16 can see that he has massive amounts of dirt, blood
17 on his knees. There are blood stains on his hands
18 right here. He has blood on his boxers. I think
19 there's a little bit right here on his face. You
20 can't tell his face right now.

21 Q. And we will certainly send these photos
22 back to the jury. Show you No. 12. Appears to be
23 him from the rear? Anything that --

24 A. There's nothing really that stands out
25 on the rear -- on the rear side facing the side

1 with the exception of some dirt on the bottom of
2 his pants where they might have drug on the ground.

3 Q. But you didn't see any blood on the
4 back of his clothing?

5 A. There was no blood or any apparent
6 signs of blood on the back of his body or his
7 clothes.

8 Q. But you did see it on the front?

9 A. Correct.

10 Q. 13 I think is probably the same view.
11 Anything of note there? No blood, no mud there?

12 A. No, just a different view of his head
13 turning to the side.

14 Q. On State's Exhibit No. 14 can you see
15 -- tell us anything that you have noted?

16 A. Very hard to see in the photo. His
17 hands were dirty. He had traces of blood on them.
18 Also you can see the rip in his jeans here on his
19 right knee along with some dirt and mud, what
20 appears to be blood there.

21 Q. Blood and mud on the front?

22 A. Yes.

23 Q. You noted a rip on right leg?

24 A. Yes, I believe right above the right
25 knee.

1 Q. No. 11, show the jury?

2 A. The rip would be right here and it
3 appears that has been fixed before, patched up
4 before. It's been reripped freshly, what appeared
5 to be fresh.

6 Q. Fresh rip?

7 A. Yes.

8 Q. No. 15, is there anything of note on
9 15?

10 A. Again, just very hard to tell in the
11 photograph, I am sorry, but it is -- again the
12 hands, you see some dirt, what appeared to be dirt
13 on his hands right here. Some traces of blood,
14 again the left knee area of him being very -- you
15 can see some of his boxer shorts -- scratch that
16 out -- right here where traces of blood that I can
17 see physically in the interview room.

18 Q. This will be more indicative. State's
19 Exhibit No. 16, that's a close up of his pants and
20 shoes?

21 A. Correct. This is also the Defendant
22 who is still standing in his clothes of course, but
23 his shoes are obviously torn and dirty. Again,
24 traces what appeared to be blood, mud and dirt
25 here, here and the large rip here which was right

1 above his right knee.

2 Q. Can you clear those marks now?

3 A. (Witness complies with request.)

4 Q. As to this, this is the rip you are
5 talking about?

6 A. That's the rip that I'm talking about.
7 I'm not 100 percent sure if this is a pair of blue
8 jeans. I know he you buy clothes that have fake
9 rips and stuff in them. I'm not sure if that was
10 the sewn area, but that appears to be freshly
11 ripped off of that seam right there.

12 Q. Okay. Certainly hadn't been fixed?

13 A. That part had not been fixed.

14 Q. Open rip?

15 A. Correct.

16 Q. That's the front of the pant and then
17 show you State's Exhibit 17. Was the back of his
18 blue jeans?

19 A. This is the back of his blue jeans,
20 correct.

21 Q. Those to me look to be free of blood
22 and mud; is that correct?

23 A. That is correct. At first glance on
24 our visual eye we did not notice any type of blood,
25 mud or dirt as the front of the pants had.

1 Q. And then moving on to Exhibit No. 18,
2 close up of his face. Describe anything of note?

3 A. He has a small mark here, appears to
4 have been blood mark here, that appeared to have
5 been blood and on this side of the forehead and
6 goes down the cheek a little bit what appeared to
7 be that of blood.

8 Q. This mark over here, did that look to
9 you like blood or like a scratch or what?

10 A. That appeared first when I was talking
11 to him first appeared to be blood. The more you
12 looked at it, appeared upon close review of that
13 was more of a small scratch. Also to include the
14 bridge of his nose. This right here appears to be
15 blood on his face.

16 Q. Showing you State's No. 19, right side
17 of his face?

18 A. Correct.

19 Q. Show us what we are seeing there.

20 A. Appears to be the blood. This right
21 here upon closer review looks like it might be some
22 type of abrasions or scratches that were caused and
23 were relatively fresh.

24 THE COURT: Madam forelady, ladies and
25 gentlemen, we have a brief matter of law to take

1 up. During the break please do not discuss the
2 case and please leave your note pads in your seats.
3 Take about five minutes.

4 (Thereupon, the jury exited the
5 courtroom at 4:36 p.m.)

6 THE COURT: I did that so they could
7 stand up a little bit.

8 MR. WETMORE: I agree, Judge. I was
9 concerned.

10 THE COURT: There's no real air in
11 here. I think he has asthma. I think he took some
12 medicine. There's just circulated air in here.

13 (Brief recess taken.)

14 (Whereupon the jury entered the
15 courtroom at 4:38 p.m.)

16 THE COURT: You may proceed.

17 MR. WETMORE: Thank you, Judge.

18 THE COURT: Ladies and gentlemen, we
19 appreciate your patience.

20 BY MR. WETMORE:

21 Q. Just clear that quick again. 19, what
22 did you notice in this photo in 19 on his face?

23 A. This appeared to be blood. That was up
24 here around his bridge of his forehead. Upon
25 closer look of this this appeared to be more of

1 scratches or abrasions or something of that sort
2 which either held blood, but it appeared relatively
3 fresh, just happened not too long prior to that.

4 Q. Appeared to be relatively fresh to you?

5 A. Yes.

6 Q. Wasn't scabbed up?

7 A. Didn't appear to be.

8 Q. Then State's No. 20. I don't know,
9 what do you see there of any note?

10 A. Again, just the same portion of his
11 forehead, really hard for the jurors to see. Right
12 here appears to be a small cut or something which I
13 originally thought was just blood on his face due
14 to being with the victim, but it was appeared to be
15 a cut, small cut above his eyebrow.

16 Q. Again, appeared to be old or fresh?

17 A. Appeared to be fresh.

18 Q. I don't notice anything here, but look
19 and see, anything in the back of his head?

20 A. Upon looking at the back of his --
21 complete back of his head we did not notice
22 anything with our own vision that would dictate
23 being blood or dirt or any injuries upon his
24 person.

25 Q. On the top of his head down to his body

1 you didn't see --

2 A. We didn't notice sufficient or anything
3 that we could pinpoint that was an injury or blood
4 or anything of that nature.

5 Q. And we saw what he was wearing, the
6 Defendant was wearing. Did you later collect any
7 of that clothing?

8 A. Yes, we took all of his clothing that
9 he brought into the detective bay.

10 Q. Specifically his boxer shorts, his
11 underwear that we see up above the jeans, did you
12 collect those?

13 A. Yes, we collected his boxer shorts. We
14 collected his blue jeans. We collected his belt.
15 We collected his boots. We collected his socks.
16 And I think that's all that he had on at the time.

17 Q. And he was given something else to
18 wear?

19 A. Yes, he was provided with a white what
20 is called a Tyvex suit. It's a full overall-type
21 suit, zips up in the front with footies on it.

22 Q. Why would you collect his boxer shorts
23 specifically?

24 A. Just for DNA evidence due to the fact
25 his boxer shorts usually are hidden by clothing

1 items such as your blue jeans or shirt or anything
2 else you may have on.

3 Q. Show you what's been previously marked
4 as State's No. 22. Can you identify this? If you
5 take it out I have got some gloves here somewhere.
6 Can you -- if you want to at look whatever you
7 needed to.

8 A. Bear with me one moment. Big hands,
9 small gloves. This appears to be a pair of boxer
10 shorts he was wearing inside the interview room
11 that day.

12 Q. Okay. He was wearing out at the scene,
13 too, correct?

14 A. Correct.

15 Q. Are those shorts you collected?

16 A. Those are.

17 Q. And how can you tell that?

18 A. By the proper chain of custody and by
19 the evidence tag that is on here and I am familiar
20 with this due to the pictures as well.

21 MR. WETMORE: Your Honor, we move to
22 introduce State's No. 22, Defendant's boxer shorts.

23 THE COURT: Any objection?

24 MR. SHAHID: If I could look at those.

25 THE COURT: Sure.

1 MR. SHAHID: No objection.

2 THE COURT: Marked and admitted without
3 objection.

4 (STATE'S EXH. 22 in evidence.)

5 BY MR. WETMORE:

6 Q. Detective Bailey, after you collected
7 them what did you do with them?

8 A. All of his clothing items were placed
9 into brown paper bags and sent to evidence to be
10 further sent to SLED for further testing.

11 Q. So it was stored and secured in an
12 evidence locker; is that right?

13 A. That is correct.

14 Q. So we have seen what he looked like and
15 talked about the clothing. You don't mention any
16 specific statements, but did the Defendant tell you
17 or give you an account what had happened that
18 night?

19 A. Yes, he did.

20 Q. And as you were listening to him at
21 that point initially did you believe he was the
22 primary suspect?

23 A. During initially?

24 Q. When you first received his account of
25 what happened?

1 A. When I first received his account what
2 happened, no, he was still being treated as a
3 witness.

4 Q. And while at the station did you begin
5 to view him as a suspect?

6 A. Yes. A few hours went by. We began to
7 suspect him to be the Defendant in this case.

8 Q. Okay.

9 A. Yes.

10 THE COURT: Counsel approach.

11 (Following proceedings were held at the
12 bench.)

13 THE COURT: I suspect the juror took
14 some medication. This is a good time to break.

15 (End of sidebar conference.)

16 THE COURT: Madam forelady, ladies and
17 gentlemen, we are going to take advantage of this
18 break in testimony to take our evening recess. You
19 all have had a long day. It's been taxing and you
20 all have been very, very patient with us. We will
21 start fresh in the morning at 9:30. During the
22 break please do not discuss the case among
23 yourselves or with anyone else. Please don't have
24 any contact with anyone in or about the courthouse.

25 As you return in the morning you will

1
2 State of South Carolina) Court of General Sessions
3 County of Charleston) 2016-GS-10-01699
4 2016-GS-10-01700
5 2016-GS-10-01701

6 VOLUME III
7 State of South Carolina)
8 vs.)
9 Ricky Anthony Short) Transcript of Record
10

11 April 18, 2018
12 Charleston, South Carolina

13 BEFORE:

14 Honorable Deadra L. Jefferson, Judge.

15 APPEARANCES:

16 Burns Wetmore, Esq.
17 Richard Waring, Esq.
18 Attorneys for the State

19 A. Peter Shahid, Jr., Esq.
20 Attorney for the Defendant

21

22

23

24

25

Teresa J. F. Bautz, RPR
Official Court Reporter

1	I N D E X				
2	WITNESS	DIR	CROSS	RED	REC
3	Robert Bailey (continued)				
4	Mr. Wetmore	5	--	70	--
5	Mr. Shahid	--	41	--	--
6	Sam Riedel				
7	Mr. Wetmore	84	--	125	--
8	Mr. Shahid	--	111	--	--
9	Angela Johnson				
10	Mr. Wetmore	136	--	171	--
11	Mr. Shahid	--	162	--	--
12	Ruben Serrudo				
13	Mr. Wetmore	175	--	192	--
14	Mr. Shahid	--	187	--	--
15	Jacqueline Ong				
16	Mr. Wetmore	193	--	233	--
17	Mr. Shahid	--	223	--	--
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3

1	E X H I B I T S			
2	NO.	DESCRIPTION	ID	EV
3	State's-31	Buccal swab packaging	--	186
4	State's-49	Buccal swab	--	205
5	State's-58	Knife	--	214
6	State's-59	Jacket	--	221
7	State's-60	Cap	--	221
8	State's-61	Bag with white thermal shirt	--	222
9	Defense-2	Left sneaker	--	164
10	Defense-3	Right sneaker	--	164
11	Defense-5	Chains of custody	230	--
12				
13				
14				
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16				
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18				
19				
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21				
22				
23	Exhibits retained by Clerk of Court.			
24				
25				

1 THE COURT: You're welcome.

2 DIRECT EXAMINATION (continued)

3 BY MR. WETMORE:

4 Q Detective Bailey, when we left off yesterday, I
5 think you had just admitted the boxer shorts of the
6 Defendant --

7 A That's correct.

8 Q -- that you collected?

9 A That is correct.

10 Q Before they told us kind of his appearance,
11 clothing, did you actually speak with him when he first
12 arrived at the interview room?

13 A I did.

14 Q And you can't give me any particular statements,
15 but did he give you an account of what happened leading
16 up to the incident?

17 A That, he did.

18 Q Okay. And at that point, did you view him as your
19 only suspect?

20 A I did not.

21 Q And, again, no particular statements, but did the
22 account he was giving you, did that match up with other
23 people?

24 MR. SHAHID: Objection, Your Honor.

25 THE COURT: Basis?

ROBERT BAILEY-DIRECT BY MR. WETMORE

6

1 MR. SHAHID: Well, he's --

2 THE COURT: No speaking objections. What is the
3 basis of your objection?

4 MR. SHAHID: Two thoughts.

5 THE COURT: Counsel, approach.

6 MR. SHAHID: We may.

7 (WHEREUPON, a bench conference was held off the
8 record in the presence of the jury, but out of the
9 hearing of the jury.)

10 THE COURT: Objection is overruled. You may
11 proceed.

12 Sir, do you need the question repeated?

13 THE WITNESS: I believe so.

14 THE COURT: Please repeat the question.

15 MR. WETMORE: Yes, ma'am.

16 Q No particular statements, but did the Defendant's
17 account of events sync up with what other witnesses
18 stated?

19 A At first, he was the only witness that I had to
20 speak with. I didn't -- it was not until later that I
21 was able to speak to other detectives.

22 Q And after that opportunity, did the Defendant's
23 story match up with what others were telling you?

24 A No, it did not.

25 Q And at that point, did you begin in your

1 investigation to consider him to be a possible suspect?

2 A It was -- I did, but it was only after I asked to
3 see certain things on his body.

4 Q All right. So after that initial conversation
5 with the Defendant, did you give everybody a break,
6 leave the room?

7 A Yes, I did.

8 Q Okay. At a later point that morning, did you
9 return to the room with the Defendant?

10 A I did.

11 Q The interview room in North Charleston?

12 A Correct.

13 Q At that point, what were you looking for?

14 A At that point, I was looking at the evidence that
15 was on his body, to include the blood that I could
16 visually see, to get a closer look at him, just as I
17 sit across the table from him.

18 Q Sure. And so, when you came in, how did that take
19 place?

20 A When I came in, I asked just to see where all he
21 had -- where all did he have blood on him, just to
22 attempt to counteract the evidence that we had on the
23 scene.

24 Q Okay. And so, how did it play out? Did you get
25 close with him, did he stand up; how did it --

1 A I did. If I may stand up?

2 Q Sure.

3 A He was sitting in front of me in the interview
4 room. I could visually see from his chest up in the
5 interview room. I noticed when he walked in that he
6 obviously had the blood and the dirt on his knees.
7 That was already seen by me when he first walked in,
8 which would give him an account of being there which he
9 was on-scene.

10 But as I was looking further at him, I asked him
11 to let me see his hands. He showed me his hands, at
12 which time I asked him to turn them over. He turned
13 them over like this (indicating), and I stood up and I
14 leaned into the table to look -- get a closer look at
15 his hands, at which time I also got a closer look at
16 his face as well without touching him.

17 Q Okay. What did you notice about his -- his body,
18 his hands, his face?

19 A Upon a closer look of his hands, specifically the
20 palms of his hands to include his right hand, I noticed
21 a straight-line cut, which, in my experience, is
22 conducive to that of a straight or sharp-edged weapon.
23 It ran from his index finger down to his middle finger,
24 down the line, and it was a straight cut.

25 Also, upon a closer review -- I saw it from

1 sitting across the table when he turned his hands over,
2 and that's when I stood up to get a closer look of it.
3 And when I looked at that, I could also see the marks
4 and the blood. And what I thought was just blood on
5 his face turned out to be what appeared to be that of
6 abrasions or cuts or laceration type-looking marks on
7 his face.

8 Q And those are what you described in the pictures
9 yesterday?

10 A I did.

11 Q And those appeared to be fresh or old to you?

12 A They appeared to be fresh.

13 Q Besides the straight-line cuts on his hand,
14 anything else about his hands that you recognize?

15 A I noticed that there was blood on his hands, mixed
16 in with dirt. I believe there is also another cut on
17 the outside of his hands. And I apologize, I'm not a
18 hundred percent sure which hand it was on. But I think
19 it was on the palm or the -- the outside of his hands,
20 there was one cut.

21 Q Okay.

22 A I believe it was on his pinkie finger.

23 Q Okay.

24 MR. WETMORE: Your Honor, if I may approach.

25 THE COURT: Yes, sir.

1 Q I'm going to show you some photos, and that will
2 probably help you --

3 A Yes.

4 Q -- explain all this. Can you -- and these are
5 State's-23 through 28 that have already been admitted.
6 Can you recognize those?

7 A I do. These are the pictures that were taken
8 inside of the interview room, and they are that of the
9 Defendant, Mr. Short.

10 Q Okay. I'm going to show you, first, what's been
11 marked as State's No. 23, admitted as 23. Can you
12 point out anything of note in that photo, or is that --

13 A Yes, I can. And, again, I apologize, I did not
14 remember at the time what finger it was on. This is a
15 frontal view of the Defendant, Mr. Short, with his
16 palms facing downward. This would be consistent to his
17 right hand, that being a left (indicating). And you
18 see that the majority -- there is traces of blood on
19 both hands. There appears to be right here a little
20 bit right in here (indicating), with dirt.

21 But the majority of the blood that I focused on on
22 this hand was obviously on the fingers. You see here,
23 around the cuticles (indicating). Here, here, here, in
24 between his fingers (indicating). And also on his
25 thumb right there to include right here (indicating).

1 And this is the cut that I mentioned earlier, that I
2 was not a hundred percent sure of, which I thought was
3 on his pinkie (indicating). But this is the only cut
4 on the outside of his hand, which appears to be fresh
5 to me and was a straight-line cut.

6 Q And when you asked the Defendant to see his hands,
7 how did he present his hands to you?

8 A When I asked him for -- when I asked originally
9 for him to show me where he had all that blood on him,
10 he showed me where on his hands, he presented his hands
11 to me palm side down, just as you see them now, on top
12 of the table.

13 Q So he didn't immediately show you?

14 A He did not immediately show me the palms.

15 Q Did you ask him to turn --

16 A I asked him and I said, can you please turn your
17 hands over. And that's when I saw another amount of
18 blood, along with the straight-line cuts.

19 Q Okay. Well, yeah, I'm going to keep working
20 towards that.

21 A Okay.

22 Q Now I'm going to show you State's No. 24, still
23 the back of his hands, again? I'm sorry.

24 A And, again, this is just a closer view of his
25 right hand, this being his index finger here

1 (indicating). And, again, you can see a closer view of
2 this cut which, again, appears to be that of a
3 straight-line cut.

4 And again, this is a closer view of the cuticles
5 and his fingernails here, here (indicating). And also
6 the dirt in the blood that is in -- that is around
7 these fingers here (indicating). And you still see
8 there is a blood spot here between his fingers, up here
9 on the top corners, you know, in this corner
10 (indicating). It's just pretty safe to say that his
11 hands was fairly covered with what appeared to be
12 drier, dried-up blood and dirt and mud.

13 Q And you circled the straight-line cut?

14 A Yes.

15 Q In your experience, what does that make you
16 consider?

17 A In my experience, that could be two things. It
18 could be a slip of a -- a slip of a -- excuse me -- a
19 slip of the blade. It could be that the finger got --
20 you know, it could be just be an irregular cut from
21 something else. It wasn't until the other photos, that
22 it -- it made more sense.

23 But to this, you know, it makes more sense now,
24 because it could have been the finger slipping off of a
25 blade, the way he held the knife wrong in his hands.

1 He could have -- he could have gripped the knife, and
2 this finger could have been caught backwards and could
3 have slipped off (indicating). Or it could have been
4 he switched hands and used -- used it again, and he was
5 trying to hold the victim down and cut it.

6 Or this could be a defensive wound from the victim
7 in attempt with a -- maybe cut him with the keys or cut
8 him with a -- some sharp object that she might have
9 had, like a fingernail or something of that nature.

10 Q Did that appear to be a fresh cut to you?

11 A It did -- it does -- it did appear at that time to
12 be a fresh cut.

13 Q I'm going to show you now State's-25. Is that a
14 closer look at that particular cut?

15 A Yes. That is a closer view of his right-hand
16 index finger, on the outside, which would be right in
17 here, right above the fingernail (indicating). It
18 measures approximately one centimeter in length,
19 according to the measurement tool that's -- that was
20 used by our crime scene investigator.

21 Q All right. All right, let's move on now to number
22 26. After he showed you the backs of his hands, did he
23 show you the palms of his hands?

24 A He did.

25 Q At your request?

1 A At my request.

2 Q This is No. 26. Can you show us anything that you
3 noticed about the palms of his hands?

4 A Yes. From here, you see -- you see he has blood
5 and dirt on this palm. This is his left palm. There
6 is not that much blood up on -- on this hand. However,
7 there is a substantial amount of blood and dirt on this
8 hand up to his wrist, here (indicating). And you can
9 also see here the straight-line cuts, which I believe
10 we'll get it -- well, then you can see the rest of them
11 are that great.

12 But you see the two straight-line cuts and the
13 amount of blood that's in between each index -- or each
14 finger and pretty much like the web portion of your
15 hand.

16 Q And that would be his right hand?

17 A That is his right hand. As he's facing you, as
18 he's looking at me, it would be consistent to his right
19 hand with the thumb out.

20 Q Sure. And did you determine if that was his
21 dominant hand?

22 A We did determine that that was his dominant hand.

23 Q So he's right-handed?

24 A He is right-handed.

25 Q All right. Now, I'm going to show you what's

1 marked as 27, zooming in on that right hand. Take a
2 look and show the jury what you noticed as you got a
3 little closer.

4 A As you get closer, you see that these were
5 obviously fresh cuts on his hand. You see it here
6 (indicating). There is a little bit -- you can't
7 really see it in this picture, but it's obvious on this
8 hand and it's obvious on this hand, with another small
9 cut here (indicating). And it's obvious the amount of
10 dirt -- the closer you get, the amount of dirt and
11 dried blood that is on his hand, this being his right
12 hand.

13 Q All right. Finally, I'll show you 28. This
14 continues to get a little bit closer. This is the
15 closest look we have.

16 A Yeah. This is his -- continued to be his right
17 hand, as seen in previous photos. Again, this is a
18 small cut that appeared to be up here (indicating), or
19 small piece of dried blood that's up here (indicating).
20 Again, the amounts of dried blood that's on his hand.
21 Now, you could tell the dried blood just into -- you
22 can actually see his fingerprints pretty significantly
23 in here, because it kind of rested between each swirl.

24 But, again, the cut, which is apparent, appears to
25 be done with a straight-edge weapon, to here and it

1 keeps on going up here (indicating). It -- these are
2 the deepest cuts on his hand. And this would be from
3 the pinkie down from a right-hand side, that would be
4 from the blade coming into -- what appeared to be from
5 the blade coming into the hand.

6 Q All right. Thank you for looking at those with
7 us. Now, I think you've already said that when you saw
8 those injuries, you expect they are from handling a
9 knife or --

10 A Yes.

11 Q Given the statement and given what you noticed on
12 his hands and his body, at that point, did you begin to
13 believe this is probably our suspect?

14 A At that point, it became more apt to be the
15 suspect that we were looking into, trying to locate.

16 Q Now -- now, after that point did you, you know,
17 continue to make him comfortable, offer him food,
18 drink, that sort of thing?

19 A I did.

20 Q Okay. And did you, again, give everybody a break
21 and leave the interview room?

22 A Yes, I did.

23 Q Okay. Now, let me take you to about 4 o'clock,
24 4:30 that morning. Did you once again go back into the
25 interview room with the Defendant?

1 A I did.

2 Q This time, did you bring another detective with
3 you?

4 A Yes. Myself and Detective Riedel.

5 Q Riedel?

6 A Yes. R-I-E-D-E-L. We arrived back into the
7 interview room.

8 Q Okay. Why would you have brought Detective Riedel
9 in with you?

10 A He had more knowledge of the scene. He also had
11 knowledge of witnesses that were on-scene, who speak
12 Spanish. I did not speak Spanish. And he was with the
13 officer that spoke with the Spanish -- the Hispanic
14 witnesses.

15 Q All right.

16 A And also to -- it's -- it's good to have another
17 set of eyes and ears inside of an interview room, when
18 you're speaking to someone.

19 Q Sure. And at this point, you're still trying to
20 determine what happened, but he's becoming more of a
21 suspect?

22 A Correct.

23 Q Is that fair to say?

24 A That's fair to say.

25 Q And did the Defendant give another account of what

1 happened that night? No specifics, but just another
2 account?

3 A Yes, he did.

4 Q And consistent with what he had told you earlier?

5 A Correct.

6 Q And was it consistent with the other information
7 you had?

8 A No, it was not.

9 Q So given the history with -- with the Defendant
10 that -- that morning, did you at that point treat him
11 as your suspect?

12 A Yes. At that point, he was treated as a suspect
13 and provided every effort therefore afterwards.

14 Q Okay. At that point, did you advise him of his
15 constitutional rights pursuant to Miranda?

16 A Detective Riegel, along with me being inside the
17 room, did advise him of his constitutional rights under
18 Miranda.

19 Q Okay. And so who actually advised him of the
20 rights?

21 A Detective Riedel read him his rights off the
22 paper.

23 Q And you were there?

24 A I was in the room with him, yes.

25 Q Okay. And how did Riedel accomplish that?

1 A In Charleston Police Department, we have a carbon
2 copy advisement of rights which goes through the rights
3 laid out in front of him. And he read each right to
4 him and asked him if he had -- if he understood each of
5 his rights as he read to him and had him initial each
6 line.

7 Q Okay. And that was done at about 4:30 in the
8 morning?

9 A Around that time, yes, correct.

10 Q Now, after having given his -- being given his
11 rights, did he -- did he understand, did he appear to
12 understand them?

13 A He -- he initialed each line stating that he
14 understood each -- each line and segment of the rights.
15 And he also signed the bottom -- or midway down,
16 stating he understood each right as they were read to
17 him, yes.

18 Q After receiving those rights and apparently
19 understanding them, did he continue to talk to you
20 guys?

21 A He did, after we went through a waiver with him.

22 Q Okay. If I may approach, let me show you what's
23 been admitted as No. 29. Do you recognize that form?

24 A I do. It is the -- it is a copy of the original
25 of the advisement of constitutional rights to the

1 Defendant, Mr. Short.

2 Q And after every right was read, did he initial?

3 A He did.

4 Q Okay. You were sitting right there, you watched
5 him?

6 A I watched him.

7 Q And at the bottom, is there a summary of his
8 understanding of all the rights?

9 A There is.

10 Q What does it say?

11 A Immediately after the rights, it says, "I fully
12 understand each one of these rights explained to me,"
13 which he signed with his signature, Detective Riedel
14 signed as a witness, so did I. And right after that,
15 it says, "Having these rights in mind, I wish to waive
16 these rights and answer questions. No threats, force
17 or promises of any kind have been made to me by anyone
18 to cause me to waive these rights and/or answer
19 questions," which he also signed, stating that he
20 wished to continue to talk to us. Detective Riedel
21 signed, and I also witnessed.

22 Q Is there a time on there?

23 A It was signed and dated at 4:26 on the 11th of
24 October, 2015.

25 Q So this was just before 4:30?

1 A Just before 4:30.

2 Q All right. He waived his rights and continued to
3 speak with you?

4 A That is correct.

5 Q Did you ask him about these injuries on his hands?

6 A We did.

7 Q Did he offer an explanation?

8 A He did.

9 Q Okay. I want you to describe, as best you
10 remember, exactly what he said to you. First, what you
11 asked him and then what he said to you.

12 A I asked him about the injuries on his face, that
13 he obtained, that I could see when I got closer.
14 Because at that time, I really didn't have all of the
15 information that other detectives had. And he stated
16 to me that he was in a verbal altercation with the
17 victim, in front of [REDACTED] Harper Street.

18 MR. SHAHID: Your Honor, may we make an objection,
19 please?

20 THE COURT: Please approach.

21 (WHEREUPON, a bench conference was held off the
22 record in the presence of the jury but out of the
23 hearing of the jury.)

24 THE COURT: Your objection is overruled.

25 Q Detective Bailey, what did you ask the Defendant

1 about his injuries, and what did he say to you?

2 A I asked him how he obtained the injuries on his
3 face. He stated that he was in an altercation,
4 physical altercation, with the victim in front of [REDACTED]
5 Harper Street, where she slapped him in the face with a
6 set of keys.

7 Q Okay.

8 A In reference to his right-hand injuries, to
9 include the inside of his palm or the inside of his
10 index fingers and the outside, he stated that a couple
11 of days prior in an active romantic gesture, he was
12 downtown Charleston with the victim, Malakia, and
13 attempted to pull flowers out of a -- he described it
14 as a flower box or a box outside of a window, which we
15 would -- I take is a window box, and that upon doing so
16 he cut his hands with the thorns of the flower to give
17 to her.

18 Q And he told you this happened when?

19 A It was two or three days prior. I think it was on
20 a Thursday night he said that this happened. And I
21 believe that this incident happened on a Saturday.

22 Q And he said he was downtown historic Charleston?

23 A Downtown historic Charleston, when he was
24 attempting to pull flowers from a window box, either at
25 a hotel or somebody told me, they didn't give specifics

1 exactly where it was. He attempted to give me
2 specifics of exactly where it was, but he was unable to
3 do so.

4 Q Okay. So he couldn't tell you exactly where he
5 was?

6 A No, except he was downtown.

7 Q But he knew he was downtown Charleston?

8 A Correct.

9 Q And he told you he was ripping, pulling some
10 flowers out of the flower box?

11 A Pulling the flowers from a flower box and that the
12 thorns of those said flowers cut his hand.

13 Q And did he say that he actually was able to get
14 the flowers out of the flower box, or --

15 A He was able to get the flowers and then presented
16 them to Malakia.

17 Q So this was all done for the victim?

18 A Was for the victim.

19 Q In an attempt to be romantic or whatever?

20 A That's what he told me, yes.

21 Q And did you believe that?

22 A No, I did not.

23 Q Now, you have described in great detail, using
24 these photographs, his appearance. What was his
25 demeanor like; was he upset, was he mad, was he sad?

1 MR. SHAHID: Objection, Your Honor.

2 THE COURT: Basis?

3 MR. SHAHID: Irrelevant.

4 THE COURT: Please approach.

5 (Discussion off the record.)

6 (WHEREUPON, the following was held in the presence
7 of the jury but out of the hearing of the jury:

8 MR. WETMORE: Yes, ma'am.

9 THE COURT: For what purpose are you asking this
10 testimony?

11 MR. WETMORE: I'd like to show his lack of
12 remorse.

13 THE COURT: Is that long?

14 MR. WETMORE: It goes to --

15 THE COURT: It could go to malice.

16 MR. WETMORE: It goes to malice, it goes to the
17 fact that he did it. And it's very important that he's
18 showing no --

19 THE COURT: Once again, say that again to me.

20 MR. WETMORE: I said it goes to the fact that he
21 did it, and it goes -- certainly goes to malice. I
22 mean, it's --

23 THE COURT: I don't know if it goes to the fact he
24 did it, but it could relate to malice.

25 MR. WETMORE: I mean, my position is if he didn't

1 do this, he's going to be very upset.

2 THE COURT: I don't know. Some people have a flat
3 affect, they're no different than other people that act
4 differently.

5 MR. WETMORE: I mean, he can cross him about that.

6 THE COURT: And that's a factual issue you can
7 argue. But it would relate to the issue of malice,
8 lack of remorse, conceivably, arguably.

9 MR. SHAHID: Judge, he also said in his report
10 that he talked to him earlier when he was in the back
11 of the patrol car and asked -- and my client asked him,
12 how was the victim doing.

13 THE COURT: You can argue that.

14 MR. SHAHID: Okay.

15 MR. WETMORE: All right.

16 (End of bench conference.)

17 THE COURT: Objection is overruled. Relevant,
18 goes to malice.

19 Q Detective Bailey, about his appearance, talk about
20 his demeanor; was he sad, mad?

21 A No. His demeanor never changed. From the moment
22 that I first met him on-scene until the moment that he
23 was at that point at the time of the interview, he was
24 still, as I said yesterday, for lack of a better word,
25 straight faced. He was rocking in the chair a lot, but

1 other than that, there was no signs of emotion on his
2 face.

3 Q And you say that was consistent with the entire
4 encounter with him?

5 A Correct.

6 Q He didn't appear to be upset or sad or anything?

7 A No, he did not.

8 Q Didn't appear to be mad or hostile with you?

9 A No, he was not.

10 Q And at a certain point in the night when you
11 learned that the victim, Malakia Frazier, the victim,
12 his girlfriend, the mother of his children, all that
13 sort of thing, did you inform him that she had died?

14 A Detective Riedel, I believe on video with me in
15 the room, informed him of the death of Malakia, yes.

16 Q And you were there for that?

17 A I was there.

18 Q What was his demeanor about that?

19 A He hung his head down, but there was -- there was
20 no -- still no emotion coming from him. And I believe
21 he just asked about the child.

22 Q Okay. So when he learned about the death of
23 Malakia, did he cry?

24 A I did not see any tears, no.

25 Q And he asked about the status of their child that

1 she was carrying?

2 A Correct.

3 Q At that point, what -- to the best of your
4 knowledge, what is the status of that child?

5 A To the best of our knowledge, we were under the
6 understanding that the child was delivered via
7 emergency C-section at MUSC and was alive.

8 Q All right. Now, we heard yesterday from Sergeant
9 Webb, who found the knife, the black jacket, the white
10 thermal long-sleeve shirt, that sort of thing,
11 testified it was found right in here off of Fuller
12 Street. Were you aware that he had found that?

13 A I was made aware of the findings, yes.

14 Q Okay. And you were still obviously at the police
15 station, still working on this case?

16 A I was.

17 Q And when he found it, was it later in the morning,
18 it was starting to get light out and everything?

19 A I believe it was already -- it was late morning, I
20 believe, when they located it, or midmorning around
21 ten-ish, somewhere around that time area or that frame.

22 Q Late morning for you because you had been there
23 all night?

24 A Correct.

25 Q And where is this -- if you can just show us real

1 quick, where was this found in relation to the crime
2 scene as it occurred on Railroad Avenue?

3 A I was advised that the crime scene -- I mean, the
4 knife and the clothing was found on Fuller Street.
5 Fuller Street is a street in the Ferndale neighborhood
6 that does not completely go through as a lot of the
7 other streets do. It kind of stops about right here
8 (indicating). And I believe you heard testimony
9 yesterday that there was a -- there's a trailer park
10 that kind of does a U shape right in here (indicating)
11 at the edge of where Fuller would come out.

12 So the knife and the clothing were located behind
13 [REDACTED] Fuller Street. And the testimony that you heard
14 yesterday, was it was a house --

15 MR. SHAHID: Objection, Your Honor, as to what
16 someone else testified about.

17 THE COURT: Sustained. Proceed.

18 THE WITNESS: Yes, ma'am. The knife was located
19 behind [REDACTED] Fuller Street, which backs up to the yard
20 on Graham Street, which is in a direct path back to
21 [REDACTED] Harper Street.

22 Q All right. So the knife, jacket, shirt are found.
23 Is that a block or less than a block from the crime
24 scene?

25 A It's -- to me, it's less than a block. This is

1 kind of right at a block to less than a block. The --
2 the final crime scene was right here at [REDACTED] Railroad
3 Avenue. And as you can tell, this is a blown-up image.
4 I don't know the distance each road cuts through, per
5 se. But this is a short -- this is not a very long --
6 I believe it goes from -- this is the lower 1900s. This
7 would be [REDACTED] Fuller Street (indicating). So there's
8 only approximately seven to ten houses that line that
9 road.

10 On Graham and Fuller, you can see that it's middle
11 of what Fuller -- if Fuller went all the way through,
12 it's dead middle of that street. And Railroad here is
13 right here (indicating) and is just, to me, less than a
14 block away.

15 Q And I think you were starting to talk about this.
16 Where the evidence was found, knife, jacket, shirt,
17 where was that found in relationship to the Defendant's
18 residence?

19 A The Defendant's residence, as you can see here --
20 I hope everybody can see it -- it's marked up here as
21 [REDACTED] Harper Street. The knife was located here
22 (indicating). Can everybody see? And it is almost a
23 straight line from there, across Graham to Harper
24 Street.

25 These yards, though they back up, Graham's on one

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30

1 side and Harper is on the other side, and you have some
2 housing on this side of Graham, the yards are not
3 consistently that big that it would take that long to
4 get there. The blocks there are a little bit tighter
5 than some of the other neighborhoods.

6 Q All right. So the evidence was found very close
7 to the end of the crime scene?

8 A Correct.

9 Q And looks like it may be block and a half, two
10 blocks?

11 A About a block and a half from --

12 Q From his residence?

13 A -- from the Defendant's residence.

14 Q All right. Thank you, you can sit down now, if
15 you want to. Now, once you learned about this recovery
16 of evidence right there in the neighborhood, did you
17 confront the Defendant with what you found?

18 A I did very briefly.

19 Q Or what was found.

20 A I did very briefly.

21 Q And did he continue to stick with his account of
22 things?

23 A From speaking with other detectives, he did
24 continue at that time to stick with some of the
25 accounts. But it changed later. My only activity was

1 when they advised that it was located, I walked into
2 the room and said, we've -- they've located the
3 evidence. Because I wanted to advise the detective
4 that was in there, it's over, we found everything, kind
5 of deal.

6 Q Right. All right. Now, I'm going to ask you some
7 simple questions so that the jury can be confident
8 these statements were voluntary.

9 A Okay.

10 Q This regards all of the statements you've
11 discussed today. They were all done, I assume, in your
12 interview room; is that correct?

13 A That is correct.

14 Q Now, was the Defendant under any kind of influence
15 of alcohol, drugs, that would impair his ability to
16 give a voluntary statement?

17 A Not that I could tell at the time.

18 Q Did he have any kind of physical or mental
19 disabilities that would impair his ability to
20 understand what was going on?

21 A Not that I could tell at the time.

22 Q All right. Now, the surroundings in the interview
23 room, I'm sure they are not luxurious, but are they
24 reasonably comfortable?

25 A They are.

1 Q And he was in there for a good period of time.

2 Was he being questioned the whole time?

3 A No, he was not.

4 Q Was he given numerous breaks?

5 A Yes, he was.

6 Q And was he ever denied access to food, drink,
7 bathroom or anything like that?

8 A No, he was not.

9 Q In fact, was he offered food and drink?

10 A Yes, he was.

11 Q Did you make any kind of threats to him --

12 A No, I did not.

13 Q -- to get his statement?

14 A No, I did not.

15 Q Any kind of promises to get his statement?

16 A No, I did not.

17 Q You have described that he was given his Miranda
18 warnings about 4:30, 4:26; is that correct?

19 A That is correct.

20 Q And did he appear to have any trouble
21 understanding these -- these rights?

22 A No, he did not.

23 Q Did he have trouble understanding English?

24 A No, he did not.

25 Q Did he appear to have any intellectual

1 difficulties?

2 A None that I could tell.

3 Q Do you know what his educational level is?

4 A According to his Miranda rights, which is -- we
5 write on there, he has a GED, which is the equivalent
6 of a 12th-grade high school diploma.

7 Q So the equivalency of a high school education?

8 A Correct.

9 Q And I know that you might not have believed his
10 answers. But when you would ask him a question and he
11 would respond, was that like a logical activity with
12 him?

13 A Yes.

14 Q His answers appeared to be rational and responsive
15 to what you were asking?

16 A Correct.

17 Q All right. And I think you already covered this,
18 but he was not overcome with emotion?

19 A No, he was not.

20 Q Such that he would be able to -- unable to give a
21 voluntary statement?

22 A That is correct.

23 Q Did you specifically tell him he had the right to
24 have an attorney before he spoke?

25 A He was advised of that, yes.

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1 Q In your presence perhaps by the other cops?

2 A Yes.

3 Q All right. The other officer gave him these
4 rights?

5 A Correct.

6 Q Detective Riedel?

7 A That is correct.

8 Q All right. And so he was advised he had the right
9 to have a lawyer?

10 A Yes, he was.

11 Q All right. And did he indicate he wanted a
12 lawyer?

13 A No, he did not.

14 Q In writing, did he initial that he understood that
15 right?

16 A He did.

17 Q And he waived that right?

18 A That, he did.

19 Q All right. Did he ever change his mind and say,
20 whoa, I -- I better talk to a lawyer, we have to stop
21 this?

22 A No. He never once stopped the interview to ask
23 for anyone.

24 Q All right. So to the best of your knowledge, from
25 what you experienced with him, was his statement freely

1 and voluntarily given?

2 A That, it was.

3 Q Now, as the lead detective, you kind of give
4 people assignments to help you; right?

5 A That's correct.

6 Q And as the lead detective, did you decide to get a
7 search warrant to collect the Defendant's DNA?

8 A I did.

9 Q And why did you do that?

10 A To compare it to evidence that was located on the
11 scene at the crime scene itself and to the evidence
12 located by other officers, to include the jacket, the
13 knife and the shirt.

14 Q And did you ask another detective to help you with
15 this process?

16 A I did.

17 Q Why didn't you do it yourself?

18 A I was currently busy with other items of business
19 at hand, trying to coordinate things and get other
20 information and paperwork together in reference to the
21 Defendant.

22 Q And you were dealing with the Defendant; correct?

23 A Correct.

24 Q So you asked another detective to help you get a
25 search warrant?

1 A That's correct.

2 Q Who was that?

3 A At that time, it was Detective Ruben Serrudo.

4 Q He was a fellow detective?

5 A Yes.

6 Q You obviously worked with him fairly closely?

7 A Yes. He was on my call-out team.

8 Q Okay. Reliable detective, he had no questions
9 when you assigned him that task?

10 A No questions, no concerns.

11 Q All right. So did you collaborate with Detective
12 Serrudo and create that search warrant?

13 A I did.

14 Q Did you share with him what you had learned?

15 MR. SHAHID: Your Honor, objection. Leading.

16 MR. WETMORE: Sustained, leading. Rephrase.

17 Q Why don't you describe the process. How did you
18 work with Serrudo to create the search warrant?

19 A Through collective information that we obtained
20 through other detectives, we sat down. I explained to
21 him what was going on, what was said, what was located,
22 at which time he was able to draw up an affidavit, at
23 which time I reviewed to find that it met the standards
24 that I believe happened, and it was then forwarded up
25 to my supervisor of my follow-up team for further

1 review and to be finalized to go in front of a
2 magistrate judge.

3 Q So you shared information with him?

4 A I did.

5 Q He put that in the search warrant?

6 A That, he did.

7 Q And you reviewed it and it looks okay to you?

8 A Yes, it did.

9 Q And the search warrant was basically a statement
10 of what you knew at the time?

11 A It was a statement of what I knew at the time and
12 what other detectives had gathered on-scene that was
13 brought to Detective Serrudo's attention as well.

14 Q And it seemed accurate as you understood the facts
15 at that time?

16 A That is correct.

17 Q And what were -- what were you trying to
18 accomplish with the search warrant, what were you
19 trying to actually get?

20 A We were hoping to obtain a -- what is called a
21 buccal swab. It is a large Q-tip-looking device that
22 goes into the mouth of the Defendant to get portions of
23 his saliva to be sent up to SLED for DNA analysis and a
24 profile to be established.

25 Q And sent to -- by SLED, you mean like the lab?

1 A Yeah. Send it to SLED via our evidence department
2 to the lab up there.

3 Q It has to be done by a buccal swab?

4 A That is correct.

5 Q Okay. And did the -- did the judge sign the
6 search warrant?

7 A She did.

8 Q Okay. And that gave you authorization to --
9 MR. SHAHID: Your Honor, objection. Still
10 leading.

11 THE COURT: Sustained. Rephrase.

12 Q Did that give you authorization to collect the
13 Defendant's DNA?

14 A Yes, it did.

15 Q And how was his DNA collected?

16 A It was collected via a buccal swab with a Q-tip
17 inside of his mouth on each side of inside of the
18 cheek, and then in a secured location with the
19 detective wearing gloves, and then placed into evidence
20 with a proper chain of custody.

21 Q Okay. And where -- which officer actually --
22 which detective actually did the swab?

23 A Detective Serrudo administered the buccal swab for
24 me at that time.

25 Q Okay. And you were -- were you in the room or you

1 were just outside?

2 A I was just outside the room. I was not in the
3 room with him, no.

4 Q And it was done on the Defendant?

5 A It was done on the Defendant, Mr. Short, inside
6 the room, on video and audio recorded.

7 Q All right. Based on everything that you had at
8 that point, did you make the decision to charge the
9 Defendant with a crime?

10 A Yes. A decision was made to charge, at that time,
11 the Defendant.

12 Q At the time, you knew that the victim, Malakia
13 Frazier was dead?

14 A That's correct.

15 Q Okay. Were any charges lodged on him for that
16 death?

17 A Yes, it was.

18 Q What was the charge?

19 A He was charged with murder and possession of a
20 knife during the commission of a violent crime, and as
21 well as attempted murder.

22 Q What about the Defendant -- the victim's child,
23 the baby, was it -- at that point, was it alive?

24 A That child was still alive, to my knowledge, at
25 MUSC in the -- I don't know what they call it, the baby

1 ICU, but that's where it was at. And that's why we
2 went with the charge of attempted murder on the baby.

3 Q The NICU?

4 A NICU. Sorry for my lack of knowledge.

5 Q No, that's okay. The -- were there any charges
6 lodged on the Defendant dealing with that child?

7 A Yes. He was charged with the attempted murder of
8 that child.

9 Q And several weeks later, did you learn the baby
10 died?

11 A Yes. Approximately two weeks later, I was
12 informed by another detective that the child had
13 succumbed to her injuries.

14 MR. SHAHID: Objection, Your Honor.

15 THE COURT: Basis?

16 MR. SHAHID: It's pure hearsay.

17 THE COURT: Give him some latitude. I don't think
18 that fact is in contention. Overruled.

19 Q Did you learn that the baby had died after --

20 A I did.

21 Q And how did that affect the attempted murder
22 charge?

23 A In my -- in my eyes, it went away. That charge
24 was ultimately dismissed, and he was served with
25 another warrant for murder.

1 Q Two counts of murder, one for Malakia and one for
2 Miracle Frazier?

3 A That is correct.

4 Q And then, what was the weapons charge that you
5 made?

6 A It was possession of a knife during the commission
7 of a violent crime.

8 Q The violent crime being the murder?

9 A The murder.

10 Q The murders.

11 MR. WETMORE: I don't have any further questions
12 at this time, Detective.

13 THE COURT: You may proceed.

14 MR. SHAHID: Thank you, judge.

15 THE COURT: You're welcome.

16 CROSS-EXAMINATION

17 BY MR. SHAHID:

18 Q Detective Bailey, tell me again your educational
19 experience.

20 A I am -- through just law enforcement?

21 Q Your educational experience. You went to high
22 school?

23 A Went to high school, got a high school diploma.
24 Have a college -- college degree.

25 Q How many years in college?

1 A Four years.

2 Q And what was your major?

3 A Leadership and ethics.

4 Q Okay.

5 A Also, I have a -- went through the academy, which
6 at that time was nine weeks. Also various schools in
7 investigation level-type classes to include that of
8 interrogation techniques, the Reid technique, several
9 homicide classes to include a class -- a two-week class
10 at -- through Southern Police Institute out of
11 Louisville, Kentucky.

12 Q Okay. And that's pretty standard training for a
13 detective; wouldn't you say?

14 A Some of it is standard, yes.

15 Q Okay. So you -- you're trained in law
16 enforcement?

17 A That's correct.

18 Q Okay. You are not a medical doctor?

19 A I am not a medical doctor.

20 Q You are not a physician assistant?

21 A I'm am not a physician assistant.

22 Q You're not a medical technician?

23 A I am not a medical technician.

24 Q Injuries that a human being receives, you're not
25 qualified to testify how those injuries got there; are

1 you?

2 A No, I am not.

3 Q Including cuts on a finger; are you?

4 A That's correct.

5 Q You also don't have any training in identifying,
6 except what you've done through your experience, what
7 is blood and what is not blood; is that correct?

8 A That's correct.

9 Q All right. Now, one of the last things that you
10 were asked by Mr. Wetmore is that you obtained a search
11 warrant in order to get a swab of Mr. Short's saliva;
12 is that correct?

13 A That is correct.

14 Q And you take like a Q-tip of some sort, and you
15 stick it in his mouth?

16 A That's correct.

17 Q And that's intrusive; isn't it?

18 A It's the less intrusive means that we have. But
19 yet by the definition of intrusion, it is still an
20 intrusion on somebody.

21 Q You're sticking an object in someone else's mouth
22 without their permission?

23 A That is correct.

24 Q All right. Now, you testified earlier about
25 Mr. Short's hands.

1 A Correct.

2 Q And you observed substances on those hands.

3 A That is correct.

4 Q All right. And your testimony about what is on
5 his fingers and his hands and his palms is based upon
6 your observations?

7 A That is correct.

8 Q Right. You did not swab his fingers or his palm
9 and remove any substance from there; did you?

10 A No, we did not.

11 Q So the substance that you're talking about on
12 these pictures, you don't know if it's blood, dirt or
13 another substance of any sort; do you?

14 A No.

15 Q Okay. Now, Detective, you testified earlier that
16 the cuts on his fingers appear to be made from, and you
17 used the word "weapon"; do you remember that testimony?

18 A I believe that I stated sharp-edged weapon.

19 Q Weapon?

20 A Correct.

21 Q You used the word weapon?

22 A Correct.

23 Q Now, you have no idea how those cuts got on his
24 finger; do you?

25 A No.

1 Q You weren't there?

2 A No, I was not.

3 Q Okay. Now, you're familiar -- familiar with a
4 paper cut?

5 A I am.

6 Q Okay. You can cut your finger on paper?

7 A Exactly.

8 Q You can cut your finger on removing a staple out
9 of paper that's stapled together; can't you?

10 A You could.

11 Q Okay. There are several different ways in which a
12 cut can be made; right?

13 A Yes, sir.

14 Q All right. Now, if you cut your finger, you
15 define it as a straight-line cut?

16 A Correct.

17 Q Okay. Have you seen anything besides a
18 straight-line cut?

19 A Have I seen anything besides it. In my -- in my
20 life?

21 Q Yeah.

22 A Yeah.

23 Q But that came from something that your finger had
24 a zigzag on an object?

25 A Correct.

1 Q Okay. Not -- not knowing what the object is?

2 A Correct.

3 Q Okay. So your testimony in front of this jury
4 about how those cuts got on his finger is based upon
5 your guess?

6 A And that's why I say that I believe it appeared to
7 be that.

8 Q Appeared?

9 A Correct.

10 Q All right. So you have no idea how those cuts got
11 there, and you don't know when those cuts got there?

12 A I do not.

13 Q Okay. When questioned earlier about a statement
14 that Mr. Short made to you about going downtown and
15 picking some flowers. There was some question about
16 whether or not he knew exactly downtown where he was.

17 A Correct.

18 Q Is that correct? So you don't know how familiar
19 he was with downtown Charleston?

20 A I do not. I didn't ask him his knowledge of the
21 geography, no, I didn't.

22 Q Okay. But did he not give you some detail as to
23 the flowers that he had picked being red and purple?

24 A I believe he did. He did. And I believe that I
25 even stated that he attempted to tell me where it was,

1 but I -- me not being familiar with downtown, I
2 couldn't put two and two together.

3 Q All right. So you're not familiar with downtown
4 either?

5 A No, I'm not.

6 Q Okay. So his inform -- not being familiar with
7 downtown wasn't a problem for you because you had the
8 same issue?

9 A That is correct.

10 Q This is Defendant's Exhibit No. -- I'm sorry,
11 State's Exhibit No. 11. And these are -- it's a
12 photograph of Mr. Short's blue jeans.

13 A Correct.

14 Q And you believe the substance contained where my
15 pen is right now is blood (indicating)?

16 A I believe I stated that it appeared to be that of
17 blood, mud and dirt.

18 Q Okay. Now, these pants were not submitted to a
19 lab anywhere to be tested; were they?

20 A I don't believe so, but they were taken as
21 evidence.

22 Q They were taken as evidence?

23 A Um-hum.

24 Q You had custody of them?

25 A Correct.

1 Q You had control of them. But you did not send
2 them off to SLED or any other place to have them tested
3 for what was actually on those knees?

4 A Correct.

5 Q And the tear that you had testified earlier about,
6 you don't know when that tear occurred?

7 A I do not.

8 Q All right. Now, you've been present for the
9 testimony of other witnesses. Did you see the video
10 earlier from Detective O'Connell's vehicle that showed
11 Mr. -- Mr. Short kneeling down?

12 A I did, and I believe that's the reason we decided
13 not to send the pants.

14 Q Okay. So him having blood on his knees could have
15 come from that -- that occurrence?

16 A That would be correct.

17 Q In State's Exhibit No. 15, this blood about right
18 here, where my pen is (indicating); is that correct?

19 A Yes. I believe it was under on my -- it is right
20 here. Let me make a little circle.

21 Q Yeah, thank you. So that also could have occurred
22 while he was kneeling down next to Ms. Frazier?

23 A That, I could not tell you.

24 Q But since he's kneeling down and leaning over her,
25 that could have occurred at some point. It's possible?

1 A Could have. As I stated, I've only seen the video
2 that you saw.

3 Q This picture, Exhibit No. 16, shows his shoes; is
4 that correct?

5 A Correct.

6 Q And those were confiscated and taken as evidence
7 as well?

8 A That is correct.

9 Q And they were not tested for any substance on
10 those shoes; is that correct?

11 A That is correct.

12 Q And you had custody and control of those shoes as
13 well?

14 A We did.

15 Q And I think you testified earlier as to State's
16 Exhibit No. 19, that this area right here where my pen
17 is (indicating), looks like something that happened
18 from a -- from a cut or something else, an abrasion of
19 some sort?

20 A You said this is 19?

21 Q That's 19, I'm sorry. 19.

22 A Thank you. Yeah, it looks -- upon a closer view
23 of it, it -- I thought it was just merely that of blood
24 when he came in. But upon a closer view, it looks like
25 that of small cuts or lacerations or abrasions.

1 Q And that would be consistent with what he told you
2 about being hit in the face with Ms. Frazier's keys?

3 A It could have been.

4 Q It could have been. And also as to State's
5 Exhibit No. 18, you noticed some other points of his
6 face that upon further examination looked like they
7 could have been from someone hitting him or some kind
8 of injury he received?

9 A That's correct. You have the -- the abrasion
10 above his left eyebrow, and then right here, on his
11 bridge of his nose (indicating).

12 Q And is this something fresh over here where my pen
13 is (indicating), detective?

14 A I can't speak on that now. I -- I don't recall.

15 Q Okay.

16 A It could have been, but I'm not a hundred percent.

17 Q Likewise, detective, when we were just -- when you
18 were discussing Exhibit No. 24, this cut right here,
19 you're not sure when that cut occurred?

20 A I'm not sure, no.

21 Q And so when we see it again in Exhibit No. 25,
22 it's a closer view, we're not sure when that took place
23 or how it occurred?

24 A I'm not sure how it occurred, no.

25 Q Or when?

- 1 A No, or when. But it appeared to be fresh.
- 2 Q Or -- or what object caused that?
- 3 A Or what object, you are correct.
- 4 Q When you look at Exhibit No. 26 --
- 5 A Is there any way we could flip it?
- 6 Q What did I do? I'm sorry.
- 7 A Just kind of counterclockwise.
- 8 Q I did that, I'm sorry. You need that. Is that
- 9 better?
- 10 A No. If you face it to me.
- 11 Q (Indicating.)
- 12 A Turn it one more time, the same way you had it.
- 13 Q (Indicating.)
- 14 A Yeah, just like that. Thank you.
- 15 Q Technology is sometimes challenging. Okay. So
- 16 this is Exhibit No. 26, and I'm going to show you 27 in
- 17 a second.
- 18 A Okay.
- 19 Q But these are the two cuts that you had mentioned,
- 20 and the third one would be here (indicating).
- 21 A Correct.
- 22 Q Okay. And, detective, if I put my pen here
- 23 (indicating), to be consistent that cut would have gone
- 24 to this point of his finger right here (indicating);
- 25 correct?

1 A As the palms are facing open, yes.

2 Q Okay, as the palms are facing up. But this cut
3 right here on his pinkie finger (indicating) is a
4 little bit further down from the cut on his second
5 finger?

6 A According to the open palm --

7 Q Yes, sir.

8 A -- you are correct.

9 Q According to the open palm.

10 A According to the open palm, you are correct.

11 Q And then 27, that's just a closer view of that?

12 A That is correct.

13 Q All right. And again, detective, looking at these
14 photographs, nothing was done to swab his fingers at
15 any point to remove any of the substance that you see
16 on his -- on his palms or his fingers?

17 A That's correct.

18 Q Including what you had testified earlier on
19 Exhibit No. 23, which you testified earlier about the
20 substances which may have continued inside the web of
21 his hand?

22 A That is correct.

23 Q Detective, when -- let me make sure we have this
24 clear. You arrived at Railroad Avenue upon being
25 notified to -- to come down there --

1 A That is correct.

2 Q -- as a result of an incident?

3 A Correct.

4 Q Okay. And when you arrived, you -- Mrs. --
5 Ms. Frazier had been taken by ambulance to the
6 hospital?

7 A I do believe she was still on the scene when I got
8 there. They were extensively working her on the scene.

9 Q Okay. And shortly thereafter she was transported?

10 A Correct.

11 Q Okay. And at some point in time, Mr. Short was in
12 the back of a patrol car?

13 A That is correct.

14 Q Okay. Was Ms. Frazier still on the scene at that
15 point, or had she -- had she been transported?

16 A And that, I can't be honest. I -- I don't know.
17 That -- at some time they were both on the scene
18 together, while she was in the ambulance, because he
19 was still on the scene, yes.

20 Q All right.

21 A That's a fair assumption.

22 Q But at some point, detective, Mr. Short was placed
23 in handcuffs in Officer O'Connell's vehicle; is that
24 correct?

25 A Yeah. He was in the back seat of a car, in -- in

1 someone's car. Yeah. I don't know -- I'm going to be
2 honest with you, I don't know if he was handcuffed or
3 not in the back seat of the car.

4 Q All right. All right. So he was placed there?

5 A Correct.

6 Q All right. And you had the opportunity to talk to
7 him?

8 A I did. I sat down in the car with him.

9 Q And he questioned you --

10 MR. WETMORE: Objection.

11 THE COURT: Basis?

12 MR. WETMORE: Hearsay.

13 THE COURT: Please approach.

14 (WHEREUPON, the following was held in the presence
15 of the jury but out of the hearing of the jury:

16 THE COURT: What are you seeking to elicit from
17 him?

18 MR. SHAHID: This is what I had mentioned to you
19 earlier, judge, about him asking the detective about
20 the condition of Ms. Frazier.

21 THE COURT: Wasn't another -- didn't somebody
22 already testify to that?

23 MR. SHAHID: Another officer already asked that,
24 um-hmm. But he --

25 THE COURT: So why does he need to say it again?

1 MR. SHAHID: Because he has been asked about --

2 THE COURT: Was he present when it was said?

3 MR. SHAHID: He was present because he -- he was
4 not present with O'Connell. But he was -- he
5 specifically reported that Mr. Short asked --

6 THE COURT: But did he actually hear it?

7 MR. SHAHID: He asked Mr. Short --

8 THE COURT: That's not my question. Did he
9 actually hear him say that?

10 MR. SHAHID: According to his report.

11 THE COURT: He said it directly to him, or he said
12 it to another officer?

13 MR. SHAHID: Directly to him, according to his
14 report.

15 MR. WETMORE: Judge, the Defendant cannot admit
16 his own statements as hearsay. A party opponent can.
17 When the Defendant tries to do it, it is self-serving
18 hearsay.

19 THE COURT: It is self-serving hearsay.

20 MR. WETMORE: It's very clear.

21 MR. SHAHID: Well, that was my objection to the
22 other issue, judge, it coming in, that being
23 self-serving hearsay. And we --

24 THE COURT: And, actually, you didn't object to
25 that other one when it came in previously. And it's

1 already come in, it's cumulative.

2 MR. SHAHID: And, judge --

3 THE COURT: When you seek to elicit, it's
4 self-serving hearsay.

5 MR. SHAHID: Well, when anybody seeks, it's
6 self-serving.

7 THE COURT: No. It's your client's statement
8 seeking to make him look more sympathetic without
9 testifying, and it's hearsay.

10 MR. SHAHID: But the prejudice of all this is so
11 extreme. When you elicit testimony about him not
12 showing the --

13 THE COURT: It's not extreme because somebody else
14 has already testified to it, it's cumulative. And you
15 can still argue it, it's in evidence.

16 MR. SHAHID: Okay.

17 THE COURT: Objection sustained.

18 (End of bench conference.)

19 THE COURT: Sustained, hearsay.

20 MR. SHAHID: Thank you.

21 Q You did see Mr. Short in the back of the patrol
22 car?

23 A I did.

24 Q Okay. And at some point in time, he was then
25 transported from the scene to the detective area?

1 A That is correct.

2 Q At North Charleston, okay. Now, detective, when
3 he was -- when he was in back of the car -- and I'm
4 trying to get the sort of time frame lined up a little
5 bit -- what time did you arrive at the area
6 approximately?

7 A It had to be around -- can I refer to my notes to
8 look?

9 Q (Nodding affirmatively.)

10 A According to my notes, I arrived on-scene at 0010
11 hours, which would be 12:10 a.m. on the morning of the
12 11th of October, 2015.

13 Q And when you arrived, Mr. Short was in the back of
14 a patrol car?

15 A I believe he was.

16 Q Okay. And then the -- he was brought into the
17 interview room at about 1:19 in the morning; is that
18 right?

19 A That's correct.

20 Q Okay. And the -- when you were asked questions
21 about him being arrested earlier, he was arrested,
22 formally arrested around 12 o'clock in the afternoon,
23 roughly thereabout?

24 A Correct.

25 Q Okay. And from the point that he was initially

1 brought into the interview room around 1:20, let's just
2 say, until about 12 or sometime after 12 o'clock, did
3 that entire time that he was in that interview room
4 and, I think, allowed to go to the -- he went to the
5 bathroom one time?

6 A Yes, I believe he asked to go to the bathroom.

7 Q And during that -- that time, you interviewed him?

8 A Correct.

9 Q You and Detective Riedel -- Riedel --

10 A Correct.

11 Q -- interviewed him. Sometimes, you were by
12 yourself, and sometimes Detective Riedel was by
13 himself, and sometimes the two of y'all were together?

14 A That's correct.

15 Q And then, now, Captain Johnson interviewed him?

16 A I believe she came in at one point with Detective
17 Riedel. And then at the end of the interview she came
18 in again.

19 Q And she was the last person to interview him, and
20 that was -- that was what concluded around 12 o'clock?

21 A I believe she was the last one to interview him,
22 and then he was served the search warrant that he was
23 sent.

24 Q Okay. So the interview process ended around
25 noon-ish?

1 A Correct.

2 Q Okay. So he was at least detained from at least
3 by the time you got there around midnight until the
4 interview ended around noon?

5 A Correct.

6 Q Okay. All right. Now, at some point in time, I
7 think in your testimony, you -- you -- he was clearly
8 detained from the time he was in the back of that
9 patrol car?

10 A Correct.

11 Q Okay. In other words, he did not freely and
12 voluntarily go to the police station. He was -- y'all
13 detained him to transfer him to the police station?

14 A Yes.

15 Q Okay. And at -- at some point in time, you were
16 aware that other detectives were doing other interviews
17 of other witnesses; is that correct?

18 A That is correct.

19 Q All right. And we have talked about a woman
20 who -- and her companion who were both Hispanic?

21 A Correct.

22 Q Okay. And that person was identified as a
23 witness?

24 A That is correct.

25 Q Okay. And that person was not transported down to

1 the police station?

2 A No, she was not.

3 Q Okay. And she was not detained in the back of a
4 patrol car?

5 A No, she was not.

6 Q Okay. And you asked two other officers, a
7 patrolman and a detective, to interview her because she
8 only spoke Spanish and no English, to your
9 understanding?

10 A That is correct.

11 Q Okay. And at some point in time, detective, you
12 made a decision to provide Mr. Short his Miranda
13 warnings?

14 A When I started seeing him as a possible suspect in
15 the case, that's correct.

16 Q And that happened around 4 o'clock-ish in the
17 morning?

18 A It was around four in the morning, between 4:15
19 and 4:30 in the morning.

20 Q Okay, all right. So some roughly times?

21 A Correct.

22 Q So from the time that he was being detained, his
23 Miranda rights were not read to him until at least four
24 hours later?

25 A Correct.

1 Q Okay. The exercise you went through on his
2 advisement of rights did not take place until 4:25 when
3 he was in the back of a patrol car, that's a good four
4 hours later?

5 A Correct.

6 Q Maybe longer but a good four hours?

7 A Correct.

8 Q Okay. The information you have about the woman
9 who was Spanish speaking was that she was an
10 eyewitness?

11 A Correct.

12 Q Okay. And clearly, you had information from this
13 particular woman, that that information was was relayed
14 to you at some point?

15 A That is correct.

16 Q And that was relayed to you prior to the decision
17 to read Mr. Short's -- Mr. Short his Miranda warnings?

18 A That's correct.

19 Q All right. So in spite of what she may have said
20 and in spite of her being an -- a possible eyewitness,
21 he was still not the primary suspect or even a suspect
22 until the 4:25, 4:15 mark that night?

23 A In my eyes he was a witness until around the 4 --
24 4 o'clock mark, 4:15 mark.

25 Q Okay. Even though she was an eyewitness?

1 A Correct.

2 Q An eyewitness to the crime?

3 A Correct.

4 Q Now, you said earlier, sir, as I understand, that
5 you were present during this exercise when the Miranda
6 warnings were read to Mr. Short?

7 A Yes, I was.

8 Q You were with the other detective?

9 A I was.

10 Q And y'all use a form, a standard form by the North
11 Charleston Police Department?

12 A That is correct.

13 Q And that's Exhibit No. 29; is that right?

14 A Yes. Yes, sir.

15 Q And your signature appears on the second line?

16 A Yes. My signature is here and here (indicating),
17 along with my badge number which was at that time 111.

18 Q Okay. All right. And does this appear to be
19 Mr. Short's signature?

20 A That is correct.

21 Q And this appears to be whose signature?

22 A That is Detective Riedel's signature on the top
23 lines on both sides.

24 Q All right.

25 A And his badge number was 114 at the time.

1 Q Now, this, where my pen is (indicating), is a part
2 of the statement in which it is we'll let you want to
3 talk to a lawyer; is that right?

4 A That is correct.

5 Q And Mr. Short never stopped the questioning, he
6 never said, stop the questioning?

7 A No, he did not.

8 Q He never said, I want a lawyer to come in at this
9 time?

10 A No, he did not.

11 Q Okay. There's nowhere on Exhibit 29, detective,
12 unless I just misread it, that says, "Mr. Short, you're
13 now a suspect?"

14 A No, it does not.

15 Q Is that correct? All right. And didn't you hear
16 Mr. Short contemporaneous with that statement being
17 given to him, that advisement of rights being given to
18 him, he asked specifically --

19 MR. WETMORE: Objection.

20 THE COURT: Basis?

21 MR. WETMORE: Hearsay.

22 THE COURT: Sustained, hearsay.

23 Q Did you advise Mr. Short that he was a suspect?

24 A No, I did not.

25 Q Did the other detective who was present advise him

1 that he was a suspect?

2 A I do not believe he did as well.

3 Q And clearly, in your mind and the mind of law
4 enforcement, he was a suspect?

5 A Yes, he was at that time.

6 Q I'm trying to go back over this one more time with
7 you, detective, but the cuts or the marks on his
8 fingers, Mr. Short's finger --

9 A Correct.

10 Q -- you and Mr. Short are sitting in an interview
11 room, and there's a table between the two of you?

12 A That is correct.

13 Q Okay. And so, at some point in time you asked to
14 see his hands, and he had them palm -- palm down and
15 palm up at some point; is that right?

16 A Actually, I asked him to -- if he would allow me
17 to see the blood that he had on him, and he -- he did.
18 And I said, can I see your hands. He showed them to me
19 at first palm down.

20 Q Palm down?

21 A Correct.

22 Q And then -- then you requested to show you palm
23 up?

24 A Yeah. I requested I wanted to compare --

25 Q All right.

1 A -- the blood on both sides.

2 Q All right. Now, I understand, a photographer came
3 in, and these pictures are taken within -- within an
4 hour or so. Shortly thereafter you saw his hands?

5 A You talking about the time frame in which time the
6 crime scene came in?

7 Q No, I'm sorry. Let me back up.

8 A Okay.

9 Q From the time that you asked him to see his hands?

10 A That I visually saw it?

11 Q That you visually saw his hands. In the interview
12 room --

13 A Correct.

14 Q -- you summoned a -- a photographer to come in to
15 take photographs of his hands?

16 A That's correct.

17 Q And that occurred within an hour?

18 A Give or take, yes.

19 Q Give or take, okay. So what -- what we're seeing
20 here is within hours of when you arrive at the crime
21 scene at midnight?

22 A Correct.

23 Q Okay. Now, there was never any -- when he sat at
24 the table, and at any point in time he's holding his
25 hands or put his hands on his clothes or put his hands

1 on the table, there's no blood. You didn't have to
2 offer him a Band-Aid or anything to stop the bleeding
3 from his fingers; did you?

4 A We did not.

5 Q Okay.

6 MR. SHAHID: I don't know if these have already
7 been admitted. Have we admitted Exhibit 50, Your
8 Honor, Mr. Burns -- Mr. Wetmore?

9 MR. WETMORE: 59?

10 MR. SHAHID: 50.

11 THE COURT: Yes.

12 MR. WETMORE: Yes.

13 Q Detective, you're familiar with State's Exhibit
14 No. 50?

15 A Through photographs only, correct.

16 Q Yes. And then 51 is a close-up?

17 A Through photographs only, correct.

18 Q Okay. Now, this is what you had been advised to
19 be the weapon that was found on Fuller Street?

20 A That is correct.

21 Q Okay. And this, to your understanding, is a
22 photograph taken upon discovery?

23 A It appears to be so.

24 Q Okay. And so this right here, where my pen is
25 now, this would be the blade (indicating)?

1 A That is the blade, correct.

2 Q And then this would be the handle?

3 A That's correct.

4 Q Okay. And this right here is not straight
5 (indicating). Would you agree with me that's what
6 would be a ridge blade?

7 A Appears to be a serrated, like a steak knife,
8 correct.

9 Q Serrated. And serrated is not straight, it's not
10 a straight-edge knife?

11 A The teeth are in straight mark, but yes, I see
12 what you're saying, yes.

13 Q I'm just saying, I mean, the blades are just a
14 solid straight line, they don't have these ridges?

15 A Correct.

16 Q And unless you -- that's the condition that the
17 knife looked like, as far as you were aware, at the
18 time it was located?

19 A That's correct.

20 Q When you testified earlier -- and I apologize, I'm
21 just going through my notes for your testimony,
22 detective, so if I'm going back and forth, I'm just
23 looking at my notes -- you did not personally -- you
24 were not personally present when the two other officers
25 were interviewing the Hispanic-speaking woman?

1 A No, I was not.

2 Q And you were not physically present as to any
3 other people or folks or witnesses who other patrolmen
4 or other detectives were -- may or may not have been
5 talking to?

6 A That is correct, I was not.

7 Q Your -- your focus was back at the station house?

8 A Correct.

9 Q Okay. And so in a -- in a question asked by
10 Mr. Wetmore about his statements being inconsistent
11 with others, that information is coming to you by what
12 other detectives are telling you about what they have
13 been gathering?

14 A That is correct.

15 Q Prior to the early morning hours of October the
16 11th, 2015, had you ever met Mr. Short?

17 A I have not.

18 Q Have you ever had -- known anything about his
19 educational background, aside from what is placed on
20 the advisement of rights?

21 A No, I do not know.

22 Q So you don't know his overall demeanor at all
23 except the time that you spent with him in that room?

24 A That is correct.

25 MR. SHAHID: Give me just one second, judge.

1 THE COURT: Yes, sir.

2 MR. SHAHID: Let me double check.

3 Q The Hispanic-speaking woman and her partner were,
4 to your knowledge, present at the -- at the scene?

5 A At what point in time?

6 Q Well, I'm trying to set that up to make sure I'm
7 getting this correct. You were aware that they may
8 have been an eyewitness?

9 A Correct.

10 Q Okay. And so they -- they had to be at the scene
11 to be an eyewitness?

12 A Correct.

13 Q Okay. And you -- you have observed the video from
14 Officer O'Connell's car, and you saw Mr. Short present
15 when Officer O'Connell drove up?

16 A I did.

17 Q Okay. And the two people who were sitting next to
18 him, were you informed that those were the Hispanic
19 witnesses?

20 A Yes.

21 Q Okay. So the three of them are together with --
22 with Ms. Frazier while Officer O'Connell pulls up?

23 A Correct.

24 MR. SHAHID: Thank you, detective. Those are all
25 the questions I have at this time.

1 THE WITNESS: Thank you.

2 THE COURT: Any redirect?

3 MR. WETMORE: Yes, ma'am.

4 THE COURT: You may proceed.

5 MR. WETMORE: Thank you, judge.

6 THE COURT: You're welcome.

7 REDIRECT EXAMINATION

8 BY MR. WETMORE:

9 Q Detective Bailey, I just want to get to a couple
10 of things in the order that Mr. Shahid had asked you
11 about them. The first he talked about was the buccal
12 swab of the Defendant's mouth?

13 A Correct.

14 Q You pointed out, of course, that involves some
15 intrusion; is that correct?

16 A That, yes, it does involve some intrusion.

17 Q And it's swiping a Q-tip in someone's mouth?

18 A That is correct.

19 Q Is there any less intrusive way you have to
20 collect that?

21 A There is no other less intrusive way that we have
22 at our arsenal to do that.

23 Q And were you authorized to do that by a judge?

24 A We were.

25 Q All right. Mr. Shahid asked you several times

1 about your observations. All you can say is how
2 something appeared to you; is that right?

3 A That is correct.

4 Q And did the cuts appear to be fresh on his hands?

5 A Correct. As I stated earlier, everything appeared
6 to be fresh on his hands and his face.

7 Q And you just thought that the abrasions to his
8 face appeared to be?

9 A They appeared to be fresh.

10 Q You noted there were spots on his body and
11 clothing that you said appeared to be blood?

12 A Correct.

13 Q Didn't the Defendant tell you that it was blood?

14 A I believe he did.

15 Q And didn't you ask him where all he had blood on
16 you, and he showed you?

17 A Correct.

18 Q So there's not really question that it was blood?

19 A That's correct.

20 Q All right. I'm going to show you -- the defense
21 showed you No. 19. I'm going to show it to you again.

22 Are these the abrasions that appear to be fresh to you?

23 A Correct. From the right side of his forehead,
24 temple area, down his face, right in here (indicating).

25 Q Okay. And those appear to be recent and fresh?

1 A Correct.

2 Q And stretching down that entire side of his face?

3 A That is correct.

4 Q From the temple, forehead area down to his cheek?

5 A Correct.

6 Q And you were asked if -- I'm sorry, that's on the
7 right side of his face?

8 A That is correct. That would be the right side of
9 his face from this area to about right in here
10 (indicating).

11 Q Okay. And Mr. Shahid asked you if that's possible
12 that that came from being smacked with keys in the car?

13 A Correct.

14 Q Okay. Based on what Mr. Short told you, where was
15 he sitting in the car when he was smacked with the
16 keys?

17 A The passenger seat of the vehicle.

18 Q Does it seem likely to you that the keys would
19 wrap all the way around and hit his right side of his
20 face?

21 MR. SHAHID: Objection. Leading, Your Honor.

22 THE COURT: Sustained, leading.

23 Q If he was hit in the passenger seat of that car,
24 what side of his face would be facing the victim?

25 A His left side of his face.

1 Q And that's on his right?

2 A This is on his right side.

3 Q And that area is a lengthy area?

4 A That is correct.

5 Q Not a single spot, it's a lengthy spot?

6 A Correct.

7 Q All right. Now, I'm going to show you State's No.
8 18. Can you point out the injuries to his face in
9 State's No. 18.

10 A Again, you can see very, very mildly in this
11 picture the -- that area up here around his right
12 temple area (indicating).

13 Q That's the same area you're showing --

14 A That we previously saw on the other State's
15 exhibit previous to this one. But you see here above
16 the eyebrow and above on the bridge of his nose right
17 here (indicating). And, again, I believe defense asked
18 about that mark. I'm not a hundred percent sure what
19 that is.

20 Q And that abrasion above his left eyebrow and that
21 abrasion on the left side of the bridge of his nose; is
22 that -- am I describing it correctly?

23 A That would be correct.

24 Q And would that have been the side facing the
25 victim in the car?

1 A That would have been.

2 Q Continuing to go through what he showed you, I
3 want to show you again, look at his photos of his hands
4 now. I think the best one that describes this is
5 State's No. 27. Again, don't -- you don't need to draw
6 on it because I want the jury to be able to see it.

7 A Okay.

8 Q That's why I have these photos. Those are the
9 straight-line cuts you were testifying about?

10 A That is correct.

11 Q And Mr. Shahid asked you if they were, in fact, in
12 a straight line.

13 A He did.

14 Q And as the palm is open, you indicated they're not
15 in a straight line?

16 A That's correct.

17 Q Okay. When someone holds a knife, do they hold
18 the knife palm open or closed?

19 A Closed.

20 Q So do you know if he closed his hands how these
21 would line up?

22 A They appeared that they -- if he closed his
23 hands -- if I looked at my own hand, and you see that
24 the one mark is at the lower portion, the other mark is
25 up here. If you close your hand around something, you

1 can see that they would directly line up.

2 Q So that's what you're relying upon when you said
3 they are in a straight line?

4 A Correct.

5 Q Obviously, he didn't handle a knife with an open
6 palm?

7 A No, he did not. Not to my knowledge.

8 Q And it appears that there is another smaller cut
9 down below on the pinkie; is that right?

10 A Do you want me to draw on it?

11 Q Yeah, please.

12 A I believe it's right here (indicating). And then
13 you have this one here (indicating).

14 Q What is this right here (indicating)?

15 A Appears to be another slicing mark or cut of some
16 form there.

17 Q And you don't know, obviously, if this is from one
18 slice or multiple slices?

19 A I do not know.

20 Q You also don't know how his fingers line up
21 exactly when they're closed?

22 A I do not know.

23 Q And before you even got to that point on his
24 hands, when you asked him to show you his hands, what
25 did he do?

1 A He showed me his hands, palms down.

2 Q Okay.

3 A On top of the table.

4 Q He showed you the backs of his hands?

5 A Correct.

6 Q And he kept the palms of his hands down?

7 A That is correct.

8 Q Did you have to ask him to turn them over?

9 A I asked him if he wouldn't mind turning his hands
10 over so I could see the inside of his hands.

11 Q And that's how you were able to notice these --
12 these injuries?

13 A That's correct.

14 Q Okay. Mr. Shahid asked you about his explanation
15 that he was picking thorny flowers for the victim. And
16 did that seem like a reasonable explanation to you?

17 MR. SHAHID: Objection, Your Honor.

18 THE COURT: Basis?

19 MR. SHAHID: His ability to answer that question.

20 THE COURT: That's not -- please approach.

21 MR. SHAHID: It's outside the scope.

22 THE COURT: It's within the scope.

23 (WHEREUPON, the following was held in the presence
24 of the jury but out of the hearing of the jury:

25 THE COURT: The ability to answer the question, I

1 need to know what the basis of the objection is.

2 MR. SHAHID: Because it's outside his ability to
3 answer.

4 THE COURT: Is that foundation, speculation? I
5 mean --

6 MR. SHAHID: Speculation.

7 THE COURT: Okay. It is speculation.

8 MR. WETMORE: I'm asking him if he believed the
9 Defendant's story. He's the only one that can answer
10 that question.

11 THE COURT: Then you need to ask that directly.

12 MR. WETMORE: Okay. I will.

13 MR. SHAHID: Then I would object to that
14 because --

15 THE COURT: Based on?

16 MR. SHAHID: Because he's offering an opinion.

17 THE COURT: He can offer an opinion. It's within
18 his rational perception based on his years of
19 experience. Objection is overruled.

20 (End of bench conference.)

21 Q Detective, let me -- let me rephrase that. After
22 hearing his story about the thorny flowers for the
23 victim, did you believe that story?

24 A I did not.

25 Q Mr. Shahid asked you about a lot of the initial

1 encounters with the Defendant. Initially, was he a
2 person with information or a suspect?

3 A I viewed him initially on-scene and into the
4 database as a witness only.

5 Q Okay. At the beginning?

6 A At the beginning.

7 Q All right. You didn't jump to conclusions?

8 A I did not.

9 Q And did you give Mr. Short the benefit of the
10 doubt initially?

11 A I did.

12 Q Describe to me how he became a suspect in your
13 mind.

14 A During the investigation --

15 MR. SHAHID: Objection.

16 THE COURT: Basis?

17 MR. SHAHID: Irrelevant.

18 THE COURT: Overruled.

19 THE WITNESS: During the investigation, through
20 what information was being obtained from other
21 detectives on the scene, and due to his really not
22 having any -- his timeline that he was giving me inside
23 the interview room as a witness with him as -- him and
24 the victim was not matching up to the timeline that was
25 developing on the scene.

1 At which time, that's when I asked him to let me
2 see the blood on his clothing and his hands. And
3 immediately upon him turning his hands over, I saw the
4 straight-line cuts on his hand, or what I -- what
5 appeared to me to be a straight-line cut on his hands.
6 Knowing that I was dealing with a knife incident, at
7 that time I believe I exited the room.

8 Q Okay. And did the scrapes and abrasions you saw
9 on his face factor into that --

10 A That is correct.

11 Q -- determination as well?

12 A Yes, they did.

13 Q So after a period of time, you considered him to
14 be your suspect?

15 A That's correct.

16 Q And at that point, you -- you fairly gave him his
17 Miranda warnings?

18 A That is correct.

19 Q And the testimony that you talked about today,
20 that's what he told you after Miranda?

21 A Correct.

22 Q Mr. Shahid asked you, when you read him his
23 rights, did you tell him, Mr. Short, you are now a
24 suspect?

25 A I did not.

1 Q Okay. Are you required to do that?

2 A No, I am not.

3 Q He understood he was receiving his Miranda rights?

4 A That is correct.

5 Q He wasn't being arrested at that time?

6 A No, he was not.

7 Q He was not being charged at that time?

8 A No, he was not.

9 Q In your mind, he was a suspect?

10 A That is, yes, correct.

11 Q But you didn't tell him that, and you don't have
12 to?

13 A No, I do not.

14 Q All right. I want to show you, finally, one more
15 picture. Here it is. This is State's No. 51,
16 obviously, the knife that was found. Mr. Shahid
17 pointed out that the blade is serrated like a steak
18 knife?

19 A Correct.

20 Q And he asked you about what kind of mark that
21 would leave on someone's hand?

22 A Correct.

23 Q If you pull that knife across your hand, is it
24 going to be a straight-line cut?

25 MR. SHAHID: Objection, Your Honor.

1 THE COURT: Basis?

2 MR. SHAHID: Leading.

3 THE COURT: Sustained, leading. Rephrase.

4 Q Do you believe that knife would leave a
5 straight-line cut?

6 A I believe if you cut your hand with it, it would
7 be straight.

8 Q Do you believe if you scrape the knife now
9 sideways, that would be a different story?

10 A Correct.

11 Q But straight, it would be a line, you believe?

12 A I do believe so.

13 MR. WETMORE: Court's indulgence for one second.

14 THE COURT: Um-hmm.

15 MR. WETMORE: No further questions.

16 THE COURT: Okay. Any objection -- oh, you're the
17 investigating officer. You may step down.

18 (Witness excused.)

19 THE COURT: Madam Forelady, ladies and gentlemen,
20 we're going to take advantage of this break in
21 testimony to take a comfort break. During the break,
22 please do not discuss the case, and please leave your
23 notepads in your seats.

24 (WHEREUPON, the jury exited the courtroom at
25 11:20 a.m.)

1 see how long it takes us to -- we'll see how many
2 witnesses we can fit in.

3 MR. WETMORE: Yes, ma'am.

4 (WHEREUPON, the jury came into open court at
5 approximately 12:03 p.m.)

6 THE BAILIFF: All present, Your Honor.

7 THE COURT: Thank you. Ladies and gentlemen, I
8 hope you enjoyed your break. It was a little extended,
9 and I take full responsibility. I'm chief
10 administrative judge, and I had a matter I needed to
11 deal with, with some attorneys separate and apart from
12 this case. So I appreciate your indulgence. And
13 please note that I do not take your time for granted.

14 We've ordered your lunch. It should arrive
15 shortly. We're going to try to fit in a couple more
16 witnesses, depending on time. We'll break for lunch,
17 and then we'll resume testimony after lunch.

18 You may proceed.

19 MR. WETMORE: Thank you, judge. Detective Sam
20 Riedel.

21 SAM RIEDEL, after being duly sworn, testified as
22 follows:

23 THE CLERK: Please have a seat and state your full
24 name, spelling your last name.

25 THE WITNESS: Sam Riedel, R-I-E-D-E-L.

1 THE COURT: You may proceed.

2 MR. WETMORE: Thank you, judge.

3 THE COURT: You're welcome.

4 DIRECT EXAMINATION

5 BY MR. WETMORE:

6 Q Detective Riedel, how long have you been with
7 North Charleston Police Department?

8 A A little over 14 years.

9 Q What were your duties and responsibilities in
10 October of 2015?

11 A I was assigned to the detective bureau,
12 specifically to the white collar crime and electronic
13 crimes task force.

14 Q Okay. Did you have any specialized training to
15 help you do your job?

16 A I have training in various fields of white collar
17 investigation, homicide investigation, statement
18 analysis, interview and interrogation, computer
19 forensics.

20 Q Okay, sounds good. And were you on duty
21 October 10th, 2015, late in the evening?

22 A I was in an on-call status at that -- on that
23 date, yes.

24 Q Okay. So you're standing by?

25 A Yes.

1 Q And did you become involved in the case against
2 the Defendant?

3 A I was -- I did respond to the incident location
4 for a call out there.

5 Q Okay. And I don't believe you did a written
6 report in this case; did you?

7 A No, I didn't.

8 Q Okay. Is your experience similar with Detective
9 Bailey's?

10 A It is.

11 Q All right. So how were you called to the scene of
12 the crime?

13 A I received a call from the on-call detective
14 sergeant giving me the basic information of where to
15 respond.

16 Q Okay. And when you got to the crime scene, what
17 were your initial observations?

18 A Initial observations were amongst the witnesses
19 and patrol officers that were on-scene, supervisors. I
20 was advised that there were some individuals that
21 needed to be spoken with.

22 Q Okay.

23 A And at that point, I was directed to speak with
24 one of the individuals.

25 Q Okay. Before you spoke with any potential

1 witness, did you see -- have any contact with the
2 Defendant?

3 A Not to my recollection, nothing that stood out.

4 Q Okay. All right. But you did have contact with a
5 potential witness in the case; correct?

6 A I did.

7 Q Okay. Was that the -- what language did this
8 person speak?

9 A It was a Hispanic female whose language of -- or
10 primary language was Spanish.

11 Q Okay. Do you speak Spanish?

12 A I do. I'm conversational Spanish.

13 Q Sure. And did another officer help you translate
14 as well?

15 A Yes, Officer Bordallo, who's a Hispanic female.

16 Q Okay. And between the two of you, were you able
17 to take a statement from this Hispanic female?

18 A Yes.

19 Q And how did North Charleston's investigation
20 develop as a result of meeting with this witness?

21 A Details after meeting with the witness led us to
22 seek a suspect that was a black male wearing a black
23 jacket and had a white shirt beneath it.

24 Q And did you relay that to other officers?

25 A I did.

1 Q Okay. So after this interview, the focus of your
2 investigation was black jacket and white shirt?

3 A Correct.

4 Q Anything else of note out there on the scene that
5 you did?

6 A On the scene, nothing special, no. It was just
7 interaction with the patrol officers, general.

8 Q Now, do you know if the Defendant was taken to the
9 police station?

10 A I was advised that he had been transported to a
11 police station, yes.

12 Q And was he taken to an interview room?

13 A To my knowledge, when we take anyone back, that's
14 where they end up. So I assumed he was. And I when
15 arrived back at the station, I confirmed that he was in
16 an interview room.

17 Q Okay. And did you ever go in that room and speak
18 with the Defendant?

19 A I did. Myself and Detective Bailey both entered
20 the room.

21 Q Okay. So you were in there with Detective Bailey?

22 A I did.

23 Q Was the Defendant offered food or drink when you
24 were first speaking with him?

25 A He had -- had been offered food and drink and

1 throughout the entire interview was offered food, drink
2 and an opportunity to use the restroom.

3 Q All right. Now, can you describe, when you first
4 saw him, what time would it have been; do you recall?

5 A Would have been shortly after 3:30 in the morning,
6 between 3:30, 4 o'clock.

7 Q Okay. When you came in there, describe to me his
8 appearance.

9 A He was seated at the table, unrestrained and
10 slightly disheveled. I mean, you could tell he had
11 some dirt on him, some blood on his hands, no shirt,
12 just pants.

13 Q Okay. And without giving any kind of particular
14 statements, did he give you an account of what -- of
15 what happened?

16 A Yes. I had asked him to recount to me his
17 timeline which he had given to Detective Bailey.

18 Q Okay. And as you heard his account, did you, in
19 conjunction with the other officers, did you believe
20 the account?

21 A I noted some inconsistencies in the account that
22 he was providing me verse the independent witness --

23 Q Right.

24 A -- that I had spoken with. There were -- there
25 were details that didn't seem to match up.

1 Q And when you noticed these details that didn't
2 match up, did you discuss them with Detective Bailey?

3 A I did.

4 Q And at some point after meeting with him, did you
5 begin to believe that the Defendant's the one that did
6 this?

7 A My suspicions arose to the point where I
8 considered it more of a suspect at that point than a
9 simple witness or third party.

10 Q Okay. And when you reached that point where you
11 believed he was a suspect, instead of a witness, did
12 you advise him of his constitutional rights pursuant to
13 Miranda?

14 A Yes. He was provided his advice of rights, as we
15 do on our department form.

16 Q Okay. You did it on the form?

17 A I did.

18 Q Okay.

19 MR. WETMORE: If I may approach, Your Honor?

20 THE COURT: Yes, you may.

21 Q I'm going to show you what's been admitted as
22 State's-29. Can you identify that.

23 A Yes. It is a copy of the advice of rights form --

24 Q Okay.

25 A -- which was filled out and read to the Defendant.

1 Q Okay. Thank you so much. It's been admitted as
2 No. 29. And I'd ask that you look at the screen right
3 in front of you. We may have to kind of slide this as
4 we go. But using this -- this form, can you go through
5 the process so the jury can understand it.

6 A The process of the advice of rights obviously
7 begins with us identifying or advising them of their
8 rights. So we fill out their complete name, their date
9 of birth. Get some general basic education questions
10 as to their level of high school or college, whether or
11 not they've completed it with a successful acquisition
12 of a diploma or some other type of degree.

13 At that point after getting all that, it allows us
14 to judge a little bit of their ability to read, write
15 and reason. At that point, I would show Mr. Short the
16 form and begin to advise him individually of each of
17 the rights that he's afforded.

18 Q Okay. So that information at the top, did you
19 fill all of that out or most of that out?

20 A I filled out what would be the second half,
21 starting with the -- the age. Age, grade completed in
22 high school, the top part here had already been
23 prefilled in.

24 Q His age was 26?

25 A At the time, yes.

1 Q And you indicated he completed 12th grade.

2 A Correct.

3 Q And he gave you the school; is that right?

4 A Yes.

5 Q Okay. What's the deal with the diploma being
6 crossed out and GED being inserted?

7 A Initially he had indicted that he completed the
8 12th grade. And it was later determined that he had
9 actually meant he completed the general equivalency --

10 Q Okay.

11 A -- for 12th grade.

12 Q Okay. And then -- that's sort of the biographical
13 part -- and then moving in, read what it says, please.

14 A I, Ricky Anthony Short, have been advised by
15 Detective Riedel of the North Charleston Police
16 Department that I have the absolute right to remain
17 silent, do not have to answer any questions or give a
18 statement, and this fact cannot be used against me --
19 followed by the initials RS.

20 Q That's who initialling?

21 A That would be Ricky Short. The form is actually
22 read to the Defendant, as he would have it in front of
23 him to read. Normally, I would read it upside down
24 across the table. At the completion of each statement
25 I make it clear that I need him to acknowledge

1 understanding and to initial. And I give him the
2 opportunity, if I need to explain it in more detail or
3 if they have a question about it, I can answer it at
4 that time. After each one, I would proceed to the
5 next. So after each of these, he would have initialled
6 and have to go on to the next one.

7 Q So you read him his first right; did he initial
8 it?

9 A He did.

10 Q And then, go to the next one, please.

11 A If I do answer questions or give a statement,
12 anything I say can and will be used against me in a
13 court of law.

14 Q Did he initial that, his understanding?

15 A He did. Next, I read him: I have the right to
16 consult with a lawyer of my choice before I answer
17 questions or give a statement and also have him or her
18 present while I'm being questioned.

19 Q Did he sign and initial that one understanding it?

20 A He did initial that and indicated that he
21 understood.

22 Q Okay.

23 A If I wish to talk to a lawyer and have him or her
24 present, but am unable to afford to hire a lawyer, one
25 will be appointed to represent me free of charge. He

1 did initial that. He was explained that that is
2 generally referred to as a public defender, so to give
3 a little bit more context to him. He did indicate that
4 he understood that.

5 Q Sure. And then the final one?

6 A The final one, as I advised him, was one that you
7 don't commonly hear in normal settings, that the fact
8 that if I decide to answer questions or give a
9 statement without having a lawyer present representing
10 me, I have the absolute right during this interview to
11 stop answering questions and to remain silent. And he
12 did acknowledge and initial there as well.

13 Q Okay. So after each right, he indicated he
14 understood it and he initialed it?

15 A Correct.

16 Q All right. And then in follow-up, do you go over
17 everything with him again?

18 A I do. I asked if he fully understands each of
19 these rights as explained to me. And I presented him
20 with one more opportunity for explanation, if need be,
21 to which he indicated he did not. And he affirmed by
22 placing his signature that he did understand them.

23 I signed as a witness along with Detective Bailey,
24 and then proceeded to read him the next portion, which
25 states: Having these rights in mind, I wish to waive

1 these rights and answer questions, and that no threats,
2 force or promises of any kind have been made to me by
3 anyone to cause me to waive these rights and/or answer
4 questions.

5 At that point, he did indicate that he was willing
6 to speak by signing, and myself and Detective Bailey
7 witnessed.

8 Q And the exact date and time?

9 A It was October 11th, 2015, at 04:26 a.m.

10 Q So he, in your opinion, fully understood his
11 rights?

12 A Yes.

13 Q And in writing, waived those rights and continued
14 to speak with you?

15 A Correct.

16 Q Did you and Detective Bailey ask him about the
17 injuries on his face and hands?

18 A Yes. At this point, the interview shifted more
19 into an interrogation, which is more directing
20 questions to obtain a more detailed information. At
21 which time, he was asked about some abrasions on his
22 face as well as cuts on his right hand.

23 Q Did he give you an explanation?

24 A He did. For the abrasions on his face, he said
25 that during an argument with his girlfriend,

1 Ms. Frazier, she had thrown some keys at him, which hit
2 him in the face. And the cuts on the inside of his
3 right arm, his right hand, he stated he had received
4 the previous Thursday, while downtown Charleston. He
5 indicated that he had tried to pick some flowers out of
6 a flower pot as they were walking by, in an effort to
7 be romantic. And apparently, his explanation for the
8 cuts was that the thorns on the flowers caused the
9 lacerations.

10 Q Okay. So he advised you that the abrasions on his
11 face were from being hit with keys?

12 A Correct.

13 Q By the victim?

14 A Yes.

15 Q And about the cuts on his hands, he indicated the
16 thorny flower got him?

17 A Yes.

18 Q And did you believe that about the flowers?

19 A No, I did not.

20 Q All right. Let me take you to a little later in
21 the morning, it's about 6:30 in the morning. Did you
22 have another discussion with the Defendant?

23 A Yes. I re-entered the room with our lieutenant at
24 the time, Lieutenant Johnson --

25 Q Okay.

1 A -- to allow her to obtain, you know, the same
2 understanding of the statement that the Defendant was
3 providing.

4 Q And this was the first time that she was meeting
5 with the Defendant --

6 A Correct.

7 Q -- to your knowledge?

8 A Yes.

9 Q And she was y'all's supervisor at the time?

10 A Yes.

11 Q Did you ask the Defendant to explain to you what
12 happened that night leading up to the incident?

13 A Yes. He was again asked to restate his timeline
14 of events for the night of the incident, to which he
15 proceeded to, once again, go into detail.

16 Q All right. Well, I need you to share with us
17 exactly what he said at 6:30 in the morning to you and
18 now Captain Johnson about what happened leading up to
19 the incident.

20 A He had indicated much the same of -- as he had
21 done previous to myself and Detective Bailey, in that
22 he and the Defendant had been together most of the day
23 prior to the incident, the fact that they gone out and
24 run errands and gone to the Park Circle area of North
25 Charleston.

1 Q What did they do at Park Circle?

2 A He indicated that the two of them had parked the
3 vehicle at Park Circle and then proceeded to have
4 sexual intercourse in the vehicle.

5 Q And did he tell you any other activities they did
6 leading up to this?

7 A He indicated that they had gone to the Wal-Mart
8 store to obtain some items. And then after leaving the
9 Wal-Mart store, they were going back to the residence
10 but realized they had to go to the victim's mother's
11 residence for some medication for a child.

12 Q Okay.

13 A After going to that residence, they returned to
14 the Defendant's residence in the Ferndale neighborhood
15 on Harper.

16 Q Okay. Does he live in [REDACTED] Harper?

17 A At the time, yes.

18 Q And that was his mother's house?

19 A Yes.

20 Q All right. So he told you they went back to the
21 place where he lived, his mother's house?

22 A Yes.

23 Q [REDACTED] Harper. What does he say happened at that
24 point?

25 A The Defendant indicated that it was at that point

1 that he and the victim had remained at the residence
2 after they had made a quick trip to a nearby corner
3 market, where he had gotten a alcoholic beverage.

4 Q Okay.

5 A Then they remained in front of the house and in
6 the car where they were conversing.

7 Q Now, in -- was that in his car or her car; do you
8 know?

9 A I believe it was her car.

10 Q Okay. Did he indicate where he was sitting?

11 A Not to my rec -- I don't remember exactly where he
12 said he was sitting. But I -- if I recall correctly,
13 it was on the...

14 Q Did he say they were sitting in her car?

15 A Yeah, he said they were sitting in her car. I
16 can't remember the arrangement that he had indicated.

17 Q Sure. All right. So what else does he tell you
18 about at 6:30 in the morning with Captain Johnson?

19 A He stated that during the course of their
20 conversation, the conversation turned into an argument,
21 at which point the victim went away on foot. He stated
22 at that point he got out of the car and went into his
23 house.

24 Q And did he give any explanation as to what this
25 argument was about?

1 A I know the -- she suspected some other female
2 being involved.

3 Q With?

4 A The Defendant.

5 Q She suspected him being involved with another
6 female?

7 A Yes.

8 Q That's what he told you?

9 A That's what he said.

10 Q And he said that she left?

11 A Correct. She left on foot.

12 Q On foot?

13 A Yes.

14 Q And what did he say he did?

15 A He said that he went into his house and waited a
16 few minutes. He then came out of the house on the
17 front porch area, and the victim had returned to the
18 residence at that point.

19 Q What did he say to you happened at that point?

20 A He said that she had calmed down, and they again
21 started talking. But then a second argument ensued.
22 And at that point, that's when the -- he stated that
23 the victim had struck him in the face with the keys
24 thrown. And then she took off on foot.

25 Q So he said that the second part of the argument

1 ended with her striking him with keys?

2 A Yes.

3 Q And she again left on foot; is that right?

4 A Yes.

5 Q What did he say that he did?

6 A He had indicated that he kind of waited around
7 briefly. And then he went off to follow her to try and
8 calm her down at that point.

9 Q So he said that he followed her just to calm her
10 down?

11 A Yeah.

12 Q That's what he -- he told you?

13 A He said he was trying to fix the situation, for
14 lack of a better...

15 Q Did he indicate which way she left on foot?

16 A Down Railroad Avenue, and then on Railroad towards
17 market area.

18 Q If you could just real quick, make sure I
19 understand this, can you look at State's No. 2. You
20 can hop down, if you don't mind. What was he -- what
21 did he tell you -- from very far, do you see his
22 residence marked?

23 A Right here (indicating).

24 Q Okay. And that's where he said that they were
25 having this argument in the car?

1 A Yes.

2 Q And he said she walked off one time and came back?

3 A Walked off one time and came back.

4 Q And he told you that she walked off another time.

5 And did he indicate how she -- which way she travelled?

6 A He said she traveled this way (indicating) to
7 Railroad Avenue, and then took a right in this
8 direction (indicating).

9 Q Okay. And what specifically did he say he did
10 after she left that second time?

11 A He said he had waited around here at the residence
12 for a brief period of time, and then he followed behind
13 her.

14 Q And he followed behind her. Why did he say he did
15 that?

16 A To calm her down.

17 Q Calm her down. And did you believe him?

18 MR. SHAHID: Objection.

19 THE COURT: Basis?

20 MR. SHAHID: Relevance.

21 THE COURT: Overruled. Goes to the course of the
22 investigation.

23 You may proceed. Do you remember the question,
24 sir?

25 THE WITNESS: Yes, ma'am. It -- it wasn't

1 completely believable, no.

2 Q Now, what else did he tell you about the actual
3 incident itself; anything else that you could recall?

4 A That he had neared this intersection, which is
5 Park and Railroad, at which time he stated he heard the
6 Defendant -- I mean, the victim screaming. And he said
7 he ran down to her to help her out, which that's where
8 the inconsistencies that we had found in what he was
9 talking about versus what the other individuals we had
10 spoken to --

11 THE COURT: I'm sorry, sir, we can't hear you.
12 And y'all need to switch places. I need you to speak
13 towards the court reporter. I'm having difficulty
14 hearing you, so I think she is as well.

15 THE WITNESS: The -- the statement that he
16 provided for him running down the street was one of the
17 inconsistencies that we noticed between our independent
18 individual that we had spoken to and what he had
19 stated, because of the witness indicating one -- one
20 item or one series of events. And he stated that he
21 had arrived prior to the incident being finished, so...

22 Q So it was the Defendant's story, then, that they
23 had an argument here (indicating)?

24 A Correct.

25 Q And that the victim left on foot?

1 A Yes.

2 Q And his -- his statement that the victim came
3 back?

4 A Yes.

5 Q And he indicated he went into the house after the
6 first argument?

7 A Correct.

8 Q And the victim came back; is that right?

9 A Yes.

10 Q And then he indicated they got into another
11 argument at the same house?

12 A At the same house.

13 Q In the same car?

14 A Correct.

15 Q And that's when he indicates that she struck him
16 with the keys?

17 A Yes.

18 Q And he advised that she walked to here and came
19 this way (indicating)?

20 A Yes.

21 Q And he advised that he followed her?

22 A Yes.

23 Q After a period of time?

24 A After a period of time, yes.

25 Q But he told you that he heard someone else attack

1 her?

2 A Yes. He stated he heard her scream, that he was a
3 good distance away and heard her scream, and then ran
4 to her aid.

5 Q All right. So between the house and where she
6 was, he tells you somebody else attacked her?

7 A Yes.

8 Q Did he hear -- did he tell you what he heard her
9 yelling, or he just heard her yelling?

10 A Her words -- specific wording escapes me right
11 now, but it was to the effect of, stop.

12 Q Stop. So he tells -- he tells you he heard her
13 yelling, stop?

14 A Yeah.

15 Q All right. You can probably sit down, it's
16 probably easier now. Thank you. And you stated that
17 as your investigation you're determining if this
18 information is true or not, you determined it to be
19 false, at least in part?

20 A At least in part, yes.

21 Q All right. Now, did you or Captain Johnson ask
22 him about clothing that he was wearing?

23 A Yes. He had been asked about clothing.

24 Q All right. So when you were talking to him, what
25 was he -- what was he wearing?

1 A He was still wearing just his pants.

2 Q Okay.

3 A He left his shirt at the scene.

4 Q Okay. So he was -- when you talked to him, he was
5 just wearing the pants?

6 A Yes.

7 Q Did you or Captain Johnson ask him why he was not
8 wearing a shirt?

9 A He was asked. I had already been told that, you
10 know, his shirt was at the scene, so...

11 Q Okay.

12 MR. SHAHID: I'm sorry, judge, I can't hear him.

13 THE COURT: Sir, would you speak directly into the
14 microphone for us. I'm sorry, we can't push it any
15 closer to you.

16 THE WITNESS: Yes, ma'am.

17 THE COURT: Thank you.

18 Q Did he tell you anything about his clothing?

19 A He indicated that he had been wearing the white --
20 the white shirt and his jeans, and that the white shirt
21 obviously had been left there because he had placed it
22 under the victim's head.

23 Q Okay. You testified earlier that your agency was
24 keyed in on a suspect with a black jacket?

25 A Correct.

1 Q Now, did you or Captain Johnson ask the Defendant
2 at this point, about a black jacket?

3 A He was -- he was asked about a black jacket, yes.

4 Q And what did he state to you at 6:30 in the
5 morning about a black jacket?

6 A He stated that the -- the black jacket that he had
7 owned, he had given to a homeless person at an
8 indeterminate amount of time prior to the date of the
9 incident up into a week or longer.

10 Q So he told you that well before this happened he
11 gave his black jacket to a homeless person?

12 A Correct.

13 Q And did he have any information about the jacket
14 specifically?

15 A It -- Old Navy jacket, kind of --

16 Q What color?

17 A Black.

18 Q So he stated that he gave his black Old Navy
19 jacket to a homeless person?

20 A Yes.

21 Q So he was specific about the jacket?

22 A He was specific about the jacket.

23 Q 6:30 in the morning?

24 A Yes.

25 Q And was he specific about this homeless person he

1 gave it to?

2 A A random homeless person. He didn't have any
3 information to give us that might allow us to locate
4 that person.

5 Q He didn't know the homeless person's name or
6 location or anything like that?

7 A No.

8 Q But was very specific about the black Old Navy
9 jacket?

10 A Yes.

11 Q And now, Detective Riedel, this was before the
12 jacket was found in this case; correct?

13 MR. SHAHID: Objection. Leading, Your Honor.

14 THE COURT: Sustained, leading.

15 MR. WETMORE: All right.

16 Q What time was he telling you these specific things
17 about the black Old Navy jacket?

18 A It was after 6:30 in the morning, probably before
19 eight. Between 6:30 and 8 in the morning.

20 Q Between 6:30 and 8 in the morning. To the best of
21 your knowledge, about what time was the black Old Navy
22 jacket found on the scene?

23 A It was well after our day-shift units had checked
24 in. I know it was probably ten or so, around that
25 time.

1 Q 10 a.m.?

2 A Yeah.

3 Q So is it fair to say that he was describing
4 specifically -- specifically, this black Old Navy
5 jacket before it was found by the officers on the
6 scene?

7 A Yes.

8 Q All right. So you have described what he said to
9 you. And, you know, what was his demeanor like; was he
10 upset?

11 A No. He was pretty even. Not upset, not angry,
12 just a normal demeanor.

13 Q Throughout the course of your talks with him?

14 A Yes. There was maybe a brief moment where he
15 showed some emotion, but it didn't last long.

16 Q And what was that point?

17 A That would have been right around the time that we
18 delivered the news of the victim and her status.

19 Q Did you inform him that the victim, Malakia, had
20 died, or was it Johnson or did you?

21 A Myself and Detective Bailey were there.

22 Q Okay. And when confronted with the fact that
23 Malakia Frazier died, he had -- you said he had some
24 brief emotion?

25 A Very brief, yes.

1 Q Very brief. And at that point, what did you
2 understand to be the status of the child that she had?

3 A I had been advised at that point that the child
4 had been delivered and was in the care of the hospital
5 in their intensive care unit.

6 Q And, Detective Riedel, I got to read to you some
7 sample questions to make sure that we can show the jury
8 the Defendant's statement was voluntary.

9 A Okay.

10 Q All of the statements that you've testified to
11 right now that he said to you, this applies to all of
12 them; okay? They were all made at the interview room?

13 A Yes.

14 Q And in your opinion, was he under the influence of
15 alcohol or drugs or anything like that?

16 A He did not appear impaired to me, no.

17 Q And any sort of physical or mental problems that
18 keep him from making a voluntary statement?

19 A No. He appeared to be coherent and logically
20 answering questions as posed.

21 Q Okay. The interview room, reasonably comfortable?

22 A Yes.

23 Q And during this period of time he was there, was
24 he being interrogated the whole time, or were there
25 breaks taken?

1 A No. There were several periods of downtime, I
2 guess you would call it, where there was no one in
3 there except for himself.

4 Q And was he ever denied access to food, drink,
5 bathroom or anything like that in your presence?

6 A No. He had been asked on more than one occasion
7 if he would like any of those to be provided.

8 Q So he was, in fact -- he wasn't denied, he was in
9 fact offered?

10 A Yes.

11 Q Any threats made to him in your presence?

12 A No.

13 Q Any promises?

14 A No.

15 Q And you've established that you gave him his
16 Miranda rights using that form?

17 A I did.

18 Q You indicated he appeared to understand his
19 rights?

20 A Yes.

21 Q And specifically about his right to have an
22 attorney, before he spoke to police, you advised him of
23 that right?

24 A I did.

25 Q And did he indicate that he understood he had that

1 right?

2 A He did.

3 Q And did he initial that he understood that?

4 A He did.

5 Q And did he waive that right and continue to speak
6 with you?

7 A He did.

8 Q Lieutenant, to the best of your knowledge, was
9 this Defendant in his statements to you making a
10 voluntary statement?

11 A Yes.

12 MR. WETMORE: Nothing further. Thank you.

13 THE COURT: Any questions of the witness?

14 MR. SHAHID: Yes, ma'am.

15 THE COURT: You may proceed.

16 CROSS-EXAMINATION

17 BY MR. SHAHID:

18 Q Have you ever lied?

19 A Hum?

20 Q Have you ever lied, detective?

21 A Have I ever lied?

22 Q Yes.

23 A In my entire life?

24 Q No. In doing this -- this investigation.

25 MR. WETMORE: Objection, Your Honor.

1 THE COURT: Basis?

2 MR. WETMORE: Relevance.

3 THE COURT: Please approach.

4 (WHEREUPON, the following was held off the record
5 in the presence of the jury but out of the hearing
6 of the jury:

7 THE COURT: What's your good-faith basis for
8 asking that question?

9 MR. SHAHID: During testimony he said he lied when
10 the Defendant asked him, am I a suspect. And he --

11 THE COURT: That's an inappropriate
12 characterization. So you need to ask him that direct
13 question and give him the opportunity to admit or deny
14 it.

15 MR. SHAHID: I was going to lay a foundation for
16 that. That's why I was asking him the initial
17 question, have you ever lied.

18 THE COURT: I think it's a mischaracterization
19 because reasonable deception is appropriate. So you
20 need to ask him the direct question.

21 MR. SHAHID: Okay.

22 THE COURT: You can argue to the jury that he
23 lied, but I don't think you can characterize the
24 question like that.

25 MR. SHAHID: While we're here, I'm going to ask

1 him, then, directly, did my client ask him if he was a
2 suspect, and did you tell him something differently.

3 MR. WETMORE: That's hearsay. You can't say what
4 your Defendant said.

5 MR. SHAHID: Well, that's why --

6 THE COURT: He can ask him, he just can't say
7 what -- well, no. You need to ask the question
8 differently. You can ask it differently. I don't know
9 that it matters whether he asked if he was a suspect.
10 The point is they didn't tell him he was.

11 MR. SHAHID: Well, he said something different, he
12 misled him.

13 THE COURT: He can do that.

14 MR. SHAHID: I know that. But I want to make that
15 point to the jury that it's --

16 THE COURT: You can. I'm not stopping you from
17 doing that, you just got to ask it a different way.
18 You can't implicate what your client said.

19 MR. SHAHID: I'm trying to avoid -- that's why I
20 set it off asking in my question about this.

21 THE COURT: Yes. You can rephrase it. I'm not
22 foregoing that line of testimony, you just have to
23 rephrase it if you want to.

24 MR. SHAHID: I'm going to ask him, did you
25 intentionally mislead my client.

1 THE COURT: You can ask that question.

2 MR. SHAHID: Okay.

3 MR. WETMORE: Okay.

4 (End of bench conference.)

5 THE COURT: You may proceed. Rephrase.

6 Sustained.

7 Q Detective, during the course of this investigation
8 and during the course of the questioning by Mr. Short,
9 did you intentionally mislead him?

10 A No, I didn't intentionally mislead him.

11 Q Did there come a time during the process when you
12 were going over State's Exhibit No. 29 as to advising
13 him and him inquiring whether or not he was a suspect?

14 A Are you asking if he inquired?

15 MR. WETMORE: Objection, Your Honor.

16 THE COURT: Basis?

17 MR. WETMORE: Hearsay.

18 THE COURT: Sir, I need you to answer the question
19 either yes or no. If you don't understand the
20 question, let Mr. Shahid know so that he can restate
21 it. Do you understand the question?

22 THE WITNESS: I do.

23 THE COURT: Okay. Do you need it repeated?

24 THE WITNESS: Yes, please.

25 Q Did Mr. Short ask whether or not he was a suspect?

1 A Yes.

2 Q And did you tell him he was a suspect?

3 A No.

4 Q Okay. You told him something different?

5 A Yes.

6 Q And that was done to mislead him; wasn't it?

7 A No.

8 Q Well, if you give a person an honest answer to an
9 honest -- to a question, that's -- that gives a person
10 a basis to understand what's going on; is that true?

11 If a person asks you a question and you give them
12 a honest answer, that gives a person a basis to
13 understand what's going on; correct?

14 A Yeah.

15 Q If you don't respond to the question --

16 THE COURT: I need to you rephrase that question,
17 Mr. Shahid.

18 MR. SHAHID: Okay. Let me try it --

19 THE COURT: It's a little convoluted, and then it
20 also -- I think you need to be more clear.

21 MR. SHAHID: All right.

22 THE COURT: I'm having a little trouble following.

23 MR. SHAHID: I'll try it again.

24 THE COURT: Okay.

25 Q When someone asks you a question, is it reasonable

1 for them to expect that you'd give them an honest
2 response?

3 A Yes.

4 Q Okay. When you are asking questions, you expect a
5 person to give you an honest response?

6 A Yes.

7 Q Okay. So when Mr. Short raised that question to
8 you, did you give him an honest response?

9 A It was honest to a point, yes.

10 Q Honest to a point. But it was a direct response,
11 detective?

12 A As direct as I needed to be.

13 Q As you needed to be?

14 A Yes.

15 Q As you thought it needed to be done?

16 A Correct.

17 Q Okay. Now, so you could have provided him a
18 straightforward, honest, direct response to his
19 inquiry; couldn't you, detective?

20 A I could have rephrased my answer to him, yes.

21 Q And you could have given him a direct response to
22 direct him as to where he was and the status that he
23 was at that point in time when you brought up
24 government -- State's Exhibit No. 29; is that a fair
25 assertion?

1 A I could have, yes.

2 Q But you elected not to?

3 A I did.

4 Q And part of that was to mislead him?

5 A No.

6 Q Well, then, when a person -- you had an
7 opportunity to be straightforward with him; didn't you,
8 detective?

9 A Yes.

10 Q Okay. And you elected not to be?

11 A I elected to withhold information that I deemed.

12 Q You elected to withhold information to him, as you
13 were expecting him to give you honest answers?

14 A Yes.

15 Q Okay. So you were playing by a different set of
16 rules than he was?

17 A At this point, I was playing on the same field as
18 he was.

19 Q Well, the same field was, detective, you were
20 looking to him to give you a honest, direct response to
21 your inquiry; correct?

22 A At the point at that juncture, as I indicated, we
23 were playing on the same field. He -- he had been
24 untruthful with me. I wasn't going to be totally
25 100 percent giving him everything that I had.

1 Q You are -- you are a sworn police officer; aren't
2 you, detective?

3 A I am.

4 Q And at some point in time during this -- this
5 questioning of him, you came into the room being very
6 animated; weren't you?

7 A Yes.

8 Q You cussed at him; didn't you?

9 A I did.

10 Q You told him to shut up; didn't you?

11 A I did.

12 Q You raised your voice at him?

13 A I did.

14 Q You used profanity?

15 A I did.

16 Q And to my understanding, detective, all the
17 details that you gave this jury right now, you did not
18 make one written report about what happened?

19 A My accounts were the same as the other two
20 individuals that I was in the room with.

21 Q Okay. Now, at some point in time, detective, you
22 were standing next to this woman who spoke Spanish; is
23 that correct?

24 A Yes. I was in the room with her, yes.

25 Q Not in the room, you were outside talking to her;

1 weren't you? She's on the street.

2 A We were outside, and then we were at the trailer,
3 yes.

4 Q Okay. Outside talking to her?

5 A (Nodding.)

6 Q And another officer, another patrol officer, was
7 with you; is that correct?

8 A Yes.

9 Q Okay. And your understanding of that woman who
10 spoke Spanish was that she may have been an eyewitness?

11 A Yes.

12 Q To the crime?

13 A Yes.

14 Q Okay. And that was early on in the investigation?

15 A Yes, it was.

16 Q And even with the information you had from that
17 woman, you did not deem Mr. Short at that point armed
18 with that information, you did not deem Mr. Short to be
19 a suspect at that point?

20 A At that point, I only had one point of view for
21 the incident. I didn't have other information. I had
22 what she had provided me.

23 Q You had information obtained from an eyewitness?

24 A Yes.

25 Q And in spite of having that information from an

1 eyewitness, as to the crime, Mr. Short was not a
2 suspect at that particular point?

3 A At that point, to me, he was not a suspect. I had
4 no idea anything about him at that point.

5 Q Okay. Now, when you talked about inconsistencies
6 between what you had heard from witnesses and
7 Mr. Short, that is -- that is based upon your
8 characterization of what you heard from other
9 witnesses; is that correct?

10 A It's based on my interpretation of what I had
11 learned, yes.

12 Q Now, the -- your understanding that Mr. Short was
13 placed into the back of a patrol car and transported to
14 the North Charleston Police Department?

15 A That's the normal method of transport, yes.

16 Q Okay. And he was detained?

17 A I don't know how he got there, I wasn't there -- I
18 had no interaction with him before I got back to the
19 station.

20 Q All right. Is it your understanding that he was
21 transported around midnight that night?

22 A Midnight would be a good estimation, yeah.

23 Q Okay. So by the time that you relayed your
24 conversation, your interrogation of Mr. Short, that was
25 six hours later, six, six and a half hours later, after

1 he had been detained?

2 A My involvement, where the interrogation would have
3 started would have been the advice of rights. So not
4 quite, you know, more towards the three and a half,
5 four hours.

6 Q Four hours, okay. But the information that you
7 just relayed to the jury that occurred at 6:30, that
8 means that he had been subjected to questioning by
9 detectives from the North Charleston Police Department
10 for six and a half hours?

11 A He had been with the North Charleston Police
12 Department for six and a half hours.

13 Q At that point. And this is 6 o'clock in the
14 morning?

15 A No.

16 Q It was about --

17 A 6:30.

18 Q 6 o'clock in the evening?

19 A No.

20 Q At some point in time, detective, were you advised
21 that the individual who may have been the assailant was
22 wearing a sweatshirt?

23 A There -- in the initial contact with our -- our
24 witness, there was some interpretation due to her
25 motioning. But she was consistent on a black-jacket

1 type sweatshirt.

2 Q But there was some indication that the assailant
3 was wearing a hoodie.

4 A She had made a motion of maybe a hood. However,
5 the clothing that she described was a jacket.

6 Q All right. The incident that took place that the
7 -- that Mr. Short described about being hit in the --
8 with the keys.

9 A Yes.

10 Q Okay. Now, that -- are you sure that occurred in
11 the car or outside the car?

12 A To my recollection, I don't remember exactly what
13 she had said.

14 Q Okay. And you weren't sure, due to time that they
15 were in the car, the positioning that they had in the
16 car?

17 A I don't recall that right now.

18 Q All right. And you don't recall if he was in the
19 passenger side or the driver's side?

20 A I don't recall right now, no.

21 Q And you don't recall if he was -- if she was in
22 the driver's side or whether or not he was facing her
23 when that event took place?

24 A The orientation of them during their interaction
25 in the vehicle, I don't have a recollection of exactly

1 what he said, no.

2 Q Okay. Now, you had shown to the jury on this
3 diagram this photograph where Mr. Short's residence was
4 over here (indicating), off of Exhibit No. 2; is that
5 correct?

6 A Yes.

7 Q Did you do a measurement from Mr. Short's
8 residence to the corner of Railroad and Harper Street?

9 A I didn't.

10 Q Okay. Did you do a measurement from the corner of
11 Railroad Avenue to Harper, to the corner of Railroad
12 and Edmond Street?

13 A I did not.

14 Q Okay. Did you do a measurement from Fuller --
15 [REDACTED] Fuller Street, to the area at Railroad, where her
16 body was found?

17 A I did not.

18 Q Or from that location to the corner of Harper and
19 Railroad?

20 A I did not.

21 Q At some point in your testimony, detective, did
22 you indicate that Mr. Short and the victim were
23 intimate?

24 A As to what he had told us, yes.

25 Q And you do not recall the time that lapsed, as

1 Mr. Short was describing the second incident, when she
2 got out the car, as to when he decided to follow her
3 down from Harper to Railroad?

4 A Not the specific number. It was minutes.

5 Q But you -- minutes. But you're not sure 10
6 minutes, 20 minutes, whatever, you don't -- you don't
7 have any recollection along that?

8 A Less -- I know it was less than 20 minutes.

9 Q Less than 20 minutes?

10 A Yeah.

11 Q And that would -- so by the time he got to this
12 corner is when he heard the word "stop" or some other
13 word like that?

14 A Near that corner, yes.

15 Q Near that corner. And that could have been --
16 from the time she left to that point could have been 20
17 minutes? Or less than 20 minutes, you said?

18 A Less than 20 minutes.

19 Q Did you ever go back and examine the --
20 Ms. Frazier's vehicle?

21 A I did not.

22 MR. SHAHID: Excuse me just one second, please.
23 Just one second, judge.

24 THE COURT: Um-hum.

25 (Discussion off the record.)