VOLUME THREE OF FOURTEEN

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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JUN 22 2011

S.C. Supreme Court

Appeal from Orangeburg County

Diane Schafer Goodstein, Circuit Court Judge

BAYAN ALEKSEY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPENDIX

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APPLICANT'S EXHIBIT 26-E, PHOTOGRAPH
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APPLICANT'S EXHIBIT 78, PHOTOGRAPH

AUTOPSY?

A HE WAS, ALONG WITH CORONER MARSHALL.

Q DO YOU RECALL HOW THE BODY WAS DRESSED WHEN IT ARRIVED FOR THE AUTOPSY?

A THE OFFICER WAS IN UNIFORM AT THE TIME, HAD ALL OF HIS -- HAD HIS FIREARM ON HIS SIDE AND ALL THE OTHER UNIFORM GEAR ON AT THE TIME.

Q DID THAT UNIFORM CONSIST OF A JACKET?

A A JACKET WAS THE OUTER GARMENT ON THE UPPER PART OF THE BODY.

Q DOCTOR, BRIEFLY DESCRIBE -- YOU MAY HAVE TOUCHED ON THIS -- BUT THE AUTOPSY PROCEDURE, WHAT YOU DO WHEN YOU DO AN AUTOPSY.

A BASICALLY WHEN THE BODY ARRIVES, WE PHOTOGRAPH THE BODY AFTER GETTING INFORMATION FROM WHOEVER COMES WITH THE BODY OR WHATEVER PAPERWORK COMES. WE THEN DOCUMENT BY A WRITTEN LIST OF WHAT IS ON THE BODY, AS WELL AS PHOTOGRAPHS.

WE UNDRESS THE BODY, EXAMINING BEFORE WE DO, THE OUTER GARMENTS TO SEE IF THERE IS ANYTHING THERE THAT MIGHT SHOULD BE PRESERVED AS EVIDENCE AND NOTED AT THAT TIME IN A SEPARATE CONTAINER.

THEN WE PUT THE ITEMS OF CLOTHING IN SEPARATE CONTAINERS SO THEY WON'T BE CONTAMINATED. THEN WE EXAMINE THE EXTERNAL SURFACE OF THE BODY, AGAIN

TAKING PHOTOGRAPHS AND DRAWINGS AND MAKING DICTATIONS AND MEASUREMENTS; AND THEN WE CLEAN THE BODY TO MAKE SURE WE ARE NOT MISSING SOMETHING UNDER ANY BLOOD THAT MIGHT BE PRESENT.

THEN WE DO A COMPLETE INTERNAL EXAMINATION, COLLECTING FLUIDS THAT CAN BE USED FOR TOXICOLOGY, AS WELL AS COLLECTING ANY FOREIGN MATERIAL THAT MAY BE PRESENT IN THE BODY.

Q DOCTOR, YOU TESTIFIED YOU DID DRAWINGS TO SHOW THE EXTERNAL APPEARANCE OF THE BODY PRIOR TO THE ACTUAL AUTOPSY?

A YES, THAT'S CORRECT.

Q I WANT TO HAND YOU THESE TWO DRAWINGS HERE AND ASK IF THEY APPEAR TO BE ENLARGEMENTS OF DRAWINGS YOU MADE ON THIS AUTOPSY.

A (PAUSE.) YES, THIS EXHIBIT IS A DRAWING, A BLOWUP OF THE DRAWING, I MADE, OF THE FRONT AND BACK OF THE BODY.

Q ALL RIGHT, SIR.

A THE OTHER IS DRAWING, A BLOWUP OF A DRAWING I MADE OF THE SIDE, BOTH SIDES OF THE BODY.

SOLICITOR BAILEY: YOUR HONOR, I WOULD OFFER THESE.

MR. SIMS: NO OBJECTION, YOUR HONOR.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 13, A CHART OF THE FRONT AND BACK OF THE BODY; AND NUMBER 14, A CHART WITH SIDE VIEWS OF THE BODY, ARE RECEIVED INTO EVIDENCE.)

Q DR. SEXTON, YOU TESTIFIED THAT SERGEANT LINGARD WAS DRESSED IN A HIGHWAY PATROL JACKET; IS THAT CORRECT?

A YES, THAT'S CORRECT.

Q LET ME ASK YOU TO TAKE A LOOK AT THIS AND SEE IF THIS APPEARS TO BE THE JACKET THAT SERGEANT LINGARD WAS WEARING WHEN HIS BODY WAS BROUGHT TO YOU FOR AUTOPSY.

A (WITNESS LEAVES THE WITNESS STAND.)

(PAUSE.)

A YES, THIS IS THE SAME JACKET. IT BEARS THE SAME BULLET HOLES AND BLOOD SPOTS THAT ARE IN MY PHOTOGRAPHS AND ARE RECORDED IN MY DESCRIPTION AT THE AUTOPSY.

Q DOCTOR, WHEN THE BODY IS BROUGHT TO YOU FOR AN AUTOPSY AND THERE ARE MULTIPLE GUNSHOT WOUNDS, IS THERE ANY WAY THAT YOU CAN TELL THE SEQUENCE IN WHICH THOSE GUNSHOT WOUNDS WERE RECEIVED?

A NOT UNLESS ONE OR MORE OF THE GUNSHOT WOUNDS ARE WHAT WE CONSIDER AFTER THE HEART HAS STOPPED OR PERIMORTEM OR POSTMORTEM. NONE OF THESE WERE AFTER

THE HEART HAD STOPPED BECAUSE ALL OF THEM HAD BRUISING ALONG THE MISSILE TRACK, INDICATING THAT THE HEART WAS PUMPING AT THE TIME THAT SHOT OCCURRED AND PUMPED BLOOD OUTSIDE OF THE CELLS INTO THE SURROUNDING TISSUE SO IT WOULDN'T WASH OFF.

THERE IS SUGGESTION THAT SOME OF THEM CAME LATER, BUT I CAN'T SAY THAT FOR SURE BECAUSE I DON'T KNOW FOR SURE WHEN HE WAS ON THE GROUND. ONE SHOT IS GOING UPWARD IN THE BODY, WHICH COULD ONLY COME FROM THE INDIVIDUAL BEING DOWN AND BEING SHOT FROM HIS FEET.

THAT PARTICULAR SHOT DID PARALYZE HIM BECAUSE IT HIT HIS SPINE, HIT THE SPINAL CORD UP IN THE UPPER CHEST. THERE WAS ANOTHER SHOT THAT ALSO HIT THE SPINAL CORD. IF IT CAME FIRST, THEN OBVIOUSLY THE SHOT THAT CAME UPWARD WHEN HE WAS DOWN WOULD BE A LATER SHOT; BUT NORMALLY WE CAN NOT TELL THE SEQUENCE OF THE SHOTS.

Q DO YOU RANDOMLY NUMBER THE GUNSHOT WOUNDS JUST FOR REFERENCE PURPOSES?

A I DO. I NUMBER THEM ON THE FRONT OF THE BODY FROM THE HEAD TOWARDS THE FEET AND THEN ON BACK OF THE BODY, AGAIN FROM THE HEAD TOWARDS THE FEET ROUTINELY.

Q WOULD YOU STATE WHETHER OR DURING THE AUTOPSY

PROCEDURE DID YOU RECOVER ANY BULLETS FROM THE BODY?

A THERE WERE FOUR BULLETS RECOVERED.

Q DOCTOR, USING THE TWO SKETCHES THAT YOU PREPARED, THE ENLARGEMENTS AND SERGEANT LINGARD'S JACKET --

SOLICITOR BAILEY: YOUR HONOR, I WOULD MOVE TO INTRODUCE THE JACKET BEFORE I ASK DR. SEXTON ABOUT IT.

THE COURT: YES, SIR, I WILL ADMIT IT.

(STATE'S EXHIBIT NUMBER 15, JACKET, IS RECEIVED INTO EVIDENCE.)

Q DR. SEXTON, USING IF YOU WOULD WHAT IS NOW STATE'S EXHIBIT 15, SERGEANT LINGARD'S JACKET, AND THE TWO SKETCHES YOU PREPARED, WOULD YOU SHOW THE JURY THE POINT OF ENTRY FOR EACH ONE OF THE GUNSHOTS THAT YOU OBSERVED IN THE COURSE OF THE AUTOPSY AND DESCRIBE THE PATH THAT THE BULLETS TOOK AND THE ORGANS THAT WERE AFFECTED.

A (WITNESS LEAVES THE WITNESS STAND.) LOOKING AT THE DIAGRAM, STARTING WITH EXHIBIT 13, LOOKING AT THE DIAGRAM THAT SHOWS THE FRONT AND THE BACK OF THE BODY, THE NUMBERED WOUNDS ARE LISTED.

HERE (INDICATING) ON THE TOP OF THE RIGHT SHOULDER IN THE FRONT IS NUMBER ONE. IT ENTERED HERE (INDICATING) JUST ON THE RIGHT SIDE OF THE NECK AND

PASSING TO THE REAR AND SLIGHTLY DOWNWARD. AS YOU CAN SEE HERE (INDICATING), IT HITS A LITTLE LOWER INSIDE THE CHEST.

NUMBER TWO ENTERED THE LEFT ARM HERE (INDICATING) JUST TO THE LEFT OF THE ELBOW. IT GOES THROUGH THE MEAT OF THE ARM WITHOUT HITTING THE BONE, RE-ENTERS THE UPPER ARM HERE ON THE BICEP (INDICATING), GOES THROUGH THE BICEP AND COMES OUT AND THEN RE-ENTERS THE CHEST.

BY LOOKING AT THE HOLES IN THE CLOTHING, IT'S OBVIOUS WHICH WAY THE BULLET IS GOING. SOME TEND TO HAVE THE FLIGHT GOING IN, SOME OUT, THE OUT BEING THE EXIT AREA. BY LOOKING AT THE WOUND IN THE BODY, A BULLET THAT HAS ALREADY PASSED THROUGH THE BODY AND THEN HITS ANOTHER PART OF THE BODY IS TUMBLING.

THE INITIAL SHOT THAT ENTERED HERE (INDICATING) IS THROUGH A ROUND HOLE; WHEREAS THE SHOT THAT RE-ENTERED THE ARM AND RE-ENTERED THE CHEST, YOU CAN SEE A SILHOUETTE OF THE BULLET IS TUMBLING AND GOING IN SIDEWAYS.

THAT BULLET PASSED ACROSS THE CHEST AND HIT THE SPINE. IT DID NOT HAVE ENOUGH FORCE TO PENETRATE THE SPINE AND WAS FOUND LOOSE IN THE CHEST. IT DID, HOWEVER, THOUGH CAUSE TREMENDOUS DAMAGE TO THE HEART AND A LOT OF BLEEDING INTO THE LEFT CHEST. THE ONE I

ARBITRARILY DESIGNATED --

Q DOCTOR, WAS THAT A FATAL SHOT?

A YES, THAT WAS A FATAL SHOT. THE SHOT NUMBER ONE UP HERE (INDICATING) WOULD HAVE BEEN POTENTIALLY FATAL. IT CAUSED BLEEDING BECAUSE IT STRUCK FAIRLY LARGE VESSELS IN THE UPPER PART OF THE SHOULDER.

IT DID NOT ENTER THE CHEST AND WOULD HAVE CAUSED BLEEDING THAT BY ITSELF COULD HAVE BEEN FATAL IF SOMEBODY HAD NOT PUT PRESSURE THERE AND TREATED HIM RIGHT AWAY. IT WAS NOT AS FATAL AS SHOT NUMBER TWO OR SHOT NUMBER THREE.

SHOT NUMBER THREE ENTERS HERE (INDICATING) ON THE LOWER LEFT CHEST JUST AT THE EDGE OF THE RIBS, PASSES UPWARD VERY ACUTELY AND ENTERS THE SPINE HERE (INDICATING) HIGH IN THE CHEST, HAVING PASSED THROUGH THE LUNG.

IT CAUSED BLEEDING IN THIS AREA (INDICATING.) HAVING HIT THE SPINE AND ACTUALLY ENTERING THE VERTEBRAL BODY, THE BONY PART OF THE SPINE, IT STRUCK THE SPINAL CORD, WHICH IS THE NERVE THAT PASSES FROM THE BRAIN THROUGHOUT YOUR BODY AND CARRYING NERVE FIBERS. IT THEN PARALYZED HIM FROM THE WAIST DOWN.

NUMBER FOUR -- AND AGAIN THIS IS ARBITRARY. IT'S NOT SAYING THIS OCCURRED FOURTH BUT ONE I LABELED NUMBER FOUR -- WAS THE ONE ON THE UPPER LEFT

BACK WHICH ENTERED BEHIND THIS LEFT SHOULDER, PASSES SLIGHTLY UPWARD GOING INTO THE CHEST, GOING THROUGH BOTH LUNGS AND THROUGH THE SPINE.

SO TWO BULLETS WENT THROUGH THE UPPER SPINE, BOTH OF WHICH OR EITHER OF WHICH WOULD HAVE PARALYZED HIM FROM THE WAIST DOWN. HE WOULD HAVE HAD USE OF HIS ARMS AND HEAD AREA BUT NOT THE LEGS.

SO THOSE ARE THE FOUR GUNSHOT WOUNDS. I SHOULD MENTION THAT ALL OF THEM PASSED THROUGH THE CLOTHING; THEREFORE, THERE WAS NO POWDER OR RESIDUE OR ANYTHING ON THE SKIN TO INDICATE THEY WERE CLOSE.

WHAT WE LOOK AT WHEN A PERSON IS SHOT WHEN WE ARE LOOKING AT THE WOUND IN THE SKIN, IF THEY HAVE NO CLOTHING OVER THAT SKIN OR IF THE CLOTHING IS LIGHT AND THE GUN IS VERY CLOSE, SOME OF THE POWDER PARTICLES WILL COME THROUGH THE CLOTHING OR JUST HIT THE BARE SKIN AND PRODUCE EITHER A TATTOO -- WHICH HAS TO BE REMOVED SURGICALLY BECAUSE IT IS A CHEMICAL CHANGE INSIDE THE SKIN. IT LOOKS LIKE A PURPLE TATTOO WITH LITTLE POWDER PARTICLES THERE.

OR IT PRODUCES STIPPLING, WHERE IT PENETRATES THE SKIN, MAKES A LITTLE HOLE AND FALLS OUT, SO YOU HAVE LITTLE POCK MARKS THAT REQUIRING HEALING FOR IT TO DISAPPEAR. THOSE CAN'T BE WASHED OFF.

IF IT'S CLOSE ENOUGH AND THERE IS NO CLOTHING,

THEN WE SEE SOOT. RIGHT AGAINST THE SKIN WE SEE BURNING OF THE EDGE OF THE SKIN OR TEARING OF THE CLOTHING AND SOOT AND BURNING OF THE CLOTHING AT CONTACT. NONE OF THESE WERE PRESENT ON THE SKIN AND I SAW NONE GROSSLY ON THE JACKET.

ON THE JACKET WE HAVE GOT A HOLE OF ENTRANCE HERE (INDICATING) ON THE LEFT ARM THAT EXITS ON THE INSIDE RIGHT HERE (INDICATING.) IT RE-ENTERS THE ARM, EXITS HERE (INDICATING) AND GOES INTO THE CHEST. THAT WAS NUMBER TWO.

Q DOCTOR, LET ME ASK YOU THIS. WOULD THAT PATTERN WHERE THE BULLET ENTERED THE SLEEVE AND WENT IN AND OUT AND INTO THE CHEST BE CONSISTENT WITH SOMEBODY HOLDING A FLASHLIGHT IN THIS MANNER (INDICATING)?

A DEPENDING ON THE POSITION OF THE ELBOW, IT WOULD. IT IS CONSISTENT WITH THIS ARM (INDICATING) BEING OUT AND TO THE LEFT AND BENT SLIGHTLY SO THAT IT COULD GO THROUGH THIS AREA (INDICATING), THIS AREA (INDICATING) AND GO INTO THE CHEST, GOING SLIGHTLY UPWARD, DEPENDING ON THE HEIGHT OF THE INDIVIDUAL OR HEIGHT OF THE GUN IN RELATION TO THE OFFICER AT THE TIME THE GUN WAS FIRED.

I CAN'T SAY HOW FAR THE ELBOW WAS BENT, BUT IT HAD TO BE BENT SOME, HAD TO BE OUT TO THE OFFICER'S LEFT AT THE TIME THAT SHOT WAS FIRED. THAT IS A

ROUND HOLE WITH NO OBVIOUS POWDER OR SOOT AROUND IT, BUT THERE ARE CHEMICAL METHODS TO DETECT THAT, PARTICULARLY ON A DARK PIECE OF CLOTHING.

Q WHO WOULD DO THAT?

A S.L.E.D.

Q S.L.E.D. ALL RIGHT, SIR.

A HERE (INDICATING) IS THE ONE I DESIGNATED NUMBER ONE. IT ENTERS, NOTICE NOT THROUGH THE COLLAR, BUT IT ENTERS UNDER THE COLLAR. SO THE COLLAR WAS EITHER UP AT THAT TIME OR THE BODY WAS MOVED IN SUCH A POSITION THAT THE COLLAR WAS SHIFTED AWAY FROM THAT AREA. AGAIN, A ROUND HOLE WITH NO OBVIOUS SOOT OR POWDER PARTICLES AROUND IT.

NUMBER THREE GOES THROUGH THE VERY BOTTOM OF THE JACKET RIGHT HERE AT THIS POINT (INDICATING) AND ENTERS THE CHEST UP AT THIS POINT (INDICATING.) SO IT'S GOING IN VERY LOW ON THE JACKET, HITTING THE CHEST AND GOING UPWARD AND ENDS UP HERE IN THE CHEST UP HIGH, UNDER ABOUT THIS TOP BUTTON (INDICATING) ON THE JACKET, AGAIN PENETRATING THE SPINE AND CAUSING PARALYSIS.

THE FOURTH ONE ENTERS HERE (INDICATING) ON THE BACK AT THE ARMPIT OR AXILLA AT THIS POINT, PASSES SLIGHTLY UPWARD TO THE FRONT, IS FOUND IN THE RIGHT AXILLARY REGION, HAVING PASSED THROUGH BOTH LUNGS AND

THROUGH THE SPINE, AGAIN THROUGH THE AREA THAT WOULD CAUSE PARALYSIS.

AGAIN, THIS HOLE EXHIBITS NO OBVIOUS SOOT OR POWDER PARTICLES AND AGAIN IT'S A ROUND HOLE. THIS ONE DOWN HERE (INDICATING) IS ALSO A ROUND HOLE, INDICATING IT'S GOING DIRECTLY INTO THE CLOTHING, NOT HAVING STRUCK SOMETHING ELSE PRIOR TO HITTING THE CLOTHING.

Q DOCTOR, REFERRING SPECIFICALLY TO WHAT YOU HAVE CHARACTERIZED OR DESIGNATED AS BULLET ENTRY NUMBER THREE, THE ONE TO THE BOTTOM OF THE JACKET, ASSUMING THAT THE SHOT WAS FIRED FROM A PERSON IN A SEATED POSITION IN AN AUTOMOBILE, DO YOU HAVE AN OPINION TO A REASONABLE DEGREE OF MEDICAL CERTAINTY ON THE POSITION THAT SERGEANT LINGARD'S BODY WOULD HAVE BEEN IN WHEN HE RECEIVED THAT SHOT?

A ALL I CAN SAY IS THAT SERGEANT LINGARD WOULD HAVE BEEN IN MY OPINION TO A REASONABLE MEDICAL CERTAINTY LYING DOWN ON THE PAVEMENT OR WHATEVER SURFACE WAS THERE, SUCH THAT THE BULLET CAN COME IN AT THIS ACUTE ANGLE.

FOR IT TO COME IN AT THIS ACUTE ANGLE, YOU EITHER HAVE TO HAVE THE SHOOTER LYING ON THE FLOOR SHOOTING UP AND YOU SHOULD SEE SOME POWDER AND SO FORTH OR THE INDIVIDUAL IS LAYING DOWN AND SHOOTING

DOWNWARD FROM THE AREA AROUND THE DECEDENT'S FEET TOWARD HIS HEAD. SO IT COMES UPWARD LIKE THIS (INDICATING) AND GOES UP INTO THE SPINE.

LOOKING AT THE LATERALS, THIS JUST GIVES YOU A BETTER UNDERSTANDING OF WHERE THE BULLET IS GOING FROM FRONT TO REAR AND BACK TO FRONT. THE NUMBER ONE SHOT UP HERE (INDICATING) AS YOU CAN SEE IS GOING DOWNWARD A LITTLE WAYS AND ALMOST STRAIGHT TO THE REAR.

IT PASSES THROUGH THE CLAVICLE, YOUR COLLARBONE, AND IS FOUND IN THE SKIN OF THE BACK. IT DOES NOT ENTER THE CHEST CAVITY BUT IT DOES STRIKE VESSELS THAT WITH TIME COULD HAVE CAUSED THE PERSON TO BLEED TO DEATH IF SOMEBODY DIDN'T APPLY PRESSURE TO THAT AREA.

NUMBER TWO PASSES THROUGH THE FOREARM. I ONLY SHOW HERE THAT IT COMES OUT THE LEFT UPPER ARM AND THEN GOES ON INTO THE CHEST AND THEN PASSES UPWARD INTO THE RIGHT AND FALLS BACK DOWN INTO THE CHEST.

NUMBER THREE, AS YOU CAN SEE, COMES IN VERY LOW ON THE CHEST, RIGHT AT THE EDGE OF YOUR WRIST, PASSES UPWARD AND ENTERS THE SPINE GOING THROUGH THE LUNGS.

NUMBER FOUR ENTERS THE BACK OF THE LEFT SHOULDER AND GOES ALL THE WAY ACROSS ALMOST HORIZONTAL AND

GOES THROUGH BOTH LUNGS AND THE SPINE. NUMBER FOUR WENT THROUGH BOTH LUNGS CAUSING INTERNAL HEMORRHAGE. NUMBER THREE WENT THROUGH A LUNG CAUSING INTERNAL HEMORRHAGE.

BOTH OF THOSE HIT THE SPINE, CAUSING PARALYSIS OF THE LOWER PART OF THE BODY. NUMBER TWO CAUSED A LARGE HOLE IN THE HEART AND CAUSED INTERNAL HEMORRHAGE. SO ALL THREE OF THESE ARE FATAL AND ANY ONE OF THEM COULD HAVE CAUSED DEATH.

Q AND DID YOU REMOVE ALL FOUR BULLETS FROM THE BODY?

A YES, SIR.

Q NONE OF THEM PASSED THROUGH? THEY WERE ALL WITHIN THE BODY?

A THAT'S CORRECT.

Q ALL RIGHT, SIR.

A (WITNESS RESUMES THE WITNESS STAND.)

Q LET ME HAND YOU A BAG CONTAINING FOUR SEPARATE CONTAINERS AND ASK YOU TO IDENTIFY THAT.

A (PAUSE.) THIS IS ONE OF THE BULLETS THAT I REMOVED FROM SERGEANT LINGARD. IT'S IN A CONTAINER THAT BEARS MY INITIALS. IT MATCHES THE THREE PHOTOGRAPHS I TOOK OF IT.

IT BEARS MY MARK AND IT'S IN THIS VILE WHICH IS LABELED BULLET NUMBER ONE. THIS IS THE ONE THAT I

ARBITRARILY DESIGNATED THE ONE THAT ENTERED THE UPPER CHEST AND WAS FOUND IN THE BACK ON THE RIGHT SIDE IN THE BACK.

THIS IS THE BULLET THAT I ARBITRARILY DESIGNATED NUMBER TWO. THIS IS THE ONE THAT WENT THROUGH THE LEFT ARM, INTO THE LEFT CHEST AND DAMAGED THE HEART, CAUSING BLEEDING IN THE LEFT CHEST.

AGAIN, IT IS IN A CONTAINER THAT BEARS MY INITIALS AND IS LABELED BULLET NUMBER TWO. IT MATCHES MY THREE PHOTOGRAPHS AND IT BEARS MY MARK ON THE BASE.

THIS IS THE BULLET THAT I REMOVED FROM SERGEANT LINGARD'S SPINE, HAVING GONE UP THROUGH THE LEFT CHEST, ENTERING HERE (INDICATING) LOW ON THE LEFT CHEST.

AGAIN, IT MATCHES MY THREE PHOTOGRAPHS. THE CONTAINER BEARS MY MARK AND IT'S LABELED BULLET NUMBER THREE. THE BASE OF THE BULLET BEARS MY MARK.

WHAT I AM COMPARING ARE THE IRREGULARITIES FROM THE BULLET STRIKING BONE IN THE BODY. IT'S LIKE A FINGERPRINT. THEY ARE ALL DIFFERENT AND UNIQUE. PLUS AS I MENTIONED, EACH BULLET HAS MY MARK ON IT AND EACH CONTAINER HAS MY INITIAL.

THIS IS BULLET NUMBER FOUR WHICH IS THE ONE THAT

ENTERED THE LEFT BACK AND WAS FOUND IN THE RIGHT AXILLARY REGION, HAVING GONE THROUGH THE SPINE AND BOTH LUNGS. SO ALL FOUR OF THESE ARE BULLETS THAT I REMOVED FROM SERGEANT LINGARD.

SOLICITOR BAILEY: YOUR HONOR, I WOULD OFFER ALL FOUR BULLETS INTO EVIDENCE AT THIS TIME.

THE COURT: YES, SIR, I WILL ADMIT THEM.

(STATE'S EXHIBIT NUMBER 16, BULLET NUMBER 4; EXHIBIT NUMBER 17, BULLET NUMBER 3; NUMBER 18, BULLET NUMBER 2; AND NUMBER 19, BULLET NUMBER 1, ARE RECEIVED INTO EVIDENCE.)

Q DOCTOR, SINCE YOU PHOTOGRAPHED THE BULLETS, LET ME HAND YOU FOUR PHOTOGRAPHS AND ASK IF THESE ARE THE PHOTOGRAPHS THAT YOU TOOK OF EACH ONE OF THE FOUR BULLETS.

A (PAUSE.) YES, THESE ARE IDENTICAL TO THE PHOTOGRAPHS OF THESE FOUR BULLETS.

Q ARE THE NUMBERS ON THERE, ARE THOSE THE SAME AS THE NUMBERS THAT YOU DESCRIBED AS RANDOMLY ASSIGNED TO SEPARATE EACH BULLET?

A YES, THAT'S CORRECT.

SOLICITOR BAILEY: YOUR HONOR, I MOVE TO INTRODUCE THE PHOTOGRAPHS AT THIS TIME.

MR. SIMS: NO OBJECTION, YOUR HONOR.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 20, PHOTOGRAPH OF BULLET NUMBER 1; NUMBER 21, PHOTOGRAPH OF BULLET NUMBER 2; NUMBER 22, PHOTOGRAPH OF BULLET NUMBER 3; AND NUMBER 23, PHOTOGRAPH OF BULLET NUMBER 4, ARE RECEIVED INTO EVIDENCE.)

Q DOCTOR, I WILL HAVE THESE PUT UP ON THE SCREEN ONE AT A TIME. CAN YOU SEE FROM WHERE YOU ARE SITTING?

A YES, I CAN.

Q FIRST OF ALL, BULLET NUMBER ONE, WHICH IS STATE'S 20, DOCTOR, THE HORIZONTAL LINES ON THAT BULLET, WOULD YOU TELL THE JURY WHAT THOSE ARE.

A NOTICE THERE ARE TWO PARALLEL LINES NEARLY IN THE CENTER OF THE BULLET, AND THEN THERE IS A GAP AND YOU CAN SEE PART OF TWO MORE. THOSE ARE CALLED GROOVES ON THE BULLET THAT ARE PRODUCED BY LANDS IN THE GUN.

IN ORDER FOR THE BULLET TO TAKE A SPIRAL COURSE AND BE STABLE, THERE ARE GROVES CUT IN THE BARREL THAT TWIST; AND THEY TEND TO DIG INTO THE BULLET AND CAUSE IT TO SPIN AS IT'S IN FLIGHT. SO THAT'S A GROVE THAT YOU ARE SEEING ON THE SIDE OF THE BULLET.

Q AND BULLET NUMBER TWO, WHICH IS STATE'S 21.

A YOU CAN ALSO SEE THE SAME GROOVES ROUGHLY IN THE MIDDLE OF THIS, ALTHOUGH IT'S A LITTLE HARDER TO SEE

THE TWO PARALLEL LINES THERE SIMPLY BECAUSE OF THE DARKNESS OF THE COPPER JACKET ON THE UPPER DEEP IMPRESSION THERE BECAUSE OF THE HEAT.

YOU CAN ALSO SEE THE TWO AT THE TOP, THE PARALLEL GROOVES THERE. THEY ARE SEPARATED BY A WIDER SPACE. THE BALLISTICS PEOPLE CAN TELL YOU BY LOOKING AT THAT ROUGHLY WHAT TYPE OF GUN IT MAY HAVE COME OUT OF AND BY LOOKING INSIDE THE GROVES AT LITTLE TINY SCRATCHES CALLED STRIAE CAN MATCH IT TO A SPECIFIC GUN.

Q THE FRONT OF THE BULLET, THE SILVERISH-COLORED MATERIAL, IS IN THE LEAD CORE OF THE BULLET?

A THAT IS CORRECT. THE SILVER COLOR MATERIAL TO YOUR RIGHT AND NEAR THE FRONT OF THE BULLET IS SOME OF THE EXPOSED LEAD CORE. THE BULLET IS PRIMARILY LEAD WITH A COPPER JACKET OVER IT.

A JACKET IS SIMILAR TO POURING LEAD IN A COFFEE CUP, WITH THE COFFEE CUP BEING THE JACKET. IT'S AN ACTUAL SOLID MATERIAL. SOMETIMES .22 BULLETS ARE SIMPLY WASHED ELECTRONICALLY WITH A COPPER COLOR OR ELECTROPLATING.

THIS IS AN ACTUAL JACKET. YOU CAN SEE A LITTLE BIT TO THE RIGHT THERE (INDICATING), YOU CAN ACTUALLY SEE SOME OF THE EDGE OF IT PEELED BACK. THAT'S TO PROTECT THE LANDS AND GROOVES SO THEY WILL LAST

LONGER. BECAUSE IF YOU JUST SHOOT LEAD DOWN THE BARREL OF SOME OF THESE GUNS, THE LEAD MELTS AND STICKS IN THE BARREL. YOU WOULD HAVE LESS ACCURACY.

Q AND BULLET NUMBER THREE, WHICH IS STATE'S 22.

A THIS IS BULLET NUMBER THREE. YOU CAN SEE THE SAME PARALLEL LINES AT THE TOP OF THE PHOTOGRAPH AND IF YOU LOOK CAREFULLY, YOU CAN SEE THE SAME THING IN THE MIDDLE OF THE PHOTOGRAPH.

THERE ARE OTHER SCRATCHES ON THIS BULLET AND DENTS, JUST AS THERE WERE ON THE OTHERS, FROM IT HAVING STRUCK THE BONES IN THE BODY. THIS ONE, AS YOU REMEMBER, HIT THE SPINE, JUST AS NUMBER FOUR DID THAT WE ARE GETTING READY TO SEE IN A MOMENT.

Q AND NUMBER FOUR IS STATE'S 24.

A THIS ALSO HIT THE SPINE, HAVING ENTERED THE BACK AND GOING THROUGH THE SHOULDER BONES. YOU CAN SEE AGAIN, EVEN IN SPITE OF ALL THOSE CURVED LINES FROM THE DEFORMITY BY HITTING BONE, YOU CAN SEE AT THE BOTTOM THOSE TWO PARALLEL LINES.

A LITTLE ABOVE THE CENTER YOU CAN SEE A BRIGHT LINE THAT HAS DARK EDGES ON EITHER SIDE. AGAIN, THIS ONE IS ANOTHER JACKETED BULLET. ALL FOUR OF THEM HAD COPPER JACKETS ON IT.

Q DOCTOR, WHAT WAS THE CAUSE OF DEATH IN YOUR MEDICAL OPINION?

A THE CAUSE OF DEATH WAS THE MASSIVE BLEEDING INTERNALLY WHICH WE REFER TO AS EXSANGUINATION DUE TO THE PENETRATION OF BOTH LUNGS AND THE HEART DUE TO THE THREE GUNSHOT WOUNDS THAT ENTERED THE LEFT SIDE OF THE BODY; THE ONE THAT ENTERED THE LEFT BACK, NUMBER FOUR; THE ONE THAT ENTERED THE LEFT SIDE OF THE CHEST, NUMBER TWO; AND THE ONE THAT ENTERED LOW ON THE CHEST, NUMBER THREE.

IT WAS DUE TO GUNSHOT WOUNDS OF THE CHEST AND BACK AND PENETRATION OF THE LUNGS AND HEART CAUSING LOSS OF BLOOD INTERNALLY OR EXSANGUINATION.

Q WHAT WAS THE MANNER OF DEATH?

A THE MANNER REFERS TO WHETHER OR NOT WE CAN DETERMINE AT AUTOPSY AND/OR WITH HISTORY WHETHER A PERSON HAS COMMITTED SUICIDE, WHETHER THEY DIED A NATURAL DEATH, WHETHER THEY DIED AN ACCIDENTAL DEATH, MEANING AN ACT OF GOD, LIKE LIGHTING, ELECTROCUTION, DROWNING, OR WHETHER THE PERSON WAS KILLED AT THE HANDS OF ANOTHER.

IT HAS NOTHING TO DO WITH THE INTENT BUT JUST THAT SOME OTHER PERSON INFLICTED THE INJURY. THAT'S CALLED HOMICIDE. IN THIS CASE IT'S OBVIOUSLY A HOMICIDE INFLICTED BY ANOTHER INDIVIDUAL BECAUSE THESE ARE ALL SHOTS FIRED FROM A GREATER DISTANCE THAN THE OFFICER COULD HAVE HELD THE GUN AND SHOT

HIMSELF.

Q AND STATE'S 15, THE JACKET, AND STATE'S 16, 17, 18 AND 19, THE FOUR BULLETS THAT YOU REMOVED FROM THE AUTOPSY, DID YOU TURN THOSE OVER TO BRETT BAKER OF S.L.E.D.?

A YES, I DID. BRETT TOOK THE BULLETS, THE JACKET AND THE FLUIDS THAT WE COLLECTED FOR TOXICOLOGY.

Q THANK YOU, SIR. PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE IF THEY HAVE ANY.

MR. SIMS: YOUR HONOR, WE HAVE NO QUESTIONS.

THE COURT: DOCTOR, YOU MAY COME DOWN.

SOLICITOR BAILEY: MAY HE BE EXCUSED, YOUR HONOR?

THE COURT: YES, SIR. DOCTOR, I WILL EXCUSE YOU. SOLICITOR, MY INTENTION IS TO BREAK AROUND 5:15 OR 5:30 TONIGHT.

SOLICITOR BAILEY: YES, SIR. I HAVE ONE MORE SHORT WITNESS IF I MAY.

THE COURT: YES, SIR. THE JURY HAS BEEN HERE FOR A LONG DAY.

SOLICITOR BAILEY: YES, SIR. THE STATE CALLS TIM LLOYD.

TIMOTHY MICHAEL LLOYD, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: GIVE US YOUR FULL NAME AND SPELL YOUR LAST, PLEASE.

THE WITNESS: TIMOTHY MICHAEL LLOYD, L-L-O-Y-D.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. LLOYD, YOU ARE WITH THE HIGHWAY PATROL?

A YES, SIR.

Q WHERE DO YOU LIVE?

A IN SUMMERVILLE, SIR.

Q HOW LONG HAVE YOU LIVED IN SUMMERVILLE?

A ABOUT 17 YEARS, SIR.

Q HOW LONG HAVE YOU BEEN A TROOPER?

A I AM IN MY 20TH YEAR, SIR.

Q WHAT IS YOUR RANK NOW WITH THE PATROL?

A CORPORAL.

Q WERE YOU ON DUTY IN DECEMBER IN DORCHESTER COUNTY?

A YES, SIR, I WAS.

Q OF LAST YEAR?

A YES, SIR.

Q CALLING YOUR ATTENTION TO NEW YEAR'S EVE, LATE THAT EVENING, EARLY ON JANUARY THE 1ST, WERE YOU ON DUTY?

A YES.

Q WERE YOU IN UNIFORM?
A YES, SIR.
Q I CALL YOUR ATTENTION TO ABOUT SHORTLY AFTER OR SOMEWHERE IN THE NEIGHBORHOOD OF 11:30 P.M. ON DECEMBER 31, 1998. DID YOU RECEIVE ANY RADIO TRAFFIC IN REGARD TO THIS CASE?
A YES, SIR, I DID.
Q WHAT DID YOU HEAR OVER YOUR RADIO?
A WE WERE INFORMED THAT AN OFFICER WAS DOWN ON I-26.
Q ON I-26?
A I'M SORRY, I-95.
Q WHERE WERE YOU WHEN YOU HEARD THAT?
A IN THE SUMMERVILLE AREA.
Q DID YOU HEAR ANYTHING ELSE OTHER THAN OFFICER DOWN ON 95, ANYTHING WITH REGARD TO AN AUTOMOBILE BEING PURSUED OR ANYTHING?
A WE WERE INFORMED THAT THE SUBJECT VEHICLE WAS A WHITE MUSTANG WITH DELAWARE TAGS.
Q AND DID YOU GET ANY INFORMATION ON THE DIRECTION THE MUSTANG WAS PROCEEDING IN?
A WE WERE INFORMED THAT THE MUSTANG WAS EASTBOUND ON U.S. 176.
Q AND AGAIN WHERE WERE YOU WHEN YOU HEARD THIS?
A I WAS IN THE SUMMERVILLE AREA.

Q WHERE DID YOU GO WHEN YOU HEARD THIS MUSTANG WAS LEAVING THE SCENE OF THE SHOOTING?
A I PROCEEDED UP 17-A TOWARDS CARNES CROSSROADS AT THE INTERSECTION OF 17-A AND 176.
Q DID YOU STOP YOUR CAR THERE AT CARNES CROSSROADS?
A YES, SIR, BRIEFLY.
Q HOLD ON ONE SECOND, PLEASE. MR. LLOYD, I WILL GET YOU TO COME OVER HERE IF YOU WOULD PLEASE.
A (WITNESS LEAVES THE WITNESS STAND.)
Q WE HAVE GOT A LOT OF X.S HERE. LET ME GET YOU TO PUT AN L. FOR LLOYD WHERE CARNES CROSSROADS IS.
A (WITNESS COMPLIES.)
Q STAND ASIDE FOR A MINUTE SO THEY CAN SEE. YOU WERE PARKED HERE (INDICATING) AT 176. WHAT IS THE ROAD THAT INTERSECTS HERE?
A 17-A.
Q AND THAT IS CALLED CARNES CROSSROADS; IS THAT CORRECT?
A YES, SIR.
Q IS THAT INTERSECTION CONTROLLED BY A LIGHT?
A YES, SIR, IT IS CONTROLLED BY A TRAFFIC LIGHT.
Q ALL RIGHT, SIR. YOU CAN HAVE A SEAT.
A (WITNESS RESUMES THE WITNESS STAND.)
Q WHAT, IF ANYTHING, DID YOU OBSERVE AS YOU SAT AT

THE INTERSECTION OR 17-A AND 176, CARNES CROSSROADS?

A I PROCEEDED INTO THE GAS STATION PARKING LOT. AT THAT TIME I CAME OUT OF THE PARKING LOT AND WAS FACING WESTBOUND ON 176 WHEN I NOTICED A VEHICLE COMING EASTBOUND. THE LIGHT WAS RED AND THE VEHICLE WENT THROUGH THE TRAFFIC LIGHT.

Q IT WAS RED FOR 176?

A IT WAS RED FOR 176, YES, SIR.

Q WHAT DIRECTION WAS THIS CAR COMING FROM?

A IT WAS COMING FROM THE HOLLY HILL AREA HEADING EASTBOUND ON 176.

Q AND IT RAN THE RED LIGHT?

A YES, SIR.

Q WHAT DID YOU DO WHEN YOU OBSERVED THE MUSTANG RUN THE RED LIGHT?

A AT THAT TIME I TURNED AROUND ON THE VEHICLE AND BASICALLY BEGAN A PURSUIT, NOTIFIED MY STATION THAT I WAS IN PURSUIT AND THE DIRECTION OF TRAVEL AND WHO I WAS BEHIND.

Q I WILL PUT THIS PICTURE, WHICH IS STATE'S NUMBER 8, UP HERE AND ASK IF THAT APPEARS TO BE THE CAR YOU WERE PURSUING?

A YES, SIR, IT IS.

Q TELL THE JURY WHERE YOU WENT PURSUING THIS CAR.

A I PROCEEDED DOWN 176 INTO THE GOOSE CREEK AREA

AT THE INTERSECTION OF 176 AND U.S. 52. I THEN MADE A RIGHT-HAND TURN ON U.S. 52 GOING INTO NORTH CHARLESTON.

Q IF YOU WOULD COME UP HERE AND USING THIS SAME MARKER, SHOW THE JURY WHERE YOU WENT IN YOUR PURSUIT.

A (WITNESS LEAVES THE WITNESS STAND.)

Q START WHERE YOU HAVE GOT THE L. AT CARNES CROSSROADS.

A GOOSE CREEK (INDICATING) AND SOUTH ON U.S. 52 RIGHT IN HERE (INDICATING.)

Q WHEN YOU GOT ON TO 52 WHAT HAPPENED?

A (WITNESS RESUMES THE WITNESS STAND.) WHEN I GOT TO THE N.A.D. ROAD AND U.S. 52, THE LIGHT WAS RED. THE WHITE MUSTANG PROCEEDED THROUGH THE INTERSECTION.

AT THAT TIME I NOTICED SEVERAL VEHICLES STARTING TO COME OUT AND I SLOWED, HAD TO BACK OFF THE VEHICLE. THE VEHICLE WENT OVER THE OVERPASS. AS SOON AS I CLEARED THE INTERSECTION, I PROCEEDED SOUTH ON 52.

Q DID YOU GET IN SIGHT OF THE VEHICLE AGAIN?

A NO, SIR. WELL, YES, SIR, BEHIND HIM. WHEN THE VEHICLE WAS GOING -- WHEN I WAS GOING OVER THE OVERPASS, I NOTICED THE VEHICLE GOING UNDERNEATH ME ON 78.

Q INDICATE WHERE 78 IS.
A (WITNESS LEAVES THE WITNESS STAND.) IT WOULD BE THIS INTERSECTION RIGHT HERE (INDICATING.)
Q DID YOU OBSERVE THE VEHICLE ON 78?
A YES.
Q WHAT DIRECTION WAS IT HEADED IN?
A WESTBOUND TOWARDS SUMMERVILLE.
Q TOWARD SUMMERVILLE. OKAY. YOU CAN HAVE A SEAT.
A (WITNESS RESUMES THE WITNESS STAND.)
Q HOW FAR DID YOU OBSERVE THE MUSTANG GOING WESTBOUND ON 78?
A JUST FOR THAT BRIEF SECOND BECAUSE AT THAT TIME I WAS NOT THE PRIMARY UNIT.
Q WHAT DID YOU DO NEXT?
A I PROCEEDED TO HEAD WESTBOUND ON U.S. 78. I HEARD FROM RADIO TRAFFIC THAT CORPORAL WOODS WAS NOW IN PURSUIT HEADING INTO SUMMERVILLE, AND I WAS JUST FOLLOWING BEHIND THE PURSUIT.
Q WHERE DID YOU END UP?
A I ENDED UP AT THE HERITAGE SQUARE SHOPPING CENTER.
Q WHEN YOU GOT TO HERITAGE SQUARE SHOPPING CENTER, WHAT WAS GOING ON?
A AT THAT TIME I NOTICED THE WHITE MUSTANG IN THE PARKING LOT WITH SEVERAL PATROL UNITS AND A SUBJECT

LAYING ON THE GROUND WITH CORPORAL WOODS AND TROOPER BERES OVER HIM.

Q WAS HE CUFFED?

A YES, SIR, HE WAS CUFFED AT THAT TIME.

Q CUFFED IN FRONT OR BACK?

A BEHIND HIM.

Q AND CAN YOU POINT OUT THE PERSON IN COURT HERE THAT YOU SAW CUFFED IN THE PARKING LOT OF 78?

A YES, SIR, THE GENTLEMAN WITH THE WHITE SHIRT SITTING NEXT TO MR. SIMS.

Q WOULD YOU STATE WHETHER OR NOT YOU TOOK POSSESSION OF MR. ALEKSEY'S WALLET?

A YES, SIR, I DID.

Q WHAT WAS THE REASON FOR THAT?

A BASICALLY AS TO IDENTITY FOR E.M.S., MEDICAL REASONS.

Q WAS HE INJURED?

A YES, SIR, HE WAS.

Q WAS E.M.S. CALLED TO THE SCENE?

A YES, SIR, IT WAS.

Q WAS A DECISION MADE TO GET HIM TO THE HOSPITAL?

A YES, SIR.

Q DID YOU FEEL LIKE THE HOSPITAL WOULD NEED TO KNOW WHO HE WAS?

A YES, SIR.

Q TO CHECK HIM IN?
A YES, SIR.
Q I WILL HAND YOU SEVERAL CARDS IN A CONTAINER AND ASK IF YOU CAN IDENTIFY THEM.
A YES, SIR.
Q DID YOU OBSERVE THAT CONTAINER WITH THOSE CARDS BEING TAKEN OUT OF MR. ALEKSEY'S POCKET?
A YES, SIR.
Q WAS IT GIVEN TO YOU?
A YES, SIR.
Q DID YOU REMOVE ONE OF THE CARDS TO GIVE TO SOMEONE TO TAKE TO THE HOSPITAL?
A YES, SIR, I DID.
Q DO YOU RECALL WHICH CARD IT WAS?
A IT WAS ONE OF THE MARYLAND ONES, I DO BELIEVE. I AM REALLY NOT SURE WHICH ONE IT WAS AT THIS TIME, SIR.
Q AT ANY RATE YOU GAVE ONE OF THE CARDS TO ONE OF THE OTHER OFFICERS?
A YES, SIR.
Q WHAT DID YOU DO WITH THE CARD YOU REMOVED FROM THE WALLET, THE MARYLAND CARD?
A I KEPT POSSESSION OF THEM UNTIL LIEUTENANT ROBINSON FROM THE ORANGEBURG DISTRICT ARRIVED AND HE BECAME THE SENIOR SUPERVISOR AT THE SCENE AND I

TURNED THEM OVER TO HIM.

Q WHAT DID YOU DO WITH THE FIRST CARD?

A I GAVE THEM TO TROOPER BERES. HE WAS RIDING IN THE AMBULANCE WITH THE SUBJECT, AND I GAVE IT TO HIM SO THE HOSPITAL COULD HAVE AN IDENTIFICATION ON HIM.

Q LOOKING AT THOSE OTHER CARDS, AFTER YOU GAVE THE ONE MARYLAND CARD TO TROOPER BERES, DID YOU OBSERVE THE REST OF THE CARDS IN WALLET?

A YES, SIR, I DID.

Q CAN YOU IDENTIFY ALL OF THOSE CARDS BEING IN THE WALLET OF MR. ALEKSEY?

A YES, SIR. I REMEMBER THAT THERE WAS A CREDIT CARD IN THE WALLET, VISA OR MASTER CARD. I KNEW IT WAS THAT TYPE OF CARD, BUT THE REST OF THEM, YES, SIR, I CAN IDENTIFY.

Q SO WITH THE EXCEPTION OF THE CREDIT CARD THERE, YOU CAN IDENTIFY ALL OF THOSE CARDS?

A YES, SIR.

SOLICITOR BAILEY: YOUR HONOR, I OFFER THEM.

MR. STONE: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

MR. STONE: HE CAN OR CANNOT IDENTIFY THE CREDIT CARD? WELL, THAT'S FINE. NO OBJECTION. I DON'T HAVE ANY OBJECTION TO THE CREDIT CARD COMING IN

EITHER.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 24, VISA CARD OF BATEILINA; NUMBER 25, MARYLAND I.D. CARD OF MATEEKI; NUMBER 26, MARYLAND I.D. CARD OF TOSCANI; NUMBER 27, INTERNATIONAL DRIVER'S LICENSE OF MATEEKI; NUMBER 28, EMPLOYEE I.D. CARD OF TOSCANI; AND NUMBER 29, PENNSYLVANIA I.D. CARD OF BATKILINA, ARE RECEIVED INTO EVIDENCE.)

SOLICITOR BAILEY: YOUR HONOR, IF I MAY I WILL PUBLISH THESE TO THE JURY AT THIS TIME USING THIS.

THE COURT: YES, SIR.

Q STATE'S 24, MR. LLOYD, CAN YOU SEE THAT FROM WHERE YOU ARE?

A YES, SIR.

Q WHAT IS THE NAME OF THAT CARD?

A THE FIRST NAME IS MICHAEL. THE LAST NAME IS B-A-T-E-I-L-I-N-A.

Q BATEILINA?

A YES, SIR.

Q STATE'S 25 -- FIRST OF ALL, DOES IT APPEAR TO BE A PICTURE OF THE DEFENDANT BAYAN ALEKSEY OVER HERE?

A YES, SIR, IT IS.

Q WHAT NAME IS ON THAT MARYLAND -- PORT OF

MARYLAND DRIVER'S LICENSE?
A JUSTIN MATEEKI.
Q MATEEKI?
A MATEEKI.
Q AND STATE'S 26?
A MICHAEL B. TOSCANI.
Q AND THAT ALSO APPEARS TO BE A MARYLAND LICENSE; IS THAT RIGHT?
A IT'S A NONDRIVER I.D.
Q NONDRIVER I.D. FROM MARYLAND?
A YES, SIR.
Q LOOKING AT THE PICTURE AND LOOKING AT MR. ALEKSEY, DOES THAT APPEAR TO BE HIS PICTURE?
A YES, SIR, IT IS.
Q STATE'S 27, WHAT IS THE NAME ON THAT ONE? THAT APPEARS TO BE SOME TYPE OF --
A JUSTIN J. MATEEKI.
Q -- INTERNATIONAL DRIVER'S LICENSE?
A INTERNATIONAL DRIVER'S LICENSE.
Q HAVE YOU EVER SEEN ONE OF THOSE BEFORE?
A YES, SIR, QUITE A FEW.
Q THAT'S IN THE NAME OF JUSTIN J. MATEEKI?
A YES, SIR.
Q AND THE PICTURE THERE APPEARS TO BE THE DEFENDANT BAYAN ALEKSEY?

A YES, SIR.
Q AND STATE'S 28?
A MICHAEL B. TOSCANI.
Q DOES THAT APPEAR TO BE MR. ALEKSEY OVER HERE?
A YES, SIR.
Q AND STATE'S 29?
A MICHAEL BATKILINA.
Q BATKILINA?
A BATKILINA, YES, SIR.
Q THAT'S A PENNSYLVANIA LICENSE?
A YES, SIR.
Q THAT APPEARS TO BE MR. ALEKSEY?
A YES, SIR.
Q YOU TESTIFIED EARLIER THAT YOU GAVE ONE OF THESE I.D.S, THE MARYLAND I.D. CARD WITH JUSTIN MATEEKI'S NAME ON IT, I BELIEVE TO TROOPER BERES?
A YES, SIR.
Q IS HE ONE OF THE TROOPERS WHO WORKS UNDER YOU AS A CORPORAL?
A YES, SIR, HE IS UNDER MY SUPERVISING.
Q DID YOU GIVE HIM ANY INSTRUCTIONS OTHER THAN HANDING HIM THAT CARD?
A YES, SIR. I INFORMED HIM TO RIDE WITH THE AMBULANCE AND BASICALLY DON'T LET THE SUBJECT OUT OF HIS SIGHT THROUGH ANY TREATMENT OR ANYTHING.

Q WHAT DID YOU DO?
A I STAYED AT THE SCENE, SIR.
Q WHAT DID YOU DO AT THE SCENE?
A BASICALLY WE TRIED TO SECURE THE CRIME SCENE. I TURNED THE -- THE VEHICLE WAS STILL ON. I TURNED THE VEHICLE OFF. AT THAT TIME I NOTICED A HANDGUN ON THE FLOORBOARD THAT APPEARED TO BE JAMMED.
Q LET ME HAND YOU A PHOTOGRAPH AND ASK IF THAT APPEARS TO BE A PICTURE OF THE GUN YOU ARE TALKING ABOUT NOW.
A YES, SIR.

SOLICITOR BAILEY: WE OFFER THIS.

MR. STONE: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 30, PHOTOGRAPH OF GUN ON FLOORBOARD, IS RECEIVED INTO EVIDENCE.)

Q LET ME PUT STATE'S EXHIBIT 30 UP HERE, MR. LLOYD, AND ASK IF THAT -- FIRST OF ALL, WHAT PART OF THE MUSTANG ARE WE LOOKING AT?
A THAT WOULD BE THE DRIVER'S FLOORBOARD.
Q CAN YOU POINT -- IS THERE ANYTHING UNUSUAL ABOUT THE GUN?
A IT'S JAMMED. THERE IS A ROUND JAMMED.
Q SHOW THE JURY HOW YOU KNOW THERE IS A ROUND JAMMED IN THERE.

A (WITNESS LEAVES THE WITNESS STAND.) YOU CAN SEE THERE IS A SHELL RIGHT HERE (INDICATING) THAT IS JAMMED UP.

Q IS THE SLIDE PULLED BACK?

A THE SLIDE IS PULLED BACK, YES, SIR. (WITNESS RESUMES THE WITNESS STAND.)

Q AND DID YOU ASSIGN ANYBODY TO WATCH THAT GUN?

A YES, SIR.

Q TO MAKE SURE NOBODY BOTHERED IT?

A I ASSIGNED TROOPER BROUTHERS AS THE CUSTODIAN AND INFORMED HIM THAT NOBODY WAS TO ENTER THE VEHICLE; AND IF ANYBODY WAS TO ENTER THE CRIME SCENE TAPE, HE WAS TO FIND OUT THEIR NAME, WRITE IT DOWN AND FOR WHAT REASON THEY WENT INTO THE CRIME SCENE.

Q YOU HAVE ALREADY TESTIFIED THAT YOU HELPED TROOPER WOODS SECURE THE CRIME SCENE?

A YES, SIR.

Q IN YOUR PRESENCE DID ANYBODY DISTURB THE CRIME SCENE OR MESS WITH THAT GUN OR ANYTHING?

A NOBODY WENT INSIDE THE VEHICLE, NO, SIR.

Q THANK YOU. ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE, PLEASE.

CROSS EXAMINATION

BY MR. STONE:

Q CORPORAL, I CAN'T GET A GOOD VIEW OF THIS

PICTURE. HAVE YOU SEEN THIS PHOTOGRAPH OTHER THAN ON A MONITOR?

A YES, SIR, I HAVE.

Q DOES THAT APPEAR TO BE A PINK HAIR BUSH RIGHT THERE (INDICATING) AS WELL?

A THAT'S A HAIR BRUSH, YES, SIR. IT LOOKS RED TO ME.

Q TAKE A LOOK AT IT LIKE THAT.

A PINKISH RED, YES, SIR.

Q THIS IS LOCATED -- THIS WAS LOCATED IN THE DRIVER'S SEAT AS WELL. THIS WAS AS YOU FOUND IT AT THE SCENE; IS THAT RIGHT?

A ON THE DRIVER'S FLOORBOARD, YES, SIR.

Q YOU ARE A CORPORAL WITH THE PATROL. YOU HAVE BEEN THERE OBVIOUSLY A WHILE. THAT'S A FAIRLY HIGH RANK, ISN'T IT?

A I HAVE BEEN WITH THE RANK OF CORPORAL FOR TEN YEARS, SIR.

Q THE IDENTIFICATION CARDS, YOU HAVE SEEN FAKE I.D.S BEFORE?

A I HAVE SEEN SOME, YES, SIR.

Q THESE ARE PRETTY GOOD, AREN'T THEY?

A THEY ARE I.D.S, YES, SIR.

Q WELL, LET ME ASK YOU. OUT OF THESE I.D.S, WHICH ONES DID YOU HAND IN AS THE IDENTIFICATION, AS THE

PROPER IDENTIFICATION TO -- I THINK YOU GAVE IT TO OFFICER BERES?

A ACTUALLY, SIR, WHEN I WAS GIVING THE I.D. TO TROOPER BERES WHEN I OPENED UP THE WALLET, I JUST TOOK FOR GRANTED THAT IT WAS THE ONLY ONE. I TOOK THE FIRST ONE AND GAVE IT TO HIM.

Q ALL RIGHT, SIR. AND THIS WAS WHICH ONE, DO YOU KNOW?

A THE MARYLAND I.D.

Q THE MARYLAND NONDRIVER I.D.?

A I THINK BOTH OF THEM ARE NONDRIVER.

Q AND ALL OF THESE CARDS, ALL OF THESE IDENTIFICATIONS, EVEN INCLUDING THE CREDIT CARD, WAS IN THIS PACK IN THE CAR; IS THAT RIGHT?

A NO, SIR.

Q THEY WERE NOT?

A THEY WERE TAKEN FROM HIS PERSON.

Q SO HE HAD THIS ON HIM?

A ON HIM, YES, SIR.

Q IN HIS POCKET?

A HIS REAR POCKET, YES, SIR.

Q WHEN YOU GOT TO THE SCENE, DO YOU KNOW HOW LONG HE HAD BEEN OUT OF THE CAR BEFORE YOU GOT THERE?

A I WOULD SAY SECONDS BECAUSE THEY JUST FINISHED HANDCUFFING HIM WHEN I ARRIVED.

Q AND HE WAS UNCONSCIOUS AT THE TIME; IS THAT RIGHT?

A YES, SIR.

Q HANDS WERE HANDCUFFED BEHIND HIS BACK?

A YES, SIR.

Q AT ANY TIME IN YOUR PRESENCE WERE HIS HANDS UNHANDCUFFED?

A NO, SIR.

Q THEY WERE BEHIND HIS BACK LOCKED AT ALL TIMES WHEN HE WAS IN YOUR PRESENCE?

A IN MY PRESENCE, YES, SIR.

Q IN YOUR PRESENCE HE WAS ALSO UNCONSCIOUS; IS THAT CORRECT?

A YES, SIR.

Q NOTHING ELSE. THANK YOU.

SOLICITOR BAILEY: NO REDIRECT, YOUR HONOR. MAY HE BE EXCUSED?

THE COURT: YES, SIR. YOU MAY BE EXCUSED. DO YOU HAVE ANY OTHER SHORT WITNESS YOU WOULD LIKE TO TAKE?

SOLICITOR BAILEY: I HAVE GOT AS MANY AS YOU WANT TO HEAR, JUDGE.

THE COURT: LET'S TAKE ONE MORE AND THEN WE WILL QUIT FOR THE DAY.

SOLICITOR BAILEY: JIM WOODS.

JAMES A. WOODS, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: HAVE A SEAT AND GIVE US YOUR FULL NAME AND SPELL YOUR LAST, PLEASE.

THE WITNESS: JAMES A. WOODS, W-O-O-D-S.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. WOODS, WHERE DO YOU LIVE?

A IN SUMMERVILLE.

Q AND YOU ARE EMPLOYED BY THE HIGHWAY PATROL?

A YES, SIR, THAT'S CORRECT.

Q HOW LONG HAVE YOU BEEN A TROOPER?

A SIXTEEN YEARS.

Q AND YOU ARE A CORPORAL AT THIS TIME?

A YES, SIR.

Q WERE YOU ASSIGNED TO WORK IN THE DORCHESTER COUNTY AREA IN DECEMBER OF LAST YEAR?

A YES, SIR, I WAS.

Q I CALL YOUR ATTENTION TO NEW YEAR'S EVE. WERE YOU WORKING THAT NIGHT?

A YES, SIR, I WAS.

Q DID YOU HEAR A MESSAGE OVER YOUR HIGHWAY PATROL RADIO ABOUT AN INCIDENT THAT HAPPENED ON THE 97 MILE MARKER ON I-95 NEAR SANTEE?

A YES, SIR, I DID.

Q WHAT INFORMATION DID YOU GET OVER THE RADIO?
A WE RECEIVED INFORMING THAT A TROOPER WAS DOWN ON I-95 AND THAT A WHITE VEHICLE HAD LEFT THE SCENE THAT WAS SOME TYPE CONNECTION WITH THIS INCIDENT AND HAD LEFT AT A HIGH RATE OF SPEED AND WAS BEING PURSUED FROM THE SCENE.
Q DID YOU HEAR WHAT KIND OF WHITE VEHICLE IT WAS, WHAT MAKE IT WAS?
A YES, SIR, A WHITE FORD MUSTANG WITH A DELAWARE LICENSE TAG ON IT.
Q WHERE WERE YOU WHEN YOU HEARD THAT MESSAGE?
A I WAS ON DORCHESTER ROAD IN THE OAK BROOK AREA OF DORCHESTER COUNTY AT THE HUDDLE HOUSE RESTAURANT.
Q WHERE DID YOU GO?
A I PROCEEDED THROUGH SUMMERVILLE TO I-26 AND STARTED WEST BOUND ON I-26.
Q WHERE DID YOU END UP?
A I WENT TO I-26. I WAS MONITORING THE CHASE, AT WHICH TIME THE CHASE WENT PAST ME ON HIGHWAY 176. I TURNED AROUND AND PROCEEDED EASTBOUND, AND I ENDED UP AFTER THE CHASE WAS OVER IN A SHOPPING CENTER IN SUMMERVILLE.
Q WHERE IS I-26 IN RELATION TO HIGHWAY 78? LET ME PUT A MAP UP HERE.
A (WITNESS LEAVES THE WITNESS STAND.) I-26

INTERSECTS WITH HIGHWAY 78. THIS IS I-26 HERE (INDICATING.) HIGHWAY 78 INTERSECTS IT DOWN HERE (INDICATING) IN WHAT WE CALL THE LADSON AREA.

Q IS THAT WHERE YOU WENT?

A YES, SIR. I PROCEEDED TO THE HIGHWAY 78 EXIT OFF OF I-26. AT THAT TIME IT WAS -- RIGHT IN THIS AREA (INDICATING) -- AT THAT TIME I OVERHEARD ON MY RADIO THAT THE PURSUIT WAS WESTBOUND ON 78, WHICH WOULD PUT IT TRAVELING INTO THE DIRECTION BACK TOWARDS SUMMERVILLE.

Q USING THIS YELLOW MARKER, DRAW THE ROUTE THE MUSTANG WOULD HAVE TAKEN TO GO WESTBOUND INTO SUMMERVILLE.

A WHAT I DID IS WHEN I GOT ON I-26, I STARTED WESTBOUND, WAS LISTENING TO THE CHASE, CAME BACK EASTBOUND. THE CHASE AT THAT TIME WAS COMING INTO GOOSE CREEK, AT WHICH TIME I HEARD THAT THE CHASE WAS COMING BACK UP HIGHWAY 78. I GOT OFF OF I-26 AT THE HIGHWAY 78 INTERCHANGE AND SAT STATIONARY RIGHT IN THIS AREA HERE (INDICATING) OBSERVING TRAFFIC ON HIGHWAY 78.

Q WHAT DID YOU OBSERVE AS YOU SAT THERE?

A I HAD BEEN THERE NO MORE THAN 30 SECONDS WHEN THE FIRST VEHICLE THAT CROSSED -- THERE IS A BRIDGE THAT CROSSES I-26 HERE (INDICATING.) IT'S HIGHWAY

78. IT GOES OVER I-26. I HAD BEEN THERE 20 TO 30 SECONDS WHEN I OBSERVED A WHITE MUSTANG MATCHING THAT DESCRIPTION CROSS THE BRIDGE ON HIGHWAY 78 PROCEEDING WESTBOUND TOWARD SUMMERVILLE.

Q GO AHEAD AND COLOR THAT IN WITH THAT MAGIC MARKER THERE IF YOU WOULD WHERE YOU WERE AND OBSERVED THE MUSTANG INTO THE K-MART PARKING LOT.

A I STOPPED HERE (INDICATING.) I PURSUED THE MUSTANG ALL THE WAY UP HIGHWAY 78 INTO SUMMERVILLE. SUMMERVILLE WOULD BE THE INDICATION HERE (INDICATING.) THIS SHOPPING CENTER IS RIGHT AS YOU GET INTO SUMMERVILLE, RIGHT INSIDE THE CITY LIMITS OF SUMMERVILLE.

Q YOU CAN GO AHEAD AND HAVE A SEAT, MR. WOODS.

A (WITNESS RESUMES THE WITNESS STAND.)

Q WHEN THE MUSTANG PASSED YOU, DO YOU RECALL ANYTHING ABOUT THE APPROXIMATE SPEED IT WAS MAKING AND WHETHER THE LIGHTS WERE ON OR OFF?

A THE LIGHTS WERE EXTREMELY DIM. THE VEHICLE APPEARED TO ME TO BE TRAVELING 50 MILES AN HOUR, 50 TO 55 MILES AN HOUR.

Q THERE ARE SOME PHOTOGRAPHS OF A MUSTANG THAT ARE ALREADY IN EVIDENCE. THIS IS STATE'S 8. DOES THAT APPEAR TO BE THE MUSTANG?

A YES, SIR, IT DOES.

Q DID YOU GO TO THE K-MART PARKING LOT WHERE 78 GOES INTO SUMMERVILLE?

A YES, SIR, I DID.

Q IS THAT WHERE THE PURSUIT ENDED?

A YES, SIR, IT DID.

Q AND WHAT, IF ANYTHING, DID YOU DO WHEN YOU GOT TO THE K-MART PARKING LOT?

A AT THE TIME, AS I STATED EARLIER, I BEGAN PURSUING THE VEHICLE. PRIOR TO MY ARRIVAL INTO SUMMERVILLE, I HAD RADIO COMMUNICATIONS WITH SUMMERVILLE POLICE DEPARTMENT.

I ADVISED THEM THAT I WAS ACTIVELY INVOLVED IN A PURSUIT WITH THIS VEHICLE. THE ROADWAY WAS BLOCKED. THE VEHICLE TURNED INTO WHAT IS CALLED HERITAGE SQUARE SHOPPING CENTER, THE OLD K-MART SHOPPING CENTER. I PURSUED THE VEHICLE INTO THAT PARKING LOT.

Q WHEN THE VEHICLE GOT INTO THE PARKING LOT, WHAT WAS THE DRIVER DOING?

A HE WENT ACROSS THE PARKING LOT TOWARDS WHAT IS CALLED BERLIN G. MYERS EXPRESSWAY. THERE IS AN EXIT ON THE OTHER END OF THE PARKING LOT THAT EMPTIES ONTO THAT ROADWAY. HE WAS TRAVELING AT THAT TIME AT A HIGH RATE OF SPEED.

Q IN THE PARKING LOT?

A YES, SIR.

Q COULD YOU TELL ANYTHING ABOUT WHAT HE WAS TRYING TO DO, WHAT IT APPEARED TO YOU THE MUSTANG WAS --

MR. STONE: I OBJECT, YOUR HONOR. HE CAN TESTIFY TO WHAT HE SAW, NOT TO WHAT SUPPOSEDLY SOMEONE WAS TRYING TO DO.

Q WHAT DID YOU SEE THE MUSTANG DOING?

A AS I SAID, IT WAS TRAVELING AT A HIGH RATE OF SPEED. IT APPEARED TO ME THAT IT WAS GOING TO CROSS THE PARKING LOT AND TRY TO EXIT OUT OF THAT EXIT ON THE OTHER END.

Q WHAT, IF ANYTHING, DID YOU DO TO AVOID THAT MUSTANG FROM GETTING OUT OF THE PARKING LOT?

A THERE WAS A SUMMERVILLE POLICE CAR THAT HAD THAT EXIT WAY BLOCKED, AT WHICH TIME THE VEHICLE TURNED AROUND IN THE PARKING LOT AND STARTED COMING BACK TOWARDS MY VEHICLE.

Q WHAT DID YOU DO?

A AT THAT TIME THE VEHICLE WAS COMING -- WAS RUNNING ALONG THE STORE FRONTS, AGAIN AT A HIGH RATE OF SPEED. AT THAT TIME I WAS CROSSING THE PARKING LOT AND I ATTEMPTED TO STRIKE THE VEHICLE AND MISSED IT. THEN I TURNED MY VEHICLE BACK AROUND AND GOT IN BEHIND THE VEHICLE.

Q DID YOU PUT OUT ANY WORD ON YOUR RADIO TO THE

OTHER TROOPERS THERE THAT WERE UNDERNEATH YOU?

A YES, SIR, I DID.

Q WHAT WORD DID YOU PUT OUT?

A I INFORMED THE PURSUING TROOPERS THAT I HAD MISSED THE VEHICLE AND FOR SOMEONE TO RAM THE VEHICLE TO STOP IT.

Q WHY WAS THAT ORDER PUT OUT?

A DUE TO THE FACT THAT WE WERE CHASING AN INDIVIDUAL THAT I DID NOT KNOW AT THE TIME WAS ACTIVELY INVOLVED IN A MURDER, BUT I KNEW A CRIME HAD BEEN COMMITTED.

ALSO HE WAS COMING -- WE HAD PURSUED HIM FOR NUMEROUS MILES. THERE WAS A GREAT CHANCE OF AN ACCIDENT OR SOMEONE LOSING THEIR LIFE, DANGER. I FELT THE CAR NEEDED TO BE STOPPED.

I ALSO FELT WE WERE RIGHT THERE, AS I STATED EARLIER, COMING INTO SUMMERVILLE, WHICH IS A HIGHLY POPULATED AREA. WE WERE COMING INTO A BUSINESS DISTRICT THAT HAD SEVERAL 24-HOUR RESTAURANTS OPEN THAT NIGHT.

THERE WAS TRAFFIC ON THAT ROAD. I FELT THAT HAD WE COME INTO SUMMERVILLE AT THE SPEEDS WE HAD ALREADY BEEN TRAVELING, WE WERE GOING TO HAVE SOME TYPE OF DEVASTATION, A LOSS OR TERRIBLE TRAFFIC ACCIDENT.

Q THIS WOULD HAVE BEEN -- AT THIS TIME WOULD HAVE

BEEN MIDNIGHT OR SHORTLY AFTER MIDNIGHT?

A YES, SIR, THAT'S CORRECT.

Q NEW YEAR'S EVE?

A YES, SIR.

Q WHAT, IF ANYTHING, DID YOU OBSERVE AFTER YOU PUT OUT THE WORD TO STOP THIS MUSTANG?

A AS I STATED EARLIER, I ATTEMPTED TO STRIKE THE VEHICLE MYSELF. I MISSED IT. I BACKED UP AND PULLED BACK IN BEHIND THE VEHICLE, AT WHICH TIME I SAW IT COME IN CONTACT WITH LANCE CORPORAL R. F. CECIL'S PATROL VEHICLE.

Q AND TROOPER CECIL IS A HIGHWAY PATROLMAN ASSIGNED TO THE SUMMERVILLE AREA?

A THAT'S CORRECT.

Q AND AFTER YOU OBSERVED TROOPER CECIL RAM THIS CAR, DID THE MUSTANG FINALLY STOP?

A YES, SIR.

Q DID YOU APPROACH THE MUSTANG AT THAT TIME?

A YES, SIR, I DID.

Q WHO WAS THE FIRST LAW ENFORCEMENT OFFICER TO APPROACH THE MUSTANG?

A I BELIEVE I WAS, SIR.

Q WHAT DID YOU DO WHEN YOU APPROACHED THE MUSTANG?

A AT WHICH TIME AS A RESULT OF THAT CONTACT, THE VEHICLE HAD SPUN AROUND AND PUT IT DIRECTLY -- THE

PASSENGER DOOR DIRECTLY IN FRONT OF MY VEHICLE. I EXITED MY VEHICLE, APPROACHED THE WHITE MUSTANG, OPENED THE PASSENGER DOOR AND REACHED IN AND PULLED THE DRIVER OUT OF THE VEHICLE.

Q WHERE WAS THE DRIVER IN THE VEHICLE WHEN YOU PULLED HIM OUT?

A HE WAS SLUMPED OVER BEHIND THE WHEEL OF THE CAR. HE WAS IN THE DRIVER'S SEAT.

Q WHY DIDN'T YOU PULL HIM OUT OF THE DRIVER'S SIDE?

A THE PASSENGER DOOR WAS CLOSEST TO ME AND TO BE QUITE HONEST WITH YOU, I DON'T THINK THAT DOOR WOULD OPEN. AS A RESULT OF THE DAMAGE FROM THE ACCIDENT THAT HAD JUST OCCURRED, THE DOOR WAS JAMMED.

Q IN WHAT CONDITION DID THIS PERSON APPEAR TO BE WHEN YOU PULLED HIM OUT OF THE CAR?

A HE HAD SUFFERED A HEAD INJURY AND HE WAS UNCONSCIOUS.

Q CAN YOU IDENTIFY THE PERSON YOU PULLED OUT OF THE WHITE MUSTANG?

A YES, I CAN.

Q CAN YOU PICK HIM OUT IN THE COURTROOM?

A HE'S THE GENTLEMAN SITTING NEXT TO MR. SIMS IN THE WHITE SHIRT WITH THE BLUE TIE (INDICATING.)

Q WAS ANYBODY ELSE IN THE MUSTANG?

A NO, SIR, THERE WAS NO ONE.

Q DID YOU MAKE ANY OBSERVATIONS WITH RESPECT TO THE INSIDE OF THE CAR?

A YES, SIR, I DID.

Q WHAT DID YOU SEE?

A I SAW A HANDGUN LAYING IN THE FLOORBOARD AT THE FEET OF THE INDIVIDUAL IN THE CAR.

Q THERE IS A PICTURE ON THE SCREEN NOW. CAN YOU TAKE A LOOK AT THAT. I DON'T KNOW IF YOU CAN SEE IT.

A YES, SIR, I CAN SEE IT.

Q DOES THAT APPEAR TO BE WHAT YOU OBSERVED?

A YES, SIR, THAT IS.

Q WHAT DID YOU DO AFTER THAT?

A AFTER WE PULLED THE INDIVIDUAL OUT OF THE VEHICLE, PLACED HIM ON THE GROUND, HANDCUFFED HIM, I RADIOED AND ASKED THAT THE MEDICAL PERSONNEL BE SUMMONED TO THE SCENE. I ALSO NOTIFIED MY DISPATCHER THAT THE CHASE HAD HALTED, WE MADE AN ARREST AND I SECURED -- AT THAT TIME IT WAS A CRIME SCENE. I SECURED THE SCENE.

Q WAS HE CUFFED BEHIND HIS BACK OR IN FRONT?

A BEHIND HIS BACK, SIR.

Q PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

A YES, SIR.

CROSS EXAMINATION

BY MR. STONE:

Q WHERE WAS THE BLOOD?

A ON HIS HEAD. IT WAS OVER THE EYE AREA OF HIS HEAD.

Q ANYWHERE ELSE ON HIS BODY?

A NO, SIR, NOT THAT I SAW.

Q DID YOU SEE ANY BLOOD ON HIS HANDS?

A NO, SIR, I DID NOT.

Q DID YOU HANDCUFF HIM?

A NO, SIR.

Q HE WAS HANDCUFFED HOWEVER BEHIND HIS BACK; IS THAT RIGHT?

A THAT'S CORRECT.

Q HE WAS UNCONSCIOUS WHEN YOU GOT TO THE CAR?

A YES, SIR.

Q YOU WERE THE FIRST OFFICER TO THE CAR AND NOBODY ELSE WAS THERE BEFORE YOU; IS THAT RIGHT?

A I BELIEVE SO. THERE WERE SEVERAL OFFICERS THERE BUT I WAS THE ONE THAT PHYSICALLY REMOVED HIM FROM THE VEHICLE.

Q DID ANYBODY WIPE HIS HANDS IN YOUR PRESENCE?

A NO, SIR, NOT IN MY PRESENCE.

Q WHEN HE WAS HANDCUFFED BEHIND HIS BACK, HE WAS PLACED ON HIS STOMACH, IS THAT RIGHT, ON THE GROUND?

A THAT IS CORRECT.

Q DURING THIS CHASE THROUGH THE PARKING LOT, DID HE EVER ATTEMPT TO RAM YOU OR RAM ANY OF THE OTHER PATROL CARS?

A NO, SIR, I DON'T BELIEVE SO.

MR. STONE: NOTHING ELSE, YOUR HONOR.

SOLICITOR BAILEY: NO REDIRECT. MAY HE BE EXCUSED?

THE COURT: YES, SIR. GENTLEMEN, THE JURY HAS BEEN HERE VERY PATIENTLY SINCE 9:30 THIS MORNING. I THINK IT IS APPROPRIATE THAT WE RECESS FOR THE EVENING.

LADIES AND GENTLEMEN OF THE JURY, LIEUTENANT EDWARDS HERE AND S.L.E.D. AND THE OTHER BAILIFFS WILL TAKE CARE OF YOUR NEEDS TONIGHT. IF ANYTHING ARISES, IF YOU HAVE ANY QUESTIONS, YOU LET LIEUTENANT EDWARDS OR ONE OF THE BAILIFFS KNOW; AND THEY WILL CONVEY THAT TO ME.

WE HAVE MADE ARRANGEMENTS FOR A GOOD DINNER TONIGHT. WE THINK WE HAVE APPROPRIATE ACCOMMODATIONS FOR YOU. SO I WILL TURN YOU OVER AT THIS TIME TO LIEUTENANT EDWARDS. LIEUTENANT EDWARDS, WAIT JUST A FEW MINUTES UNTIL THE COURT PEOPLE HAVE LEFT.

MR. STONE: MAY WE APPROACH REAL BRIEFLY, YOUR HONOR?

THE COURT: YES, SIR.

(THE FOLLOWING BENCH CONFERENCE WAS REPORTED.)

MR. STONE: WOULD YOU SPEAK TO THE JURY CONCERNING READING AND WATCHING AND TALKING ABOUT THE CASE.

THE COURT: YES, SIR.

(THE BENCH CONFERENCE WAS CONCLUDED.)

THE COURT: ONE MOMENT BEFORE YOU LEAVE. PLEASE NOW DON'T DISCUSS THIS CASE WITH ANYONE: PERMIT NO ONE TO DISCUSS IT WITH YOU. UNDER NO CIRCUMSTANCES EVEN DISCUSS AMONG YOURSELVES. DO NOT READ ANY NEWSPAPERS CONCERNING THE MATTER. DO NOT LISTEN TO ANY RADIO OR T.V.

IT'S FOR THE REASON THAT WE STATED BEFORE. WHATEVER YOUR VERDICT IS, IT MUST BE BASED ON THE LAW AND EVIDENCE HEARD IN THIS COURTROOM AND FROM NO OTHER SOURCE. I WILL SEE YOU IN THE MORNING. HAVE A GOOD EVENING. WE WILL BE BACK AT 9:30.

(THE JURY IS EXCUSED FOR THE DAY AT 5:33 P.M.)

THE COURT: YES, SIR.

SOLICITOR BAILEY: I AM JUST STANDING UP BECAUSE HE WAS UP.

MR. STONE: I THINK WE COVERED, YOUR HONOR,

EVERYTHING. I CAN'T REMEMBER. THERE WAS SOMETHING THAT WE DISCUSSED AT THE BENCH BUT WE WILL COVER THAT LATER. IF WE HAVE ANY OTHER IN-COURT IDENTIFICATIONS -- WELL, AT THIS POINT I AM ASSUMING WE HAVE WAIVED ALL OF THAT ANYWAY.

SOLICITOR BAILEY: I DIDN'T THINK IT WAS ANY BIG SECRET.

MR. STONE: I DON'T BELIEVE IT IS, AS LONG AS WE ARE STAYING TO THINGS THAT HAPPENED AT THE WRECK ITSELF.

SOLICITOR BAILEY: THE ONLY OTHER ONE WOULD BE IN THE PENALTY PHASE. I THINK THAT WE HAD TALKED BEFORE ABOUT NEEDING AN I.D. HEARING IN THE PENALTY PHASE.

MR. STONE: CERTAINLY IF WE GET TO THAT POSITION.

THE COURT: ANYTHING FURTHER, SOLICITOR?

SOLICITOR BAILEY: NOT AT THIS TIME, YOUR HONOR.

THE COURT: ANYTHING FURTHER AT THIS TIME?

MR. STONE: NO, SIR.

THE COURT: WE ARE IN RECESS UNTIL 9:30 IN THE MORNING.

(WHEREUPON THE PROCEEDINGS WERE CONCLUDED FOR AUGUST 27, 1998, AT 5:35 P.M.)

(THE FOLLOWING PROCEEDINGS WERE REPORTED ON AUGUST 28, 1998.)

THE COURT: LET THE RECORD REFLECT THAT ALL ARE PRESENT AND THAT THE DEFENDANT IS IN THE COURTROOM. IS THE STATE READY TO PROCEED, SIR?

SOLICITOR BAILEY: THE STATE IS READY, YOUR HONOR.

THE COURT: DEFENDANT?

MR. STONE: THE DEFENDANT IS READY, YOUR HONOR. WE WOULD ASK YOU IF YOU WOULD WHEN THE JURY COMES IN IF YOU WOULD CHECK WITH THEM AND MAKE SURE THEY DID NOT READ OR WATCH ANY OF THE NEWS COVERAGE, AS WELL AS AT THIS POINT HAVE NOT DISCUSSED IT WITH THEMSELVES OR ANYONE ELSE.

THE COURT: ALL RIGHT, SIR. BRING THE JURY.

(THE JURY RETURNS TO THE COURTROOM AT 9:40 A.M.)

THE COURT: THE RECORD WILL REFLECT THAT THE JURY AND THE TWO ALTERNATES ARE PRESENT. GOOD MORNING, MR. FOREMAN, AND LADIES AND GENTLEMEN. I TRUST THAT THE ARRANGEMENTS MADE BY LIEUTENANT EDWARDS AND HIS STAFF WERE SATISFACTORY TO ALL OF YOU.

YOU NEED TO UNDERSTAND THAT WE CONTINUE TO

APPRECIATE YOUR PRESENCE HERE AS JURORS. YOU ARE GUESTS OF THIS COURT AND OF ORANGEBURG COUNTY AND WE DEEPLY APPRECIATE YOUR PARTICIPATION IN THIS CASE.

I HAD EARLIER SAID AND I CONTINUE TO ADMONISH YOU THAT YOU MUST NOT DISCUSS THIS CASE WITH ANYONE. PERMIT NO ONE TO DISCUSS IT WITH YOU. YOU MUST NOT EVEN DISCUSS IT AMONG YOURSELVES UNTIL I HAVE GIVEN IT TO YOU FOR YOUR DELIBERATIONS.

AT THIS TIME I INQUIRE UPON YOUR OATH: HAS ANYBODY DISCUSSED THIS CASE WITH YOU? HAVE YOU DISCUSSED IT WITH ANYBODY? IF SO, WOULD YOU PLEASE STAND.

(THERE WAS NO RESPONSE.)

THE COURT: HAVE ANY OF YOU READ OR HEARD ANYTHING THAT WOULD TEND TO INFLUENCE YOU IN THIS CASE SINCE LAST EVENING?

(THERE WAS NO RESPONSE.)

THE COURT: LET ME SAY THIS TO YOU. IF ANY OF THOSE EVENTS SHOULD OCCUR, AND IT'S NOT LIKELY, PLEASE CALL THAT TO MY ATTENTION AT THE FIRST APPROPRIATE POINT. THANK YOU SO MUCH. YOU MAY NOW CALL YOUR NEXT WITNESS.

SOLICITOR BAILEY: THANK YOU, YOUR HONOR. THE STATE CALLS ROBERT CECIL.

ROBERT STEVEN CECIL, BEING

FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: STATE YOUR NAME FOR THE RECORD AND SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

THE WITNESS: ROBERT STEVEN CECIL, C-E-C-I-L.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. CECIL, YOU ARE A TROOPER WITH THE SOUTH CAROLINA HIGHWAY PATROL; IS THAT CORRECT?

A YES, SIR.

Q WHAT IS YOUR RANK AT THIS TIME?

A LANCE CORPORAL.

Q WHERE ARE YOU STATIONED?

A DORCHESTER COUNTY.

Q HOW LONG HAVE YOU BEEN IN DORCHESTER COUNTY?

A APPROXIMATELY FIVE YEARS.

Q WERE YOU WORKING AS A UNIFORM TROOPER WITH THE HIGHWAY PATROL BACK IN DECEMBER OF 1997?

A YES, I WAS.

Q WERE YOU ASSIGNED TO DORCHESTER COUNTY AT THAT TIME?

A YES, SIR.

Q I WANT TO CALL YOUR ATTENTION TO NEW YEAR'S EVE, DECEMBER 31, 1997. WERE YOU WORKING THAT NIGHT?

A YES, I WAS.

Q SHORTLY BEFORE MIDNIGHT DID YOU GET SOME INFORMATION OVER YOUR POLICE RADIO ABOUT A SHOOTING OR AN OFFICER DOWN ON HIGHWAY 95 IN ORANGEBURG COUNTY?

A YES, SIR.

Q WHAT DID YOU HEAR? WHAT INFORMATION DID YOU GET OVER THE RADIO?

A THE INITIAL REPORT WAS THAT WE HAD AN OFFICER DOWN ON I-95, AND I BELIEVE AT THAT TIME A MUSTANG WAS BEING PURSUED. WE WEREN'T SURE EXACTLY OF THE LOCATION. SO I GOT IN MY PATROL CAR AND STARTED GOING IN THAT DIRECTION. I WAS IN SUMMERVILLE AT THE TIME.

Q YOU WERE IN SUMMERVILLE WHEN YOU HEARD THE MESSAGE COME ACROSS?

A YES, SIR.

Q WHERE DID YOU GO ULTIMATELY WHEN YOU FOUND OUT? WERE YOU MONITORING THE CHASE OVER YOUR RADIO?

A YES, SIR.

Q WHERE DID YOU END UP GOING?

A MY FINAL DESTINATION ENDED UP BEING AT THE INTERSECTION OF BERLIN G. MYERS PARKWAY AND U.S. HIGHWAY 78.

Q WHERE IS THAT IN RELATION TO THE OLD K-MART PARKING LOT?

A IT'S RIGHT THERE AT THE CORNER RIGHT ACROSS FROM THE INTERSECTION.

Q DID YOU PARK YOUR HIGHWAY PATROL CRUISER AT THAT LOCATION?

A YES, I DID.

Q WHY WERE YOU DOING THAT? WHY WERE YOU PARKED AT THAT PARTICULAR SPOT?

A WHEN I ARRIVED AT THAT LOCATION, THERE WERE SEVERAL SUMMERVILLE POLICE UNITS, POLICE DEPARTMENT UNITS, FROM THE CITY IN THAT INTERSECTION. I WAS UNSURE THAT THEY KNEW EXACTLY WHAT WE HAD THAT I WAS MONITORING OVER THE RADIO.

I GOT OUT OF MY PATROL CAR AND HOLLERED AT THEM THAT WE HAD A WHITE MUSTANG COMING WESTBOUND ON HIGHWAY 78 TOWARD US AND THAT GENERALLY DID NOT HAVE HIS HEADLIGHTS ON AND WAS AT A HIGH RATE OF SPEED.

Q DID THEY BLOCK 78 OFF?

A THEY HAD SEVERAL VEHICLES, CRUISERS, WITH THEIR BLUE LIGHTS ON IN THE INTERSECTION.

Q AND AFTER MIDNIGHT, WHICH WOULD HAVE BEEN NOW JANUARY 1ST ABOUT 12:20 A.M., IN THAT VICINITY, WHAT OCCURRED?

A I OBSERVED -- I WAS STANDING OUTSIDE MY PATROL CAR. I OBSERVED BLUE LIGHTS COMING WESTBOUND. I NEVER SAW THE MUSTANG UNTIL IT TURNED INTO THE

PARKING LOT. IT HAD NO HEADLIGHTS ON. ALL I SAW INITIALLY WAS I GUESS IT WOULD HAVE BEEN THE LEAD CHASE VEHICLE.

Q OKAY.

A THEN THE MUSTANG PULLED INTO THE PARKING LOT.

Q WOULD THAT HAVE BEEN A LEFT OR RIGHT TURN OFF OF 78?

A HE MADE A LEFT TURN OFF OF 78, YES, SIR.

Q CAN YOU DESCRIBE FOR THE JURY JUST GENERALLY THE PARKING LOT, ROUGHLY HOW BIG IT WAS.

A A HUNDRED AND FIFTY YARDS BY 150 YARDS SQUARE, MAYBE 200 YARDS SQUARE.

Q THIS IS A PAVED PARKING LOT?

A YES, SIR.

Q WHAT DID YOU DO WHEN YOU OBSERVED THE MUSTANG PULL INTO THE PARKING LOT WITH NO LIGHTS ON?

A I GOT BACK IN MY PATROL CAR AND WENT THROUGH THE INTERSECTION ON BERLIN G. MYERS TO ANOTHER ENTRANCE/EXIT POINT THAT CAME OUT OF BERLIN G. MYERS, AND I ENTERED THE PARKING LOT AT THAT ENTRANCE.

Q AND WHAT OBSERVATIONS DID YOU MAKE OF THE MUSTANG ONCE IT GOT IN THE PARKING LOT AND YOU GOT INTO THE PARKING LOT? WHAT WAS THE MUSTANG DOING?

A IT HAD COME AT AN ANGLE ACROSS THE PARKING LOT TOWARD -- I GUESS TOWARD THAT GENERAL AREA. AS I WAS

ENTERING THE PARKING LOT, THE MUSTANG MADE A U-TURN AND STARTED GOING BACK AWAY FROM ME.

AS I ENTERED I NOTICED -- AND HE STARTED GOING AWAY FROM ME. I NOTICED ANOTHER PATROL VEHICLE COME FROM MY LEFT AND JUST MISS THE BACK END OF THE MUSTANG. IT WAS AN ATTEMPT TO HIT THE CAR.

THEN AT THIS POINT THE PARKING LOT IN THE SHOPPING CENTER IS AN L-SHAPE, AND THERE IS ONLY ONE PLACE TO GO, OVER TO THE LEFT. SO I TOOK AN ANGLE TO THE LEFT. I SAW THE MUSTANG GOING TO THE LEFT. I TOOK AN ANGLE TO TRY TO HEAD OFF THE MUSTANG.

Q WHAT DID YOU DO AT THAT POINT?

A THEN IT APPEARED TO SLOW AND I HEARD SOME TRANSMISSION OVER THE RADIO, "I MISSED HIM. I MISSED HIM." WHEN THE MUSTANG SLOWED DOWN, I JUST PUT IT ON THE FLOOR AND RAMMED HIM.

Q AND WHEN YOU RAMMED THE MUSTANG, WHAT HAPPENED TO IT?

A I BELIEVE IT SPUN IT AROUND ABOUT 180 DEGREES WHERE IT WAS FACING THE OPPOSITE DIRECTION THAT IT WAS GOING INITIALLY. I HIT THE LEFT FRONT FENDER OF THE MUSTANG AND THE FRONT AXLE, AND MY CRUISER CONTINUED ON FOR ANOTHER 100 FEET OR SO.

Q DID THE MUSTANG STOP AFTER YOU HIT IT?

A YES, SIR. IT WAS RENDERED UNDRIVEABLE.

Q WHAT DID YOU DO ONCE THE MUSTANG STOPPED?
A I EXITED MY PATROL VEHICLE, DREW MY HANDGUN, RAN TO THE DRIVER DOOR WITH MY HANDGUN DRAWN ON THE DRIVER. WHEN I GOT UP TO THE DOOR, I NOTICED THAT THE DRIVER WAS SORT OF SLUMPED OVER WITH HIS HEAD HANGING IN THE DRIVER'S SEAT STILL AND APPEARED TO BE UNCONSCIOUS. I WASN'T SURE AT THAT INSTANT.
Q AND WERE THERE OTHER TROOPERS THAT ARRIVED AT ABOUT THE SAME TIME YOU DID?
A YES, SIR.
Q WHAT DID YOU OBSERVE NEXT?
A AT THAT POINT I DIDN'T EVEN REALIZE WHO IT WAS. IT WAS TROOPER BERES WHO WAS BESIDE ME ON THE DRIVER'S SIDE. THEN THERE WERE A COUPLE OTHER OFFICERS ON THE PASSENGER SIDE. THEY OPENED THE PASSENGER DOOR AND PULLED HIM OUT OF THE VEHICLE. I DON'T EVEN KNOW WHO WAS ACTUALLY OVER THERE ON THAT SIDE. I REALLY WASN'T LOOKING OVER THERE.
Q YOU TESTIFIED THAT WHEN YOU APPROACHED THE CAR WITH THE GUN OUT, THIS PERSON WAS SLUMPED OVER THE STEERING WHEEL?
A YES, SIR. HE WAS STILL IN THE DRIVER'S SEAT AND KIND OF HEAD HANGING AND SLUMPED OVER, YES, SIR.
Q WERE YOU INJURED?

A YES, SIR.
Q DID YOU HAVE A CHANCE TO OBSERVE THE PERSON IN THE MUSTANG?
A IT WAS A WHITE MALE. ONCE HE WAS TAKEN OUT OF THE VEHICLE, HE WAS PUT ON THE GROUND AND HANDCUFFED; AND I NEVER REALLY GOT A LOOK AT HIS FACE.
Q WHAT INJURIES DID YOU SUSTAIN WHEN YOU RAMMED THIS MUSTANG TO STOP HIM?
A I HAD A GASH ABOUT TWO INCHES LONG IN THE TOP OF MY HEAD, AND I TORE A TENDON IN MY KNUCKLE ON MY RIGHT HAND.
Q DID THAT REQUIRE MEDICAL TREATMENT?
A YES, SIR.
Q WAS YOUR CAR DAMAGED?
A YES, SIR, IT WAS TOTALED.
Q LET ME HAND YOU THREE PHOTOGRAPHS AND ASK IF YOU CAN IDENTIFY THESE.
A THAT WOULD BE MY POLICE CRUISER, NUMBER 31. WELL, ALL THREE OF THEM ARE PHOTOGRAPHS OF MY CRUISER WITH THE -- NUMBER 32 AND NUMBER 33 HAVE THE MUSTANG THAT I IMPACTED IN THE BACKGROUND.

SOLICITOR BAILEY: YOUR HONOR, I WOULD INTRODUCE STATE'S 31, 32 AND 33.

MR. STONE: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBERS 31 THROUGH 33, PHOTOGRAPHS OF THE HIGHWAY PATROL CAR, ARE RECEIVED INTO EVIDENCE.)

THE COURT: DO YOU CARE TO PUBLISH THEM?

SOLICITOR BAILEY: YES, SIR.

THE COURT: YOU MAY DO SO.

Q MR. CECIL, I WILL PUT THESE UP ON THE T.V. SCREEN AND I WILL GET YOU TO TELL THE JURY WHAT THEY SHOW. FIRST OF ALL, STATE'S 31, TELL THE JURY WHAT THAT SHOWS.

A THAT IS MY CRUISER FROM OBVIOUSLY THE PASSENGER SIDE SHOWING SEVERE DAMAGE TO VIRTUALLY THE WHOLE FRONT END OF THE VEHICLE. THE IMPACT WAS VIRTUALLY 90 DEGREES, A PERPENDICULAR IMPACT ON THE FRONT OF HIS.

Q STATE'S 32?

A AGAIN, MY PATROL VEHICLE FROM THE DRIVER'S SIDE. THERE IN THE BACKGROUND OFF BEHIND MY PATROL VEHICLE YOU CAN SEE THE WHITE MUSTANG WITH DAMAGE TO THE LEFT FRONT FENDER. I BELIEVE IT BROKE THE AXLE ON IMPACT.

Q AND 33?

A A FRONT SHOT, FRONTAL SHOT. THAT LOOKS LIKE IT'S PROBABLY -- IT MAY BE REVERSED BUT STRAIGHT ON. A LOT OF DAMAGE TO THE FRONT END OF THE VEHICLE.

Q AND THIS IS STATE'S 8 ALREADY IN EVIDENCE. DO

YOU RECOGNIZE THAT AS BEING THE MUSTANG YOU RAMMED?
A YES, SIR. THAT WOULD HAVE BEEN FROM THE PASSENGER SIDE VIEW OF THE MUSTANG. MOST OF THE DAMAGE WAS, OF COURSE, ON THE DRIVER'S SIDE WHERE I IMPACTED.
Q AND WAS THIS PERSON THAT YOU SAW SLUMPED OVER THE WHEEL, WAS THAT THE ONLY OCCUPANT IN THE MUSTANG WHEN YOU APPROACHED IT?
A YES, SIR. THERE WAS NO ONE ELSE IN IT BUT THE DRIVER.
Q MR. CECIL, I BELIEVE THAT'S ALL I HAVE. PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY FOR YOU, PLEASE.
A YES, SIR.

CROSS EXAMINATION

BY MR. STONE:

Q WHEN YOU STRUCK THE CAR, YOU HIT IT AT THE SIDE ANGLE, IS THAT RIGHT, THE SIDE ANGLE OF THE MUSTANG; IS THAT CORRECT?
A YES, SIR, ABOUT A 90-DEGREE.
Q HE NEVER TRIED TO STRIKE YOU, DID HE?
A NO, SIR. I DON'T EVEN KNOW IF HE KNEW I WAS THERE.
Q DID YOU SEE HIM AIM HIS CAR AT ANYBODY ELSE?
A NO, SIR.
Q WHEN YOU GOT HIM OUT OR WHEN YOU WERE -- YOU

WERE THE FIRST PERSON TO THE CAR?

A I REALLY COULDN'T TELL YOU.

Q YOU WERE ONE OF THE EARLY PEOPLE TO THE CAR, WEREN'T YOU?

A FIRST OR SECOND, MAYBE THIRD AT THE LATEST, YES, SIR.

Q WHEN YOU GOT THERE, NOBODY ELSE GOT THERE SUBSTANTIALLY BEFORE YOU TO CHANGE HIM IN ANY WAY; DID THEY?

A NO, SIR.

Q SO WHEN YOU GOT TO THE CAR, HE SAW HIM AND HE WAS UNCONSCIOUS AT THE TIME; IS THAT RIGHT?

A HE APPEARED TO BE UNCONSCIOUS.

Q AND AT THAT POINT IS WHEN HE WAS HANDCUFFED?

A HE WAS TAKEN OUT THE VEHICLE AND THEN HANDCUFFED.

Q HANDCUFFED BEHIND HIS BACK?

A I BELIEVE SO, YES, SIR.

Q DID HE EVER REGAIN CONSCIOUSNESS IN FRONT OF YOU?

A NO, SIR.

MR. STONE: I DON'T HAVE NOTHING ELSE.

SOLICITOR BAILEY: NO REDIRECT, YOUR HONOR. MAY HE BE EXCUSED?

THE COURT: YES, SIR. YOU MAY COME DOWN,

OFFICER, AND ARE EXCUSED.

SOLICITOR BAILEY: THE STATE CALLS CHARLES FREDERICK.

CHARLES THOMAS FREDERICK, III, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: STATE YOUR FULL NAME AND SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

THE WITNESS: CHARLES THOMAS FREDERICK, III, F-R-E-D-E-R-I-C-K.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. FREDERICK, YOU ARE A LANCE CORPORAL WITH THE HIGHWAY PATROL?

A YES, SIR.

Q WHAT COUNTY ARE YOU ASSIGNED TO?

A DORCHESTER COUNTY.

Q HOW LONG HAVE YOU BEEN ASSIGNED TO DORCHESTER COUNTY?

A SEVEN YEARS.

Q AND BACK IN NOVEMBER, DECEMBER, THAT TIME FRAME, YOU WERE WORKING AS A TROOPER IN DORCHESTER COUNTY?

A YES, SIR, I WAS.

Q AND CALLING YOUR ATTENTION TO DECEMBER 31ST, NEW YEAR'S EVE, WERE YOU ON DUTY THAT EVENING?

A YES, SIR, I WAS.

Q WITH IT BEING NEW YEAR'S EVE, WAS MOST EVERYBODY ON DUTY?
A YES, SIR.
Q THAT NIGHT WAS YOUR PATROL CAR EQUIPPED WITH A VIDEO CAMERA?
A YES, SIR, IT WAS.
Q DO ALL TROOPERS HAVE VIDEO CAMERAS IN THEIR VEHICLES?
A NO, SIR.
Q DO MOST OF THEM?
A PROBABLY 45 PERCENT.
Q BUT YOUR PARTICULAR VEHICLE DID; IS THAT CORRECT?
A YES, SIR.
Q HOW IS THAT CAMERA MOUNTED?
A IT'S MOUNTED TO THE UPPER PORTION OF THE FRONT WINDSHIELD.
Q AND DID YOU HEAR A MESSAGE OVER YOUR POLICE RADIO ABOUT AN OFFICER DOWN ON I-95 THAT EVENING?
A YES, SIR, I DID.
Q WHERE WERE YOU WHEN YOU HEARD THAT?
A I WAS IN MY PATROL CAR.
Q ROUGHLY WHERE WERE YOU IN YOUR PATROL CAR?
A I WAS IN THE TOWN OF SUMMERVILLE ON OLD ORANGEBURG ROAD.

Q WHAT DID YOU DO WHEN YOU HEARD THAT AN OFFICER WAS DOWN? DID YOU HAVE A DESCRIPTION OF THE VEHICLE THEY WERE PURSUING?

A NOT IMMEDIATELY.

Q DID YOU LATER ON LEARN WHAT KIND OF CAR THEY WERE AFTER?

A YES, SIR, I DID.

Q WHAT WAS THAT?

A IT WAS A FORD MUSTANG.

Q AFTER YOU HEARD THAT, THAT THERE WAS A PURSUIT IN PROCESS, DID YOU ENGAGE IN THE PURSUIT YOURSELF?

A YES, SIR, I DID.

Q WHERE DID YOU GO?

A I WENT TO ROAD 16, WHICH IS IN BERKELEY COUNTY, TO THE INTERSTATE; AND FROM THE INTERSTATE FROM ROAD 16 TO I-26 THROUGH BERKELEY COUNTY TO CHARLESTON COUNTY. I EXITED OFF I-26 AT HIGHWAY 78 WHICH WAS IN CHARLESTON COUNTY. THAT'S WHEN I PICKED UP THE CHASE, THE VEHICLE.

Q I HAVE GOT A MAP I WANT TO CALL TO YOUR ATTENTION. I WILL GIVE YOU A FEW MINUTES TO GET ORIENTED TO THE MAP WHILE I SET THE PODIUM UP.

(PAUSE.)

Q MR. FREDERICK, TELL THE JURY IF YOU WOULD PLEASE WHERE YOU WENT.

A CAN I STAND UP AND SHOW THEM?

Q YES, SIR.

A (WITNESS LEAVES THE WITNESS STAND.)

Q YOU CAN GO AHEAD AND USE THIS GREEN MARKER TO INDICATE ON THE MAP.

A HERE (INDICATING) IS ROAD 16, WHICH IS EXIT 194 TO I-26. I WAS AT ROAD 16 AT THE EXIT OR THE ENTRANCE TO DORCHESTER COUNTY AND BERKELEY COUNTY ON ROAD 16 WHEN THE VEHICLE MADE A TURN.

I HEARD BY RADIO COMMUNICATION THAT HE WAS HEADED DOWN 52. I PROCEEDED DOWN I-26 PAST EXIT 199 TO 203. I GOT OFF OF, I'D SAY, THE 205 EXIT, EXITED TO HIGHWAY 78; AND THAT'S WHERE I PICKED UP THE VEHICLE.

Q ALL RIGHT, SIR. AND DID YOU PURSUE THE VEHICLE FROM THAT POINT ON?

A YES, SIR.

Q INTO SUMMERVILLE?

A YES, SIR.

Q YOU CAN HAVE A SEAT.

A (WITNESS RESUMES THE WITNESS STAND.)

Q DURING THE CHASE WAS YOUR VIDEO CAMERA ON?

A YES, SIR.

Q HAVE YOU VIEWED THE VIDEOTAPE FROM THAT CHASE PREVIOUSLY AND DID YOU INITIAL THAT?

A YES, SIR, THOSE ARE MY INITIALS.
Q IS THAT AN ACCURATE TAPE OF THE CHASE AS WAS OBSERVED FROM YOUR CAR THROUGH THE VIDEO CAMERA?
A YES, SIR.
SOLICITOR BAILEY: YOUR HONOR, I WOULD OFFER THIS TAPE AT THIS TIME.
MR. STONE: NO OBJECTION.
THE COURT: WITHOUT OBJECTION.
(STATE'S EXHIBIT NUMBER 34, VIDEOTAPE, IS RECEIVED INTO EVIDENCE.)
Q MR. FREDERICK, WHAT I WANT TO GET YOU TO DO IF YOU WOULD IS AS THIS TAPE IS PLAYED --
A YES, SIR.
Q -- IF YOU WILL TELL THE JURY WHERE YOU ARE AND WHAT IS GOING ON AS WE GO THROUGH THE TAPE.
A YES, SIR.
(STATE'S EXHIBIT NUMBER 34, VIDEOTAPE, IS PLAYED FOR THE JURY.)
(DURING THE PLAYING OF THE VIDEOTAPE, THE FOLLOWING WAS NOTED.)
Q MR. FREDERICK, WHERE ARE YOU NOW?
A I AM TRYING TO PICK IT UP. I DON'T KNOW IF THIS IS THE BEGINNING OF THE CHASE OR AFTER -- OKAY. THIS IS IN DORCHESTER COUNTY, ROAD 58, WHICH IN BERKELEY COUNTY WOULD BE ROAD 16. I AM PROCEEDING TO GO TO

I-26 FROM HIGHWAY 58 TO ROAD 16.

THE CAMERA IS MOVING BECAUSE FOR SOME REASON THE PATROL COULD NOT GET IT TO STABILIZE IN THAT POSITION. THAT'S WHY YOU WILL SEE IT -- IT WILL SWAY SOMETIME AND I WILL STRAIGHTEN IT OUT, BUT I AM ON ROAD 16 AT THIS TIME PROCEEDING TO THE INTERSTATE.

AT THE SAME TIME I AM LISTENING TO THE COMMUNICATIONS OF WHERE THE VEHICLE IS TRAVELING TO TRY TO PINPOINT. WE ALREADY HAVE CONFIRMATION FROM THE SUPERVISOR TO SEAL OFF THE COUNTY. WHAT THE SUPERVISORS ARE DOING IS THEY ARE PLACING EACH TROOPER AT A SPECIFIC LOCATION IN THE COUNTY TO SEAL THE COUNTY.

Q ALL RIGHT, SIR.

(THE VIDEO WAS CONTINUED AND THE FOLLOWING WAS NOTED.)

A I AM AT THE TOP OF I-26 NOW WHERE I AM BEGINNING TO SET UP TO WAIT TO SEE WHERE THE VEHICLE IS GOING TO ATTEMPT TO ENTER INTO THE COUNTY. THAT'S THE OTHER TROOPERS GIVING ME A DESCRIPTION OF WHERE THE VEHICLE IS APPROACHING. NOW I AM GOING TO ENTER ONTO HIGHWAY 26, I-26.

(THE VIDEO WAS CONTINUED AND THE FOLLOWING WAS REPORTED.)

A THIS IS THE EXIT TO HIGHWAY 78 WHERE THEY HAVE

CONFIRMATION OF THE VEHICLE. THE VEHICLE IS NOW IN SIGHT.

Q WHERE ARE YOU NOW?

A I AM ON HIGHWAY 78 AND I WAS GOING TOO FAST TO MAKE THE TURN INTO THE PARKING LOT OF HERITAGE SQUARE WHERE THE VEHICLE HAD ATTEMPTED TO GO INTO THE PARKING LOT AND EXIT OUT OF THE OTHER ENTRANCE, BUT IT WAS BLOCKED OFF BY SUMMERVILLE POLICE. AT THIS TIME HE ALREADY HAD BEEN INVOLVED IN THE COLLISION WITH TROOPER CECIL.

(THE VIDEO WAS CONTINUED AND THE FOLLOWING WAS NOTED.)

Q WHAT IS HAPPENING THERE?

A AT THIS TIME OFFICERS ARE TRYING TO SECURE THE INDIVIDUAL DUE TO THE FACT THAT HE HAS A KNOWN WEAPON IN THE VEHICLE, AND THEY ARE REMOVING HIM FROM THE VEHICLE.

(THE VIDEO WAS CONTINUED AND THE FOLLOWING WAS NOTED.)

A AT THIS TIME THEY ARE TRYING TO ESTABLISH A CRIME SCENE TO ENSURE THAT NOTHING IS TOUCHED WITH THE VEHICLE OR ANYTHING INSIDE OF IT.

Q IS MR. ALEKSEY ON THE GROUND THERE BEHIND WHERE THOSE OFFICERS ARE?

A YES, SIR. HE IS ON THE GROUND AND HE IS

UNCONSCIOUS AND E.M.S. HAVE BEEN NOTIFIED TO GET HIM SOME MEDICAL ATTENTION. FT-7 IS THE SUPERVISOR. AT THIS TIME HE KNEW WE HAD A TROOPER DOWN BUT HE DID NOT KNOW THE CONDITION.

(THE VIDEO WAS CONTINUED AND THE FOLLOWING WAS NOTED.)

Q TO THE RIGHT OF THE SCENE THE VEHICLE THAT PULLED UP THERE, IS THAT THE AMBULANCE?

A YES, SIR.

(THE VIDEO WAS CONTINUED AND THE FOLLOWING WAS NOTED.)

Q YOU CAN'T SEE TOO MUCH BECAUSE THAT CAR IS BLOCKING THE VIEW, BUT IS E.M.S. WORKING ON MR. ALEKSEY AT THIS TIME?

A YES, SIR.

Q THE DIGITAL TIME UP TOP, IS THAT AN ACCURATE TIME?

A NO, SIR.

Q DO YOU HAVE TO RESET THAT?

A FOR SOME REASON THEY WERE UNABLE TO SET THE TIME ON THE CAMERA, SO IT WAS NEVER SET FROM THE TIME IT WAS ISSUED.

Q THANK YOU. I JUST WANTED TO CLEAR THAT UP.

(THE VIDEO WAS CONTINUED AND THE FOLLOWING WAS NOTED.)

A THIS GROUP OF GUYS RIGHT THERE ARE THE ORANGEBURG COUNTY UNITS. THEY ARE GIVING A DESCRIPTION OF WHAT THEY SAW ON 95.

Q MR. FREDERICK, AS FAR AS YOU KNOW, WERE YOU THE ONLY TROOPER THAT HAD A VIDEO CAMERA ON DURING THE CHASE?

A YES, SIR.

Q PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE FOR YOU.

MR. STONE: I DON'T HAVE ANY QUESTIONS.

THE COURT: YOU MAY COME DOWN, TROOPER. THANK YOU. YOU MAY BE EXCUSED.

SOLICITOR BAILEY: THE STATE WOULD CALL KATHERINE GALLUP.

KATHERINE CASE GALLUP, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: STATE YOUR NAME FOR THE RECORD AND SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

THE WITNESS: DETECTIVE KATHERINE CASE GALLUP, G-A-L-L-U-P.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MRS. GALLUP, YOU LIVE HERE IN ORANGEBURG?

A THAT'S CORRECT.

Q HOW ARE YOU EMPLOYED?

A I AM EMPLOYED WITH THE ORANGEBURG COUNTY SHERIFF'S OFFICE.

Q ARE YOU A DEPUTY?

A I'M A DETECTIVE.

Q HOW LONG HAVE YOU BEEN IN LAW ENFORCEMENT?

A ABOUT TWO AND A HALF YEARS.

Q AND HOW ARE YOU ASSIGNED NOW? WHAT UNIT ARE YOU ASSIGNED TO?

A I WORK FOR THE MULTI-JURISDICTIONAL TASK FORCE IN NARCOTICS. WE INVESTIGATE ALL NARCOTICS AND VIOLENT CRIMES IN ORANGEBURG, BAMBERG, CALHOUN AND BARNWELL COUNTIES.

Q DO Y'ALL WORK WITH THE HIGHWAY PATROL?

A CORRECT.

Q BACK IN DECEMBER OF THIS YEAR, NEW YEAR'S EVE, WERE YOU WORKING IN THAT CAPACITY?

A YES, SIR.

Q AND WERE YOU ASSIGNED ON NEW YEAR'S EVE TO A PARTICULAR TROOPER? WERE Y'ALL WORKING TOGETHER?

A WE WERE ASSIGNED TO A TROOPER. WE WERE ALL WORKING TOGETHER BUT WE WERE RIDING WITH TROOPERS.

Q ON NEW YEAR'S EVE, DECEMBER 31ST, WHO WERE YOU RIDING WITH?

A I WAS RIDING WITH TROOPER LIN STACK.

Q WHOSE CAR WERE Y'ALL IN?

A TROOPER STACK'S.
Q WHO WAS THE DRIVING THE CAR, YOU OR TROOPER STACK?
A TROOPER STACK.
Q GETTING TO 11:30, MIDNIGHT, THAT TIME RANGE, ON NEW YEAR'S EVE, WHERE WERE YOU AND MR. STACK?
A WE WERE IN A PARKING LOT ON THE SIDE OF I-95 IN A PARKING LOT. WE HAD JUST PULLED A PERSON FOR SPEEDING.
Q WHAT TOWN, WHAT CITY WERE YOU IN?
A SANTEE.
Q AND DID YOU HEAR ANYTHING OVER YOUR RADIO?
A YES, SIR.
Q WHAT DID YOU HEAR?
A I HEARD DETECTIVE LIN SHIRER CALLING FOR HELP. HE SAID AN OFFICER WAS DOWN.
Q NOW, WHAT KIND OF RADIO EQUIPMENT WAS IN TROOPER STACK'S CAR?
A WE HAD HIS HIGHWAY PATROL RADIO AND WE ALSO HAD MY COUNTY RADIO, WHICH I CAN TALK TO MY COUNTY DISPATCHER.
Q SO YOU HAD TWO DIFFERENT BANDS YOU COULD TRANSMIT AND RECEIVE ON?
A YES, SIR.
Q DO YOU RECALL -- YOU HEARD THE TAPE, THE

DISPATCH TAPE?
A YES, SIR.
Q DID YOU RECOGNIZE THAT AS BEING MR. SHIRER'S VOICE ON THAT TAPE?
A YES, SIR.
Q WHAT DO YOU RECALL MR. SHIRER SAYING ON THE TAPE?
A I RECALL DETECTIVE SHIRER SAYING, "OFFICER DOWN, OFFICER DOWN, 10-33, 10-33," WHICH MEANS EMERGENCY. I REMEMBER HIM SAYING, "I-95, I-95. I'M AT THE 197 MILE MARKER HEADING TOWARDS GEORGIA. I NEED HELP."
Q IS THAT 97 OR 197?
A 197.
Q WHERE DID YOU GO WHEN YOU HEARD THAT?
A TROOPER STACK RETURNED THE LICENSE TO THE PEOPLE WE HAD JUST PULLED. HE CAME BACK AND WE WENT ACROSS I-95. WE GOT ON THE INTERSTATE TOWARDS GEORGIA AND ARRIVED ON THE SCENE.
Q ROUGHLY HOW LONG DO YOU THINK IT TOOK Y'ALL TO GET FROM WHERE YOU WERE WRITING THE TICKET TO THE SCENE, WHICH WE HAVE ESTABLISHED IS THE INTERSECTION OF 301 AND 95?
A MAYBE A MINUTE AND A HALF, NO LONGER THAN FOUR MINUTES.
Q WHAT DID YOU OBSERVE WHEN Y'ALL ARRIVED AT THE

INTERSECTION OF 301 AND 95?

A WE PULLED IN IN FRONT OF FIRST SERGEANT LINGARD'S PATROL CAR. WE STOPPED AND WE BOTH EXITED THE VEHICLE. DETECTIVE MARTIN JOURNEY ALSO ARRIVED AT THE EXACT SAME TIME. HE WORKS WITH US ALSO IN NARCOTICS.

WE ARRIVED. WE JUMPED OUT THE CAR. I RECALL FIRST SERGEANT LINGARD LAYING ON THE GROUND FACE DOWN, AND I REMEMBER LIN, DETECTIVE LIN SHIRER, SCREAMING, "WHITE MUSTANG, WHITE MUSTANG. HE'S IN A WHITE MUSTANG, K.C. HE'S IN A WHITE MUSTANG."

Q DID YOU SEE ANY SIGNS OF LIFE ON SERGEANT LINGARD?

A NO, SIR, HE WAS MOTIONLESS.

Q WAS HIS PISTOL IN HIS HOLSTER WHEN YOU SAW IT?

A YES, SIR.

Q WHAT, IF ANYTHING, DID YOU DO AT THAT POINT IN TIME AFTER YOU OBSERVED SERGEANT LINGARD AND HE WAS APPARENTLY DEAD AT THE SCENE?

A AFTER THAT TIME LIN, DETECTIVE SHIRER, KEPT SAYING, "HE'S IN A WHITE MUSTANG. GO GET HIM. GO GET HIM." AT THAT TIME I REMEMBER LOOKING AT TROOPER STACK AND SAYING, "WE'VE GOT TO GO. WE'VE GOT TO GO." I REMEMBER WE TURNED AROUND AND GOT BACK IN HIS VEHICLE.

Q LET ME ASK YOU. ABOUT HOW LONG WERE YOU AT THE SCENE BEFORE YOU DECIDED TO GO IN PURSUIT?

A TWO MINUTES MAYBE, MAYBE TWO MINUTES AT THE MOST.

Q WHAT DIRECTION DID Y'ALL GO IN?

A WE HEADED TOWARD GEORGIA, TOWARD SAVANNAH.

Q SOUTH ON 95?

A YES, SIR.

Q AND HOW FAR DID Y'ALL GO ON 95?

A WE WENT DOWN A GOOD WAY. WE WENT PAST THE HOLLY HILL EXIT, I RECALL, BECAUSE I HAD MY COUNTY RADIO WITH ME. I REMEMBER I COULD -- I HAD COMMUNICATION WITH MY DISPATCHER AND MY DISPATCHER CAME OVER AND SAID THAT THEY HAD SPOTTED THE WHITE MUSTANG IN HOLLY HILL. SO AT THE TIME WE TURNED AROUND AND HEADED BACK TOWARDS SANTEE.

Q SO Y'ALL PASSED THE 176 EXIT ON 95; IS THAT CORRECT?

A YES, SIR.

Q LET ME ASK YOU THIS. DID Y'ALL EVER GET ACTIVELY INVOLVED IN THE CHASE OR WAS THE CHASE AHEAD OF YOU?

A THE CHASE WAS AHEAD OF US.

Q DID YOU AND TROOPER STACK GO TO SUMMERVILLE WHEN YOU FOUND OUT WHERE THE CHASE HAD ENDED UP?

A CORRECT.

Q WHEN YOU ARRIVED AT SUMMERVILLE, DID YOU GO TO THE K-MART PARKING LOT ON HIGHWAY 78?

A YES, SIR.

Q WOULD YOU TELL THE JURY WHAT YOU OBSERVED WHEN YOU GOT TO THE PARKING LOT.

A WHEN WE GOT TO THE PARKING LOT, THERE WERE A NUMBER OF OTHER POLICE OFFICERS. I OBSERVED THE WHITE MUSTANG THAT HAD BEEN WRECKED. I OBSERVED THE DEFENDANT. HE WAS HANDCUFFED AND E.M.S. WAS WITH HIM. HE HAD BLOOD ON HIS HANDS AND BLOOD ON HIS FACE FROM THE WRECK. I OBSERVED--

Q WHEN YOU SAW HIM HANDCUFFED, YOU SAW HIM AFTER HE WAS HANDCUFFED?

A YES, SIR.

Q WAS HE CUFFED BEHIND HIS BACK?

A BEHIND HIS BACK.

Q WAS HE LAYING ON HIS BACK OR ON HIS STOMACH?

A ON HIS STOMACH.

Q YOU SAID YOU SAW BLOOD ON HIM. WHERE DID YOU SEE BLOOD?

A BLOOD ON HIS HANDS, ON HIS FACE.

Q DID YOU OBSERVE E.M.S. WORKING ON HIM?

A YES, SIR.

Q WHAT DID YOU OBSERVE E.M.S. DO?

A I OBSERVED E.M.S. TALKING TO HIM. I REMEMBER HEARING E.M.S. TELLING HIM, "IT'S GOING TO BE OKAY. YOU WILL BE ALL RIGHT."

Q DID HE APPEAR TO BE CONSCIOUS OR UNCONSCIOUS AT THAT POINT?

A UNCONSCIOUS. HE WAS UNCONSCIOUS.

Q WHAT SPECIFICALLY -- DID YOU OBSERVE ANY MEDICAL TREATMENT OR MEDICAL TESTING THAT E.M.S. WAS DOING?

A THEY HAD A MONITOR ON HIS FINGERS, I GUESS TO GET HIS PULSE. HE HAD LITTLE MONITORS ON HIS FINGERS. I REMEMBER SEEING THAT WITH THE HANDCUFFS. AS FAR AS I.V.S AND STUFF, NO, HE DIDN'T HAVE ANY OF THAT WHEN I WAS THERE.

Q DID YOU APPROACH THE WHITE MUSTANG?

A I DIDN'T TOUCH THE WHITE MUSTANG. I CAME MAYBE TEN FEET FROM IT AND SAW THE HANDGUN ON THE FLOORBOARD ON THE DRIVER'S SIDE.

Q I WILL SHOW YOU WHAT HAS BEEN MARKED AS STATE'S 5. DOES THAT APPEAR TO BE THE GUN YOU SAW ON THE FLOORBOARD?

A YES. IT LOOKED DIFFERENT WHEN I SAW IT.

Q HOW DID IT LOOK DIFFERENT?

A THE SLIDE WAS EJECTED ALL THE WAY TO THE BACK.

Q MRS. GALLUP, PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

CROSS EXAMINATION

BY MR. STONE:

Q DID YOU GET THERE BEFORE OR AFTER TROOPER JAMES WOODS?

A AFTER.

Q YOU WERE THERE AFTER TROOPER WOODS?

A YES, SIR.

Q BEFORE OR AFTER CORPORAL LLOYD?

A AFTER.

Q BUT ACCORDING TO YOU THERE WAS BLOOD ON HIS HANDS?

A YES, SIR.

Q YOU WROTE A STATEMENT ON JANUARY 1ST OF 1998, DIDN'T YOU?

A YES, SIR.

Q NOWHERE IN THAT STATEMENT DID YOU SAY ANYTHING ABOUT BLOOD ON HIS HANDS AT THAT TIME, DID YOU?

A IF IT'S NOT IN MY STATEMENT, NO, SIR.

Q AT NO TIME DID YOU MENTION ANYTHING ABOUT MONITORS ON FINGERS AT THAT TIME EITHER, DID YOU?

A NO, SIR.

Q AGAIN, YOU CAME AFTER JAMES WOODS; IS THAT CORRECT?

A YES, SIR.

Q YOU SAID THAT LIN SHIRER TOLD YOU, "GO GET HIM"?

A "GO GET HIM. GO GET HIM. GO GET THE WHITE MUSTANG."

Q GO GET HIM OR GO GET THE WHITE MUSTANG?

A "GO GET HIM."

Q GO GET HIM. LIN SHIRER TOLD YOU A MAN WAS DRIVING THE CAR?

A NO.

Q HE JUST ASSUMED A MAN WAS DRIVING THE CAR?

A HE SAID, "GO GET HIM."

Q YOU ARE ASSUMING BY COMING IN HERE AND SAYING, "GO GET HIM," THAT A MAN WAS DRIVING THE CAR?

A NO, I'M NOT SAYING THAT.

Q WHEN YOU SAID, "HE'S IN A WHITE MUSTANG," DID LIN SHIRER TELL YOU A MAN WAS DRIVING THE WHITE MUSTANG?

A NO.

Q SO AGAIN WHEN YOU SAY HE WAS IN A WHITE MUSTANG, YOU ARE ASSUMING IT'S A MAN; IS THAT RIGHT?

A NO. I'M ASSUMING WHOEVER SHOT FIRST SERGEANT LINGARD WAS DRIVING A WHITE MUSTANG.

Q AT THE SCENE WHEN YOU WALKED UP THERE AND YOU GET THERE RIGHT AFTER THE SHOOTING OR SOMETIME AFTER THAT, AT NO TIME DID LIN SHIRER TELL YOU HE SAW OR HEARD WHO SHOT SERGEANT LINGARD; DID HE?

A NO.

Q NEITHER DID ANYBODY ELSE, DID THEY?
A NO.
Q YOU ARE A NARCOTICS AGENT?
A YES, SIR.
Q YOU WERE WORKING INTERSTATE 95 THAT NIGHT?
A YES, SIR.
Q WAS IT UNUSUAL TO WORK INTERSTATE 95 AS A NARCOTICS OFFICER?
A NO, SIR.
Q IN FACT, THAT'S A TARGETED AREA; ISN'T IT?
A IT'S AN AREA WE HAVE WORKED BEFORE.
Q IT'S A HIGH DRUG TRANSPORTATION AREA, ISN'T IT?
A I MEAN, I DON'T KNOW ALL THE CARS THAT COME UP AND DOWN I-95 THAT TRANSPORT DRUGS. I KNOW THAT IS AN AREA THAT WE HAVE STOPPED BEFORE THAT HAS HAD DRUG TRAFFICKING GOING UP AND DOWN I-95.
Q BECAUSE IT'S A GOOD CORRIDOR FROM THE NORTH TO THE SOUTH, ISN'T IT?
A IT'S AN INTERSTATE.

MR. STONE: I DON'T HAVE ANYTHING ELSE.

SOLICITOR BAILEY: NO REDIRECT. MAY SHE BE EXCUSED?

THE COURT: YES. YOU MAY COME DOWN AND YOU MAY BE EXCUSED, DETECTIVE. THANK YOU SO MUCH.

THE WITNESS: THANK YOU.

SOLICITOR BAILEY: THE STATE CALLS ROBERT BERES. CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: ROBERT BERES.

ROBERT BERES, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: HAVE A SEAT AND SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

THE COURT: LADIES AND GENTLEMEN OF THE JURY, WE WILL BE TAKING A MORNING BREAK AT ABOUT 11 O'CLOCK IF THAT IS OKAY.

THE WITNESS: MY LAST NAME IS SPELLED B-E-R-E-S.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. BERES, YOU ARE A TROOPER WITH THE SOUTH CAROLINA HIGHWAY PATROL; IS THAT CORRECT?

A YES, SIR.

Q ARE YOU ASSIGNED TO THE DORCHESTER COUNTY OFFICE?

A YES, SIR.

Q AND HOW LONG HAVE YOU BEEN A TROOPER?

A FOUR YEARS.

Q WERE YOU WORKING IN DECEMBER OF THIS YEAR?

A I WAS WORKING DORCHESTER COUNTY, THE SUMMERVILLE END OF DORCHESTER.

Q ALL RIGHT, SIR. I WANT TO CALL YOUR ATTENTION TO NEW YEAR'S EVE AFTER 11:30 P.M. WERE YOU ON DUTY THAT EVENING?

A YES, SIR, I WAS.

Q AND DID YOU HEAR ANYTHING OVER YOUR POLICE RADIO ABOUT AN OFFICER DOWN ON I-95?

A YES, SIR, I HEARD A TROOPER DOWN ON I-95.

Q WHAT DID YOU DO WHEN YOU HEARD THAT MESSAGE?

A I PROCEEDED FROM THE SUMMERVILLE/LADSON AREA TO GO TO I-26. I HEARD HE WAS COMING TOWARDS GOOSE CREEK. I WENT UP I-26 ALL THE WAY TO U.S. 27. BY THAT TIME HE WAS IN GOOSE CREEK, SO I WENT DOWN I-26 TOWARDS COLLEGE PARK.

Q WE HAVE GOT A MAP UP HERE THE JURY HAS SEEN SEVERAL TIMES HERE. YOU SAID YOU WENT TO THE COLLEGE PARK AREA?

A YES, SIR.

Q STEP DOWN AND I WILL GIVE YOU A SECOND TO TAKE A LOOK AT THE MAP.

A (WITNESS LEAVES THE WITNESS STAND.)

Q CAN YOU INDICATE TO THE JURY WHERE YOU WENT TO THE COLLEGE PARK AREA. LET ME GET YOU ORIENTED HERE. THIS (INDICATING) IS I-26. THIS (INDICATING) IS 78. SUMMERVILLE IS OVER HERE (INDICATING.)

A AT U.S. 27 I WENT BACK DOWN TO 203, WENT UP

HIGHWAY 78 ALL THE WAY TO SUMMERVILLE.

Q ALL RIGHT, SIR.

A (WITNESS RESUMES THE WITNESS STAND.)

Q WERE YOU INVOLVED IN THE CHASE?

A YES, I WAS.

Q WHERE DID YOU START THE CHASE?

A I STARTED AT THE EXIT TO CHARLESTON SOUTHERN UNIVERSITY. I WAS BEHIND CORPORAL WOODS.

Q THAT'S ON HIGHWAY 78 HEADING INTO SUMMERVILLE?

A YES, SIR, THAT'S CORRECT.

Q DID YOU OBSERVE THE MUSTANG?

A YES, I DID.

Q ON 78?

A YES, SIR.

Q YOU OBSERVED THAT FROM WHERE?

A FROM WHERE I WAS SITTING.

Q CAN YOU JUST DRAW PUT YOUR INITIALS WHERE YOU WERE WHEN YOU OBSERVED THE MUSTANG THE FIRST TIME YOU OBSERVED IT.

A (WITNESS LEAVES THE WITNESS STAND AND COMPLIES.)

Q YOU HAVE GOT THIS RIGHT ABOVE WHERE IT SAYS LADSON HERE (INDICATING)?

A YES, SIR.

Q AND YOU PURSUED THAT ON INTO SUMMERVILLE?

A YES, SIR.

Q USING THAT MARKER GO AHEAD AND MARK THE ROUTE YOU TOOK WHEN YOU PURSUED IT.

A FROM HERE TO OVER HERE (INDICATING.)

Q ALL RIGHT, SIR. YOU WENT ALL THE WAY INTO SUMMERVILLE?

A YES, SIR. (WITNESS RESUMES THE WITNESS STAND.)

Q WHERE DID THE CHASE END UP?

A IT ENDED UP IN THE OLD K-MART PARKING LOT.

Q DID YOU ENTER THE PARKING LOT?

A YES, I DID.

Q WHAT OBSERVATIONS DID YOU MAKE WHEN YOU ENTERED THE PARKING LOT?

A I NOTICED THE WHITE MUSTANG WITH DAMAGE TO ITS FRONT END.

Q DID YOU SEE THE IMPACT THAT CAUSED THE DAMAGE?

A YES, I DID.

Q WHOSE VEHICLE IMPACTED THE MUSTANG?

A TROOPER CECIL'S.

Q AND DID YOU OBSERVE THE DRIVER OF THE MUSTANG?

A YES, I DID.

Q WHERE DID YOU OBSERVE HIM?

A HE WAS IN THE DRIVER'S SEAT OF THE VEHICLE.

Q AND DO YOU RECOGNIZE THAT PERSON IN THE COURTROOM HERE TODAY?

A THE SUBJECT SITTING WITH THE WHITE SHIRT.

Q YOU ARE INDICATING THE DEFENDANT IN THE WHITE SHIRT OVER THERE WITH THE TIE ON?
A YES, SIR.
Q AND SPECIFICALLY WHAT WAS HE DOING AND WHERE WAS HE WHEN YOU OBSERVED HIM?
A WHEN I EXITED MY VEHICLE, I NOTICED THE DRIVER SLUMPED DOWN WITH HIS HEAD DOWN. I SLOWLY APPROACHED, NOT KNOWING IF HE WAS UNCONSCIOUS OR NOT.
Q WHAT DOOR DID YOU APPROACH, THE DRIVER OR PASSENGER?
A THE DRIVER'S SIDE DOOR.
Q ALL RIGHT, SIR.
A TROOPER CECIL WAS ALSO TO MY LEFT. HE WAS MY COVER OFFICER. I TRIED TO LEAN DOWN AND OPEN THE DRIVER'S DOOR, BUT I COULDN'T BECAUSE OF THE DAMAGE TO THE DOOR.
Q WHAT DID YOU DO THEN WHEN YOU REALIZED YOU COULDN'T OPEN THE DRIVER'S DOOR?
A I TOLD CORPORAL WOODS WHO WAS ON THE OTHER SIDE, "I CAN'T GET THE DOOR OPEN." HIM AND ANOTHER OFFICER PULLED THE DRIVER OUT FROM THE PASSENGER SIDE.
Q AND WAS MR. ALEKSEY THE ONLY PERSON IN THE MUSTANG?
A YES, HE WAS.
Q WHAT DID YOU DO AFTER YOU OBSERVED CORPORAL

WOODS AND THE OTHER OFFICER PULL HIM OUT OF THE PASSENGER SIDE DOOR?
A THEY PLACED HIM ON THE GROUND AND I HANDCUFFED HIM.
Q WHEN HE WAS PLACED ON THE GROUND, WAS HE PLACED FACED DOWN ON THE GROUND OR ON HIS BACK?
A FACE DOWN ON THE GROUND.
Q WHO CUFFED HIM?
A I HANDCUFFED HIM.
Q WAS HE CONSCIOUS OR UNCONSCIOUS AT THAT TIME?
A HE WAS UNCONSCIOUS.
Q DID YOU OBSERVE EITHER AT THAT POINT OR LATER ON AT THE SCENE THERE ANY EVIDENCE OF INJURY TO MR. ALEKSEY?
A HE HAD A CUT ON HIS FOREHEAD.
Q WAS THE CUT BLEEDING?
A YES, IT WAS.
Q IN THE PROCESS OF HANDCUFFING MR. ALEKSEY, WAS IT NECESSARY TO TOUCH HIS HANDS?
A YES.
Q TO PUT THE HANDCUFFS ON?
A YES, SIR.
Q AND WHAT WAS DONE WITH MR. ALEKSEY AFTER HE WAS HANDCUFFED?
A AFTER HE WAS HANDCUFFED, I BELIEVE A SHORT TIME

LATER THE AMBULANCE PARAMEDICS CAME AND PLACED HIM ON A STRETCHER AND PUT HIM IN THE AMBULANCE.

Q WAS HE CONTINUED -- DID THE HANDCUFFS STAY ON HIM WHEN HE WAS PLACED ON THE STRETCHER?

A YES, SIR.

Q LET ME GET YOU TO DEMONSTRATE TO ME -- DO YOU HAVE YOUR HANDCUFFS WITH YOU?

A YES, SIR.

Q WHAT YOU HAVE GOT TO DO TO HANDCUFF SOMEBODY.

A (WITNESS LEAVES THE WITNESS STAND.)

MR. STONE: EXCUSE ME JUST A MOMENT.

Q IS THERE A SPECIFIC WAY YOU DO IT THAT YOU ARE TAUGHT HOW TO HANDCUFF SOMEBODY OR IS THERE ONLY ONE WAY TO DO IT?

A IT'S A SPECIFIC WAY WE ARE TAUGHT.

Q GO AHEAD AND ASSUME -- I WILL PUT MY HANDS BEHIND MY BACK AND YOU CAN GO AHEAD AND SHOW THE JURY WHAT YOU HAVE GOT TO DO AS FAR AS TOUCHING MY HANDS TO GET THOSE CUFFS ON.

A (WITNESS COMPLIES.)

THE COURT: SHOW IT AGAIN TO THE JURORS ON THE RIGHT-HAND SIDE. THEY WERE NOT ABLE TO SEE.

Q I WILL GET YOU TO UNCUFF THEM. I HOPE YOU HAVE GOT THE KEY ON YOU.

THE COURT: MOVE DOWN TO THE RIGHT.

SOLICITOR BAILEY: YES, SIR.

A (WITNESS COMPLIES.)

Q YOU CAN HAVE A SEAT.

A (WITNESS RESUMES THE WITNESS STAND.)

Q LET ME ASK YOU KIND OF A SILLY QUESTION. IS THERE ANY WAY TO PUT HANDCUFFS ON SOMEBODY'S HANDS WITHOUT TOUCHING THEIR HANDS?

A NO, SIR.

Q NOW, YOU TESTIFIED YOU CUFFED MR. ALEKSEY WITH HIS HANDS BEHIND HIS BACK; IS THAT CORRECT?

A THAT'S CORRECT.

Q WERE YOU PRESENT WHEN E.M.S. ARRIVED?

A YES, SIR.

Q DID YOU OBSERVE WHAT E.M.S. DID WITH HIM?

A YES, SIR, SOME PARTS OF IT.

Q TELL THE JURY WHAT YOU RECALL E.M.S. DOING.

A THEY PUT A BRACE AROUND HIS HEAD. I BELIEVE THEY PUT AN I.V. IN HIS ARM AND STRAPPED HIM DOWN TO THE STRETCHER.

Q WHEN THEY PUT HIM ON THE STRETCHER, DID YOU OBSERVE THAT?

A YES, SIR.

Q HOW WAS THAT DONE? HOW WAS HE STRAPPED TO THE STRETCHER?

A HIS LEGS AND UPPER TORSO.

Q WERE HIS HANDS STILL CUFFED BEHIND HIS BACK WHEN HE WAS PUT ON THE STRETCHER?
A YES, THEY WERE.
Q IS THE STRETCHER ON THE PAVEMENT?
A YES, SIR.
Q SO YOU HAVE GOT THE STRETCHER ON THE PAYMENT, ALEKSEY'S HANDS ARE CUFFED BEHIND HIS BACK AND HE IS LAYING ON TOP OF THE STRETCHER?
A YES, SIR.
Q AND LAYING ON TOP OF HIS HANDS?
A YES, SIR.
Q IS THAT YOUR TESTIMONY?
A YES, SIR.
Q DID HE CONTINUE TO BE IN THAT POSITION THE ENTIRE TIME HE WAS IN THE PARKING LOT?
A YES, SIR.
Q AND ABOUT HOW LONG WAS THAT? ROUGHLY HOW LONG WAS HE IN THE PARKING LOT IN THAT POSITION?
A I WOULD SAY ABOUT TEN, MAYBE FIFTEEN MINUTES.
Q WHAT HAPPENED THEN?
A THEY PUT HIM IN THE AMBULANCE.
Q AND WHEN HE WAS PUT IN THE AMBULANCE, DID YOU GET IN THE AMBULANCE WITH HIM?
A YES, SIR. CORPORAL LLOYD INSTRUCTED ME TO RIDE DOWN TO THE HOSPITAL WITH HIM.

Q LET ME HAND YOU STATE'S 25 AND ASK IF YOU CAN IDENTIFY THAT.
A THIS IS THE I.D. CARD THAT CORPORAL LLOYD GAVE ME.
Q WHY DID CORPORAL LLOYD GIVE YOU THAT I.D. CARD?
A THAT'S THE ONLY I.D. WE HAD I GUESS AT THAT TIME ON HIM.
Q SO WHO ELSE GOT IN THE BACK OF THAT AMBULANCE WITH YOU AND MR. ALEKSEY TO GO TO THE HOSPITAL?
A ANOTHER TROOPER. I DON'T KNOW HIS NAME.
Q OBVIOUSLY THE AMBULANCE ATTENDANTS WERE THERE, TOO?
A PARAMEDICS.
Q NOW, WHAT IS THE NAME ON THIS CARD THAT TROOPER LLOYD GAVE YOU?
A JUSTIN MATEEKI.
Q THAT'S A MARYLAND DRIVER'S LICENSE OR SOME KIND OF MARYLAND I.D. CARD?
A MARYLAND I.D. CARD.
Q NOW, WHEN MR. ALEKSEY WAS PUT INTO THE AMBULANCE, YOU GOT IN WITH HIM?
A YES, SIR.
Q DID HE APPEAR TO BE CONSCIOUS OR UNCONSCIOUS WHEN HE GOT IN THE AMBULANCE?
A HE WAS UNCONSCIOUS.

Q AND WHAT HOSPITAL WAS HE TAKEN TO?
A HE WAS TAKEN TO M.U.S.C.
Q WOULD YOU STATE WHETHER OR NOT HE REGAINED CONSCIOUSNESS EN ROUTE TO THE HOSPITAL?
A AT SOME POINT IN TIME HE DID WAKE UP AND COMPLAIN ABOUT HIS SHOULDER, MOVING AROUND (INDICATING.)
Q SHE HAS GOT TO PICK THIS UP IN THE RECORD. YOU ARE MOVING YOUR SHOULDERS BACK AND FORTH?
A YES, SIR.
Q WHAT DID YOU OBSERVE MR. ALEKSEY DOING AS HE LAY ON THAT BODY BOARD OR STRETCHER OR WHATEVER YOU WANT TO CALL IT?
A HE HAD HIS HANDS BEHIND HIS BACK AND WAS MOVING AROUND COMPLAINING ABOUT PAIN TO HIS SHOULDER.
Q HOW LONG DID HE DO THAT?
A SEVERAL TIMES DURING THE TRIP.
Q WHAT PART OF THE HOSPITAL DID THE AMBULANCE TAKE HIM TO INITIALLY?
A WENT TO THE EMERGENCY ROOM AT M.U.S.C.
Q THE EMERGENCY ROOM, IS THAT ALSO CALLED THE TRAUMA UNIT THERE?
A THE TRAUMA CENTER.
Q DID YOU STAY WITH MR. ALEKSEY THE ENTIRE TIME HE WAS AT THE EMERGENCY ROOM?

A YES, I DID.

Q AND WHO ELSE WAS THERE AT THAT TIME TO GUARD HIM?

A KYLE WELCH, ANOTHER TROOPER.

Q MR. WELCH IS A TROOPER FROM CHARLESTON COUNTY; IS THAT CORRECT?

A THAT'S CORRECT, SIR.

Q AND DID YOU OBSERVE THE MEDICAL TREATMENT THAT WAS GIVEN TO MR. ALEKSEY AT THE EMERGENCY ROOM?

A SOME OF IT, YES, SIR.

Q AND TELL THE JURY AND JUST TAKE AS MUCH TIME AS YOU NEED, SPECIFICALLY WHAT MEDICAL TREATMENTS YOU OBSERVED MR. ALEKSEY RECEIVING AT THE EMERGENCY ROOM.

A THEY GAME HIM A CATHETER, I.V.S, DREW BLOOD. I REMEMBER THE X-RAYS THEY GAVE HIM.

Q HOW MANY X-RAYS DID THEY GIVE HIM?

A A COUPLE, SIR.

Q ANYTHING ELSE YOU CAN RECALL AT THIS TIME? I REALIZE YOU ARE NOT A PHYSICIAN AND THERE MAY HAVE BEEN SOME THINGS YOU DIDN'T KNOW WHAT THEY WERE DOING. IS THAT ABOUT THE EXTENT OF WHAT YOU RECALL?

A I COULDN'T TELL YOU EXACTLY WHAT THEY WERE DOING, BUT THEY WERE ATTENDING TO HIM.

Q AND HE WAS CONSCIOUS AT THAT TIME?

A YES, HE WAS.

Q WAS IT NECESSARY IN THE COURSE OF THESE MEDICAL TREATMENTS FOR YOU TO TAKE THOSE HANDCUFFS OFF OF MR. ALEKSEY?

A SEVERAL TIMES.

Q WERE YOU REQUESTED TO DO THAT BY THE PHYSICIANS, NURSES OR WHAT PROMPTED THAT?

A SOMEONE IN THE MEDICAL FIELD ASKED ME TO.

Q AND DID YOU TAKE THEM OFF?

A YES, I DID.

Q WHEN YOU TOOK THE HANDCUFFS OFF, WAS IT NECESSARY FOR YOU TO TOUCH HIS HANDS THE SAME WAY YOU TOUCHED MY HANDS WHEN YOU PUT THOSE CUFFS ON AND OFF OF ME?

A YES, I DID.

Q ABOUT HOW MANY TIMES DURING THE TIME THAT Y'ALL WERE IN THIS EMERGENCY ROOM DO YOU RECALL TAKING THE CUFFS OFF AND PUTTING THEM BACK ON AGAIN?

A FIVE OR SIX TIMES.

Q ALL RIGHT, SIR. AND DO YOU RECALL THE CONDITION OF MR. ALEKSEY'S HANDS WHEN YOU REMOVED THE CUFFS AND PUT THE CUFFS BACK ON DURING THAT PERIOD OF TIME IN THE EMERGENCY ROOM?

A THEY HAD BLOOD ON IT SO I USED RUBBER GLOVES.

Q CALLING YOUR ATTENTION TO ABOUT 2:30 A.M. ON JANUARY THE 1ST, WERE Y'ALL STILL IN THE EMERGENCY

ROOM?
A YES, SIR.
Q DO YOU RECALL RECEIVING A TELEPHONE CALL FROM CAPTAIN L. C. KNIGHT WITH S.L.E.D.?
A YES, I DID.
Q IN RESPONSE TO THIS TELEPHONE CALL FROM L. C. KNIGHT AT S.L.E.D., DID YOU MAKE SOME REQUESTS OF THE HOSPITAL PERSONNEL THERE?
A YES, I DID.
Q WHAT DID YOU ASK THE NURSES TO DO?
A TO BAG HIS HANDS.
Q TO BAG HIS HANDS?
A YES, SIR.
Q DID THEY DO THAT?
A YES, THEY DID THAT.
Q DID THEY IMMEDIATELY OR WAS THERE A PERIOD OF TIME AFTER THAT?
A NO, IMMEDIATELY THEY BAGGED HIS HANDS.
Q AND AFTER MR. ALEKSEY'S HANDS WERE BAGGED, WAS HE MOVED TO A DIFFERENT PART OF THE HOSPITAL?
A HE WAS MOVED TO ONE OF THE FLOORS AWAY FROM THE EMERGENCY ROOM.
Q DO YOU RECALL WHAT FLOOR IT WAS?
A NOT THE EXACT FLOOR, SIR.
Q DID YOU GO UP OUT OF THE EMERGENCY ROOM TO THE

FLOOR WHERE HE WAS MOVED?
A YES, SIR.
Q WAS HE PUT IN A ROOM?
A HE WAS PUT IN A ROOM BY HIMSELF.
Q I DON'T RECALL WHETHER I ASKED YOU THIS OR NOT, BUT DID YOU IDENTIFY THE DEFENDANT OVER HERE?
A YES, SIR, I DID.
Q THAT'S THE PERSON THAT YOU RODE TO THE HOSPITAL WITH AND Y'ALL WENT UP TO A ROOM UPSTAIRS; IS THAT CORRECT?
A YES, SIR, THAT'S CORRECT.
Q DID YOU CONTINUE TO OBSERVE MR. ALEKSEY AFTER HE WAS PLACED IN THAT ROOM?
A YES, SIR.
Q MR. BERES, I BELIEVE THAT'S ALL I HAVE AT THIS TIME. THANK YOU. PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.
CROSS EXAMINATION
BY MR. STONE:
Q IS THAT A STANDARD WAY TO HANDCUFF?
A YES, SIR.
Q THAT'S PRETTY MUCH WHAT YOU DO EVERY TIME?
A YES, SIR.
Q PRETTY MUCH HOW YOU ARE TAUGHT AT THE ACADEMY?
A YES, SIR.

Q ISN'T EVERY SUSPECT HANDCUFFED?
A EVERY SUSPECT?
Q EVERY SUSPECT. EVERY CRIMINAL DEFENDANT WHO IS ARRESTED, AREN'T THEY HANDCUFFED?
A YES, SIR.
Q AND ANY SUSPECT THAT WOULD BE TESTED FOR GUNSHOT RESIDUE WOULD HAVE GONE THROUGH THE SAME PROCESS THAT YOU DESCRIBED, WOULDN'T THEY?
A I'M NOT SURE, SIR. I'M NOT QUALIFIED IN GUN RESIDUE.
Q CAN YOU IMAGINE A SITUATION WHERE YOU WOULD DO TESTING ON SOMEBODY FOR GUNSHOT RESIDUE AND THEY HAD NEVER BEEN HANDCUFFED?
SOLICITOR BAILEY: JUDGE, HE JUST SAID HE WASN'T QUALIFIED TO ANSWER THAT.
THE COURT: NO, SIR, I WILL PERMIT THIS INQUIRY.
MR. STONE: THANK YOU, YOUR HONOR.
Q DO YOU UNDERSTAND MY QUESTION OR DO YOU WANT ME TO REPEAT IT?
A REPEAT IT.
Q CAN YOU IMAGINE A SITUATION IN WHICH A DEFENDANT, A CRIMINAL DEFENDANT WHO IS CHARGED WITH A CRIME AND IS GOING TO BE TESTED FOR GUNSHOT RESIDUE, WHO HAS NOT BEEN HANDCUFFED?

A ONCE AGAIN, I AM NOT QUALIFIED IN GUNSHOT RESIDUE SO...

Q SOMEBODY COMMITS AN ARMED ROBBERY WITH A GUN AND THEY SHOOT SOMEBODY, DO YOU HANDCUFF THEM? WHEN YOU ARREST THEM DO YOU HANDCUFF THEM? YOU DO HANDCUFF CRIMINAL DEFENDANTS; DON'T YOU, TROOPER?

A IF I PLACE SOMEONE UNDER ARREST, THEY ARE BEING HANDCUFFED, YES, SIR.

Q AND YOU DO IT THE SAME WAY EVERY TIME; IS THAT RIGHT?

A THE SAME WAY EVERY TIME.

Q IT'S THE SAME WAY THAT YOU ARE TAUGHT AT THE ACADEMY AND EVERYBODY ELSE DOES; IS THAT RIGHT?

A I HANDCUFF THEM LIKE I HANDCUFF THEM EVERY TIME.

Q WHEN YOU WERE HANDCUFFING THE SOLICITOR HERE, I NOTICED WHEN YOU UNHANDCUFFED HIM, YOU ONLY TOUCHED HIS WRISTS. IS THAT BECAUSE THEIR ARMS ARE ALREADY IMMOBILIZED?

A SIR, HE IS -- THERE WAS A BOX OVER THERE SO THERE WAS ONLY A CERTAIN WAY I COULD MANEUVER AROUND HIM.

Q I UNDERSTAND. BUT WHEN YOU UNCUFFED HIM AND HE WAS STANDING RIGHT HERE, THE ONLY THING YOU TOUCHED WAS HIS WRIST TO UNCUFF HIM. YOU DIDN'T GRAB HIS HANDS TO DO IT. WASN'T THAT BECAUSE THEY WERE ALREADY

IMMOBILIZED? THE HANDS WERE NOT A THREAT TO YOU?
A PROBABLY SO.
Q AND, IN FACT, UNCONSCIOUS PEOPLE ARE NOT A THREAT TO PEOPLE EITHER AS FAR AS THEIR HANDS ARE CONCERNED; ARE THEY?
A UNCONSCIOUS, NO, SIR.
Q NOW, YOU WROTE A STATEMENT IN THIS CASE ON JANUARY 5, 1998; IS THAT CORRECT?
A YES, SIR.
Q AND NOWHERE IN YOUR STATEMENT DID YOU MENTION ANYTHING ABOUT GRABBING HIS HANDS OR BLOOD ON HIS HANDS OR ANYTHING LIKE THAT, DID YOU? WOULD YOU CARE TO REVIEW YOUR STATEMENT?
A YES, SIR.
MR. STONE: SOLICITOR, DO YOU HAVE A COPY OF THAT?
SOLICITOR BAILEY: I GAVE YOU MY COPY.
MR. STONE: WOULD YOU LIKE TO REVIEW IT?
A (PAUSE.) THIS IS A BRIEF --
Q THAT IS YOUR STATEMENT, ISN'T IT?
A A BRIEF STATEMENT ON WHAT HAPPENED, YES, SIR.
Q IN THIS STATEMENT THAT YOU PREPARED ON JANUARY 5, 1998 AT 6:25 P.M., YOU DON'T MENTION ANYTHING ABOUT BLOOD ON THE HANDS, YOU DON'T MENTION ANYTHING ABOUT GRABBING HIS HANDS OR DOING ANYTHING THAT COULD

HAVE POTENTIALLY MESSED UP THE GUNSHOT RESIDUE TEST; DO YOU? DO YOU WANT TO SEE IT AGAIN?

A IN THE STATEMENT IT SAYS I HANDCUFFED THE SUBJECT. IT DOESN'T STATE SPECIFICALLY WHAT HAND I GRABBED.

Q YOU WERE TOLD TO BAG THE HANDS BY WHO, MCKNIGHT, I BELIEVE; IS THAT RIGHT?

A L. C. KNIGHT.

Q L. C. KNIGHT, EXCUSE ME. IS L. C. KNIGHT FROM S.L.E.D. OR WHO IS THAT?

A HE IS WITH S.L.E.D., YES, SIR.

Q AND HE TOLD YOU APPROXIMATELY, I BELIEVE THE SOLICITOR SAID, 2:35; IS THAT CORRECT?

A THAT'S CORRECT.

Q IS THAT A.M.?

A A.M.

Q YOU TOLD THE NURSES TO DO THAT AND THEY DID THAT IMMEDIATELY ACCORDING TO YOUR TESTIMONY; IS THAT CORRECT?

A THAT'S CORRECT.

Q AT ANY TIME DID YOU TELL MR. KNIGHT WITH S.L.E.D., "HEY, I MIGHT HAVE MESSED UP HIS HANDS"?

A NO, SIR.

Q I'M JUST CURIOUS. HAVE YOU BEEN FOLLOWING THIS IN THE MEDIA, SIR?

A NO, SIR.
Q HAVE YOU BEEN FOLLOWING IT ALONG YOUR HIGHWAY PATROL TROOPERS? DO YOU KNOW ANYTHING ABOUT THIS CASE?
A NO, SIR.
Q DID YOU, SIR, FIND OUT THAT THE GUNSHOT RESIDUE TEST ON THIS WAS NEGATIVE?
A NO, SIR.
Q YOU NEVER FOUND THAT OUT?
A NO, SIR.
MR. STONE: I DON'T HAVE ANY OTHER QUESTIONS.
SOLICITOR BAILEY: A FEW MORE, YOUR HONOR, IF I MIGHT.
REDIRECT EXAMINATION
BY SOLICITOR BAILEY:
Q MR. STONE ASKED YOU WHETHER OR NOT MR. ALEKSEY WAS UNCONSCIOUS WHEN YOU CUFFED HIM?
A YES, SIR.
Q YOU TESTIFIED HE WAS UNCONSCIOUS IN THE PARKING LOT?
A YES, SIR.
Q YOU THEN TESTIFIED HE REGAINED CONSCIOUSNESS IN THE AMBULANCE?
A YES, SIR, THAT'S CORRECT.

Q AND YOU CUFFED AND UNCUFFED HIM SEVERAL MORE TIMES AT THE TRAUMA UNIT; IS THAT CORRECT?
A THAT'S CORRECT.
Q WAS HE CONSCIOUS AT THAT POINT IN TIME?
A HE WAS CONSCIOUS AT THE HOSPITAL.
Q HE CONTINUED TO REMAIN CONSCIOUS IN THE HOSPITAL?
A YES, SIR.
Q AND IN YOUR TRAINING AS A TROOPER, HAVE YOU EVER RECEIVED ANY INSTRUCTIONS IN PRESERVING GUNSHOT RESIDUE EVIDENCE OR ANYTHING OF THAT NATURE?
A NO, SIR.
Q THANK YOU. THAT'S ALL I HAVE.

MR. STONE: NOTHING ELSE.

THE COURT: TROOPER, YOU MAY COME DOWN. THANK YOU. YOU ARE EXCUSED.

MR. FOREMAN, AND LADIES AND GENTLEMEN, LET'S TAKE A MORNING BREAK. THE CLERK OF COURT AND LIEUTENANT EDWARDS WILL BE MAKING YOUR ARRANGEMENTS FOR YOUR LUNCH. MR. FOREMAN, LET ME KNOW WHEN YOU ARE READY TO COME BACK OUT, PLEASE.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: WE ARE IN RECESS SUBJECT TO THE CALL OF THE COURT.

(WHEREUPON THERE WAS A RECESS.)

THE COURT: READY TO PROCEED?

SOLICITOR BAILEY: THE STATE IS READY, YOUR HONOR.

THE COURT: DEFENSE READY, GENTLEMEN?

MR. STONE: YES, SIR.

THE COURT: BRING THE JURY. LET THE RECORD REFLECT THE DEFENDANT IS IN THE COURTROOM.

(THE JURY RETURNS TO THE COURTROOM.)

THE COURT: THE JURY IS PRESENT. CALL YOUR NEXT WITNESS.

SOLICITOR BAILEY: THE STATE CALLS TARA CLARK.

CLERK: STATE YOUR NAME FOR THE RECORD, PLEASE.

THE WITNESS: TARA HOPE CLARK.

TARA HOPE CLARK, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MRS. CLARK, PLEASE TELL THE JURY WHAT YOU DO FOR A LIVING.

A I'M AN EMERGENCY MEDICAL TECHNICIAN, PARAMEDIC WITH DORCHESTER COUNTY.

Q WHAT TRAINING HAVE YOU HAD IN EMERGENCY MEDICINE?

A THE HIGHEST LEVEL YOU CAN BE IN PARAMEDICS.
Q WHAT IS THE DIFFERENCE IN AN E.M.T. AND A PARAMEDIC?
A YOU HAVE THREE LEVELS. YOU HAVE BASIC, INTERMEDIATE AND PARAMEDIC. BASIC IS WHERE YOU START OUT. YOU DO EVERYTHING BUT INTUBATE AND I.V. OR ACTUALLY YOU CAN DO INTUBATION BUT YOU CAN'T DO ANY I.V.S. INTERMEDIATE DOES I.V. AND A PARAMEDIC DOES EVERYTHING.
Q WHEN WERE YOU QUALIFIED AS A PARAMEDIC?
A AUGUST 10TH OF LAST YEAR.
Q CALLING YOUR ATTENTION TO THE EARLY MORNING OF JANUARY 1ST OF THIS YEAR, WERE YOU ON DUTY?
A YES, SIR.
Q IN DORCHESTER COUNTY?
A YES, SIR.
Q ARE YOU ASSIGNED A PARTICULAR AMBULANCE?
A AT THAT TIME WE PRETTY MUCH HAD A PERMANENT STATION.
Q DID YOU WORK ALONE OR DID YOU HAVE SOMEBODY ELSE?
A NO, SIR, YOU HAVE A PARTNER. I HAD A PARAMEDIC PARTNER.
Q WHO WAS YOUR PARTNER THAT NIGHT?
A CHRIS HORSLEY.

Q BETWEEN YOU AND MR. HORSLEY, WHO WAS THE SENIOR PERSON THERE?
A MR. HORSLEY.
Q AND I WANT TO CALL YOUR ATTENTION TO SHORTLY AFTER MIDNIGHT, DECEMBER 31ST, GETTING INTO JANUARY 1ST, AND ASK WHETHER OR NOT YOU GOT A CALL TO RESPOND TO THE OLD K-MART PARKING LOT OFF HIGHWAY 78?
A YES, SIR, WE DID.
Q YOU AND MR. HORSLEY ARRIVED?
A YES, SIR.
Q DO YOU HAVE A RUN REPORT?
A YES, SIR, I DO.
Q IF YOU NEED TO REFRESH YOUR MEMORY AS FAR AS TIMES AND ALL, YOU CAN REFER TO THAT.
A OKAY. I HAVE GOT THAT.
Q TELL THE JURY PLEASE ABOUT WHAT TIME YOUR AMBULANCE ARRIVED AT THE K-MART PARKING LOT.
A TWELVE MINUTES PAST MIDNIGHT.
Q WHAT OBSERVATION DID YOU MAKE WHEN YOU GOT THERE, JUST IN GENERAL?
A WE FOUND A PARKING LOT WITH MANY COP CARS AROUND. THEY DIRECTED US IN INTO WHERE THE PATIENT WAS LAYING ON THE GROUND HANDCUFFED WITH HIS HANDS BACK BEHIND HIS BACK. I TOOK CARE OF HIM AND THEN MY

PARTNER TOOK CARE OF ANOTHER INDIVIDUAL THAT WAS HURT.

Q WAS THAT TROOPER CECIL?

A I BELIEVE SO. I'M NOT REAL SURE WHAT THE OFFICER'S NAME WAS.

Q YOUR PATIENT WAS MR. ALEKSEY OVER HERE; IS THAT CORRECT?

A YES, THAT'S CORRECT.

Q AND YOU TESTIFIED THAT WHEN YOU ARRIVED, HE WAS ALREADY HANDCUFFED?

A YES, SIR.

Q WERE HIS HANDS CUFFED IN FRONT OR BEHIND HIM?

A BEHIND HIS BACK.

Q DID YOU OBSERVE ANY VEHICLES IN THE PARKING LOT?

A THERE WERE MANY VEHICLES IN THE PARKING LOT.

Q DID YOU OBSERVE A WHITE MUSTANG?

A YES, SIR, OFF TO THE LEFT OF THE PATIENT.

Q DO YOU SEE THAT PATIENT HERE TODAY IN COURT?

A YES, SIR, RIGHT THERE IN THE WHITE SHIRT (INDICATING.)

Q FOR THE RECORD THAT IS THE DEFENDANT BAYAN ALEKSEY?

A YES.

Q NOW, WHAT OBSERVATIONS INITIALLY DID YOU MAKE OF HIS CONDITION, HIS MEDICAL CONDITION?

A HE WAS UNCONSCIOUS WITH HIS HANDS BEHIND HIS BACK, LAYING ON HIS FACE DOWN BUT KIND OF TOWARDS HIS SIDE. THE AIRWAY WAS FINE, BREATHING WAS FINE, CIRCULATION WAS FINE. WE CHECK THAT THE FIRST THING. HE DID RESPOND TO PAINFUL STIMULI.

Q WERE THERE ANY SIGNS OF EXTERNAL TRAUMA?

A YES, I NOTICED HE HAD A CUT TO THE RIGHT OF HIS TEMPLE RIGHT HERE (INDICATING.)

Q WAS THE CUT BLEEDING?

A VERY SLIGHTLY.

Q WHAT TREATMENT DID YOU ADMINISTER TO HIM AT THE SCENE?

A TO THE BEST OF MY KNOWLEDGE, THE TREATMENT I GAVE HIM WAS I PUT A CERVICAL COLLAR AROUND HIS NECK TO HELP PROTECT THE -- IF ANY SPINAL INJURIES WERE THERE -- PUT HIM ON A LONG SPINE BOARD AND STRAPPED HIM DOWN WITH THREE STRAPS AND PUT HIM ON A STRETCHER.

Q TELL THE JURY WHAT A SPINE BOARD IS.

A IT'S A PLASTIC BOARD. I'M NOT SURE HOW LONG IT IS BUT WE PUT THAT ON ALL OUR PATIENTS WHO ARE INVOLVED IN ANY KIND OF ACCIDENTS, FALLS, THAT KIND OF THING TO HELP PROTECT THEIR SPINE AND NECK FROM FURTHER INJURY.

Q AND HOW DO YOU GO ABOUT PUTTING SOMEBODY WHO IS

HANDCUFFED ON A SPINE BOARD?

A IT ALL DEPENDS ON WHICH SIDE HE IS LAYING ON. THE WAY HE WAS LAYING I BELIEVE I ROLLED HIM TOWARDS HIS LEFT SIDE AND THEN ROLLED HIM -- ACTUALLY ROLLED HIM RIGHT ON OVER ONTO THE BACK BOARD ON HIS LEFT SIDE. HE WAS ON HIS BACK THEN.

Q SO TO MAKE SURE WE KNOW WHAT IS HAPPENING HERE, HE IS CUFFED BEHIND HIS BACK LIKE THIS (INDICATING)?

A RIGHT.

Q THEN HE IS LAID ON TOP OF THE SPINE BOARD?

A RIGHT, CORRECT.

Q SO HIS HANDS --

A HIS HANDS WERE HANDCUFFED.

Q -- WERE BETWEEN HIS BODY AND THE SPINE BOARD?

A YES, SIR.

Q AND THIS ALL OCCURRED OUT ON THE PAVED AREA OF THE PARKING LOT?

A YES, SIR.

Q WHAT IS AN OXYGEN MONITOR?

A WE USE THAT TO TEST THE PATIENT'S OXYGEN SATURATION GETTING INTO THE BLOOD CELLS TO MAKE SURE THEY ARE PROFUSING OXYGEN AND GETTING IT TO ALL THEIR VITAL ORGANS. IT ALSO TELLS THEIR PULSE.

Q IS THAT SOMETHING YOU ROUTINELY DO WHEN YOU ARE ON THE SCENE LIKE THAT?

A OH, YES, SIR, JUST ABOUT EVERY PATIENT.
Q DID YOU DO THAT IN THIS CASE?
A I DID THAT ON THE SCENE ALSO.
Q DID YOU DO THAT BEFORE OR AFTER YOU PUT HIM ON THE SPINE BOARD?
A BEFORE.
Q AND WHERE DOES THE OXYGEN MONITOR GO?
A IT CAN BE PLACED ON ONE FINGER. IT'S A LITTLE SQUARE PLASTIC THING. IT GETS PLACED ON WHICHEVER FINGER YOU CAN PUT IT ON.
Q CAN YOU JUST SHOW USING MY HAND HOW YOU WOULD PLACE THAT ON.
A IT'S A LITTLE SQUARE PIECE AND I PLACE IT RIGHT THERE ON TOP OF YOUR FINGER TO WHERE IT COVERS THE NAIL BED. IT HAS A LITTLE RED LIGHT THAT GOES THROUGH YOUR NAIL BED.
Q HOW LONG WERE YOU AT THE PARKING LOT BEFORE YOU LEFT IN THE AMBULANCE WITH HIM?
A ACCORDING TO THIS WE ARRIVED AT 12 MINUTES AFTER 12 AND WE LEFT AT 12:31.
Q WHERE DID Y'ALL GO? WHERE DID YOU TAKE MR. ALEKSEY?
A WE ENDED UP BEING DIVERTED FROM TRIDENT MEDICAL CENTER TO MEDICAL UNIVERSITY ONE WEST.
Q WHO DROVE THE AMBULANCE FROM THE K-MART TO THE

MEDICAL UNIVERSITY?

A CHRIS HORSLEY.

Q WHERE WERE YOU SITTING?

A I WAS IN THE BACK WITH THE PATIENT.

Q AND WERE THERE SOME TROOPERS THERE ALSO?

A YES, SIR, THERE WERE TWO POLICE OFFICERS IN THE BACK WITH ME.

Q SO EN ROUTE TO THE HOSPITAL YOU WERE IN THE BACK TO ATTEND TO MR. ALEKSEY?

A YES, SIR.

Q AND MR. HORSLEY WAS DRIVING?

A RIGHT.

Q AND WOULD YOU STATE WHETHER OR NOT ALEKSEY REGAINED CONSCIOUSNESS IN THE AMBULANCE.

A OH, YES, SIR.

Q HOW DO YOU KNOW HE REGAINED CONSCIOUSNESS? WHAT DID HE DO?

A HE WAS BECOMING VERY VERBAL AND COMBATIVE.

Q WHAT DO YOU MEAN BY COMBATIVE?

A MOVING AROUND, WOULDN'T HOLD STILL.

Q WAS HE STILL HANDCUFFED?

A YES, SIR.

Q AND WAS HE STILL ON THE BOARD?

A YES, SIR. YOU CAN STILL MOVE AROUND. YOU ARE NOT COMPLETELY IMMOBILIZED. IF SOMEONE WANTS TO,

THEY CAN WIGGLE AND MOVE ABOUT SOMEWHAT.
Q WAS HE DOING THAT?
A YES, SIR.
Q WIGGLING AND MOVING AROUND?
A YES, SIR, PRETTY MUCH THE WHOLE TIME.
Q HOW TIGHT ARE THE STRAPS ON THE SPINE BOARD?
A TIGHT ENOUGH IF I HAD TO FLIP HIM OVER IF HE WERE TO VOMIT, HE WOULDN'T MOVE OFF THE SPINE BOARD.
Q BUT COULD HE STILL MOVE?
A YES, SIR, HE CAN STILL MOVE.
Q WAS HE MOVING?
A YES, SIR.
Q WHAT PART OF THE HOSPITAL DID Y'ALL TAKE HIM TO AT M.U.S.C.?
A THE TRAUMA CENTER.
Q THAT'S THE EMERGENCY ROOM?
A YES, SIR.
Q ANOTHER WORD FOR EMERGENCY ROOM?
A YES, SIR.
Q ACCORDING TO YOUR RECORDS WHAT TIME DID Y'ALL ARRIVE AT THE TRAUMA UNIT?
A AT 12:54.
Q AND DID YOU REMAIN AT THE HOSPITAL FOR ANY LONG PERIOD OF TIME?
A I LEFT THE HOSPITAL AT 1:25 A.M.

Q YOU BASICALLY WOULD HAVE TURNED HIM OVER?
A YES, SIR.
Q YOU WOULD HAVE STOPPED YOUR TREATMENT WHEN HE GOT CHECKED IN?
A EXACTLY. I STOPPED TREATMENTS AS SOON AS I GOT HIM TURNED OVER TO THE NURSE OR THE ATTENDING PHYSICIAN.
Q ON YOUR RUN REPORT WHAT NAME DO YOU HAVE DOWN THERE FOR THE PATIENT?
A FOR THE PATIENT HE HAD SEVERAL I.D.S AND THE POLICE OFFICER TOLD ME TO PICK ONE. THE ONE I HAVE GOT IS JUSTIN MATEEKI WAS THE NAME I PICKED OUT.
Q THANK YOU, MRS. CLARK. ANSWER ANY QUESTIONS THE DEFENSE MIGHT HAVE FOR YOU.

CROSS EXAMINATION

BY MR. SIMS:

Q GOOD MORNING, MRS. CLARK.
A GOOD MORNING.
Q I HAVE A FEW QUESTIONS FOR YOU. IN LOOKING AT YOUR TRIP REPORT, WHENEVER YOU GO OUT, YOU DO A TRIP REPORT; IS THAT CORRECT?
A YES, SIR.
Q AND I WILL HAND YOU A DOCUMENT HERE AND ASK IF YOU CAN IDENTIFY THAT.
A YES, SIR, THAT'S MY TRIP REPORT.

Q IS AS A MATTER OF FACT, THAT'S WHAT YOU HAVE BEEN READING FROM?

A YES, SIR, THE SAME ONE.

MR. SIMS: YOUR HONOR, AT THIS TIME WE WOULD MOVE TO INTRODUCE IT INTO EVIDENCE.

SOLICITOR BAILEY: NO OBJECTION, YOUR HONOR.

THE COURT: WITHOUT OBJECTION.

(DEFENDANT'S EXHIBIT NUMBER 6, AMBULANCE TRIP REPORT, IS RECEIVED INTO EVIDENCE.)

Q ON THIS TRIP REPORT, YOU ARE REQUIRED TO NOTE ALL THE AREAS OF TRAUMA, ALL THE AREAS OF BLEEDING, THAT YOU WOULD NOTICE WHEN YOU GOT TO THE SCENE; IS THAT CORRECT?

A YES, SIR.

Q - AND ON THAT TRIP REPORT, YOU NOTICED THAT THERE WAS A CUT OVER, I BELIEVE, YOU SAID THE RIGHT OR LEFT?

A RIGHT SIDE.

Q RIGHT SIDE?

A YES, SIR.

Q AND IT WAS BLEEDING ONLY SLIGHTLY; IS THAT CORRECT?

A VERY SLIGHTLY.

Q HAD, IN FACT, ALMOST STOPPED BLEEDING BY THE

TIME YOU GOT THERE?

A PRETTY MUCH, YES, SIR.

Q SO THERE WAS NO PROFUSE BLEEDING ANYWHERE ON THE BODY?

A NO. THERE WAS A SMALL PUDDLE OF BLOOD RIGHT WHERE HIS HEAD WAS WHERE IT WAS BLEEDING EARLIER, A VERY SMALL AMOUNT.

Q A VERY SMALL AMOUNT?

A YES, SIR.

Q THAT BOARD THAT YOU PUT HIM ON WHEN YOU ROLLED HIM OVER AND PUT HIM ON THE BOARD, YOU SAID THERE WERE THREE STRAPS; IS THAT CORRECT?

A YES, SIR.

Q THERE IS A STRAP FOR THE SHOULDER AREA?

A SHOULDER, HIP AND LOWER EXTREMITIES.

Q YOU SAID THAT IT'S TO THE POINT WHERE IT IS TIGHT ENOUGH WHERE IT'S TO THE POINT IF YOU ROLLED HIM OVER BECAUSE IF HE VOMITED OR SOMETHING, YOU HAD TO BE SURE THAT IT DID NOT CHOKE HIM, BUT HE WOULD NOT FALL OFF THE BOARD?

A IT WOULDN'T INTERFERE WITH ANY SPINAL INJURY IF HE HAD ANY.

Q SO IT IS TIGHT ENOUGH TO KEEP HIM IMMOBILIZED ON THAT BOARD?

A RIGHT.

Q ISN'T IT TRUE THAT WHEN PEOPLE HAVE BEEN UNCONSCIOUS AND THEY ARE COMING OUT OF THAT UNCONSCIOUS STATE INTO A CONSCIOUS STATE AND FEEL THEMSELVES STRAPPED DOWN ON THAT BOARD, THEY BEGAN TO TRY TO MOVE OR TRY TO FLEX THEIR BODY?

A SOME PEOPLE DO, YES, SIR.

Q THAT'S NOT UNUSUAL FOR A PERSON TO KIND OF WAKE UP AND REALIZE, "HEY, I AM STRAPPED DOWN," AND TRY TO MOVE THEIR BODY?

A THAT'S TRUE, YES, SIR.

Q I KNOW YOU HAVE BEEN THERE LONG ENOUGH BUT PEOPLE ALSO FIND THAT BOARD VERY UNCOMFORTABLE, DON'T THEY?

A YES, SIR, MANY DO.

Q BECAUSE THEY HAVE TO STAY THERE IMMOBILIZED AND CANNOT MOVE?

A RIGHT.

Q THE USUAL POSITION IS FOR THE PERSON TO BE IMMOBILIZED WITH THEIR HANDS DOWN BESIDES THEM; IS THAT CORRECT?

A THAT'S CORRECT. THAT'S THE USUAL POSITION.

Q WHEN YOU HAVE A POSITION THE WAY YOU HAD WITH HIM WITH HIS HANDS BEHIND HIM, THAT IS EVEN FAR MORE UNCOMFORTABLE THAN THE ORDINARY SITUATION; ISN'T THAT CORRECT?

A I HAVE NEVER BEEN HANDCUFFED LIKE HIM. I HAVE BEEN STRAPPED TO A BOARD BUT I'VE NEVER HAD MY HANDS BEHIND MY BACK. I IMAGINE IT WOULD BE.

Q IT WAS UNCOMFORTABLE FOR YOU IN YOUR REGULAR POSITION; ISN'T THAT RIGHT?

A FOR MOST PEOPLE, YES, SIR.

Q THAT BOARD IS JUST A BASIC BOARD. THERE'S NO SHEETS OR ANYTHING ON IT. IT'S AN ORANGE BOARD OR SOMETHING?

A ORANGE PLASTIC BOARD, YES, SIR.

Q ORANGE PLASTIC BOARD?

A YES, SIR.

MR. SIMS: ONE MOMENT, YOUR HONOR.

(PAUSE.)

Q YOU PUT THAT LITTLE FINGER MONITOR ON HIS HAND; IS THAT CORRECT?

A YES, SIR.

Q YOU DIDN'T NOTICE ANYTHING OUT OF THE ORDINARY ABOUT HIS HANDS AT THAT POINT, DID YOU?

A I DON'T RECALL ANYTHING OUT OF THE ORDINARY.

Q AND THAT'S JUST A ONE-FINGER --

A RIGHT.

Q -- DIODE THAT YOU PUT ON THE HAND?

A RIGHT. IT'S A SQUARE LITTLE PLASTIC PROBE THAT WE PUT ON THE HAND OR FINGER, I SHOULD SAY.

Q THERE WAS NOTHING ELSE, NO BLOOD OR ANYTHING ON THE HANDS AT THAT POINT?

A IF THERE WAS I DON'T REMEMBER.

Q IF THERE WAS YOU WOULD HAVE TO NOTE THAT IN YOUR TRIP REPORT; ISN'T THAT CORRECT?

A IT'S POSSIBLE. I MAY HAVE. THERE WAS SOME MUCH GOING ON THAT NIGHT, I MAY HAVE NOTICED IT AND DIDN'T REMEMBER TO PUT IT IN MY REPORT. I JUST DON'T REMEMBER BLOOD BEING ON HIS HANDS.

MR. SIMS: ONE MOMENT, YOUR HONOR.

(PAUSE.)

MR. SIMS: THAT'S ALL I HAVE.

SOLICITOR BAILEY: NO REDIRECT. MAY SHE BE EXCUSED?

THE COURT: YOU MAY COME DOWN AND ARE EXCUSED. THANK YOU.

SOLICITOR BAILEY: PAUL BROUTHERS.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: PAUL JOSEPH BROUTHERS.

PAUL JOSEPH BROUTHERS, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

THE WITNESS: MY LAST NAME IS BROUTHERS, B-R-O-U-T-H-E-R-S.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. BROUTHERS, YOU ARE A LANCE CORPORAL WITH THE HIGHWAY PATROL?

A YES, SIR.

Q ARE YOU ASSIGNED TO THE DORCHESTER COUNTY PART OF THE HIGHWAY PATROL HERE IN THIS STATE?

A YES, SIR.

Q AND WERE YOU ASSIGNED THERE AND WERE YOU WORKING ON NEW YEAR'S EVE, 1997?

A YES, SIR.

Q AND DID YOU HEAR A MESSAGE OVER THE POLICE RADIO ABOUT AN OFFICER DOWN ON I-95 IN ORANGEBURG COUNTY?

A YES, SIR.

Q AND CAN YOU STATE WHETHER OR NOT YOU EVENTUALLY MADE YOUR WAY TO THE OLD K-MART PARKING LOT ON HIGHWAY 78 IN SUMMERVILLE?

A YES, SIR.

Q NOW, YOU WERE NOT INVOLVED IN THE CHASE, WERE YOU, DIRECTLY?

A NOT DIRECTLY.

Q AND WHO IS CORPORAL LLOYD, TIM LLOYD?

A HE IS MY IMMEDIATE SUPERVISOR.

Q DID YOU ENCOUNTER MR. LLOYD AT THE PARKING LOT?

A YES, SIR.

Q DID CORPORAL LLOYD GIVE YOU SOME INSTRUCTIONS?
A YES, SIR. HE ASSIGNED ME TO GUARD THE VEHICLE, THE WHITE MUSTANG. IT WAS CORDONED OFF AND I MADE SURE THAT IF ANYBODY DID ENTER, IT WAS DOCUMENTED.
Q AT WHAT POINT IN TIME DID YOU ARRIVE AT THE PARKING LOT AND GET THESE INSTRUCTIONS FROM MR. LLOYD?
A APPROXIMATELY AT THE SAME TIME -- IT COULDN'T HAVE BEEN MORE THAN A MINUTE AFTER THE ACCIDENT.
Q I SHOW YOU STATE'S 8, WHICH IS A PICTURE OF A WRECKED MUSTANG. IS THAT THE CAR THAT YOU WERE WATCHING?
A YES.
Q AND I WILL SHOW YOU STATE'S 30, WHICH IS ALREADY IN EVIDENCE, WHICH IS A PICTURE OF A PISTOL ON THE FLOORBOARD OF THE MUSTANG.
A YES, SIR.
Q WOULD YOU STATE WHETHER OR NOT YOU WERE ASSIGNED TO WATCH THAT PISTOL.
A YES, SIR.
Q AND HOW DID YOU GO ABOUT WATCHING THE PISTOL TO MAKE SURE NOBODY DISTURBED IT OR MOVED IT OR ANYTHING OF THAT NATURE?
A I STOOD AT THE DOOR OF THAT VEHICLE UNTIL S.L.E.D. GOT THERE.

Q THAT WOULD BE THE S.L.E.D. FORENSIC PEOPLE?
A YES, SIR.
Q AND AFTER S.L.E.D. ARRIVED, DID YOU TURN THAT SCENE OVER TO S.L.E.D.?
A YES, SIR.
Q DURING THAT PERIOD OF TIME FROM ROUGHLY A MINUTE OR SO AFTER THE COLLISION UNTIL THE S.L.E.D. FORENSICS PEOPLE ARRIVED, DID ANYBODY DISTURB THAT GUN, MOVE IT, TOUCH IT OR DO ANYTHING TO IT?
A NO, SIR.
Q IF THEY HAD WOULD YOU HAVE SEEN THAT?
A YES, SIR.
Q MR. BROUTHERS, THAT'S ALL I HAVE. PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

MR. STONE: I DON'T HAVE ANY QUESTIONS. THANK YOU.

THE COURT: YOU MAY COME DOWN, TROOPER, AND ARE EXCUSED.

SOLICITOR BAILEY: CALL BRETT BAKER.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: DONALD BRETT BAKER.

DONALD BRETT BAKER, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: HAVE A SEAT AND WHEN YOU DO, GIVE THE COURT REPORTER THE SPELLING OF YOUR LAST NAME FOR

HER.

THE WITNESS: SURE. DONALD BRETT BAKER, B-A-K-E-R.

MR. STONE: YOUR HONOR, WE MAY HAVE A QUESTION OF LAW THAT WE PROBABLY BEST TAKE UP AT THIS TIME. I HATE TO INTERRUPT THE PROCESS.

THE COURT: THAT'S FINE. I WILL LET YOU GO TO THE JURY ROOM JUST A MOMENT. I WILL BE CALLING YOU BACK.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: ALL RIGHT, SIR. THE JURY IS OUTSIDE THE PRESENCE OF THE COURT.

MR. STONE: THANK YOU, YOUR HONOR. AT THIS POINT I THINK WE ARE IN THE TIME FRAME IN WHICH PEOPLE BEGIN TO TAKE ITEMS OUT OF THE VEHICLE THAT HAS ALREADY BEEN STOPPED. THE TESTIMONY FROM LANCE CORPORAL BROUTHERS WAS AT THIS POINT THE CAR IS STOPPED AND SECURED.

NOW, EVERYTHING UP UNTIL THIS POINT I BELIEVE MAY FALL UNDER THE EXIGENT CIRCUMSTANCES AS TO A SEARCH ISSUE. I THINK EVERYTHING AFTER THIS POINT HOWEVER IT'S CLEAR FROM THE LANCE CORPORAL'S TESTIMONY THAT THE CAR IS NOW SECURED.

AT THIS POINT I BELIEVE A SEARCH WARRANT IS WARRANTED. ALSO I DON'T KNOW HOW FAR AND I DON'T

WANT TO JUMP AHEAD OF IT, BUT I DON'T KNOW HOW MUCH MR. BAKER TOOK OUT OF THE CAR.

THE FINGERPRINTS THAT WERE TAKEN OUT OF THE CAR AT THIS POINT, THE ITEMS TAKEN POSSIBLY THE TRUNK, VARIOUS OTHER ITEMS, I BELIEVE THAT ALL FALLS INTO THE SAME CIRCUMSTANCES.

I WANT TO BRING THAT UP AT THIS POINT BECAUSE I DON'T WANT TO GET TOO FAR INTO ITEMS BEING TAKEN OUT OF THE CAR BECAUSE I THINK AT THIS POINT IT'S NECESSARY FOR THE POLICE TO OBTAIN A SEARCH WARRANT.

THERE HAS BEEN NO TESTIMONY AND I DON'T KNOW OF ANY TESTIMONY THAT WOULD INDICATE THERE IS ANY EXIGENT CIRCUMSTANCES TO ENTER THAT CAR AND TAKE ITEMS OUT OF IT AT THIS POINT.

THE COURT: DO YOU CARE TO RESPOND?

SOLICITOR BAILEY: YES, SIR. YOUR HONOR, AT SOME POINT IN TIME -- AND I PLAN ON CALLING MR. BAKER MORE THAN ONE TIME -- HE WILL TESTIFY AS TO PHOTOGRAPHS TAKEN OF THE CAR, FINGERPRINTS TAKEN IN THE CAR.

THE ITEMS WERE NOT ACTUALLY REMOVED FROM THE CAR AT THE SCENE. THE CAR WAS IMPOUNDED AND WAS TOWED TO THE SUMMERVILLE POLICE STATION. THEREAFTER THEY MADE FURTHER OBSERVATIONS, TOOK PICTURES AND

REMOVED ITEMS FROM THE CAR.

THERE WAS NO SEARCH WARRANT. THERE WAS NO SEARCH WARRANT REQUIRED. THIS IS A VEHICLE. YOU HAVE GOT THE VEHICLE SITUATION WHERE THE CAR WAS THE CRIME SCENE.

IT HAD BEEN INVOLVED IN A HIGH SPEED CHASE, INVOLVED IN A WRECK. THIS PERSON WAS PULLED OUT OF THE CAR. I DON'T SEE WHERE ANY SEARCH WARRANT IS WARRANTED.

THE COURT: MY VIEW ON THE TOTALITY OF THE CIRCUMSTANCES HERE IS THAT A SEARCH WARRANT WOULD HAVE NOT BEEN REQUIRED. THIS CAR WAS IDENTIFIED BY NUMEROUS OFFICERS AS BEING A WHITE VEHICLE. IT WAS IN A HIGH SPEED CHASE. IT HAD TO BE STOPPED BY A COLLISION THERE.

THE DEFENDANT WAS REMOVED AT THAT TIME AND PLACE. I CONCLUDE THAT THE CASE LAW, EVEN WITH THE UNITED STATES SUPREME COURT, WOULD HAVE TO JUSTIFY AN APPROPRIATE SEARCH WARRANT HERE. YOUR MOTION IS RESPECTFULLY OVERRULED.

MR. STONE: THANK YOU, YOUR HONOR.

THE COURT: BRING THE JURY IN.

(THE JURY RETURNS TO THE COURTROOM.)

SOLICITOR BAILEY: ONE OTHER THING. WELL, I CAN TAKE IT UP LATER, JUDGE. MAY WE APPROACH?

THE COURT: YES, SIR.

COURT REPORTER: IS THIS ON THE RECORD?

SOLICITOR BAILEY: NO.

(WHEREUPON THERE WAS A BENCH CONFERENCE OFF THE RECORD IN THE PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

THE COURT: I APOLOGIZE, LADIES AND GENTLEMEN. THERE IS ONE OTHER ISSUE OF LAW THAT I NEED TO ADDRESS. I WILL ASK YOU TO GO TO THE JURY ROOM AGAIN. I WILL BRING YOU RIGHT BACK OUT.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: ALL RIGHT, SOLICITOR.

SOLICITOR BAILEY: YOUR HONOR, WHAT I WAS GOING TO DO IS CALL MR. BAKER SEVERAL TIMES. HE WAS INVOLVED IN DIFFERENT ASPECTS OF WHAT OCCURRED HERE. AT THE PRESENT TIME I AM JUST CALLING HIM AS A CRIME SCENE TECHNICIAN FROM S.L.E.D.

I WILL GET INTO THE FACT THAT HE LIFTED SOME PRINTS, BUT I WASN'T GOING TO ATTEMPT TO QUALIFY HIM AS A FINGERPRINT EXPERT UNTIL LATER ON WHEN WE GET INTO HIS TESTIMONY ABOUT THE FINGERPRINT COMPARISONS.

THE COURT: IS IT YOUR INTENTION TO SUBSEQUENTLY QUALIFY HIM AS AN FINGERPRINT EXPERT?

SOLICITOR BAILEY: YES, SIR.

THE COURT: WHAT IS YOUR OBJECTION?

MR. STONE: MY OBJECTION IS AS FAR AS THE FINGERPRINT IS CONCERNED, WE HAVE TWO PROBLEMS WITH IT. NUMBER ONE IS I DON'T BELIEVE THAT A FINGERPRINT TAKEN FROM A CAR, WHICH IS OBVIOUSLY LATENT BY DEFINITION, QUALIFIES AS A PLAIN VIEW SEARCH.

I THINK THAT IS PROBABLY THE ONLY WAY YOU CAN GET AROUND THE FACT THEY NEEDED A WARRANT TO GET IN THE CAR. THE SECOND CONCERN I HAVE IS THAT THOSE FINGERPRINTS WERE THEN COMPARED WITH CARDS. I'M NOT SURE --

THE COURT: LET ME SAY THIS TO YOU. THERE IS ABUNDANT TESTIMONY BY EVERYBODY THAT THIS VEHICLE WAS ENGAGED IN THE SLAYING OF A HIGHWAY TROOPER.

MR. STONE: YES, SIR.

THE COURT: CLEARLY BASED ON THAT, THE EXIGENCIES OF THE CIRCUMSTANCES DEMANDED, IT SEEMS TO ME, THAT APPROPRIATE EVIDENCE BE COLLECTED AT THAT POINT IN TIME.

MR. STONE: EVERY -- RESPECTFULLY, YOUR HONOR.

THE COURT: I UNDERSTAND.

MR. STONE: EVERY SEARCH WITHOUT A SEARCH WARRANT IS PRESUMED TO BE UNREASONABLE UNLESS THERE ARE EXIGENT CIRCUMSTANCES. THE INVENTORY SEARCH

EXCEPTION, THE SEARCH INCIDENT TO ARREST EXCEPTION, ALL OF THOSE DEMAND TWO THINGS.

ONE IS THERE ARE EXIGENT CIRCUMSTANCES AND GENERALLY THE EXIGENT CIRCUMSTANCES ARE THE DESTRUCTION OF EVIDENCE. I WOULD TOTALLY AGREE WITH YOU ON THIS AND, IN FACT, THAT IS WHY I HAVE NOT BROUGHT UP --

THE COURT: I HAVE ALREADY RULED ON THAT ISSUE NOW.

MR. STONE: I UNDERSTAND.

THE COURT: THE SEARCH WARRANT IS APPROPRIATE. YOU HAD ANOTHER PROBLEM. I HAVE RULED ON THAT ONE.

MR. STONE: ALL RIGHT, SIR. THESE FINGERPRINT CARDS -- I DON'T KNOW IF MR. BAKER IS THE ONE THAT DID IT -- WERE COMPARED THEN WITH PRINTS TAKEN FROM MY CLIENT AT THE JAIL, NOT, NOT IN ACCORDANCE WITH THE NORMAL COURSE OF BUSINESS OF THE JAIL BUT SPECIFICALLY BY S.L.E.D. AGENTS WHO CAME IN AND TOOK MAJOR CASE PRINTS.

NOW, WHEN WE DO A HANDWRITING EXEMPLAR, YOU GET A COURT ORDER. WHEN WE DO A SCHMURBER HEARING, WE HAVE A COURT ORDER.

THE COURT: IN THIS CASE THOUGH THE EVIDENCE IS THAT HE HAD THREE OR FOUR SEPARATE

IDENTIFICATION CARDS.

MR. STONE: ABSOLUTELY.

THE COURT: AGAIN, SHOWING THE EXIGENCY AND THE NECESSITY FOR THE FINGERPRINTS TO IDENTIFY WHO, IN FACT, HE WAS AT THAT MOMENT.

MR. STONE: YES, SIR, AND THEY HAD THOSE CARDS IN THE DETENTION CENTER WHEN THEY BOOKED HIM IN; BUT THOSE ARE NOT THE FINGERPRINTS THAT THEY USED. THEY WENT AND MADE NEW ONES.

YOUR HONOR, IT'S MY POSITION THAT IS THE EXACT SAME THING AS GOING BACK AT A LATER TIME AND GETTING A HANDWRITING SAMPLE.

THE COURT: I WOULD AGAIN RESPECTFULLY OVERRULE YOU, GIVEN THE TOTALITY OF THE CIRCUMSTANCES, THE FACT EVEN HIS IDENTIFICATION INDICATED SOME FOUR OR FIVE INDIVIDUALS. IT WAS OF NECESSITY AT THAT MOMENT THAT HE BE PROPERLY IDENTIFIED BY FURTHER FINGERPRINT EXAMINATION.

MR. STONE: IF I COULD, THIS WITNESS I AM ASSUMING WILL TESTIFY AS TO -- WILL HE ALSO TESTIFY AS TO ITEMS TAKEN OUT OF THE TRUNK?

SOLICITOR BAILEY: OUT OF THE TRUNK? I DON'T THINK SO.

THE COURT: HE WILL TESTIFY, YOU INDICATE, AS TO THE LIFTING OF CERTAIN FINGERPRINTS.

SOLICITOR BAILEY: YES, SIR, FROM THE EXTERIOR AND INTERIOR.

THE COURT: AND THEN YOU WILL RECALL HIM LATER FOR OTHER ISSUES.

MR. STONE: IS HE IS AN EXPERT -- WELL, YOUR HONOR, IF HE IS FOUND QUALIFIED AS AN EXPERT IN LIFTING FINGERPRINTS, THEN CERTAINLY THAT IS SOMETHING WE WILL BRING OUT.

THE COURT: THE SOLICITOR HAS INDICATED TO ME THAT HE WILL BE QUALIFIED AS AN EXPERT IN FINGERPRINTS.

SOLICITOR BAILEY: YOUR HONOR, JUST AS A MATTER OR TRIAL STRATEGY, I WANTED TO QUALIFY HIM AS AN EXPERT, FINGERPRINT EXPERT, IMMEDIATELY PRIOR TO THE TESTIMONY REGARDING THE COMPARISONS, WHICH WILL COME LATER ON IN THIS CASE.

THE COURT: IF YOU ARE SAYING TO ME THAT HE WILL SUBSEQUENTLY BE QUALIFIED IN LATER TESTIMONY, I AM GOING TO PERMIT THAT TESTIMONY AT THIS TIME.

SOLICITOR BAILEY: THANK YOU, YOUR HONOR.

THE COURT: UNLESS YOU WANT HIM QUALIFIED TWICE.

MR. STONE: IF HE IS -- IS HE GOING TO TESTIFY -- I AM TRYING TO CLEAR UP EXACTLY WHAT THE SOLICITOR IS TELLING ME. HE WILL COME BACK AND

TESTIFY AGAIN ABOUT THE FINGERPRINTS THAT HE LIFTED AND HE IS NOT GOING TO TALK ABOUT LIFTING FINGERPRINTS NOW?

SOLICITOR BAILEY: NO.

MR. STONE: IF HE IS LIFTING FINGERPRINTS OUT OF THE CAR, HE HAS GOT TO BE QUALIFIED AS AN EXPERT TO DO THAT. I DON'T MEAN TO BE DIFFICULT ABOUT THIS --

SOLICITOR BAILEY: I WOULD BE HAPPY TO QUALIFY HIM AS AN EXPERT.

THE COURT: I UNDERSTAND YOUR POSITION. I HAVE NO PROBLEM. LET'S QUALIFY HIM.

MR. STONE: THANK YOU.

SOLICITOR BAILEY: MY CONCERN WAS THAT IT MAY POSSIBLY BE TOMORROW BEFORE WE GET INTO COMPARISONS.

THE COURT: QUALIFY HIM AGAIN IF YOU WANT TO; BUT IF HE IS GOING TO TESTIFY TO THAT, LET'S DO IT NOW IN AN ABUNDANCE OF PRECAUTION.

SOLICITOR BAILEY: ALL RIGHT, SIR.

THE COURT: YES, SIR, I UNDERSTAND.

MR. STONE: THANK YOU.

THE COURT: BRING THE JURY.

(THE JURY RETURNS TO THE COURTROOM.)

THE COURT: ALL RIGHT, SIR.

SOLICITOR BAILEY: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q STATE YOUR FULL NAME AGAIN, PLEASE.

A DONALD BRETT BAKER, B-A-K-E-R.

Q MR. BAKER, WHAT IS YOUR EDUCATIONAL BACKGROUND?

A I HAVE GOT A BACHELOR OF SCIENCE DEGREE FROM WESTERN CAROLINA UNIVERSITY IN CRIMINAL JUSTICE.

Q AND YOUR PRESENT EMPLOYMENT?

A I AM EMPLOYED BY THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, COMMONLY KNOWN BY THE ACRONYM S.L.E.D.

Q WHAT DO YOU DO FOR S.L.E.D.?

A I WORK IN THE LATENT PRINT CRIME SCENE DEPARTMENT.

Q WOULD YOU TELL THE JURY -- LET'S SEPARATE THAT OUT. WHAT IS THE CRIME SCENE DEPARTMENT? WHAT DOES THAT MEAN?

A THE LATENT CRIME SCENE DEPARTMENT IS THAT DEPARTMENT WHICH WILL RESPOND THROUGHOUT THE STATE OF SOUTH CAROLINA TO ASSIST FEDERAL, STATE AND LOCAL LAW ENFORCEMENT WITH THE PROCESSING OF CRIME SCENES AND/OR DOING CRIME SCENE RECONSTRUCTIONS.

Q IN GENERAL TERMS, NOT TALKING ABOUT THIS CASE, BUT WHEN Y'ALL GO TO A CRIME SCENE, WHAT DIFFERENT

TYPE THINGS DO Y'ALL DO?

A OUR PRIMARY RESPONSIBILITY AT A CRIME SCENE IS TO LOCATE, DOCUMENT AND COLLECT ANY PHYSICAL EVIDENCE WHICH MAY BE PROBATIVE TO THAT INVESTIGATION AND THEN ULTIMATELY CARRY THAT EVIDENCE BACK TO THE STATE CRIME LABORATORY IN COLUMBIA TO WHERE IT CAN BE DISTRIBUTED TO ITS RESPECTIVE DEPARTMENTS FOR ANALYSIS.

Q SOME OF THE EVIDENCE THAT Y'ALL WOULD LOOK FOR, WOULD THAT INCLUDE FINGERPRINTS?

A YES, SIR, THAT'S CORRECT.

Q WHAT TRAINING HAVE YOU HAD IN FINGERPRINTS GENERALLY?

A WELL CURRENTLY I HAVE OVER 2,000 FORMALIZED HOURS OF TRAINING IN THE AREA OF FINGERPRINT SCIENCE. I HAVE COMPLETED A TWO-YEAR IN-HOUSE TRAINING PROGRAM WITH THE STATE LAW ENFORCEMENT DIVISION WHERE I SERVED UNDER OTHER SENIOR COURT QUALIFIED EXAMINERS.

AS WELL AS THAT, I HAVE ATTENDED SCHOOLS PUT ON BY THE F.B.I. IN THE AREA OF DEVELOPMENT TECHNIQUES IN FINGERPRINTS. I COMPARE LATENT FINGERPRINTS ON A DAILY BASIS.

Q TELL THE JURY WHAT A LATENT FINGERPRINT IS.

A A LATENT FINGERPRINT IS SIMPLY AN ACCIDENTAL, UNINTENTIONAL TRANSFER OF A PERSON'S FINGER OR PALM

PRINT TO AN ITEM. IN OTHER WORDS, WHEN YOU TOUCH AN ITEM, YOUR FINGERPRINTS MAY TRANSFER TO THAT ITEM.

OFTENTIMES IT'S NOT VISIBLE TO THE HUMAN EYE, SO IT NEEDS SOME TYPE OF PROCESSING TO MAKE IT VISIBLE TO BE SEEN. A LATENT BY ITS NATURE IS HIDDEN, LIKE I SAY IT'S NOT READILY VISIBLE; BUT IT IS BASICALLY A TRANSFER OF A PERSON'S FINGER OR PALM PRINT TO AN ITEM TOUCHED.

Q WHAT IS A LIFT? WHAT DO YOU MEAN BY LIFT?

A A LATENT FINGERPRINT LIFT IS BASICALLY A CARD. IT WILL BE A WHITE CARD THAT THE FINGERPRINT HAS BEEN TRANSFERRED TO. THERE IS MANY WAYS TO DOCUMENT A LATENT FINGERPRINT.

YOU CAN EITHER DO THIS BY PHOTOGRAPHY, PHOTOGRAPHING THE LIFT PRIOR TO TRYING TO LIFT IT, THE FINGERPRINT, AND THEN TRYING TO LIFT IT WITH CLEAR TAPE AND PUTTING IT ON A WHITE BACKER FOR CONTRAST.

WE USUALLY -- I THINK MOST PERSONS HAVE SEEN BLACK POWDER. IT'S ONE CHEMICAL THAT IS USED TO HELP ENHANCE OR MAKE THE FINGERPRINTS VISIBLE TO THE HUMAN EYE.

Q WHAT IS A KNOWN PRINT IN RELATION TO A LATENT PRINT?

A A KNOWN PRINT IS THE INTENTIONAL TRANSFER OF A

PERSON'S FINGER OR PALM PRINT TO TYPICALLY A PIECE OF PAPER, A FINGERPRINT CARD. WE DO THIS BY ROLLING INK ACROSS THE FINGERS AND PALMS AND THEN IN A CONTROLLED MANNER TRANSFERRING THOSE TO A CARD. THOSE ARE LATER USED AS A STANDARD TO COMPARE AGAINST THE UNKNOWN LATENTS THAT YOU DEVELOP AT A CRIME SCENE.

Q ARE EACH PERSON'S FINGERPRINTS UNIQUE?

A YES, SIR. THE SCIENCE OF FINGERPRINTS IS BASED ON TWO BASIC PREMISES: ONE, THAT THE FINGERPRINT OF EACH AND EVERY INDIVIDUAL IS UNIQUE TO THAT INDIVIDUAL; THAT IS, MY ONE FINGER IS DIFFERENT, SIGNIFICANTLY DIFFERENT, FROM ANY OTHER FINGER ON MY HAND OR ANY OF Y'ALL'S HANDS.

THE COURT: LET ME INTERRUPT. YOU OFFER HIM AS AN EXPERT?

SOLICITOR BAILEY: THAT WAS MY NEXT QUESTION -- OR ONE MORE QUESTION.

A IT IS SIGNIFICANTLY DIFFERENT THAN ANY OTHER PERSON'S FINGERPRINT IN THE WORLD IN THAT IT REMAINS UNCHANGED THROUGHOUT A PERSON'S LIFE, BARRING DEATH AND DECOMPOSITION.

Q HAVE YOU TESTIFIED IN THE PAST IN THE COURTS OF THIS STATE AS AN EXPERT IN FINGERPRINT COMPARISON, COMPARING LATENT PRINTS TO KNOWN PRINTS?

A YES, SIR, I HAVE.

SOLICITOR BAILEY: YOUR HONOR, I WOULD TENDER MR. BAKER AS AN EXPERT.

THE COURT: DO YOU CARE TO EXAMINE ON THE QUESTION OF EXPERTISE ONLY AT THIS TIME?

MR. STONE: JUST BRIEFLY.

VOIR DIRE EXAMINATION

BY BY MR. STONE:

Q YOU HAVE BEEN QUALIFIED IN COURT BEFORE AS A FINGERPRINT EXPERT?

A YES, SIR, I SURE HAVE.

Q FEDERAL AND STATE COURT OR JUST STATE COURT?

A JUST STATE COURT.

Q A NUMBER OF TIMES?

A I BELIEVE APPROXIMATELY TWO TIMES, YES, SIR.

MR. STONE: I DON'T HAVE ANY OBJECTION, YOUR HONOR. I THINK HE IS QUALIFIED.

THE COURT: I FIND HIM QUALIFIED AS AN EXPERT IN FINGERPRINT COMPARISON.

SOLICITOR BAILEY: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR BAILEY:

Q MR. BAKER, I WANT TO CALL YOUR ATTENTION TO THE EARLY MORNING HOURS OF JANUARY 1ST OF THIS YEAR. WERE YOU ON DUTY AS A S.L.E.D. AGENT, A FORENSIC S.L.E.D. AGENT?

A YES, SIR. APPROXIMATELY ONCE A MONTH I COME UP AND PULL A WEEK ROTATION OF BEING ON CALL. IN ADDITION TO WORKING CASES AT THE STATE CRIME LABORATORY, I ALSO SERVE AS THE PERSON ON CALL TO ASSISTANCE NEEDED BY ANOTHER AGENCY. WE PULL THAT ABOUT 24 HOURS A DAY, SEVEN DAYS A WEEK, ONCE A MONTH.

Q HOW MANY CRIME SCENE UNITS -- DO Y'ALL WORK IN PAIRS?

A TYPICALLY IT'S ACTUALLY THE SENIOR EXAMINER, WHICH WOULD BE ME, IF I RECEIVE THE CALL TO DETERMINE HOW MANY PERSONS ARE NECESSARY TO COMPLETE A CRIME SCENE. NORMALLY IT IS TWO PERSONS THAT RESPOND TO ANY DEATH INVESTIGATION.

Q DO Y'ALL HAVE A PARTICULAR VEHICLE YOU USE TO RESPOND TO A CRIME SCENE?

A YES, SIR, WE ARE ISSUED POLICE VEHICLES FOR TAKE HOME PURPOSES TO RESPOND TO CRIME SCENES.

Q WERE YOU THE S.L.E.D. CRIME SCENE MAN THAT WAS CALLED UPON TO RESPOND TO THE SHOOTING DEATH OF FIRST SERGEANT FRANKIE LINGARD WHICH OCCURRED NEW YEAR'S EVE AT APPROXIMATELY 11:30 P.M.?

A YES, SIR. I RECEIVED THE CALL FROM S.L.E.D. HEADQUARTERS AT APPROXIMATELY 12:40 ON JANUARY 1ST OF THIS YEAR, 1998.

Q WAS SOMEBODY ELSE WORKING WITH YOU AT THAT TIME, SOME OTHER S.L.E.D. AGENT?

A YES, SIR. AT THAT TIME I ADVISED HEADQUARTERS TO PLEASE NOTIFY MY BACKUP, WHICH WAS SPECIAL AGENT KERRY GOODWIN.

Q WHERE DID YOU AND MRS. GOODWIN GO INITIALLY? WHAT WAS THE FIRST PLACE YOU WENT WHEN YOU WERE ASSIGNED TO THIS CASE?

A AGAIN, WE LEAVE FROM OUR HOMES. I WAS EN ROUTE TO I-95 SOUTHBOUND AT EXIT 97. WHILE EN ROUTE I BLEW OUT A TIRE ON MY VEHICLE. SO I REROUTED HERE IN HER VEHICLE TO PICK ME UP AND LEFT MINE ON THE SIDE OF THE ROAD. WE RESPONDED TO I-95, EXIT 97, HERE IN ORANGEBURG COUNTY.

Q AND ABOUT WHAT TIME DID YOU ARRIVE AT THE MURDER SCENE ON I-95?

A AGAIN RECEIVED THE CALL AT 12:40. I ARRIVED ON THE SCENE AT APPROXIMATELY 2 A.M.

Q COULD YOU DESCRIBE THE SCENE JUST IN GENERAL TERMS WHEN YOU ARRIVED.

A GENERALLY IN GENERAL TERMS THE SCENE WAS SECURE. THERE WERE OTHER LAW ENFORCEMENT AGENTS THERE ON THE SCENE. THEY HAD THE SCENE ROPED OFF SO NO ONE COULD COME INTO THE SCENE, AT WHICH POINT I, OF COURSE, I NOTICED THAT THERE WAS A VICTIM LAYING IN FRONT OF A

VEHICLE THAT WAS COVERED THAT WAS TROOPER LINGARD.
Q AND WHEN YOU GO TO A CRIME SCENE, DO YOU NORMALLY PREPARE A SKETCH OF THE CRIME SCENE TO SHOW WHAT YOU OBSERVED?
A YES, SIR. I PREPARED A SKETCH TO HELP SUPPLEMENT PHOTOGRAPHS.
Q DID YOU DO THAT IN THIS CASE?
A YES, SIR, I SURE DID.
Q I WILL SHOW YOU THIS AND ASK WHETHER OR NOT THIS IS AN ENLARGEMENT OF THE CRIME SCENE SKETCH THAT YOU PREPARED?
A YES, SIR, IT IS.
MR. STONE: NO OBJECTION.
SOLICITOR BAILEY: I OFFER THIS, YOUR HONOR.
THE COURT: YOU DO NOT OBJECT TO THIS GOING INTO EVIDENCE OR FOR IDENTIFICATION ONLY? LET'S GET THIS CLEAR.
MR. STONE: IT CAN GO INTO EVIDENCE.
THE COURT: WITHOUT OBJECTION I WILL PERMIT IT INTO EVIDENCE.
(STATE'S EXHIBIT NUMBER 35, SKETCH OF SCENE, IS RECEIVED INTO EVIDENCE.)
Q MR. BAKER, IF YOU WOULD, PLEASE STEP AROUND HERE AND EXPLAIN THAT DRAWING TO THE JURY.

A (WITNESS LEAVES THE WITNESS STAND.) AGAIN, THIS IS JUST A SKETCH TO HELP SUPPLEMENT THE PHOTOGRAPHS OF THE CRIME SCENE. WHAT WE HAVE HERE IS SUPPOSED TO BE A RENDITION OF TROOPER LINGARD'S POLICE VEHICLE. THIS (INDICATING) IS AN EMERGENCY LANE SOUTHBOUND JUST PAST EXIT 97.

WHAT WE HAVE HERE (INDICATING) WOULD BE TROOPER LINGARD ON THE ROADWAY, SLIGHTLY OFF THE ROADWAY. IT WAS APPROXIMATELY NINE FEET TO HIS HEAD, NINE FEET, FOUR INCHES FROM HIS FRONT LEFT TIRE. HIS FEET WERE ABOUT FOURTEEN FEET SIX INCHES.

IN ADDITION TO THE VEHICLE AND A DEPICTION OF THE VICTIM HERE, I HAVE SOME CONES THAT ARE MARKED AS A., B., C., D. AND E. AND F., G., H. AND I. THOSE ARE TO HELP DEMONSTRATE WHERE CERTAIN ITEMS OF EVIDENCE WERE COLLECTED FROM AND WHAT THEY WERE.

AGAIN RIGHT HERE (INDICATING) IN THE LEDGER, YOU CAN SEE ITEM A., A SPEAR NINE MILLIMETER LUGER CARTRIDGE CASING. IN OTHER WORDS, THAT IS A FIRED CASING. A., B., C., D. WERE ALL OF THE SAME MAGNUM CARTRIDGE CASING AND ALL NINE MILLIMETER. IT'S SHOWING APPROXIMATELY THEIR LOCATION IN RELATION TO THE VICTIM.

E. IS A P.M.C. NINE MILLIMETER LUGER ALSO LOCATED OVER HERE (INDICATING.) TO THE BACK REAR

TIRE OF TROOPER LINGARD'S VEHICLE IN THE GRASSY AREA, THERE WERE FOUR CARTRIDGES FOUND, ALL BEING R.P. 40-CALIBER SMITH AND WESSON, 40-CALIBER CARTRIDGES.

Q THOSE 40-CALIBER SHELL CASINGS WERE FOUND BESIDE TROOPER LINGARD'S CAR?

A YES, SIR. THEY WERE FOUND BESIDE HIS CAR TO THE BACK AND REAR. SO IF I AM FACING THIS WAY TO THE CAR (INDICATING), THEY WOULD BE TO THE BACK REAR WHEEL.

Q YOU CAN GO AHEAD AND HAVE A SEAT UP THERE IF YOU WOULD, PLEASE.

A (WITNESS RESUMES THE WITNESS STAND.)

Q I HAND YOU A PHOTOGRAPH AND ASK IF YOU CAN IDENTIFY THAT, PLEASE.

A YES, SIR. THAT IS A PHOTOGRAPH OF THE SCENE.

Q DOES THAT ACCURATELY DEPICT THE SCENE AS YOU OBSERVED IT THAT MORNING?

A YES, SIR, IT DOES?

Q THE CONES SHOWN THERE, THOSE CONES ARE PLACED THERE TO MARK SHELL CASINGS YOU TESTIFIED ABOUT ON THE SKETCH?

A THAT IS CORRECT, YES, SIR.

(ATTORNEYS CONFER.)

MR. STONE: YOUR HONOR, THE ONLY OBJECTION WE WOULD HAVE IS I THINK WE HAVE ALREADY GOT A PICTURE FROM THE SIDE VIEW. THIS IS, OTHER THAN VERY

DIFFICULT TO SEE, THE ANGLE IS -- I DON'T BELIEVE IT'S A FAIR AND ACCURATE DEPICTION OF HOW IT LOOKS OUT THERE. I'M NOT SURE.

THE COURT: I WILL LET THE JURY GIVE IT SUCH WEIGHT AS THEY THINK IN THEIR JUDGMENT IT IS ENTITLED TO RECEIVE.

SOLICITOR BAILEY: YOUR HONOR, I OFFER IT AT THIS TIME INTO EVIDENCE.

THE COURT: ALL RIGHT, SIR.

(STATE'S EXHIBIT NUMBER 36, PHOTOGRAPH OF CONES AT SCENE, IS RECEIVED INTO EVIDENCE.)

Q MR. BAKER, I WILL PUT STATE'S 36 UP HERE ON THE BOARD. LET ME GET THIS OUT OF YOUR WAY. IF YOU WOULD, PLEASE, WOULD YOU TELL THE JURY, FIRST OF ALL, WHAT ANGLE YOU ARE TAKING THAT FROM.

A THAT PICTURE --

Q AND WHAT THAT SHOWS.

A YES, SIR. THAT PICTURE IS SHOWING IF YOU WERE -- AGAIN, KEEPING IN MIND THE CAR IS HEADING SOUTHBOUND. THIS IS A PICTURE SHOOTING BACK NORTHBOUND FROM THE FAR END OF THE CRIME SCENE SHOOTING BACK TOWARDS THE DIRECTION OF TRAVEL THAT THE TRAFFIC WOULD HAVE BEEN FLOWING.

IT'S A DEPICTION OF TROOPER LINGARD'S CAR BACK THERE WITH THE HEADLIGHTS ON. THE VICTIM IS COVERED

WITH A BLANKET THERE AND SOME CONES MARKING DIFFERENT CARTRIDGE CASINGS THAT WERE FOUND ON THE CRIME SCENE.

Q THE CONES THAT ARE VISIBLE IN FRONT OF TROOPER LINGARD'S CAR THAT ARE SHOWN IN THAT PICTURE, ARE THOSE THE NINE MILLIMETER SHELL CASINGS?

A YES, SIR, THAT'S CORRECT.

Q AND THE 40-CALIBER SHELL CASINGS WOULD BE SOMEWHERE BACK OVER HERE (INDICATING) BESIDE THE CAR; IS THAT CORRECT?

A YES, SIR, WOULD BE JUST SLIGHTLY TO THE -- IF YOU CAN SEE THE HEADLIGHTS THERE AND IMAGINE MAYBE ANOTHER 15 FEET TO THE BACK LEFT AS WE LOOK, IT WOULD BE LOCATED (INDICATING) THE .40 CARTRIDGE CASING AND THE 40-CALIBER CARTRIDGE CASINGS.

SOLICITOR BAILEY: BEAR WITH ME A SECOND, PLEASE.

Q LET ME SHOW YOU STATE'S 10 WHICH IS A DIFFERENT VIEW. THAT IS ALREADY IN EVIDENCE. DOES THAT ACCURATELY DEPICT WHAT YOU OBSERVED THAT NIGHT?

A YES, SIR, IT DOES. WHAT YOU SEE HERE (INDICATING), THIS IS SOMEWHAT LOOKING SOUTHBOUND. IT'S TAKEN AT AN APPROXIMATELY 45-DEGREE ANGLE BACK TOWARDS TROOPER LINGARD'S VEHICLE FROM THE BACK RIGHT TIRE. YOU CAN SEE THE CONES MARKING THE 40-CALIBER SHELL CARTRIDGE CASINGS THERE IN THE GRASSY AREA.

THAT IS ALSO SPECIAL AGENT KERRY GOODWIN THAT WAS ASSISTING ME.

Q AND ONE OTHER PHOTOGRAPH. THIS IS STATE'S 11.

A AGAIN, THAT IS A PICTURE OF THE CRIME SCENE TAKEN FROM THE FRONT RIGHT TIRE OF TROOPER LINGARD'S VEHICLE SHOWING HIS RELATIONSHIP TO THE FRONT OF HIS CAR WHERE THE VICTIM WAS FOUND. AGAIN, KEEP IN MIND THIS IS AS I FIND THE SCENE. THAT'S THE ONLY WAY I CAN ACCURATELY DESCRIBE WHAT I SEE WHEN I ARRIVE ON THE SCENE.

Q NOW, THE 5 NINE MILLIMETER SHELL CASINGS THAT YOU HAVE GOT DESIGNATED WITH CONES A., B., C., D. AND E.?

A YES, SIR.

Q DID YOU RECOVER THOSE?

A YES, SIR.

Q I WILL HAND YOU FIVE CONTAINERS AND TAKE A LOOK AT THOSE AND SEE IF YOU CAN IDENTIFY THEM.

A YES, SIR. THOSE ARE THE CONTAINERS IN WHICH I HOUSED THE CARTRIDGE CASINGS. THEY BEAR THE CASE NUMBER, L-98-0011, AS WELL AS MY INITIALS, THE DATE AND TIME THAT THOSE WERE COLLECTED.

Q YOU TOOK THOSE INTO YOUR POSSESSION?

A YES, SIR. I WOULD HAVE BEEN THE PERSON TO HAVE COLLECTED THOSE, AND THEY WOULD HAVE STAYED IN MY

POSSESSION UNTIL SUCH TIME AS I LOGGED THEM INTO THE STATE CRIME LABORATORY.

SOLICITOR BAILEY: I OFFER THESE INTO EVIDENCE AT THIS TIME.

MR. STONE: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBITS NUMBER 37 THROUGH 41, BULLET CASINGS LABELED A. THROUGH E., ARE RECEIVED INTO EVIDENCE.)

Q MR. BAKER.

A YES, SIR.

Q ABOUT HOW LONG WERE YOU AT THE MURDER SCENE BEFORE YOU LEFT?

A THE VICTIM'S BODY WAS -- I ARRIVED AT 2 A.M., EXCUSE ME. THE VICTIM'S BODY WAS REMOVED AT 3:38. I LEFT THE SCENE AT APPROXIMATELY 4:16 A.M.

Q AND WHERE DID YOU GO NEXT?

A AFTER LEAVING THAT SCENE, WE HAD A SHORT -- OR ACTUALLY A PRETTY LENGTHY DRIVE TO SUMMERVILLE, HERITAGE SQUARE SHOPPING CENTER.

Q WHAT ROUTE DID YOU TAKE TO GET TO SUMMERVILLE?

A TO BE HONEST WITH YOU, I FOLLOWED SOMEONE. I WAS GOING DOWN I-95 AND WE GOT OFF. I'M NOT EXACTLY SURE WHAT THE ROUTE WAS.

Q YOU WENT DIRECTLY FROM THE 301 EXIT OFF OF I-95

TO SUMMERVILLE?
A CORRECT. WE STAYED ON I-95 INTERSTATE AND GOT OFF AT SOME POINT AND WENT TO SUMMERVILLE. AGAIN, LIKE I SAY, I AM NOT THAT FAMILIAR WITH THE AREA AND THE ROUTE TAKEN.
Q WHAT TIME DID YOU ARRIVE IN SUMMERVILLE?
A AT APPROXIMATELY 4:52.
Q CAN YOU DESCRIBE OR TELL THE JURY WHAT, IN GENERAL TERMS, WHAT WAS GOING ON WHEN YOU GOT TO SUMMERVILLE AND THE K-MART SHOPPING CENTER.
A THERE IS THE K-MART SHOPPING CENTER OR HERITAGE SQUARE SHOPPING CENTER IN SUMMERVILLE. THERE WERE SEVERAL POLICE CARS LOCATED THROUGHOUT THE SCENE. THEY HAD THE SCENE SECURED WITH TAPE AS TO WHERE PERSONS COULDN'T GET NEAR THE ACTUAL CARS.
I NOTICED THAT THERE WAS TWO VEHICLES THAT APPEARED TO BE IN A WRECK AND THAT THE AIR BAGS ON BOTH VEHICLES HAD DEPLOYED, AND THERE WERE A FEW ITEMS OUTSIDE THE CAR, THE WHITE MUSTANG.
Q THE DRIVER OF THE MUSTANG HAD BEEN REMOVED FROM THE SCENE BY THE TIME YOU GOT THERE?
A YES, SIR. THERE WAS NO PERSONS AS FAR AS SUSPECTS OR VICTIMS LOCATED AT THAT SCENE, OTHER THAN JUST THE CARS THEMSELVES.
Q I WILL SHOW YOU SEVERAL PICTURES THAT ARE

ALREADY IN EVIDENCE AND ASK IF THESE -- IF YOU ARE FAMILIAR WITH THE PICTURES AND IF YOU TOOK THESE PICTURES. I WILL PUT THEM UP HERE ONE AT A TIME. THIS IS STATE'S 9.

A YES, SIR. THE TYPICAL PROCEDURE WITH ANY VEHICLE THAT IS INVOLVED THAT WE NEED TO PROCESS OR DOCUMENT, WE WILL TAKE PHOTOGRAPHS OF THE LICENSE PLATE JUST FOR DOCUMENTATION PURPOSES, AS WELL AS THE V.I.N. NUMBER. THIS IS A PHOTOGRAPH DEPICTING THE BACK END OF THE WHITE MUSTANG.

Q THIS IS STATE'S 8.

A AGAIN, THIS PHOTOGRAPH WOULD BE FROM AN APPROXIMATELY 45-DEGREE ANGLE FROM THE FRONT RIGHT OF THE MUSTANG THERE AT THE SHOPPING CENTER, JUST SHOWING THE ANGLE OF THE CAR AND THE DAMAGE.

Q DID Y'ALL ALSO TAKE PICTURES OF THE HIGHWAY PATROL CAR THAT HAD BEEN WRECKED AT THE SCENE?

A YES, SIR, WE MOST CERTAINLY DID.

Q I BELIEVE THAT IS 31.

A THAT IS CORRECT. AGAIN, IT'S JUST SHOWING SOME OF THE DAMAGE THAT HAD TAKEN PLACE TO THE HIGHWAY PATROL VEHICLE. AGAIN, THAT IS TAKEN FROM THE PASSENGER SIDE AT AN APPROXIMATELY 90-DEGREE ANGLE BACK TOWARDS THE DOOR.

Q AND STATE'S 32.

A AGAIN, THIS IS ANOTHER PHOTOGRAPH OF THE VEHICLE, THE TROOPER'S VEHICLE, THAT WAS INVOLVED. THIS WOULD BE TAKEN APPROXIMATELY AT A 45-DEGREE ANGLE FROM THE FRONT LEFT TIRE.

Q AND 33.

A THIS, AGAIN, IS A PHOTOGRAPH OF THE TROOPER'S VEHICLE INVOLVED IN THE ACCIDENT THERE AT THE SHOPPING CENTER, K-MART SHOPPING CENTER, SUMMERVILLE. THIS IS FROM THE FRONT.

Q THESE ARE THREE PICTURES THAT HAVE NOT YET GONE INTO EVIDENCE. ARE YOU FAMILIAR WITH THOSE? DO THEY ACCURATELY DEPICT WHAT YOU OBSERVED THAT MORNING?

A YES, SIR, THEY ACCURATELY DEPICT THE SCENE AS I FOUND IT WHEN I ARRIVED ON THE SCENE.

SOLICITOR BAILEY: YOUR HONOR, I WOULD OFFER ALL THESE WITHOUT OBJECTION, I BELIEVE.

MR. STONE: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 42, PHOTOGRAPH OF THE V.I.N. NUMBER; NUMBER 43, PHOTOGRAPH OF MUSTANG; AND NUMBER 44, PHOTOGRAPH OF THE MUSTANG, ARE RECEIVED INTO EVIDENCE.)

Q WHAT IS STATE'S 42?

A THIS WOULD BE A PHOTOGRAPH -- AGAIN, THE TYPICAL PROCEDURE IS TO TRY TO PHOTOGRAPH THE V.I.N. NUMBER.

I BELIEVE THAT WAS THE V.I.N. OF THE WHITE FORD MUSTANG THAT WAS INVOLVED.

Q AND STATE'S 43?

A THAT AGAIN IS SHOWING THE WHITE FORD MUSTANG, SOME OF THE DAMAGE THAT IT SUSTAINED IN THE WRECK, AS WELL AS SHOWING THE AREA AND HOW IT WAS SECURED AND TAPED OFF.

Q THE YELLOW TAPE IS CRIME SCENE TAPE?

A YES, SIR. THE YELLOW TAPE WOULD BE THE CRIME SCENE TAPE THAT IS ACTUALLY SECURING THE AREA. THEY ALSO HAD OFFICERS THERE THAT WOULD PREVENT ANYONE FROM GETTING INTO THE SCENE. AS A GENERAL RULE, YOU HAVE GOT TO SET UP SOME BARRIER, "DON'T CROSS THIS LINE."

Q AND STATE'S 44?

A AGAIN, THIS IS SHOWING SOMEWHAT OF THE DAMAGE TO THE FRONT OF THE VEHICLE, AS WELL AS BEING ABLE TO SEE THE OTHER VEHICLE BEHIND IT.

Q LET ME SHOW YOU 12 ALREADY IN EVIDENCE AND ASK IF THAT APPEARS TO BE A PICTURE OF TROOPER LINGARD'S BODY ON THE SIDE OF I-95.

A YES, SIR, IT IS.

Q IS THAT THE CONDITION THAT YOU SAW IT IN AS FAR AS THE GUN BEING IN THE HOLSTER?

A YES, SIR. THAT'S ONE OF THE FIRST THINGS I HAD

NOTICED WHEN ARRIVING ON THE SCENE THAT TROOPER LINGARD'S WEAPON WAS STILL HOLSTERED, AS WELL AS SIGNS THAT THE E.M.S. HAD BEEN THERE TO CHECK HIS VITAL SIGNS. YOU SEE THE PATCHES ON HIS WRISTS, HIS LOWER LEFT HERE (INDICATING.)

Q AFTER YOU LEFT THE K-MART PARKING LOT, WHAT WAS YOUR NEXT STOP?

A WHEN I LEFT K-MART PARKING LOT THERE IN SUMMERVILLE, I HAD SOMEONE ACTUALLY TRANSPORT ME TO M.U.S.C.

Q WHERE DID MRS. GOODWIN -- WHAT HAPPENED TO HER?

A AT THAT POINT I ADVISED HER TO PLEASE GO AHEAD AND FINISH UP THAT SCENE, FINISH PHOTOGRAPHING, THAT I WOULD MEET HER. WE HAD PREDISCUSSED A LOCATION WHILE THERE AT SUMMERVILLE, THE HERITAGE SQUARE PARKING LOT WHERE THE K-MART WAS LOCATED, WHERE THIS VEHICLE COULD BE TOWED. WE WAS TRYING TO GET THE VEHICLE OUT OF THE ELEMENTS.

THIS IS JANUARY. HEAVY FROST WAS FALLING. I WAS CONCERNED WITH POSSIBLE LOSS AND DAMAGE OF EVIDENCE AT THAT TIME. SO WE PREDISCUSSED TRYING TO GET THIS THING PHOTOGRAPHED, LOCATE WHAT EVIDENCE WAS THERE, SUCH AS THE GUN IN THE VEHICLE DRIVER'S SIDE FLOORBOARD.

SO I DISCUSSED THESE THINGS WITH HER, TOLD HER

TO FINISH PHOTOGRAPHING THE VEHICLE, MAINTAIN CUSTODY OF THE VEHICLE. AND WHILE I WOULD GO TO M.U.S.C. TO TRY TO SEE ONE OF THE SUSPECTS, SHE COULD GO AHEAD AND FOLLOW THIS VEHICLE BACK TO SUMMERVILLE.

Q PRIOR TO LEAVING DID YOU LOOK INSIDE THE MUSTANG AND OBSERVE THE FLOORBOARD OF THE DRIVER'S SIDE?

A YES, SIR, I ACTUALLY VIEWED THE WHOLE SCENE.

SOLICITOR BAILEY: INDULGE ME A SECOND, JUDGE.

THE WITNESS: I THINK THE PHOTOGRAPH YOU ARE LOOKING FOR IS THERE (INDICATING.)

Q STATE'S 30 ALREADY IN EVIDENCE, DOES THAT APPEAR TO ACCURATELY DEPICT WHAT YOU OBSERVED INSIDE THE MUSTANG?

A YES, SIR. THAT IS A PICTURE OF THE BRAYCO MODEL 58 HANDGUN, NINE MILLIMETER, THAT WAS FOUND IN THE DRIVER'S SIDE FLOORBOARD. THIS PHOTOGRAPH IS TAKEN FROM THE ANGLE OF THE PASSENGER SIDE DOOR, SHOOTING BACK OVER THE CONSOLE.

AGAIN, THAT IS A PHOTOGRAPH OF THE GUN AS IT WAS FOUND WHEN I ARRIVED ON THE SCENE, AGAIN FROM THE PASSENGER SIDE IF YOU ARE LOOKING IN, AND PHOTOGRAPHED IT.

Q IS THERE ANYTHING UNUSUAL ABOUT THAT GUN THAT YOU OBSERVED IN THERE?

A YES, SIR. AGAIN, YOU CAN SEE THE GUN IS SLIGHTLY LOCKED BACK. IT APPEARS THE GUN HAD MALFUNCTIONED AND THAT THERE WAS ONE LIVE ROUND JAMMED IN THE CHAMBER.

Q CAN YOU POINT THAT OUT TO THE JURY.

A HERE THE SLIDE WAS NORMALLY IN A SAFETY POSITION, WHICH IS LOCATED HERE (INDICATING.) IT WAS LOCKED BACK. HERE (INDICATING) YOU CAN SEE THE CARTRIDGE LIVE ROUND. IT HAD MISFED. IT JAMMED INTO THE TOP OF THE CHAMBER.

Q WITH A SEMI-AUTOMATIC PISTOL, IF YOU HAVE GOT A LIVE ROUND JAMMED IN THAT POSITION, CAN THE GUN BE FIRED UNTIL IT'S CLEARED?

A NO, SIR. UNTIL YOU CLEAR THE WEAPON, IT CANNOT BE FIRED.

Q NOW, AFTER YOU MADE THESE OBSERVATIONS AND LEFT MRS. GOODWIN THERE AT THE K-MART PARKING LOT IN SUMMERVILLE, YOU WERE TESTIFYING YOU WENT TO THE MEDICAL UNIVERSITY?

A YES, SIR. I HAD WENT TO M.U.S.C., ARRIVED THERE APPROXIMATELY 5:45, TEN MINUTES TO -- EXCUSE ME -- 5:45, TEN MINUTES TO SIX.

Q AND DID YOU ENCOUNTER THE DEFENDANT BAYAN ALEKSEY AT THE MEDICAL UNIVERSITY?

A YES, SIR, I DID.

Q WHERE WAS HE WITHIN THE HOSPITAL?
A I COULDN'T TELL YOU EXACTLY WHICH FLOOR NOW. I MET SOME PERSONS --
Q WAS HE IN E.R. OR WAS HE IN A PRIVATE ROOM?
A HE WAS ALREADY MOVED TO A ROOM, AND I HAD SECURITY DOWN NEAR THE EMERGENCY ROOM DIRECT ME TO HIS ROOM AND ACTUALLY ESCORT ME UP TO HIS ROOM WHERE I FOUND HIM TO BE HANDCUFFED TO A BED.
Q WOULD YOU TELL THE JURY PLEASE WHAT A GUNSHOT RESIDUE KIT IS.
A IN MOST SIMPLISTIC OF TERMS, A GUNSHOT RESIDUE KIT IS BASICALLY A KIT WHICH ASSISTS PERSONS WITH THE COLLECTION OF GUNSHOT POWDER RESIDUE. IT CAN BE USED ON HANDS OR AN OBJECT WHICH YOU BELIEVE MAY HAVE BEEN IN CLOSE PROXIMITY OF A GUN WHEN IT WAS FIRED.
Q AND HAVE YOU HAD ANY TRAINING IN GUNSHOT RESIDUE ANALYSIS AS OPPOSED TO COLLECTING THE EVIDENCE?
A NO, SIR. THAT WOULD NOT BE MY FIELD OF EXPERTISE AT ALL.
Q IS THERE A TIME LIMIT THAT YOU ARE AWARE OF AFTER WHICH YOU WOULD NO LONGER TRY TO ATTEMPT TO GET A GUNSHOT RESIDUE COLLECTION KIT?
A AGAIN, THERE IS A TIME LIMIT THAT THEY TRAIN US TO TRY TO GET IT AS SOON AS PRACTICAL; BUT I BELIEVE THERE IS APPROXIMATELY A SIX-HOUR TIME FRAME,

SOMEWHERE AROUND THERE. I AM NOT EXACTLY SURE. WE ARE TRAINED THAT AFTER SIX HOURS IT'S USELESS TO ATTEMPT IT.

Q YOU HAVE ALREADY TESTIFIED THAT YOU ARE NOT AN EXPERT IN THE ANALYSIS. YOU WOULD CARRY THAT EVIDENCE BACK TO S.L.E.D. AND SOMEBODY ELSE WOULD TAKE CARE OF IT?

A YES, SIR. AFTER PERFORMING THE TEST ON AN INDIVIDUAL OR TRYING THE COLLECTION, SO TO SPEAK, I WOULD KEEP THAT IN MY CUSTODY. I WOULD LOG IT IN IN THE S.L.E.D FORENSIC LABORATORY. THEN IT WOULD BE DISTRIBUTED TO THE PERSON THAT WOULD DO THAT ANALYSIS, AND I AM NOT AN EXPERT IN THAT.

Q DID YOU DO A GUNSHOT RESIDUE KIT ON MR. ALEKSEY, DESPITE THE FACT YOU WERE COMING UP ON THE SIX-HOUR LIMIT?

A YES, SIR. AT THAT TIME I WASN'T QUITE AWARE OF THE TIME FRAME. ALL I KNEW THAT AS SOON AS PRACTICAL, YOU WOULD LIKE TO GET THERE TO PERFORM THIS TEST.

SO I RUSHED RIGHT DOWN AS QUICK AS I COULD, MAKING SURE THE OTHER SCENES WERE SECURED AND COLLECTING WHAT NEEDED TO BE DONE, AND I PERFORMED THIS TEST ON MR. BAYAN ALEKSEY.

Q WHAT WAS THE CONDITION OF HIS HANDS IMMEDIATELY

PRIOR TO YOU DOING THE GUN SHOT RESIDUE COLLECTION?
A AGAIN, HIS HANDS AT THAT POINT WHEN I ARRIVED THERE AT M.U.S.C. AND ENCOUNTERED HIM IN THE HOSPITAL, HIS HANDS WERE HANDCUFFED TO THE SIDE RAILS OF THE HOSPITAL BED; AND THERE WERE BAGS ON HIS HANDS.
Q WHAT TIME WAS IT WHEN YOU DID THE ACTUAL COLLECTION KIT?
A IT WOULD HAVE BEEN -- AGAIN, I ARRIVED AT QUARTER TO SIX, TEN MINUTES TO SIX. IT WOULD HAVE BEEN SIX O'CLOCK, SHORTLY THEREAFTER. I BELIEVE I LEFT THAT SCENE MAYBE 6:10, 6:15. SO IT WOULD HAVE BEEN WITHIN A TEN- OR FIFTEEN-MINUTE TIME FRAME. THERE IS SOME BIOGRAPHICAL INFORMATION YOU TRY TO FILL OUT IN DOING THE TEST.
Q HOW DO YOU GO ABOUT DOING THE GUNSHOT COLLECTION KIT? WHAT PART OF HIS HANDS ARE YOU WORKING WITH?
A BASICALLY YOU WOULD DO THE PARTS OF THE HANDS THAT WOULD MOST LIKELY HAVE GUNSHOT RESIDUE ON THEM. WHEN A GUN IS FIRED, GUNS CAN DISCHARGE VAPORS OR POWDER AROUND THEM, THE SMOKE IF YOU WILL.
WE CHECK THE PALMS OF THE HANDS AS WELL AS THE BACKS OF THE HANDS USING SOME -- WHAT WE CALL A STUD. IT'S BASICALLY A LITTLE PLASTIC PIECE THAT HAS ALMOST LIKE TAPE ON IT THAT JUST TRIES TO HELP LIFT ANY

PARTICLES THAT MAY BE PRESENT ON THE HANDS.

AFTER DOING THE LITTLE STICKY TAPE, WE HAVE WHAT IS CALLED A SWAB OR BASIC Q-TIP. THERE IS A LITTLE SOLUTION YOU PUT ON THERE. THE HANDS ARE THEN WIPED DOWN. AGAIN, THE PALMS AS WELL AS BACKS.

SOLICITOR BAILEY: BEAR WITH ME A SECOND, PLEASE. LET WE PULL SOMETHING OUT.

Q LET ME HAND YOU THIS AND ASK YOU IF YOU CAN IDENTIFY IT.

A YES, SIR. THIS WOULD BE PART OF THE GUNSHOT RESIDUE EVIDENCE COLLECTION KIT WHICH WAS PERFORMED ON MR. BAYAN ALEKSEY, WHICH AT THAT TIME BEARS A DIFFERENT NAME BECAUSE WE DID NOT -- I USE THE NAME WE HAD A DRIVER'S LICENSE ON. I BELIEVE ONE OF THE AGENTS THERE HAD ACTUALLY TOLD ME WHAT NAME THAT WE BELIEVED HIM TO BE.

Q IT'S GOT JUSTIN MATEEKI ON THERE; IS THAT CORRECT?

A THAT'S CORRECT.

Q YOU LATER LEARNED THAT'S BAYAN ALEKSEY?

A THAT'S CORRECT.

Q ONCE YOU DID THE GUNSHOT RESIDUE KIT, DID YOU PLACE IT INTO AN ENVELOPE AND SEAL IT AND PLACE THAT INTO YOUR EVIDENCE?

A YES, SIR. I WOULD THEN, IN FRONT OF THE

INDIVIDUAL IT IS COLLECTED FROM, PUT ALL THE EVIDENCE IN THERE, SHUT IT. THERE IS AN EVIDENCE STICKER ON THE BACK.

I WOULD SEAL IT AND PUT MY INITIALS ON IT. THAT HELP ENSURE THE INTEGRITY OF THE SAMPLE FOR WHEN IT'S TRANSPORTED BACK TO S.L.E.D AND WHEN IT'S DISTRIBUTED TO THE TRACE EVIDENCE DEPARTMENT, WHICH DOES THE ANALYSIS. THEY CAN SEE THAT IT HAS NOT BEEN TAMPERED WITH IT. IT'S A TAMPER SEAL BASICALLY.

SOLICITOR BAILEY: YOUR HONOR, I WOULD OFFER THAT INTO EVIDENCE.

MR. STONE: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 45, GUNSHOT RESIDUE KIT ON THE DEFENDANT, IS RECEIVED INTO EVIDENCE.)

Q AT THE HOSPITAL YOU ALSO GAVE -- LET ME ASK YOU THIS. HOW WAS ALEKSEY DRESSED WHEN YOU SAW HIM AT THE HOSPITAL?

A THE BEST OF MY RECOLLECTION HE WAS ALREADY IN A HOSPITAL GOWN, AS WELL AS THE COVERS AGAIN WERE PULLED UP OVER HIM.

Q DID THE NURSE AT THE HOSPITAL TURN OVER THE CLOTHING THAT HE HAD?

A YES, SIR, I DID RECEIVE THE CLOTHING WHILE AT THE HOSPITAL.

Q SEE IF YOU CAN IDENTIFY THAT AS BEING MR. ALEKSEY'S SHIRT.

A AGAIN, THIS WOULD BE THE SHIRT THAT WAS TURNED OVER TO ME. AGAIN, ON OUTSIDE OF THE BAG YOU HAVE MY HANDWRITING. IT SAYS SUSPECT CLOTHING, HAS ITEMS NUMBER, WHAT ITEM IT WAS WHEN I LOGGED IT IN. THE CASE NUMBER L.980011, THE DATE IT WAS COLLECTED; AND THAT WAS 1/1/98.

SOLICITOR BAILEY: YOUR HONOR, I WOULD OFFER THIS.

MR. STONE: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 46, SHIRT IN BAG, IS RECEIVED INTO EVIDENCE.)

Q MR. BAKER, DID YOU ALSO TAKE FINGERPRINTS FROM MR. ALEKSEY AT THE HOSPITAL?

A YES, SIR. HE HAD A NECK COLLAR ON AT THAT TIME. RATHER THAN RISK TRYING TO GET A PERSON UP TO TRY TO DO A NORMAL FINGERPRINTING OF THEM AND HAVE THEM STAND ON THEIR FEET, I DID WHAT IS CALLED POSTMORTEM FINGERPRINTING OF HIM.

THAT'S WHERE I GET BASICALLY THE TIPS, ENOUGH TO CLASSIFY THE FINGERPRINTS, AND TRY TO HELP IDENTIFY WHO THIS INDIVIDUAL WAS. THAT CAN BE DONE WHILE THEY ARE LAYING DOWN BECAUSE, AGAIN, BY ITS NATURE,

POSTMORTEM IS PARTICULARLY USED, AS ON DECEASED INDIVIDUALS; BUT I DID PERFORM FINGERPRINTS ON MR. ALEKSEY.

Q AFTER YOU LEFT THE HOSPITAL, WHERE DID YOU GO?

A AFTER LEAVING THE HOSPITAL, I WENT BACK TO SUMMERVILLE PUBLIC SAFETY. THEY HAD THE WHITE FORD MUSTANG TOWED INTO A FIRE BAY AND KEPT IT SECURE. ALONG WITH AGENT GOODWIN I MET BACK THERE AT THAT SCENE, WE THEN BEGAN PROCESSING OF THAT VEHICLE.

Q AND WHAT DO YOU MEAN BY PROCESSING OF THE VEHICLE?

A AGAIN, BY THE NATURE OF BEING A CRIME SCENE EXAMINER OR RESPONSE PERSON, OUR PRIMARY JOB AGAIN IS TO LOCATE AND DOCUMENT AND COLLECT ANY PHYSICAL EVIDENCE.

PROCESSING TYPICALLY ENCOMPASSES SEARCH OF LATENT FINGERPRINTS, AS WELL AS ANY SEROLOGICAL OR BODY FLUIDS THAT MAY BE RELEVANT TO THE CRIME, DEPENDING ON THE CRIME THAT IS INVOLVED.

SO WE WOULD HAVE WENT THROUGH THE CAR TO SEE IF WE COULD HAVE FOUND ANYTHING THAT WAS RELEVANT TO THE CRIME THAT WAS COMMITTED, AS WELL AS CHECKING THE CAR FOR FINGERPRINTS.

Q NOW, WHEN YOU TALKED EARLIER ABOUT THE GUNSHOT RESIDUE COLLECTION KIT FOR A PERSON'S HANDS, IS THERE

A SEPARATE PART FOR EACH RIGHT AND LEFT PALM AND THE BACK OF THE RIGHT AND LEFT HAND?

A YES, SIR, THERE IS -- AGAIN, TO HELP THE INDIVIDUAL TAKING IT -- AGAIN, I AM NOT AN EXPERT IN THIS ANALYSIS -- AND ALSO TO HELP THE EXAMINER WHO IS GOING TO BE ANALYZING IT, TO LET THEM KNOW WHAT PART OF THE HAND IT COMES FROM, THEY ARE LABELED LIKE RIGHT, LEFT FRONT; LEFT, BACK; RIGHT FRONT OR PALM; AND RIGHT BACK SO WE WILL KNOW WHERE TO TAKE THESE SAMPLES FROM.

Q WOULD YOU STATE WHETHER OR NOT YOU DID A GUNSHOT RESIDUE KIT ON THE DRIVER'S SIDE OF THE MUSTANG WHEN YOU PROCESSED IT IN SUMMERVILLE?

A YES, SIR. I DID PERFORM A GUNSHOT RESIDUE TEST ON THE DRIVER'S SIDE AROUND THE DRIVER'S WINDOW OF THE WHITE FORD MUSTANG.

Q AND IS THERE A SPECIFIC GUNSHOT RESIDUE KIT MADE FOR CARS OR DID YOU USE THE REGULAR ONE LIKE YOU USED ON MR. ALEKSEY'S HANDS?

A NO, SIR. THERE IS NOT ONE TO MY KNOWLEDGE BEEN MADE FOR A VEHICLE. I DID THIS AS AN ATTEMPT TO HELP -- MAYBE IF IT COULD HELP YIELD ANY PROBATIVE VALUE, I DID IT ON THE CAR.

I ACTUALLY TOOK A KIT THAT IS DESIGNED TO USE ON A PERSON'S HANDS AND PERFORMED IT ON DIFFERENT AREAS

OF THE CAR AND THEN LABELED -- LIKE RIGHT BACK WOULD HAVE BEEN FROM, I DON'T KNOW, INSIDE DRIVER'S DOOR, AROUND WINDOW AND TRIED TO HELP DISTINGUISH WHERE THESE COME FROM.

Q THERE ARE FOUR DIFFERENT STUBBIES THAT YOU USE ON HANDS?

A YES, SIR.

Q SO YOU HAD FOUR STUBBIES THAT YOU USED ON THE CAR?

A THAT'S CORRECT.

Q WHAT PART OF THE CAR DID YOU USE FOR YOUR GUNSHOT RESIDUE COLLECTION EVIDENCE?

A AGAIN, BASED ON THE KNOWLEDGE I HAD FROM THE FIRST SCENE, FINDING ALL THE CARTRIDGE CASINGS ON THE OUTSIDE, NINE MILLIMETER CARTRIDGE CASINGS ON THE OUTSIDE OF THE CAR OR NEAR TROOPER'S LINGARD BODY, AND THEN FINDING A NINE MILLIMETER IN THE DRIVER'S SIDE FLOORBOARD, I ASSUMED THE GUN HAD TO HAVE BEEN POSSIBLY IN CLOSE PROXIMITY OF THE DRIVER'S DOOR WINDOW. SO I DID IT ON THE EDGE OF THE WINDOW AND INSIDE OF THE ROOF, AGAIN TO TRY TO HELP SHOW WHERE A GUN MAY HAVE BEEN PLACED.

Q DID YOU TRY TO DO IT TO ANY OF THE CLOTH PORTIONS OF THE CAR, LIKE THE CEILING LINER OR SOMETHING LIKE THAT?

A NO, SIR, TWO REASONS. AGAIN, BASED ON THE PHYSICAL EVIDENCE I FOUND ON THE INITIAL SCENE, IT LOOKED LIKE EVERYTHING HAD EJECTED, ON THE CARTRIDGE CASINGS, HAD EJECTED OUT THE WINDOW, AS WELL AS I THINK LOOKING FOR ANY CHARRING OR BURNING OF THE MATERIAL WHICH WOULD HAVE INDICATED MAYBE A GUN HAD BEEN IN CLOSE PROXIMITY OF THAT CLOTH AND I FOUND NONE.

Q AND GOING BACK TO WHY YOU CHOSE THE DRIVER'S SIDE, YOU TESTIFIED THERE WERE NINE MILLIMETER SHELL CASINGS FOUND OUTSIDE OF WHERE THE CAR WOULD HAVE BEEN; IS THAT CORRECT?

A COULD YOU REPHRASE THAT ONE MORE TIME.

Q KIND OF BACKING UP A LITTLE BIT, YOU SAID YOU DID THE DRIVER'S SIDE BECAUSE OF THE LOCATION OF THE SHELL CASINGS, THE NINE MILLIMETER SHELL CASINGS?

A YES, SIR. AGAIN, REFERRING TO THE SKETCH HERE ON THE FLOOR, TROOPER LINGARD'S CAR WAS FACED SOUTHBOUND IN THE EMERGENCY LANE. HIS BODY WAS FOUND APPROXIMATELY NINE FEET, FOUR INCHES IN FRONT OF THERE.

SOME POINT PAST HIM, I WILL GET THE MEASUREMENT, THERE WAS NINE MILLIMETER CARTRIDGE CASINGS FOUND. I COULD ONLY SURMISE THAT IF A PERSON IS PULLING A VEHICLE, THEY ARE PULLING A VEHICLE TRAVELING IN THE

SAME DIRECTION OF TRAVEL. ALL THE CARTRIDGE CASINGS I BELIEVE WOULD HAVE BEEN POSSIBLY EJECTED OUT OF THE DRIVER'S SIDE WINDOW.

THAT WAS AN INDICATION GIVEN TO ME WHEN I LOOKED THROUGH THE WHITE FORD MUSTANG, FOUND NO CARTRIDGE CASINGS, AND WE HAVE NINE MILLIMETER CARTRIDGE CASINGS, AS WELL AS A NINE MILLIMETER CASING AT THE SIDE OF THE VEHICLE THAT I'M PROCESSING. YOU ONLY CAN ASSUME THAT THEY ARE THE SAME AND YOU TRY TO LINK THOSE IF YOU CAN.

Q SHOW THE JURY WHERE THE SPENT SHELL CASINGS WOULD COME OUT OF THIS GUN.

A AGAIN, THIS STYLE GUN, THIS (INDICATING) IS THE EJECTION PORT. AS THE PRIMER IS STRUCK BY THE FIRING PIN, THE GUN WOULD THEN -- THE POWDERS WOULD IGNITE AND FORCE THE PROJECTILE DOWN THE END OF THE GUN, CAUSING THE SLIDE TO KICK BACK AND AT THAT TIME EJECTING FIRED SHELL CASINGS.

THEN IT WOULD GO BACK TO THE ORIGINAL POSITION, LOADING ANOTHER ONE. HOWEVER WHEN I FOUND IT, ONE HAS MISFED. IT HAD APPARENTLY EJECTED THE FIRED CASING BUT THEN HAD MISFED THE NEXT LIVE ROUND AND CAUSED IT TO JAM IN THE OPEN POSITION.

Q SO SOMEBODY TRIED TO FIRE A SIXTH ROUND WHICH WAS JAMMED, ASSUMING THERE WERE FIVE SHELL CASINGS

FOUND OUTSIDE?

A NO, SIR. IT AUTOMATICALLY LOADS AFTER THE FIFTH ONE SHOT, SO IT COULD HAVE JAMMED -- IT WOULD HAVE JAMMED PRIOR TO FEEDING INTO THE FIFTH SHOT.

Q I GOT YOU.

A I WOULD NOT SAY THERE WOULD HAVE BEEN A SIXTH SHOT.

Q IF YOU ARE SEATED BEHIND THE WHEEL OF A CAR AND FIRED BEHIND YOU THROUGH THE WINDOW, DUE TO THE LOCATION OF THAT EJECTION PORT, IT COULD KICK THE SPENT SHELL CASINGS OUTSIDE THE CAR; IS THAT CORRECT?

A AGAIN, SURMISE THAT I AM SITTING IN THE FRONT SEAT OF A DRIVER'S VEHICLE. IF I WAS TO TURN AND SHOOT -- AND ONLY ASSUMING THE LOCATION OF TROOPER LINGARD'S BODY AND THE LOCATION OF WHERE I FOUND CARTRIDGE CASINGS -- IF A PERSON WAS TO SHOOT OUTSIDE OF A WINDOW, YOU HAVE THE EJECTION PORT HERE (INDICATING), ONE, TWO, THREE, FOUR, FIVE. THEY WOULD HAVE EJECTED OUTSIDE.

I ONLY ASSUME THAT BECAUSE I ALSO FOUND NO CARTRIDGE CASINGS INSIDE THE VEHICLE, WHERE IF THE GUN HAD BEEN INSIDE THE VEHICLE, YOU WOULD MOST LIKELY FIND THE EJECTED ROUNDS INSIDE THE VEHICLE.

I FOUND NO EJECTED ROUNDS INSIDE THE VEHICLE.

SO I FELT THAT POSSIBLY THE GUN HAD TO BE IN CLOSE PROXIMITY OF THE WINDOW. SO BY THE G.S.R. ON THAT WINDOW, I WAS HOPING TO SHOW WHERE A GUN HAD TO BE PLACED OR AT LEAST RELATIVELY PLACED.

Q I WILL HAND YOU THIS ENVELOPE AND SEE IF YOU CAN IDENTIFY THIS.

A YES, SIR. THIS IS THE G.S.R. KIT THAT WAS PERFORMED ON THE 1998 FORD MUSTANG G.T., BEARING THE V.I.N. NUMBER I.F.A.F.P.42X.6W.F.120050. I BELIEVE THAT IS A ZERO. AGAIN, THIS BEARS MY INITIALS, AS WELL AS THE LAB NUMBER.

Q THEN YOU SEALED THAT IN THE BAG?

A YES, SIR. AGAIN, BEING THAT IT IS NOT A HUMAN BEING, BUT AT THE SAME TIME PROCEDURE DICTATES THAT YOU PUT THE EVIDENCE INTO THE ENVELOPE, SEAL IT, INITIAL IT.

THAT WAY THE TRACE EVIDENCE PERSON WHO ACTUALLY DOES THE ANALYSIS WOULD KNOW THAT IT HAS NOT BEEN TAMPERED WITH FROM THE TIME THE PERSON WHO COLLECTED IT. IT HELPS MAINTAIN THE INTEGRITY OF THAT SAMPLE.

SOLICITOR BAILEY: YOUR HONOR, I WOULD OFFER THIS INTO EVIDENCE.

MR. STONE: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 47, GUNSHOT RESIDE KIT FROM INSIDE OF MUSTANG, IS RECEIVED INTO EVIDENCE.)

Q ONE OF THE PHOTOGRAPHS WE LOOKED AT EARLIER WAS THE TAG ON THE CAR, THE DELAWARE TAG. DID YOU REMOVE THAT TAG FROM THE CAR?

A YES, SIR. THAT TAG WAS REMOVED BY MYSELF, AND THE REASON BEING I WAS GIVEN SOME INFORMATION, I COULD NOT TELL YOU BY WHO THAT NIGHT, BUT THE TAG DID NOT COME BACK TO THAT VEHICLE. AGAIN, I WAS GOING TO ATTEMPT TO TRY OBTAIN FINGERPRINTS OFF THE TAG TO MAYBE SEE WHO HAD REMOVED THE TAG AND PUT IT ON THAT VEHICLE.

Q IS THIS THE TAG YOU REMOVED FROM THE MUSTANG IN THE PARKING LOT?

A YES, SIR, IT IS. AGAIN, IT BEARS MY INITIALS, AS WELL AS THE CASE NUMBER AND THE DATE IT WAS SEALED. THIS IS BASICALLY AN EVIDENCE ENVELOPE THAT WE HEAT SEAL IT SO WE CAN TELL IF IT HAS BEEN TAMPERED WITH.

Q THIS IS STATE'S 9 UP HERE IN EVIDENCE. THAT IS A PHOTOGRAPH OF THE BACK OF THE MUSTANG WITH THE TAG ON IT. IS IT THE SAME TAG NUMBER?

A YES, SIR, IT'S A DELAWARE TAG, 982722, HAS AN EXPIRATION DATE OF APRIL '99.

Q YOU REMOVED THAT FROM THE MUSTANG IN THE PARKING LOT?

A YES, SIR, I PERSONALLY REMOVED THAT.

SOLICITOR BAILEY: YOUR HONOR, I OFFER THAT.

MR. STONE: NO OBJECTION.

(STATE'S EXHIBIT NUMBER 48, LICENSE PLATE, IS RECEIVED INTO EVIDENCE.)

Q MR. BAKER, YOU TESTIFIED EARLIER ABOUT LATENT FINGERPRINTS?

A YES, SIR.

Q DID YOU ATTEMPT TO LIFT ANY LATENT FINGERPRINTS FROM THE MUSTANG?

A YES, SIR, I DID.

Q TELL THE JURY, PLEASE, IN SOME DETAIL WHAT PARTS OF THE CAR, THE INTERIOR OR EXTERIOR, THAT YOU ATTEMPTED TO LIFT PRINTS FROM.

A AGAIN, TO GIVE SOME PHYSIOLOGY ABOUT FINGERPRINTS, IF WE TAKE A LOOK AT OUR FINGERS AND OUR PALMS, YOU WILL NOTICE THAT THERE IS RAISED PORTIONS OF SKIN AND RECESSED PORTIONS OF SKIN.

THE RAISED PORTION OF SKIN IS WHAT WE CONCERN OURSELVES WITH AS A FINGERPRINT. THAT RAISED PORTION ACTS MUCH LIKE AN INKED FINGERPRINT OR INKED STAMP WHEN CONTAMINANTS EITHER FROM OUR FACE OR

PERSPIRATION COVER THE RAISED RIDGES.

JUST LIKE INK IN A STAMP, WHEN YOU TOUCH THAT STAMP DOWN ON SOMETHING OR TOUCH AN ITEM, YOU CAN LEAVE YOUR FINGERPRINT BEHIND. THIS IS BASED ON MANY FACTORS: ONE, THE TEXTURE OF THE SURFACE YOU ARE TOUCHING. TWO, THE CONDITION OF YOUR HANDS, WHETHER YOU HAVE BEEN PERSPIRING A LOT.

AGAIN, THE WEATHER CONDITIONS OUTSIDE YOUR OCCUPATION, WHAT HAVE YOU, CAN ALL PLAY SOME PARTS INTO HOW WELL A FINGERPRINT IS LEFT BEHIND OR WHETHER OR NOT ONE IS LEFT BEHIND.

BUT BY ITS NATURE, A LATENT FINGERPRINT IS NOT NORMALLY VISIBLE. I THINK ALL OF US MAY HAVE TOUCHED A WINDOW OR A MIRROR AT SOME POINT. YOU HAVE SEEN THE SMUDGE THERE. THAT IS SOMEWHAT OF A LATENT FINGERPRINT. IT'S NOT VISIBLE. YOU CAN'T TELL WHAT IT IS.

WE TAKE BLACK POWDER ON OCCASIONS AND WE WILL DUST ACROSS THAT. YOU HAVE ALL SEEN IT ON T.V. THAT POWDER WILL ADHERE TO THE MOISTURE OR THE STAMPED PORTION THAT IS LEFT BEHIND. THAT IS, IN ESSENCE, A FINGERPRINT.

Q THE TAG WE JUST PUT IN, WHAT IS STATE'S 48, THE TAG YOU PULLED OFF THE MUSTANG, IS THAT THIS BLACK STUFF? IS THAT THE POWDER YOU ARE TALKING ABOUT?

A YES, SIR. THAT IS BLACK POWDER ON THAT, ON THAT TAG THERE. AGAIN, THERE ARE SEVERAL WAYS WE TRY TO DO THIS. BLACK POWDER IS APPLIED BUT TYPICALLY PRIOR TO BLACK POWDER, WITH THIS LICENSE PLATE I KNOW I FUMED IT.

WHEN WE ARE TALKING ABOUT FUMING, BASICALLY YOU TAKE AND YOU HEAT SUPERGLUE, THE FUMES THAT COME OFF SUPERGLUE. OF COURSE, YOU DON'T WANT TO BREATHE THIS. SO WE SHUT ALL THE DOORS TO A CAR OR IN THIS CASE, WE PUT THIS INSIDE OF A FISH TANK. YOU HEAT THOSE FUMES FOR A FEW MINUTES.

IT ADHERES TO THE MOISTURE OR THE RESIDUE THAT IS LEFT BEHIND ON THE OBJECT THAT IS TOUCHED. IT ADHERES TO IT. IT MAKES IT A LITTLE MORE DURABLE SO THERE IS LESS CHANCE OF DESTROYING THAT PRINT.

A PRINT IS FRAGILE. IT'S 99 PERCENT MOISTURE. IT'S FRAGILE. YOU TAKE THAT AND YOU HEAT IT AND THE FUMES ADHERE TO MOISTURE. AFTER THE FUMES ADHERE TO THE MOISTURE, IT MAKES IT A LITTLE MORE DURABLE. YOU CAN HANDLE IT MORE WITHOUT WORRYING ABOUT DESTROYING IT.

THEN WE TAKE AND POWDER IT AND THEN IF ONE WOULD BE DEVELOPED, WE WOULD EITHER PHOTOGRAPH IT AND IF WE DIDN'T THINK IT WOULD LIFT OR IN THE EXAMINER'S DISCRETION, YOU MAY WANT TO PHOTOGRAPH IT TO BEGIN

WITH OR WE WOULD TAKE WHITE TAPE, CLEAR TAPE, ALMOST LIKE A SCOTCH TYPE TAPE, PLACE OVER THE PRINT, LIFT IT AND PLACE IT ON THE FINGERPRINT CARD OR BACKING.

Q WHAT PARTS OF THE INTERIOR OF THE MUSTANG DID YOU TRY TO LIFT PRINTS FROM?

A SIR, WHEN WE PROCESS A VEHICLE, WE PROCESS THE WHOLE VEHICLE. THAT'S INSIDE AND OUT. THERE ARE VERY FEW LIFTS TAKEN FROM THE OUTSIDE. IF I REMEMBER CORRECTLY, THERE WERE NO LIFTS MADE FROM THIS TAG.

Q LET ME ASK YOU THIS. DID YOU SEE ANY POTENTIAL LIFTS THAT YOU FOR ONE REASON OR ANOTHER DIDN'T LIFT OR DID YOU LIFT EVERY POSSIBLE?

A NO, SIR. THE BEST OF MY RECOLLECTION THIS WAS ROUGHLY EIGHT O'CLOCK IN THE MORNING. I HAD BEEN UP SINCE 12:40. IF ANY LIFT WOULD HAVE BEEN IN QUESTION WHETHER OR NOT IT WOULD HAVE BEEN AN IDENTIFIABLE FINGERPRINT -- AND WHAT I MEAN BY THAT IS THERE'S FINGERPRINTS THAT CAN BE LEFT BEHIND.

YOU MAY HAVE A SMUDGE. YOU CAN TELL THAT WAS A FINGER THAT HAD TOUCHED THERE BY ITS ORIENTATION BUT YET IT STILL NOT BE IDENTIFIABLE. IF THAT WOULD HAVE BEEN THAT CASE, I WOULD HAVE LIFTED IT. THERE WAS NONE THAT WAS QUESTIONABLY IDENTIFIABLE THAT WAS NOT LIFTED.

Q AND DID YOU LIFT SOME PRINTS OUT OF THE MUSTANG THAT YOU FELT YOU MIGHT BE ABLE TO IDENTIFY LATER ON?
A YES, SIR, I DID LIFT SOME PRINTS FROM THE VEHICLE.
MR. STONE: THE ONLY OBJECTION, YOUR HONOR, IS TO MY EARLIER OBJECTION. I HAVE NO OTHER.
THE COURT: GO AHEAD.
Q I WILL HAND YOU THREE PHOTOGRAPHS --
THE COURT: OVERRULED.
Q -- AND ASK YOU IF YOU CAN IDENTIFY THEM.
A THESE ARE PHOTOGRAPHS OF LATENT LIFTS THAT WERE TAKEN OFF OF THE VEHICLE, THE WHITE FORD MUSTANG THAT WE PROCESSED THERE IN THE SUMMERVILLE PUBLIC SAFETY. THESE ARE ACTUAL PHOTOGRAPHS OF THE ACTUAL ITEMS OF EVIDENCE, YES, SIR.
Q THAT YOU LIFTED OUT OF THE MUSTANG THAT MORNING?
A YES, SIR, I PERSONALLY LIFTED THOSE PRINTS.
MR. STONE: SUBJECT TO MY PREVIOUS OBJECTION.
SOLICITOR BAILEY: I MOVE TO INTRODUCE ALL THREE, YOUR HONOR, INTO EVIDENCE AT THIS TIME.
THE COURT: I WILL PERMIT THEM.
(STATE'S EXHIBITS NUMBER 49 THROUGH 51, PHOTOGRAPHS OF FINGERPRINTS, ARE RECEIVED INTO EVIDENCE.)

Q I WILL SEE IF WE CAN'T PUT THIS ON THE PROJECTOR AND GET YOU TO TELL THE JURY IF YOU COULD WHERE YOU LIFTED THESE FROM AND IF YOU NEED TO REFER TO YOUR NOTES.

A I MAY NEED TO REFER TO MY NOTES FOR THE ACTUAL ITEMS OF EVIDENCE. THIS IS 49 --

THE COURT: HE IS REFERRING TO CERTAIN NOTES. YOU MAY, OF COURSE, HAVE THE OPPORTUNITY TO EXAMINE THOSE NOTES FOR THE DEFENSE IF YOU CARE TO.

MR. STONE: YES, SIR.

SOLICITOR BAILEY: YOUR HONOR, FOR THE RECORD THE DEFENSE HAS BEEN PROVIDED COPIES OF ALL OF HIS WORKING PAPERS.

THE COURT: THE RECORD WILL SO REFLECT.

MR. STONE: I WANT TO MAKE SURE I UNDERSTAND. IS THE WITNESS SAYING HE DOESN'T REMEMBER AND HE IS REFERRING TO HIS REPORT TO REFRESH HIS RECOLLECTION? THAT'S FINE IF THAT'S THE SITUATION.

THE WITNESS: YES, SIR.

MR. STONE: THANK YOU.

THE COURT: OF COURSE, YOU WILL HAVE THE OPPORTUNITY TO EXAMINE THOSE NOTES IF YOU CARE TO.

MR. STONE: YES, SIR.

Q I WILL FIRST PUT STATE'S 51 IN EVIDENCE, WHICH I

BELIEVE REFERS TO S.L.E.D ITEM 39?

A ITEM 39? GIVE ME ONE SECOND, I APOLOGIZE.

Q IF YOU NEED TO LOOK AT THESE UP CLOSE BEFORE I PUT THEM ON THE COMPUTER, I CAN DO THAT.

A WITH THIS PAPERWORK HERE, IT SHOULD BE SUFFICIENT. THAT'S ITEM 39?

Q YES, SIR.

A NUMBER 39 -- AND THIS IS THE WAY WE DESCRIBE IT IN OUR REPORT -- IT WOULD HAVE BEEN ONE FIVE AND A HALF INCH BY EIGHT AND A HALF INCH LIGHTENING LIFT CARD.

THAT'S JUST A BRAND NAME OF THE PERSON WHO MAKES THE CARD THAT WE PUT THE LIFTS ON OR LIFT THE TAPE AND LAY IT ON -- BEARING LATENT IMPRESSION LIFTED FROM WHITE FORD MUSTANG, SIDE DOOR, WINDOW OUTSIDE. IT WOULD HAVE BEEN THE PASSENGER SIDE DOOR ON THE WINDOW ON THE OUTSIDE.

Q THAT'S OUTSIDE THE PASSENGER WINDOW; IS THAT CORRECT?

A THAT'S OUTSIDE THE PASSENGER WINDOW, YES, SIR.

Q I WILL NEXT REFER TO --

A AND THE ORIENTATION, IF YOU SEE THE ARROW RIGHT HERE (INDICATING), IT GIVES YOU AN INDICATION OF UPWARD OF WHERE THE PRINT WOULD HAVE BEEN LOCATED IN THAT DIRECTION, JUST LETTING YOU KNOW WHICH WAY THE

PRINT WAS LOCATED.

Q I WILL NEXT PUT UP STATE'S EXHIBIT NUMBER 50, WHICH REFERS TO S.L.E.D. ITEM 40.

A FORTY?

Q FORTY.

A AGAIN, THIS IS A LIFT CARD BEARING THE LATENT IMPRESSION, PRINT LIFTED FROM WHITE FORD MUSTANG PASSENGER SIDE DOOR WINDOW INSIDE. THAT WOULD BE THE PASSENGER'S DOOR WINDOW ON THE INSIDE. THAT PRINT WAS LIFTED FROM THE INSIDE WINDOW OF THE PASSENGER DOOR OF THE WHITE FORD MUSTANG.

Q STATE'S 49, WHICH IS S.L.E.D ITEM 41.

A FORTY-ONE?

Q DOES THAT SHOW TWO PRINTS OR ONE PRINT THERE?

A YOU CAN SEE HERE (INDICATING) BARELY, POINT ONE AND POINT TWO. I HAVE THAT REFLECTED IN MY REPORT ALSO AS BEING 41.1. WE SUB OUR ITEMS. MANY TIMES PRINTS WILL OVERLAY EACH OTHER AND MAY BE SEVERAL IN ONE LOCATION.

YOU STILL TRY TO LIFT IT ALL WITH ONE PIECE OF TAPE, AND THEN YOU COME BACK AND TRY TO IDENTIFY EACH INDIVIDUAL PIECE. IN THIS CASE THERE WAS TWO PRINTS ON THERE AND THEY WERE BOTH LIFTED FROM THE WHITE FORD MUSTANG PASSENGER INSIDE DOOR WINDOW.

Q YOU TESTIFIED THAT WHEN YOU PROCESSED THE CAR,

YOU TOOK SOME ADDITIONAL PHOTOGRAPHS; IS THAT CORRECT?

A YES, SIR. AGAIN, PRIOR TO PROCESSING ANY SCENE OR EVEN MESSING WITH ANYTHING IN THE SCENE, YOU TRY TO DOCUMENT IT AS IT IS WHEN YOU FIND IT. AGAIN, THAT IS FOR COURT PURPOSES SO YOU CAN KNOW HOW THINGS WERE WHEN YOU FOUND THEM. YES, SIR, I DID PHOTOGRAPH THAT VEHICLE AT PUBLIC SAFETY THERE IN SUMMERVILLE PRIOR TO PROCESSING FOR PRINTS.

Q I WILL SHOW YOU A COUPLE OF PICTURES. LET ME SHOW THEM ALL TO YOU AT ONE TIME AND ASK WHETHER OR NOT THESE ACTUALLY DEPICT WHAT YOU OBSERVED INSIDE THE CAR WHEN YOU PROCESSED IT.

A (PAUSE.) YES, SIR. THESE ARE PHOTOGRAPHS THAT WE HAD TAKEN OF THE VEHICLE AT THE PUBLIC SAFETY THERE IN SUMMERVILLE PRIOR TO PROCESSING OR EVEN ACTUALLY DISTURBING ANY OF THE EVIDENCE OR ANY ARTICLES IN THERE.

SOLICITOR BAILEY: LET ME, FIRST OF ALL, MOVE TO INTRODUCE THIS PHOTOGRAPH.

(ATTORNEYS CONFER.)

MR. STONE: ONLY AS TO THE PREVIOUS OBJECTION. OTHERWISE WE HAVE NOTHING.

SOLICITOR BAILEY: YOUR HONOR, MOVE THIS INTO EVIDENCE.

THE COURT: YES, SIR, SUBJECT TO HIS PREVIOUS OBJECTION.

(STATE'S EXHIBIT NUMBER 52, PHOTOGRAPH OF AMMO AND C.D.S, IS RECEIVED INTO EVIDENCE.)

Q I WILL PUT STATE'S EXHIBIT 52 UP HERE AND ASK YOU TO POINT OUT TO THE JURY WHAT THAT SHOWS.

A MAY I GET UP?

Q YES, SIR.

A (WITNESS LEAVES THE WITNESS STAND.) AGAIN, THIS IS A LITTLE BIT OUT OF ORIENTATION IN THAT THE PICTURE, IF YOU TURN IT THAT WAY JUST A LITTLE BIT POSSIBLY, THIS (INDICATING) IS THE DRIVER'S SIDE SEAT. TRY TO LOOK AT IT LIKE THIS (INDICATING.)

THIS (INDICATING) IS A BOX OF C.D.S, TAPES AND THINGS, THAT WERE FOUND IN THE BACK SEAT BEHIND THE DRIVER'S SEAT, RIGHT BEHIND THE DRIVER'S SEAT. AND HERE (INDICATING) IS A P.M.C. BOX OF NINE MILLIMETER CARTRIDGES THAT WAS LOCATED IN THAT C.D. BOX.

Q DID YOU RECOVER THAT?

A YES, SIR. AGAIN, SOME THINGS WE CAN PROCESS ON THE SCENE. SOME THINGS WE TRY TO TAKE BACK TO THE STATE CRIME LABORATORY TO PROCESS UNDER MORE CONTROLLED CONDITIONS.

APPARENTLY WE CAN'T FIT A CAR INSIDE OF A GAS TANK -- A FISH TANK -- TO FUME IT, BUT WHERE WE COULD

THIS. I TOOK THIS BACK AND ALSO PROCESSED IT FOR PRINTS.

Q HAVE A SEAT.

A (WITNESS RESUMES THE WITNESS STAND.)

Q LET ME ASK YOU IF YOU CAN IDENTIFY THESE TWO ITEMS I WILL HAND YOU NOW.

A YES, SIR. THIS IS THE P.M.C. TARGET AMMUNITION 50 CENTER FIRE PISTOL CARTRIDGES. IT'S A BOX OF P.M.C. IT'S A BRAND NAME OF THE MANUFACTURER OF THE AMMUNITION. THIS IS THE CARTRIDGE SLEEVE THAT WOULD FIT INSIDE. IT'S THE SAME ONE REPRESENTED IN THAT PHOTOGRAPH AS WE FOUND IT THAT NIGHT.

Q WHAT YOU ARE HOLDING IN YOUR HAND IS SHOWN IN THAT PHOTOGRAPH?

A YES, SIR. WHAT I AM HOLDING HERE IS THE SAME ITEM OF EVIDENCE THAT WAS -- THE SAME BOX THAT WAS COLLECTED THAT NIGHT. THIS IS WHAT WE TOOK INTO EVIDENCE. OF COURSE, IT'S DISCOLORED BECAUSE I TRIED TREATING IT FOR PRINTS AND WHAT HAVE YOU.

Q ALL RIGHT, SIR. THAT IS THE PLASTIC INSERT THAT WAS INSIDE THE BOX?

A YES, THIS IS THE PLASTIC INSERT THAT WOULD ACTUALLY HOLD THE CARTRIDGES.

SOLICITOR BAILEY: YOUR HONOR, I WOULD OFFER THESE.

MR. STONE: CAN WE APPROACH BRIEFLY?

THE COURT: SURELY.

(THE FOLLOWING BENCH CONFERENCE WAS REPORTED.)

MR. STONE: JUDGE, I AM GOING TO OBJECT TO ALL OF THE ITEMS THAT WERE SEIZED OUT OF THE CAR ONLY BECAUSE OF THE SEARCH WARRANT. I WANT THIS ON THE RECORD BECAUSE I DON'T WANT TO CONTINUOUSLY OBJECT IN FRONT OF THIS JURY. I AM PUTTING ON THE RECORD THAT I HAVE OBJECTED AND I WANT TO CONTINUE MY OBJECTION AS TO ANY ITEMS SEIZED.

THE COURT: LET THE RECORD REFLECT THAT HE HAS OBJECTED ON GROUNDS SUBJECT TO HIS PREVIOUS OBJECTION AND FOR REASONS PREVIOUSLY STATED. IT'S OVERRULED. LET THE RECORD ALSO REFLECT THAT THIS BENCH CONFERENCE HAS BEEN MADE PART OF THE RECORD.

(THE BENCH CONFERENCE WAS CONCLUDED.)

(STATE'S EXHIBIT NUMBER 53, AMMUNITION BOX; AND NUMBER 54, PLASTIC HOLDER, ARE RECEIVED INTO EVIDENCE.)

Q LET ME HAND YOU ANOTHER PHOTOGRAPH AND ASK IF THAT ACCURATELY DEPICTS WHAT YOU OBSERVED IN THE CAR.

A YES, SIR, IT DOES. IT ACCURATELY DEPICTS THE CAR AS WE FOUND IT.

MR. STONE: I HAVE SEEN THIS.

SOLICITOR BAILEY: I WOULD OFFER IT, I BELIEVE WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 55, PHOTOGRAPH OF PURSE, IS RECEIVED INTO EVIDENCE.)

Q TELL THE JURY WHAT STATE'S 55 SHOWS, PLEASE.

A THIS IS THE DRIVER'S SEAT, THIS (INDICATING) BEING THE BACK PORTION THAT YOUR BACK WOULD LEAN AGAINST THE SEAT IN THE CAR FOR ORIENTATION. THIS (INDICATING) IS SOME TYPE OF BROWN CASE, LIKE A LITTLE ZIP-UP POUCH.

THIS (INDICATING) IS THE GEAR SHIFT BETWEEN THE TWO SEATS. THIS (INDICATING) IS THE DRIVER'S SEAT. THIS (INDICATING) IS THE TANISH BROWN BAG THAT WAS LOCATED ON THE SEAT.

Q DOES THIS APPEAR TO BE THAT BAG SHOWN IN THE PICTURE?

A YES, SIR, IT DOES.

SOLICITOR BAILEY: MOVE TO INTRODUCE THIS, YOUR HONOR.

MR. STONE: PURSUANT TO MY PREVIOUS OBJECTION.

THE COURT: SUBJECT TO A CONTINUING OBJECTION.

(STATE'S EXHIBIT NUMBER 56, PURSE, IS RECEIVED INTO EVIDENCE.)

Q I SHOW YOU ANOTHER PHOTOGRAPH AND ASK IF THAT ACCURATELY DEPICTS WHAT YOU OBSERVED IN THE CAR ON THE MORNING ON JANUARY THE 1ST, 1998?

A YES, SIR, THIS IS.

SOLICITOR BAILEY: I OFFER THIS WITHOUT OBJECTION, YOUR HONOR.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 57, PHOTOGRAPH OF HOLSTER, IS RECEIVED INTO EVIDENCE.)

THE COURT: WHAT I PROPOSE TO DO HERE IS BREAK AT THE CONCLUSION OF THE DIRECT TESTIMONY, AND WE WILL HAVE THE CROSS EXAMINATION AFTER LUNCH. IS THAT SATISFACTORY?

MR. STONE: THAT'S FINE, YES, SIR.

Q AND STATE'S 57, MR. BAKER, WHAT DOES THAT SHOW?

A THIS IS A PHOTOGRAPH I HAD TAKEN OF A HOLSTER THAT A FIREARM WOULD REST IN THAT WAS LOCATED BETWEEN THE DRIVER'S SEAT, THE FRONT TWO SEATS, THIS (INDICATING) BEING LIKE A CHANGE REST. THIS (INDICATING) WOULD BE THE GEAR SHIFT THAT PULLS UP AND DOWN. THIS IS JUST A PHOTOGRAPH TRYING TO SHOW WHAT WE FOUND, THAT BEING A HOLSTER.

Q SEE IF YOU CAN IDENTIFY THAT AS BEING THE HOLSTER SHOWN IN THAT PICTURE.

A YES, SIR. THIS BEARS THE ITEM NUMBER, THE CASE

NUMBER, AS WELL AS MY INITIALS AND THE DATE IT WAS SEALED. THAT WOULD BE THE HOLSTER.

Q THIS SEAT HERE (INDICATING) ON THE LEFT, IS THAT THE DRIVER'S SEAT OR THE PASSENGER'S SEAT?

A I BELIEVE THAT IS GOING TO BE THE PASSENGER'S SEAT.

SOLICITOR BAILEY: WE OFFER THIS.

MR. STONE: SUBJECT TO MY PREVIOUS OBJECTION.

THE COURT: ALL RIGHT, SIR.

(STATE'S EXHIBIT NUMBER 58, GUN HOLSTER, IS RECEIVED INTO EVIDENCE.)

Q GETTING BACK TO THE AMMUNITION BOX WITH THE PLASTIC INSERT YOU TESTIFIED ABOUT, WERE THERE NINE MILLIMETER BULLETS INSIDE THAT BOX WHEN YOU RETRIEVED IT?

A YES, SIR, THERE WERE.

Q DO YOU NOTES INDICATE HOW MANY?

A I WOULD HAVE TO GO BACK AND SEE IF I CAN FIND THAT. THIS WAS INDICATED ITEM 36 ON MY REPORT. IT SAYS ONE BOX OF AMMUNITION, P.M.C. TARGET AMMUNITION, CONTAINING 49 LIVE ROUNDS. THAT'S 49 ROUNDS THAT HAVE NOT BEEN SHOT.

Q LET ME HAND YOU A BAG MARKED 36 AND ASK IF THESE APPEAR TO BE THE BULLETS, SAME BRAND CALIBER, AS YOU

REFERRED TO AS COMING OUT OF THE BOX?

A YES, SIR. THIS PACKAGE ALSO CONTAINS THE CASE NUMBER L.9811 AS WELL AS MY INITIALS.

SOLICITOR BAILEY: I OFFER THESE, YOUR HONOR.

MR. STONE: NO OBJECTION.

(STATE'S EXHIBIT NUMBER 59, BULLETS IN BAGGIE, ARE RECEIVED INTO EVIDENCE.)

Q I SHOW YOU FOUR MORE PICTURES AND ASK IF THOSE ACCURATELY DEPICT WHAT YOU OBSERVED INSIDE THE CAR.

A YES, SIR, IT SURE DOES.

SOLICITOR BAILEY: OFFER THESE, YOUR HONOR.

MR. STONE: NO OBJECTION.

(STATE'S EXHIBIT NUMBER 60, PHOTOGRAPH OF PURSE; NUMBER 61, PHOTOGRAPH OF KEY CHAIN; NUMBER 62, PHOTOGRAPH OF FLOORBOARD; AND NUMBER 63, PHOTOGRAPH OF PASSENGER SIDE, ARE RECEIVED INTO EVIDENCE.)

THE COURT: LADIES AND GENTLEMEN OF THE JURY, THERE HAVE BEEN VARIOUS ITEMS INTRODUCED INTO EVIDENCE. I TELL YOU NOW THAT THESE MATTERS WILL BE WITH YOU IN THE JURY ROOM DURING YOUR DELIBERATIONS.

Q MR. BAKER, I WILL PUT ALL FOUR OF THESE ON THE MONITOR AND ASK IF YOU CAN TELL THE JURY WHAT THEY DEPICT. THIS IS STATE'S 60.

A I CAN'T TELL THE CORRECT ORIENTATION. THIS APPEARS TO BE THE PASSENGER SIDE.
Q MAYBE YOU CAN GET THE ORIENTATION ON THAT.
A THIS IS THE PASSENGER SIDE FLOOR LOOKING AT IT LIKE THAT. THIS (INDICATING) IS THE PASSENGER SIDE SEAT. THIS (INDICATING) IS THE PASSENGER SIDE FLOORBOARD CONTAINING A WOMAN'S PURSE.
THERE IS A BABY BOTTLE, I BELIEVE A PEPSI BOTTLE, LIKE A DRINK BOTTLE HERE (INDICATING.) THAT IS ON THE PASSENGER SIDE FLOORBOARD. THAT'S AN ORIENTATION OF THAT PHOTOGRAPH HERE.
Q STATE'S 62?
A AGAIN, THAT IS THE SAME SHOT, MINUS THE WOMAN'S PURSE.
Q WHAT ELSE DOES THAT SHOW DOWN THERE AT THE BOTTOM?
A DOWN HERE (INDICATING) IT APPEARS TO BE SOME TYPE OF SUNGLASSES BETWEEN THE DRIVER'S SEAT -- I MEAN -- THE PASSENGER SEAT AND THE PASSENGER DOOR, AGAIN WITH THE BABY BOTTLE.
Q DO THEY APPEAR TO BE A MAN OR WOMAN'S SUNGLASSES OR CAN YOU TELL?
A I HAVE NO IDEA.
Q STATE'S 63?
A AGAIN, WHAT WE TRY TO DO MANY TIMES IS GET

THREE OR FOUR SHOTS OF THE SAME THING, FAR AWAY, MEDIUM RANGE, CLOSE UP, SO A PERSON CAN SEE WHAT THIS IS.

AGAIN, THIS IS A SHOT COMING FROM THE PASSENGER SIDE DOOR SHOWING THE INTERIOR OF THE VEHICLE WITH THE DEPLOYED PASSENGER SIDE AIR BAG AS WELL AS THE WOMAN'S PURSE AND STUFF.

THIS WOULD BE THE ORIGINAL CONDITION IN WHICH IT WAS FOUND. OF COURSE, TO BE ABLE TO DOCUMENT WHAT IS IN THE FLOORBOARD WE HAD TO MOVE THE AIR BAG. THAT WOULD BE THE PREVIOUS TWO PHOTOGRAPHS.

Q STATE'S 61?

A THAT IS SHOWING WHAT CONTENTS WERE IN THE PASSENGER SIDE DOOR POCKET, SOME KEYS AND SOME PAPER ARTICLES.

Q IS THAT BLACK THING A KEY CHAIN?

A YES, SIR, I BELIEVE THAT WAS A KEY CHAIN AND VARIOUS OTHER ARTICLES DOWN THERE.

Q YOU CAN HAVE A SEAT.

A (WITNESS RESUMES THE WITNESS STAND.)

Q ALL THESE ITEMS OF PHYSICAL EVIDENCE THAT WE HAVE TALKED ABOUT THAT YOU REMOVED FROM THE CAR, THE BROWN BAG AND THE AMMUNITION BOX, YOU TESTIFIED PREVIOUSLY YOU TOOK THOSE INTO YOUR CUSTODY AT THAT POINT IN TIME; IS THAT CORRECT? YOU TOOK ALL THOSE

ITEMS INTO YOUR POSSESSION?
A THAT'S CORRECT. ANY EVIDENCE THAT WAS BOUGHT BACK TO THE STATE CRIME LABORATORY WAS CARRIED BACK BY ME. WHEN I WAS DEPLOYED TO GO TO THE SCENE, I WAS THE SENIOR LEAD AGENT ON THIS SCENE. SO IT WOULD HAVE BEEN MY RESPONSIBILITY TO MAKE SURE EVERYTHING WAS LOGGED IN AND DOCUMENTED PROPERLY.
Q AND CALLING YOUR ATTENTION TO 1:45, ROUGHLY 1:45 P.M. ON JANUARY THE 1ST, DID YOU GO TO NEWBERRY TO ATTEND SERGEANT LINGARD'S AUTOPSY?
A YES, SIR. IMMEDIATELY AFTER FINISHING THE PROCESSING OF THE VEHICLE, THE WHITE FORD MUSTANG AT SUMMERVILLE PUBLIC SAFETY, WE THEN TRAVELED TO NEWBERRY COUNTY, NEWBERRY MEMORIAL HOSPITAL, MET DR. SEXTON FOR THE PURPOSE OF PERFORMING AN AUTOPSY.
Q I WILL SHOW YOU WHAT HAS BEEN PREVIOUSLY MARKED AND PLACED INTO EVIDENCE AS STATE'S 18, 19 -- 16, 17, 18 AND 19 AND SEE IF YOU CAN IDENTIFY THOSE.
A YES, SIR. THESE WOULD BE CONTAINERS CONTAINING FRAGMENTS OF BULLETS THAT WERE RETRIEVED OUT OF SERGEANT FRANKIE LINGARD'S BODY.
Q DID YOU GET THOSE FROM DR. SEXTON AT THE AUTOPSY?
A YES, SIR. TYPICALLY WHEN I ATTEND AN AUTOPSY, I AM THERE TO ASSIST HIM IN PERFORMING THAT AUTOPSY, AS

WELL AS THE COLLECTION OF ANY EVIDENCE, ANY EVIDENCE THAT IS NEEDED TO BE CARRIED BACK TO THE FORENSIC LABORATORY FOR ANALYSIS. I WOULD HAVE CARRIED THESE BACK TO THE STATE CRIME LABORATORY TO HAVE THEM DISTRIBUTED TO THE FIREARMS DEPARTMENT.

Q DID DR. SEXTON ALSO TURN OVER TO YOU SERGEANT LINGARD'S HIGHWAY PATROL JACKET?

A YES, SIR. MOST OF THE ARTICLES OF CLOTHING, AS WELL AS THE PROJECTILES, WERE TURNED OVER TO ME AT THE AUTOPSY; AND THAT WOULD HAVE BEEN CARRIED BACK FOR EXAMINATION AT THE STATE CRIME LABORATORY.

Q AND WOULD YOU STATE WHETHER OR NOT YOU DID A GUN SHOT RESIDUE KIT ON SERGEANT LINGARD'S HANDS AT THE NEWBERRY HOSPITAL?

A AGAIN, I DID PERFORM A G.S.R. KIT. I JUST WANT TO MAKE ONE NOTATION HERE. THE FACT ON A DECEASED INDIVIDUAL THERE IS NO TIME FRAME, OTHER THAN DECOMPOSITION.

SO PERFORMING A G.S.R. ON A DECEASED INDIVIDUAL, THERE'S LESS CHANCES OF DESTRUCTION OF THAT EVIDENCE, BARRING THE BODY BEING MOVED AND TAMPERED WITH. SO ON ANY TYPE OF SHOOTING INCIDENT, IT IS PROTOCOL THAT WE TRY TO PERFORM A GUNSHOT RESIDUE TEST ON ANY PERSONS THAT MAY HAVE BEEN INVOLVED. AGAIN, THIS WAS DONE TO SHOW WHETHER OR NOT TROOPER FRANKIE LINGARD

EVER GOT TO ACTUALLY SHOOT A FIRED WEAPON.
Q I WILL ASK YOU TO IDENTIFY THIS.
A THIS WOULD BE THE G.S.R. KIT PERFORMED ON TROOPER FRANKIE LINGARD. IT BEARS S.L.E.D. NUMBER L.9811, AS WELL AS MY HANDWRITING AND MY INITIALS.
Q THAT WOULD HAVE CONTAINED THE STUBS YOU DID ON SERGEANT LINGARD'S HANDS?
A YES, SIR. THIS WOULD HAVE CONTAINED THE STUBS OF THE ACTUAL ANALYSIS OR THE ACTUAL KIT I PERFORMED ON HIM.
Q AND YOU SEALED THIS UP AND TOOK IT WITH YOU?
A YES, SIR. AGAIN, IT'S PROTOCOL SO THE TRACE EVIDENCE PERSONS WILL KNOW THE INTEGRITY OF THAT SAMPLE, THE EVIDENCE SEAL WAS PLACED ON THE BACK IMMEDIATELY AFTER IT WAS PUT IN HERE AND IT IS INITIALED AND SIGNED.

SOLICITOR BAILEY: YOUR HONOR, I OFFER THIS.

MR. STONE: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 64, GUNSHOT RESIDUE KIT OF LINGARD, IS RECEIVED INTO EVIDENCE.)

Q FINALLY, MR. BAKER, CALLING YOUR ATTENTION TO THE NEXT DAY, JANUARY 2ND, DID YOU CARRY ALL THESE ITEMS OF EVIDENCE WE DISCUSSED TO S.L.E.D.?

A THEY WOULD HAVE BEEN CARRIED BACK THAT SAME DAY. AGAIN, I RECEIVED THE CALL AT 12:40. I BELIEVE THE AUTOPSY -- I DON'T REMEMBER EXACTLY. IT WAS FINISHED SOMETIME IN THE EVENING HOURS THAT NIGHT.

I WOULD THEN CARRY BACK ALL THE PHYSICAL EVIDENCE THAT IS COLLECTED. THAT'S FROM ALL SCENES, THE INITIAL SCENE AT I-95 AT EXIT 97, THE SCENE AT THE K-MART SHOPPING CENTER.

THAT WOULD HAVE BEEN FROM M.U.S.C., AS WELL AS THE PUBLIC SAFETY THERE AT SUMMERVILLE WHERE THE CAR WAS PROCESSED AND THE AUTOPSY. ALL EVIDENCE THAT I COLLECTED WOULD BE CARRIED BACK TO THAT STATE CRIME LABORATORY AT THE END OF THE DAY WHEN I FINISHED EVERYTHING.

APPROXIMATELY THIS WAS SOMETIME AFTER SEVEN. I WILL SAY NINE O'CLOCK THAT NIGHT ON THE 1ST. IT WAS THEN HOUSED IN A LOCKED, SECURED BUILDING. I HAVE AN EVIDENCE LOCKER WHICH IS INSIDE A LOCKED OFFICE, WHICH IS INSIDE OF A LOCKED, SECURED EVIDENCE BUILDING THERE AT S.L.E.D.

I WOULD HAVE HOUSED IT THERE AND THE NEXT MORNING I WOULD HAVE LOGGED THAT INTO SUSIE OR TO ONE OF THE LOG-IN INDIVIDUALS.

Q SO IT WAS IN YOUR POSSESSION UNTIL IT WAS LOCKED UP. THEN YOU UNLOCKED IT AND LOGGED THAT IN?

A THAT IS CORRECT. IT REMAINS IN MY POSSESSION.
Q DID YOU LOG IT IN WITH SUSIE WILSON, WHO IS ONE OF THE EVIDENCE CUSTODIANS AT S.L.E.D.?
A YES, SIR. SHE IS THE SUPERVISOR OF THE EVIDENCE LOG-IN DEPARTMENT. I HAD HER ASSIST ME WITH THE LOGGING IN OF THIS EVIDENCE.
Q AND DID THE ITEMS YOU LOGGED IN INCLUDE THE FOUR BULLETS THAT YOU GOT FROM DR. SEXTON, THE FIVE NINE MILLIMETER SHELL CASINGS YOU GOT FROM I-95 AT THE 97 MILE MARKER, THE PISTOL IN FRONT OF YOU THERE, THE MINE MILLIMETER BRYCO PISTOL AND THE HOLSTER, THE BLACK HOLSTER?
A ALL THOSE WOULD HAVE BEEN PART OF THE ITEMS THAT WERE LOGGED IN AS EVIDENCE, YES, SIR.
Q FOR THE RECORD I WANT TO GO THROUGH WHAT WAS THERE. THE AMMUNITION, THE BOX AND THE INSERT AND THE LIVE ROUNDS, NINE MILLIMETER ROUNDS?
A YES, SIR, 49 LIVE ROUNDS CONTAINED IN THAT CARTON.
Q AND THE LATENT LIFTS, THE THREE PHOTOGRAPHS OF THE LATENT LIFTS?
A THE LATENT LIFTS WOULD HAVE BEEN LOGGED IN AT THAT TIME, YES, SIR.
Q AND THE GUNSHOT RESIDUE KIT FROM THE MUSTANG?
A YES, SIR.

Q THE GUNSHOT RESIDUE KIT FROM SERGEANT LINGARD?
A YES, SIR.
Q THE GUNSHOT RESIDUE KIT FROM MR. ALEKSEY?
A YES, SIR.
Q THE BLACK T-SHIRT FROM THE HOSPITAL?
A YES, SIR. ANY CLOTHING COLLECTED FROM THE HOSPITAL WOULD HAVE BEEN BOUGHT BACK AND LOGGED IN AT THAT TIME, TOO.
Q AND SERGEANT LINGARD'S HIGHWAY PATROL JACKET. ALL THAT WAS LOGGED IN AT S.L.E.D.?
A YES, SIR, HIS JACKET AND BADGE AND ALL THE OTHER PERSONAL EFFECTS OF CLOTHING.

SOLICITOR BAILEY: YOUR HONOR, THIS IS ALL I HAVE AT THIS TIME OF MR. BAKER. I WOULD RESERVE THE RIGHT TO RECALL HIM AT A LATER TIME.

THE COURT: WE WILL BREAK FOR LUNCH AND YOU MAY HAVE SUCH REDIRECT OR CROSS EXAMINATION AFTER HUNCH.

MR. STONE: YES, SIR.

THE COURT: I WILL LET YOU GO TO THE JURY ROOM. YOUR LUNCH IS HERE. I HOPE TO START BACK AROUND TWO O'CLOCK. LET ME KNOW WHEN YOU ARE READY TO START BACK.

(THE JURY IS EXCUSED FOR LUNCH AT 12:18 P.M.)

THE COURT: MR. WITNESS, I REMIND YOU ARE UNDER OATH. YOU ARE SUBJECT TO CROSS EXAMINATION. DURING THE LUNCH BREAK, DO NOT DISCUSS YOUR TESTIMONY WITH ANYONE. PERMIT NO ONE TO DISCUSS IT WITH YOU. YOU ARE NOT TO DISCUSS IT WITH ANY LAWYERS OR ANYBODY ELSE.

THE WITNESS: YES, SIR.

THE COURT: YOU UNDERSTAND THAT?

THE WITNESS: YES, SIR, I DO.

THE COURT: PLEASE BE BACK AT APPROXIMATELY TWO O'CLOCK SO YOU CAN BE SUBJECT TO CROSS EXAMINATION. ANY OTHER INSTRUCTIONS REQUIRED OF THIS WITNESS?

MR. STONE: NO, SIR, I THINK YOU COVERED IT.

THE COURT: THANK YOU SO MUCH. WE WILL SEE YOU AT APPROXIMATELY TWO O'CLOCK.

(WHEREUPON THERE WAS A LUNCHEON RECESS.)

* * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

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REPETATIVE TRANSCRIPT COVER PAGE AND
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AND NOT REPRINTED

(THE FOLLOWING PROCEEDINGS WERE REPORTED AFTER THE LUNCHEON RECESS ON AUGUST 28, 1998.)

THE COURT: LET THE RECORD REFLECT THAT THE DEFENDANT IS IN THE COURTROOM. BRING THE JURY, PLEASE.

(THE JURY RETURNS TO THE COURTROOM AT 2:17 P.M.)

THE COURT: YOU MAY CROSS EXAMINE.

MR. STONE: THANK YOU, YOUR HONOR.

CROSS EXAMINATION

BY MR. STONE:

Q BEFORE THE BREAK, AGENT, DID YOU TELL US WHEN YOU TOOK THE GUNSHOT RESIDUE SAMPLE FROM MR. ALEKSEY? DID YOU TELL US WHAT TIME YOU TOOK THAT?

A I SAID IT WAS APPROXIMATELY AROUND 6 A.M. ON JANUARY 1ST OF THIS YEAR, 1998.

MR. STONE: LET ME MARK THIS FOR IDENTIFICATION.

SOLICITOR BAILEY: NO OBJECTION.

(DEFENDANT'S EXHIBIT NUMBER 7, G.S.R. FORM OF THE DEFENDANT, IS MARKED FOR IDENTIFICATION.)

Q LET ME SHOW YOU WHAT HAS BEEN MARKED AS DEFENDANT'S EXHIBIT 7 FOR IDENTIFICATION. IS THAT YOUR SIGNATURE AT THE BOTTOM?

A YES, SIR, IT IS.

Q AS THE COLLECTING OFFICER; IS THAT CORRECT?
A YES, SIR.
MR. STONE: YOUR HONOR, AT THIS TIME WE MOVE THIS INTO EVIDENCE. I DON'T THINK THERE IS ANY OBJECTION.
SOLICITOR BAILEY: WITHOUT OBJECTION, YOUR HONOR.
THE COURT: WITHOUT OBJECTION.
(DEFENDANT'S EXHIBIT NUMBER 7, G.S.R. FORM OF THE DEFENDANT, IS RECEIVED INTO EVIDENCE.)
Q THIS IS THE GUNSHOT RESIDUE INFORMATION FORM. DID YOU FILL OUT THIS?
A THAT IS CORRECT, YES, SIR.
Q THE INFORMATION THAT IS ON THIS FORM, THAT IS YOUR INFORMATION; IS THAT CORRECT?
A YES, SIR, THAT WOULD HAVE BEEN THE INFORMATION THAT WE RECEIVED THE NIGHT OF FILLING THIS OUT OR THAT I RECEIVED.
Q D. V. BAKER, THAT IS YOU; IS THAT CORRECT?
A YES, SIR, THAT'S DONALD BRETT BAKER.
Q THE SUBJECT IN THIS IS JUSTIN MATEEKI. THAT IS WHO YOU THOUGHT AT THAT TIME THAT MR. ALEKSEY WAS; IS THAT CORRECT?
A YES, SIR, THAT WAS THE NAME I WAS GIVEN BY THE OTHER AGENTS THERE. I HAD NO CONVERSATION WITH HIM

WHILE HE WAS IN THE HOSPITAL.
Q AND THE FORM UNDER THAT, YOU FILLED THAT OUT AS WELL; IS THAT CORRECT?
A THAT'S CORRECT, JUST TO STATE WHETHER OR NOT THE SUBJECT IS LIVING, WHETHER HE IS LEFT HANDED, RIGHT HANDED. WITH NO CONVERSATION I PUT UNKNOWN.
Q AND ON THIS -- SO YOU PUT UNKNOWN BECAUSE YOU DIDN'T HAVE ANY CONVERSATION, YOU DIDN'T KNOW THE ANSWER TO THE QUESTION?
A I DID NOT KNOW WHETHER HE WAS LEFT HANDED OR RIGHT HANDED. I DIDN'T KNOW IF HE WAS SEDATED, WHAT HAVE YOU. LIKE I SAID, THERE WAS NO CONVERSATION BETWEEN MYSELF AND HIM, OTHER THAN ME EXPLAINING WHAT I AM FIXING TO DO.
Q AND THIS QUESTION ON THIS QUESTIONNAIRE ALSO SAYS, "HAS SUBJECT WASHED HIS OR HER HANDS AFTER THE SHOOTING?" AND YOU INDICATED ON THAT NO; IS THAT CORRECT?
A YES, SIR. THAT WAS THE INFORMATION I WAS GIVEN THAT HE HAD NOT HAD THAT OPPORTUNITY TO WASH HIS HANDS.
Q THE INFORMATION ON THE VERY BOTTOM OF THIS, YOU FILLED THAT OUT AS WELL?
A THAT IS CORRECT.
Q YOU HAVE THE APPROXIMATE TIME OF THE SHOOTING AS

11:45; IS THAT CORRECT?
A I BELIEVE THAT'S WHAT TIME THE SHOOTING OCCURRED, AROUND THAT ROUGHLY, YES, SIR.
Q THAT IS P.M.?
A P.M., YES, SIR. THAT WOULD HAVE BEEN THE 31ST OF DECEMBER, 1997.
Q AND THIS IS YOUR SIGNATURE HERE AT THE VERY BOTTOM OF THAT?
A YES, SIR.
Q UNDER THAT IT INDICATES THE TIME THAT YOU TOOK THE SAMPLE, COLLECTING OFFICER'S SIGNATURE, AND THE TIME YOU TOOK THE SAMPLE; IS THAT CORRECT?
A THAT'S CORRECT.
Q AND THAT TIME INDICATES 5:30 AND THAT INDICATES P.M. BUT THAT, IN FACT, SHOULD HAVE BEEN A.M.?
A YES, SIR, THAT WOULD HAVE BEEN A.M, 5:30 A.M.?
Q THAT'S WHEN YOU TOOK THE SAMPLE, 5:30 A.M.
A YES, SIR. AGAIN I INDICATED THAT AT APPROXIMATELY SIX. IT COULD HAVE BEEN 5:30 THE TIME IT WAS TAKEN. THAT'S WHAT I INDICATED.
Q THE HANDS WERE BAGGED PRIOR TO GETTING THERE; IS THAT CORRECT?
A YES, SIR.
Q DID YOU FIND -- WHEN YOU GOT THERE, DID YOU FIND THE HANDS BAGGED?

A YES, SIR, I DID FIND THE HANDS BAGGED.
Q THOSE HANDS WERE BAGGED AT ABOUT 2:35; IS THAT CORRECT?
A I HAVE NO IDEA AT WHAT POINT THEY WERE BAGGED.
Q IS IT IMPORTANT TO KNOW WHAT TIME THE HANDS ARE BAGGED?
A ACTUALLY I WOULD NOT PREFER TO BAG A LIVING SUBJECT'S HANDS.
Q YOU WOULDN'T?
A I WOULD NOT, NO, SIR. NOW, IT'S A COMMON PRACTICE ON DECEASED INDIVIDUALS TO KEEP PARTICLES FROM FALLING OFF; HOWEVER, ON LIVING SUSPECTS, YOU CAN CAUSE CONDENSATION WITH THE HEAT BUILT UP IN THE BAG WHICH CAN FURTHER DILUTE THE SAMPLE. SO, I WOULD NOT HAVE PERSONALLY PREFERRED TO HAVE THE HANDS BAGGED; HOWEVER, THEY WERE BAGGED. THAT'S FINE.
Q THAT'S AN ANALYSIS CALL, ISN'T IT? THAT'S NOT A COLLECTION ISSUE?
A I DON'T KNOW WHO MADE THE DECISION TO BAG THE HANDS. I REALLY DON'T HAVE ANY IDEA.
Q CERTAINLY WHEN YOU BAG THE HANDS, THAT CUTS DOWN ON THE ACTIVITY OF THE HANDS. THEY DON'T HAVE AN OPPORTUNITY TO RUB THINGS OFF --
A YES, SIR.
Q -- OR ANYTHING LIKE THAT; IS THAT RIGHT?

A THAT IS CORRECT.
Q AND THAT IS THE PURPOSE FOR BAGGING THE HANDS TO BEGIN WITH; ISN'T IT?
A THAT IS THE PURPOSE WE BAG HANDS ON DECEASED INDIVIDUALS, YES, SIR.
Q YOU WERE TRAINED, I THINK YOU TESTIFIED EARLIER, THAT YOU WERE TRAINED AT SOME POINT THAT AFTER SIX HOURS NOT EVEN TO ATTEMPT AN ANALYSIS; IS THAT CORRECT?
A YES, SIR. THERE IS AN ACTUAL RANGE THERE WHERE IT'S ALMOST USELESS TO ATTEMPT IT, AND I'M NOT CERTAIN EXACTLY WHAT TIME. MY TRAINING IS SOMEWHERE AROUND SIX HOURS.
Q AGAIN, THAT'S A CALL MADE BY SOMEBODY WHO IS AN EXPERT IN GUNSHOT RESIDUE?
A THAT'S CORRECT. I AM ONLY TRAINED IN THE COLLECTION OF IT.
Q BUT YOU ARE, IN FACT, TRAINED IN THE COLLECTION OF GUNSHOT RESIDUE; ARE YOU NOT?
A I AM TRAINED IN THE COLLECTION AND SOME FACTORS THAT WILL AFFECT IT, SUCH AS, CONDENSATION, WEATHER OUTSIDE, WHAT HAVE YOU.
Q AND YOU KNOW WHAT YOU ARE DOING WHEN YOU COLLECT GUNSHOT RESIDUE; DON'T YOU?
A IT'S A PRETTY SIMPLE PROCEDURE, YES, SIR.

Q AND YOU DID IT PROPERLY?
A YES, SIR.
Q ANY QUESTION ABOUT THAT?
A I DON'T HAVE ANY QUESTION ABOUT MY PERFORMANCE ON COLLECTING THAT G.S.R. OR THE GUNSHOT RESIDUE, NONE.
Q LET ME TALK TO YOU ABOUT FINGERPRINTS A MINUTE. WHEN YOU TESTIFIED EARLIER, YOU DISCUSSED I BELIEVE THREE EXHIBITS AS FAR AS LIFTED PHOTOGRAPHS -- OR EXCUSE ME -- PHOTOGRAPHS OF LIFTED PRINTS; IS THAT RIGHT?
A YES, SIR. THOSE ARE PHOTOGRAPHS OF THE ACTUAL ITEMS OF EVIDENCE WHICH WERE LIFTED OFF THE WHITE FORD MUSTANG.
Q THAT WOULD BE STATE'S 50, 51 AND 49, IF YOU NEED TO REVIEW THOSE. I THINK YOU INDICATED EARLIER THOSE THREE LIFTS WERE TAKEN FROM THE PASSENGER SIDE OF THE CAR; IS THAT CORRECT?
A YES, SIR, I BELIEVE I INDICATED THAT. I WOULD HAVE TO LOOK AT MY REPORT.
Q DO YOU NEED TO REVIEW YOUR REPORT TO MAKE SURE?
A YES, SIR, IF YOU CAN HOLD ON ONE SECOND.
Q I DON'T HAVE ANY PROBLEM WITH THAT.
A I WILL PULL OUT THE ACTUAL REPORT SO I WILL KNOW. WHAT WAS THE ITEM NUMBERS THERE AGAIN? I'M

SORRY.

Q THE ITEM NUMBER WILL BE DIFFERENT THAN THE SOLICITOR'S NUMBER, I'M ASSUMING.

A I CAN SHOW YOU WHERE THE ITEM NUMBER WILL BE LISTED.

Q ITEM 39, ITEM 41 AND ITEM 40, I BELIEVE.

A THIRTY-NINE, 40 AND 41.

Q IS THAT CORRECT? ITEM 39, THAT WAS TAKEN FROM THE PASSENGER SIDE?

A THE PASSENGER SIDE OF THE FORD MUSTANG, WINDOW OUTSIDE.

Q ITEM NUMBER 40 WAS TAKEN FROM THE PASSENGER SIDE?

A PASSENGER SIDE DOOR, WINDOW INSIDE.

Q AND ITEM NUMBER 41 WAS TAKEN FROM THE PASSENGER SIDE; IS THAT RIGHT?

A PASSENGER SIDE, WINDOW INSIDE, YES, SIR.

Q DID YOU TAKE ANY LATENTS FROM THE DRIVER'S SIDE OF THE CAR?

A NO, SIR. THERE WERE NO IDENTIFIABLE LATENT PRINTS DEVELOPED ON THE DRIVER'S SIDE WINDOW OR ACTUALLY ON THE OUTSIDE OF THE CAR EITHER.

Q DID YOU TAKE ANY LATENT LIFTS FROM THE STEERING WHEEL?

A WE PROCESSED THE STEERING WHEEL. THERE WAS

NOTHING OF SUFFICIENT QUALITY TO IDENTIFY.

Q DID YOU TAKE ANY FROM THE GEAR SHIFT?

A SIR, WHEN I SAY WE PROCESS A CAR --

Q RIGHT.

A -- WE PROCESS IT THOROUGHLY. I MEAN, WE PROCESS INSIDE AND OUTSIDE --

Q WHEN YOU ARE TELLING US PROCESSING, WHAT ARE YOU TALKING ABOUT?

SOLICITOR BAILEY: YOUR HONOR, I DON'T THINK HE FINISHED HIS ANSWER.

THE COURT: ALL RIGHT, SIR.

Q WHAT ARE YOU TALKING ABOUT WHEN YOU ARE SAYING PROCESS?

A PROCESS MEANS TO POWDER TO SEARCH FOR LATENT PRINTS. WE USE OBLIQUE LIGHTING. THAT IS TO HOLD A FLASHLIGHT AT ACUTE ANGLES TO THE SURFACE IN QUESTION. BY DOING THAT YOU CAN MAKE SOME OF THE RESIDUE THAT IS LEFT BEHIND WITH FINGERPRINTS A LITTLE MORE VISIBLE.

SO WE POWDER WITH BLACK POWDER. WE ALSO FUME THE INSIDE OF THE CAR AND ALL THE ARTICLES OF CLOTHING ON THE INSIDE, ALL THE ARTICLES INSIDE THE CAR. ANYTHING THAT IS FEASIBLE TO GET FINGERPRINTS OFF OF WE PROCESS.

Q SO SOME SUBJECTS, SOME AREAS, SOME TEXTURES,

WON'T SHOW UP FINGERPRINTS?

A IT IS DIEFICULT FOR SOME SURFACES TO LEAVE FINGERPRINTS ON, YES, SIR.

Q WHAT YOU ARE TRYING TO GET ARE FINGERPRINTS. YOU ARE NOT TRYING TO GET PALMS OR ANYTHING LIKE THAT?

A NO, SIR, FINGERS OR PALMS. ACTUALLY THE PALMER SURFACES OF THE BODY AND THE PLANTAR SURFACES, THE SOLES OF THE FEET, CONTAIN THE SAME RIDGES. BOTH OF THEM ARE UNIQUE TO EACH AND EVERY INDIVIDUAL. SO THE PALM, FINGERS OR THE TIPS OF THE FINGERS ARE UNIQUE. SO YOU TRY TO IDENTIFY -- THERE IS PIECES OF PALM THAT YOU HAVE ALSO.

Q THE GUN, THIS GUN HERE, THE GUN THAT WAS THE MURDER WEAPON, THE PLASTIC -- IT LOOKS LIKE A PLASTIC TYPE HANDLE?

A YES, SIR.

Q THAT'S A TOUGH AREA TO GET FINGERPRINTS FROM, I'M ASSUMING.

A NO, SIR, NOT NECESSARILY. THE PLASTIC ITSELF IS NOT A VERY ROUGH TEXTURE. A BRICK WALL WOULD BE SOMETHING THAT WOULD BE VERY DIFFICULT TO PRINT.

Q BUT YOU DIDN'T GET ANY PRINTS OFF THE HANDLE?

A NO, SIR. THE ONLY TWO AREAS THAT WAS EVEN QUESTIONABLE TO BE IDENTIFIABLE WAS ON THE TOP

PORTION OF THE GUN JUST BELOW THE SITE AND RIGHT UP UNDER -- RIGHT ON THE OUTSIDE OF THE TRIGGER GUARD.
Q SHOW ME THAT IF YOU WOULD.
A A PRINT WAS DEVELOPED AND PHOTOGRAPHED HERE (INDICATING), THIS PORTION OF THE GUN.
Q YOU ARE SHOWING TWO FINGERS.
A IN BETWEEN THIS SECTION (INDICATING), SIR. IT WAS ACTUALLY A PIECE OF A PALM PRINT THAT WAS DEVELOPED HERE (INDICATING).
Q AS IF SOMEBODY WOULD HAVE GRABBED THE GUN, LIKE THIS (INDICATING) OR LIKE THIS (INDICATING) OR WHAT?
A IT WAS ACTUALLY IN THIS ORIENTATION (INDICATING).
Q LIKE THIS (INDICATING)?
A YES, SIR.
Q THE PRINT ITSELF CAME FROM HERE (INDICATING), AS IF SOMEBODY HAD GRABBED IT IN THIS FASHION (INDICATING); IS THAT RIGHT?
A NO, SIR. IT WOULD NOT HAVE BEEN IN THAT ORIENTATION. AGAIN, IT WAS IN THIS ORIENTATION HERE (INDICATING).
Q AND WHERE WAS THE OTHER PRINT FOUND?
A THE OTHER PRINT WAS DEVELOPED JUST UNDER THIS PORTION (INDICATING) OF THE GUN.
Q RIGHT.

A BUT IT WAS INSUFFICIENT FOR IDENTIFICATION.
Q SO YOU DON'T KNOW -- THE PRINT COMING FROM HERE (INDICATING), YOU DON'T KNOW WHOSE PRINT THAT IS; IS THAT RIGHT?
A THAT'S A TRUE STATEMENT, YES, SIR. I COULD NOT TELL YOU.
Q THE ONLY PRINT MATCH YOU MADE WAS ON THE OUTSIDE OF THE GUN IN THE FASHION (INDICATING); IS THAT CORRECT?
A NO, SIR, I DID MAKE SOME OTHER PRINTS THAT WERE IDENTIFIED TO AN INDIVIDUAL OFF THE MAGAZINE PART OF THE GUN.
Q THE MAGAZINE WOULD BE THE CLIP, WHAT IS INSIDE; RIGHT?
A YES, THE ACTUAL PORTION OF THE GUN THAT FEEDS THE BULLETS INTO THE GUN.
Q AND ON THIS CLIP YOU ALSO FOUND THREE UNIDENTIFIABLE PRINTS AS WELL, DIDN'T YOU?
A I WOULD HAVE TO LOOK BACK BUT, YES, SIR, THERE WERE PRINTS THAT WERE IDENTIFIABLE AND SOME THAT WERE NOT IDENTIFIABLE, I BELIEVE.
Q DID YOU GET ANY PRINTS OFF OF THIS (INDICATING)?
A NO, SIR.
Q THAT WOULD BE THE HOLSTER.
A THAT WOULD BE ONE OF THOSE SURFACES THAT ARE

TYPICALLY VERY DIFFICULT AT TIMES. IT JUST DEPENDS ON WHAT PORTION OF THE HOLSTER YOU ARE SPEAKING OF.

Q DID YOU TRY TO GET A PRINT OFF OF THE REAR-VIEW MIRROR?

A YES, SIR.

Q YOU DIDN'T FIND ANYTHING?

A NO, SIR, NOTHING THAT WOULD BE IDENTIFIABLE. AGAIN, I SAY WHEN I PROCESSED THE VEHICLE, THAT'S INSIDE AND OUT.

Q YOU DIDN'T GET ANYTHING THERE. ANYTHING OFF THE BUCKLE OFF THE SEAT BELT OR ANYTHING LIKE THAT?

A NO, SIR. I PROCESSED THE SILVER-PLATED PORTIONS OF THE SEAT BELT THAT BUCKLES THE INDIVIDUALS INTO A CAR. I PROCESSED THOSE AREAS ALSO, AS WELL AS THE SLIDE MECHANISMS TO ADJUST SEATS UP AND BACK FOR DIFFERENT HEIGHT INDIVIDUALS.

Q DO YOU ALSO GATHER TRACE EVIDENCE?

A I AM TRAINED TO GET TRACE EVIDENCE, AS WELL AS SEROLOGICAL EVIDENCE, SUCH AS HAIR, BLOOD, SEMEN, WHAT HAVE YOU.

Q DID YOU DID GATHER ANY TRACE EVIDENCE IN THIS CASE?

A NO, SIR, I DID NOT.

Q DID YOU TRY TO GET ANY HAIR OUT OF THE HAIRBRUSH THAT WAS ON THE DRIVER'S SIDE RIGHT BESIDE THE GUN?

A NO, SIR, I DIDN'T FEEL THAT THAT WAS PROBATIVE.
Q AND AGAIN YOU ARE COMING BACK AT THE CRIME SCENE AFTER MR. ALEKSEY IS IN CUSTODY AND AFTER YOU HAVE SEEN TROOPER LINGARD IN HIS CRIME SCENE; IS THAT CORRECT?
A IT'S CORRECT THAT I PROCESSED I-95 WHERE TROOPER LINGARD WAS AND THEN PROCEEDED --
Q TO THE HOSPITAL?
A NO. I PROCEEDED TO K-MART SHOPPING CENTER HERITAGE SQUARE WHERE THE CAR WAS LOCATED, THEN WENT TO THE HOSPITAL AND THEN WENT TO PUBLIC SAFETY TO PROCESS THE CAR.
Q OKAY, SIR.
A THAT WAS THE LAST THING PRIOR TO.
Q AGAIN, AFTER MR. ALEKSEY WAS IN THE HOSPITAL AND IN CUSTODY; IS THAT RIGHT?
A THAT'S CORRECT. AT THAT TIME I WOULD SAY INITIALLY I DID NOT KNOW WHERE HE WAS OR ANYTHING UNTIL I GOT TO HERITAGE SQUARE OR IN THE PROCESS OF GOING TO HERITAGE SQUARE.
MR. STONE: YOUR HONOR, LET ME CLEAR THIS UP. I HAVE SHOWN THIS TO THE SOLICITOR. AT THE VERY BOTTOM IS SOME HANDWRITING THAT SAYS "SHOULD BE A.M. PER BRETT BAKER."
Q YOU AGREE WITH THAT; IS THAT CORRECT?

A YES, SIR.

Q IT'S NOT 5:30 P.M.?

A IT'S NOT 5:30 P.M.

Q THAT'S FINE. I JUST WANT TO MAKE SURE WE WERE CLEAR ON THAT.

A THAT'S CLEAR. EVERYTHING -- THAT WOULD HAVE BEEN A.M.

MR. STONE: NOTHING ELSE, YOUR HONOR. THANK YOU.

THE COURT: ANY REDIRECT?

SOLICITOR BAILEY: NO REDIRECT, YOUR HONOR.

THE COURT: YOU MAY COME DOWN. HE WILL REMAIN?

SOLICITOR BAILEY: YOUR HONOR, I GUESS HE IS STILL SEQUESTERED. I PLAN TO RECALL HIM.

THE COURT: YES, SIR. HE WILL BE RECALLED AS I UNDERSTAND IT, BUT YOU WILL BE SEQUESTERED.

THE WITNESS: YES, SIR.

THE COURT: ALL RIGHT, SIR.

SOLICITOR BAILEY: THE STATE CALLS KERRI GOODWIN.

CLERK: STATE YOUR NAME FOR THE RECORD PLEASE.

THE WITNESS: KERRI GOODWIN.

KERRI GOODWIN, BEING FIRST

DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

THE WITNESS: KERRI GOODWIN, G-O-O-D-I-N.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MRS. GOODWIN, YOU ARE EMPLOYED BY S.L.E.D; IS THAT CORRECT?

A YES.

Q IN WHAT PART OF S.L.E.D. DO YOU WORK?

A CRIME SCENE AND LATENT FINGERPRINT UNIT IN THE FORENSIC BUILDING.

Q MR. BAKER HAS ALREADY DESCRIBED TO THE JURY WHAT THAT UNIT DOES. SO I WON'T GO THROUGH IT AGAIN. HOW LONG HAVE YOU WORKED AT THAT UNIT?

A APPROXIMATELY THREE AND A HALF YEARS.

Q AND I WANT TO CALL YOUR ATTENTION TO THE EARLY MORNING OF JANUARY THE 1ST, 1998, AND ASK WHETHER OR NOT YOU RESPONDED WITH MR. BRETT BAKER TO THE INCIDENT INVOLVING THE MURDER OF FIRST SERGEANT FRANKIE LINGARD IN ORANGEBURG COUNTY?

A YES, I DID RESPOND WITH HIM.

Q AND WHERE DID YOU INITIALLY GO? WHAT WAS THE FIRST STOP Y'ALL MADE?

A TO THE SCENE WHERE THE TROOPER'S VEHICLE WAS ON

THE SIDE OF THE HIGHWAY.
Q WHAT WAS THE SECOND PLACE YOU WENT TO?
A I BELIEVE THAT WAS SUMMERVILLE WHERE THE SUSPECT'S VEHICLE WAS LOCATED.
Q NOW, WHEN MR. BAKER LEFT THAT SCENE TO GO TO THE HOSPITAL, DID YOU REMAIN BEHIND?
A YES, I DID.
Q DID YOU TAKE SOME PHOTOGRAPHS --
A YES, I DID.
Q -- WHILE HE WAS GONE. I WILL SHOW YOU WHAT IS ALREADY IN EVIDENCE AS STATE'S 30 AND ASK WHETHER OR NOT YOU TOOK THIS PICTURE.
A YES, I DID.
Q THIS IS THE PISTOL LYING ON THE FLOOR OF THE DRIVER'S SIDE OF THE MUSTANG; IS THAT CORRECT?
A ON THE DRIVER'S FLOORBOARD, YES.
Q WHEN YOU ARRIVED AT THE SCENE, WOULD YOU STATE WHETHER OR NOT THERE WAS A HIGHWAY PATROLMAN THERE WATCHING THE SCENE AS YOU APPROACHED IT OR WATCHING THE CAR?
A YES.
Q AND AFTER YOU ARRIVED THERE AND TOOK THE PHOTOGRAPH, DID YOU PHYSICALLY TAKE POSSESSION OF THAT PISTOL?
A I DID. YES, I DID.

Q AND I WILL SHOW YOU STATE'S EXHIBIT NUMBER 5 AND ASK IF THAT IS THE PISTOL YOU TOOK POSSESSION OF.
A YES.
Q AND WHEN YOU TOOK POSSESSION OF IT, WAS THERE A LIVE ROUND JAMMED IN THE PROJECTION PORT?
A THERE WAS A CARTRIDGE IN HERE, YES.
Q WHEN YOU TURNED THAT OVER TO MR. BAKER, WAS THAT LIVE ROUND STILL IN THERE?
A YES. I DID NOT TOUCH THE WEAPON, OTHER THAN TO SECURE IT IN A BOX.
Q HE CLEARED THE WEAPON LATER ON?
A I BELIEVE SO.
Q WERE YOU AT THE PARKING LOT WHEN THE MUSTANG WAS REMOVED FROM THE PARKING LOT AT THE SUMMERVILLE POLICE DEPARTMENT?
A YES, I WAS.
Q DID YOU FOLLOW THE VEHICLE IN YOUR VEHICLE?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
Q THE TOE TRUCK TO THE SUMMERVILLE POLICE DEPARTMENT?
A YES, I DID.
Q AND DID ANYBODY DISTURB THE INTERIOR OF THE VEHICLE OR ANYTHING OF THAT NATURE?
A NO.
Q DID YOU REMAIN WITH THE MUSTANG UNTIL AGENT

BAKER CAME BACK FROM THE HOSPITAL?

A YES, I DID.

Q THANK YOU. THAT'S ALL I HAVE. PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

MR. STONE: NO QUESTIONS.

THE COURT: YOU MAY COME DOWN AND YOU ARE EXCUSED.

SOLICITOR BAILEY: THE STATE CALLS LISA WATSON.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: LISA A. WATSON.

LISA A. WATSON, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

THE WITNESS: W-A-T-S-O-N.

MR. STONE: YOUR HONOR, CAN WE APPROACH?

COURT REPORTER: DO YOU WANT THIS ON THE RECORD?

MR. STONE: NO.

(WHEREUPON THERE WAS A BENCH CONFERENCE OFF THE RECORD IN THE PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

THE COURT: WE HAVE GOT ANOTHER WITNESS WE ARE GOING TO TAKE OUT OF ORDER. SO I WILL ASK THAT

YOU GO BACK TO THE ROOM. WE WILL BE CALLING YOU BACK IN JUST A MINUTE. WE WILL BE CALLING YOU BACK VERY SHORTLY.

(THE WITNESS LEAVES THE COURTROOM.)

SOLICITOR BAILEY: THE STATE WOULD CALL ANGELA CROWL.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: ANGELA CROWL.

ANGELA CROWL, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME, PLEASE, MA'AM.

THE WITNESS: C-R-O-W-L.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MS. CROWL, WOULD YOU PLEASE TELL THE JURY WHERE YOU LIVE.

A IN WILMINGTON, DELAWARE, 2210 WEST NINTH.

Q HAVE YOU LIVED THERE ALL YOUR LIFE?

A YES.

Q MS. CROWL, ARE YOU EMPLOYED?

A YES.

Q WHERE DO YOU WORK?

A I WORK FOR DOMINIC A. DIFBO AND SONS, INCORPORATED.

COURT REPORTER: WOULD YOU SPELL THAT, PLEASE.

THE WITNESS: D-I-F-AS IN FRANK-B-O.

Q WHAT TYPE OF BUSINESS IS THAT?

A IT'S A HARDWOOD FLOOR CONTRACTOR.

Q IS THAT A FAMILY BUSINESS?

A YES.

Q WHAT DO YOU DO FOR THAT CORPORATION?

A I AM THE SECRETARY OF THE CORPORATION.

Q AND WERE YOU EMPLOYED -- HOW LONG HAVE YOU BEEN EMPLOYED BY THAT CORPORATION?

A FOR 27 YEARS.

Q I WILL SHOW YOU WHAT HAS BEEN MARKED AS STATE'S 48, WHICH IS DELAWARE TAG NUMBER 982722, AND ASK IF YOU RECOGNIZE THAT.

A YES, THAT'S THE PLATE THAT WAS ON MY CAR.

Q WHAT CAR WAS THAT PLATE ON?

A I HAVE A 1996 GEO PRISM.

Q WAS THAT CAR REGISTERED IN THE NAME OF THE CORPORATION LAST YEAR?

A YES.

Q CALLING YOUR ATTENTION TO OCTOBER 10, 11 AND 12 OF LAST YEAR, WAS THAT TAG ON YOUR GEO PRISM?

A YES, WHEN I LEFT IT AT THE PHILADELPHIA AIRPORT.

Q WHEN YOU ARRIVED BACK AT THE PHILADELPHIA

AIRPORT, WAS THAT ON OCTOBER 12TH?
A YES.
Q DID YOU GO TO GET IN YOUR CAR TO LEAVE THE AIRPORT?
A YES.
Q DID YOU NOTICE ANYTHING ABOUT THE CAR?
A NOT AT THAT TIME.
Q AT SOME SUBSEQUENT TIME?
A BUT WHEN I ARRIVED HOME.
Q WHAT DID YOU NOTICE?
A THAT THE LICENSE PLATE WAS MISSING.
Q AND DID YOU REPORT THE TAG BEING STOLEN TO THE POLICE?
A YES.
Q AND HAVE YOU SEEN YOUR LICENSE TAG SINCE THAT DATE UP UNTIL TODAY WHEN YOU IDENTIFIED THIS AS BEING YOUR LICENSE PLATE?
A NO, SIR.
Q THAT'S ALL I HAVE. PLEASE ANSWER ANY QUESTIONS THEY HAVE.
MR. SIMS: NO QUESTIONS FOR THIS WITNESS, YOUR HONOR.
SOLICITOR BAILEY: MAY SHE BE EXCUSED, YOUR HONOR?
THE COURT: YES, YOU MAY BE EXCUSED.

SOLICITOR BAILEY: JUDGE, MAY WE APPROACH BRIEFLY?

THE COURT: YES, SIR.

COURT REPORTER: IS THIS ON THE RECORD?

SOLICITOR BAILEY: NO.

(WHEREUPON THERE WAS A BENCH CONFERENCE OFF THE RECORD IN THE PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

SOLICITOR BAILEY: CALL LISA WATSON.

THE COURT: MRS. WATSON, YOU ARE STILL UNDER OATH.

LISA A. WATSON, HAVING BEEN DULY PREVIOUSLY SWORN, RESUMED THE WITNESS STAND AND TESTIFIED AS FOLLOWS.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q TELL THE JURY YOUR FULL NAME, PLEASE.

A LISA A. WATSON.

Q MS. WATSON, WHERE DO YOU LIVE?

A PHILADELPHIA.

Q ARE YOU EMPLOYED UP THERE?

A I AM NOT AT THE PRESENT TIME.

Q AND DO YOU KNOW THE DEFENDANT IN THIS CASE, BAYAN ALEKSEY?

A YES.

Q WOULD YOU POINT HIM OUT, PLEASE.
A (INDICATING).
Q YOU ARE INDICATING THE YOUNG MAN IN THE WHITE SHIRT AND THE TIE?
A YES.
Q WOULD YOU TELL THE JURY APPROXIMATELY WHEN YOU MET MR. ALEKSEY?
A SEPTEMBER OF LAST YEAR.
Q OF LAST YEAR, 1997?
A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)
Q WHAT NAME DID YOU KNOW HIM BY AT THAT TIME?
A JOEY BARKLEY.
Q JOEY BARKLEY. BEAR WITH ME A SECOND. (WRITING ON BOARD.) HOW DID YOU MEET MR. BARKLEY/ALEKSEY?
A I MET HIM IN A GAS STATION.
Q THIS IS STATE'S 44. IF YOU WOULD LOOK UP AT THE SCREEN HERE, MS. WATSON. DO YOU RECOGNIZE THAT WHITE MUSTANG?
A YES.
Q I WILL SHOW YOU STATE'S 42, WHICH IS A PHOTOGRAPH OF THE V.I.N. NUMBER THAT HAS BEEN TESTIFIED TO BE THE V.I.N. NUMBER OF THAT CAR. WILL YOU TAKE A LOOK AT THAT, PLEASE.
A (WITNESS COMPLIES.)

Q I WILL NEXT SHOW YOU A DOCUMENT HERE AND ASK IF YOU WILL TAKE A LOOK AT THAT AND SEE IF YOUR SIGNATURE APPEARS DOWN AT THE BOTTOM OF IT.

A YES, IT DOES.

Q IS THAT A LEASE AGREEMENT FOR A FORD MUSTANG?

A YES, IT IS.

Q THAT IS YOUR ORIGINAL SIGNATURE ON THERE?

A YES, IT IS.

Q I WILL ASK YOU TO LOOK AT THE VEHICLE I.D. NUMBER UP HERE AND COMPARE IT WITH THAT AND SEE IF THAT'S THE SAME V.I.N. NUMBER.

A (PAUSE.) YES, IT IS.

SOLICITOR BAILEY: I OFFER THIS INTO EVIDENCE.

MR. SIMS: NO OBJECTION.

(STATE'S EXHIBIT NUMBER 65, LEASE AGREEMENT, IS RECEIVED INTO EVIDENCE.)

Q MS. WATSON, THIS IS THE DOCUMENT BY WHICH YOU LEASED THE WHITE MUSTANG THAT IS SHOWN IN THIS PICTURE; IS THAT CORRECT?

A THAT'S CORRECT.

Q AND WHAT IS THE DATE YOU LEASED THIS THING?

A THE 30TH OF SEPTEMBER.

Q OF WHAT YEAR?

A '97.

Q I SHOW YOU ANOTHER DOCUMENT AND ASK IF THIS APPEARS TO BE A COPY OF CERTIFICATE OF TITLE ON THAT MUSTANG LISTING YOU AS THE LESSEE?
A I'M SORRY. WHAT WAS THAT QUESTION?
Q DOES THAT LIST YOU AS THE LESSEE UP HERE?
A YES, IT DOES.
SOLICITOR BAILEY: I OFFER THIS, YOUR HONOR.
THE COURT: WITHOUT OBJECTION.
(STATE'S EXHIBIT NUMBER 66, CERTIFICATE OF TITLE, IS RECEIVED INTO EVIDENCE.)
Q MS. WATSON, DID YOU KNOW MR. ALEKSEY BY ANY OTHER NAMES BESIDES JOEY BARKLEY?
A YEAH. LATER ON AFTER I STARTED TO GET TO KNOW HIM BETTER, HE TOLD ME HIS NAME WAS JOEY GAMBINO.
Q LET ME WRITE THAT DOWN. (WRITING ON BOARD.) ANY OTHER NAMES?
A NO.
Q DID YOU ALLOW MR. ALEKSEY THE USE OF THAT CAR, THE MUSTANG?
A YES.
Q AND DID YOU HAVE AN ARRANGEMENT WITH HIM WHERE HE WOULD PAY YOU?
A HE WAS SUPPOSED TO PAY OFF THE CAR IMMEDIATELY AND HE DID NOT. SO I REPORTED THE CAR STOLEN.

Q YOU ARE GETTING A LITTLE BIT AHEAD OF ME, BUT HE DID NOT MAKE ANY PAYMENTS?
A NOTHING.
Q WHAT HAPPENED AS FAR AS FORD MOTOR CREDIT AND YOU?
A THEY WERE COMING TO MY HOUSE EVERY SINGLE DAY, THREE OR FOUR TIMES.
Q DID YOU MAKE ANY EFFORT TO CONTACT MR. ALEKSEY TO GET THE CAR RETURNED?
A I SURE DID.
Q WERE YOU ABLE TO DO THAT?
A HE WOULD CALL ME AND TELL ME THAT THERE WAS A THIRD-PARTY CHECK, AND THAT'S WHY HE COULDN'T --
Q BUT AT ANY RATE YOU COULDN'T GET THE CAR BACK?
A NO.
Q AND COULDN'T GET HIM TO PAY FOR IT?
A NO.
Q DID YOU REPORT THAT CAR STOLEN UP IN PHILADELPHIA --
A YES, I DID.
Q -- PENNSYLVANIA?
A YES, I DID.
Q WHEN IS THE LAST TIME YOU SAW THAT MUSTANG?
A PROBABLY THE 30TH, RIGHT AFTER I SIGNED THE PAPERS.

Q WHEN WAS THE LAST TIME YOU SAW ALEKSEY OR GAMBINO OR BARKLEY OR WHATEVER HE WAS KNOWN BY AT THAT TIME?
A PROBABLY THE BEGINNING OF OCTOBER, MAYBE OCTOBER 1ST.
Q THANK YOU. WHEN DID YOU REPORT THE CAR STOLEN ROUGHLY?
A RIGHT AFTER, PROBABLY OCTOBER -- THE FIRST WEEK OF OCTOBER.
Q THANK YOU, MS. WATSON. PLEASE ANSWER ANY QUESTIONS MR. SIMS MAY HAVE FOR YOU.
CROSS EXAMINATION
BY MR. SIMS:
Q MS. WATSON, LET ME GET THIS STRAIGHT. YOU MET A MAN AT A GAS STATION?
A CORRECT.
Q AND HOW LONG AFTER THAT TIME DID YOU SIGN FOR A CAR FOR HIM?
A MAYBE THREE TO FOUR WEEKS.
Q SO A THREE- OR FOUR-WEEK RELATIONSHIP, YOU WENT TO THE FORD COMPANY AND YOU SIGNED FOR HIM TO GET A CAR?
A CORRECT.
Q THEN WHEN YOU GOT THE CAR, YOU GAVE THE CAR TO HIM?

A NO. HE DROVE THE CAR OFF THE LOT. I LEFT BEFORE HE DID.
Q SO EVEN BETTER, YOU JUST LEFT AND GAVE HIM THE CAR OR HE GOT THE CAR KEYS AND DROVE IT OFF?
A THAT'S CORRECT.
Q THERE WAS NEVER ANY QUESTION THAT HE WAS GOING TO HAVE THAT CAR?
A NO, BECAUSE I KNEW WHERE HE LIVED OR AT LEAST I THOUGHT I KNEW WHERE HE LIVED.
Q YOU AND HE HAD A RELATIONSHIP; IS THAT RIGHT?
A NOT A BOYFRIEND/GIRLFRIEND RELATIONSHIP, NO.
Q NOT A BOYFRIEND/GIRLFRIEND RELATIONSHIP, BUT A THREE-WEEK RELATIONSHIP WHERE YOU WOULD GO TO FORD COMPANY AND LEASE A CAR AND GIVE IT TO HIM?
A CORRECT. HE WAS GOOD AT WHAT HE DID.
Q AND AFTER THAT WHEN YOU DIDN'T MAKE THE FIRST PAYMENT, FORD MOTOR CREDIT STARTED CALLING YOU AND ASKING YOU ABOUT YOUR PAVEMENTS; ISN'T THAT RIGHT?
A IT WAS PROBABLY THE SECOND MONTH.
Q THE SECOND MONTH. THEY STARTED TO CALL YOU AND ASK YOU ABOUT THE PAYMENTS; ISN'T THAT RIGHT?
A THAT'S CORRECT, BUT THE CAR WAS ALREADY REPORTED STOLEN.
Q WHEN DID -- THE CAR WAS PURCHASED IN SEPTEMBER?
A THIRTIETH.

Q AND YOU REPORTED THE CAR STOLEN WHEN?
A OCTOBER, OCTOBER 5TH MAYBE.
Q DID YOU GO TO THE POLICE AND FILL OUT --
A I SURE DID.
Q DO YOU HAVE A COPY OF THE REPORT?
A NOT, I DON'T. IT WAS THE FIFTEENTH DISTRICT.
Q THE FIFTEENTH DISTRICT. IS IT CUSTOMARY THAT WHEN YOU GO TO THE POLICE OFFICES AND SWEAR OUT A WARRANT FOR A STOLEN CAR, YOU GET A DOCUMENT? YOU SIGN AN INCIDENT REPORT?
A NO. IT'S TAKEN RIGHT OVER THE PHONE NOW.
Q SO THEY TOOK YOUR REPORT --
A RIGHT OVER THE PHONE.
Q -- OVER THE PHONE?
A YES.
Q THEY DON'T KNOW YOU FROM ANYONE ELSE, YOU COULD CALL AND SAY --
A THAT'S CORRECT.
Q YOU COULD CALL AND SAY, "I AM REPORTING MY CAR STOLEN," AND THEY DON'T DO ANYTHING ELSE?
A NO, NO ONE COMES OUT TO THE HOUSE NOW.
Q THEY DON'T COME OUT AND INVESTIGATE?
A NO.
Q THEY DON'T COME AND TALK TO YOU?
A NO, THEY DO NOT. THEY TALK TO YOU OVER THE

PHONE.

Q THEY DON'T COME OUT AND HAVE YOU TO SIGN A DOCUMENT?

A NO, THEY DO NOT.

Q BUT YOU DID HAVE THESE CONVERSATIONS WITH FORD MOTOR CREDIT COMPANY; ISN'T THAT RIGHT?

A YES.

Q DIDN'T YOU TELL THEM THAT, FIRST OF ALL, THAT YOU GOT THE CAR FOR HIM?

A CORRECT.

Q YOU TOLD THEM THAT ONE TIME HE WAS A RELATIONSHIP OF YOURS, DIDN'T YOU?

A NO, I NEVER TOLD THEM THAT.

Q YOU NEVER TOLD FORD MOTOR CREDIT THAT YOU WERE RELATED TO HIM?

A NO. HE TOLD THEM I WAS HIS AUNT.

Q BUT THEY HAD SOME KNOWLEDGE FROM SOMEBODY, EITHER YOU OR HIM, THAT HE WAS RELATED TO YOU?

A CORRECT.

Q YOU DIDN'T GET INVOLVED OR REALLY GET INVOLVED UNTIL THEY TOLD YOU -- OR GET SCARED -- UNTIL THEY TOLD YOU THE FACT THAT THEY WERE GOING TO DO A REPLEVIN ACTION AGAINST YOU?

A NO. I GOT SCARED ONCE I NOTICED ALL -- THINGS WERE MISSING FROM MY HOUSE.

Q FORD MOTOR CREDIT, WE ARE TALKING ABOUT THE FORD MUSTANG THAT YOU LEASED. WHEN YOU WENT TO FILL OUT YOUR APPLICATION --

A I DIDN'T FILL OUT AN APPLICATION. HE DID.

Q YOU DIDN'T FILL OUT AN APPLICATION. HE FILLED IT OUT?

A THAT'S CORRECT.

Q ON THAT APPLICATION YOU TOLD THEM THAT YOU WERE WORKING, DIDN'T YOU?

A I DIDN'T. HE DID.

Q THERE WAS AN ALLEGATION ON THE APPLICATION THAT YOU WERE EMPLOYED?

A CORRECT.

Q THIS WAS AN ALLEGATION ON THE APPLICATION THAT YOU WERE MAKING A CERTAIN AMOUNT OF MONEY?

A CORRECT.

Q AND THE REAL TRUTH IS THAT YOU WEREN'T EMPLOYED?

A CORRECT.

Q AND HAD NO MONEY COMING IN?

A CORRECT.

Q YOU AND YOUR HUSBAND HAD SEPARATED; IS THAT CORRECT?

A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q SO YOU THEN SIGNED FOR A CAR THAT YOU ALLEGEDLY SAID YOU DIDN'T FILL OUT THE APPLICATION; BUT YOU

WENT DOWN, KNOWING THAT YOU HAD NO JOB, KNOWING THAT YOU HAD NO SOURCE OF INCOME, AND WENT DOWN AND SIGNED FOR A MUSTANG, A 1998 OR '97 MUSTANG?

A AT THAT TIME I DIDN'T KNOW WHAT HE TOLD THEM. I WAS IN THE DEALERSHIP FOR MAYBE HALF AN HOUR. I SIGNED A PAPER AND WALKED OUT THE DOOR.

Q NOW, THEY TOLD YOU THEY WERE GOING TO GARNISH YOUR WAGES, DIDN'T THEY, FORD, WHEN THEY KEPT TALKING TO YOU ABOUT THE REPLEVIN ACTION, THAT THEY WERE GOING TO COME OUT THERE AND THEY WERE GOING TO TRY TO GARNISH YOUR WAGES?

A I DON'T REMEMBER THAT, NO.

Q AND YOU TOLD THEM YOU DIDN'T HAVE A JOB, SO THAT DIDN'T MATTER?

A I DON'T REMEMBER THAT.

Q YOU NEVER TALKED TO THEM AND TOLD THEM THAT?

A HUH-UH. (INDICATING NEGATIVE RESPONSE.)

Q THEY KEPT ASKING YOU ABOUT IT, AND YOU KEPT TELLING THEM THAT YOU WERE GOING TO CONTACT HIM AND YOU WERE GOING TO TALK WITH HIM AND YOU NEVER DID; DID YOU?

A OH, YEAH, HE WOULD CALL ME EVERY DAY TO SEE IF I HAD REPORTED THE CAR STOLEN; AND EVERY DAY I TOLD HIM NO AND IT WAS ALREADY REPORTED.

Q SO EVERY DAY YOU TOLD HIM NO, THE CAR WAS NOT

REPORTED STOLEN. SO HE HAD NO KNOWLEDGE THAT THE CAR THAT YOU GOT FOR HIM, GAVE HIM TO DRIVE, WAS STOLEN?

A OH, IT WAS STOLEN. HE KNEW WHAT HE WAS DOING WHEN HE DID IT.

Q YOU JUST SAID THAT YOU TOLD HIM WHEN HE CALLED YOU THAT THE CAR -- YOU TOLD HIM THAT THE CAR WASN'T STOLEN?

A THAT'S CORRECT.

Q SO HE DIDN'T KNOW THE CAR WAS STOLEN OR THAT YOU HAD REPORTED IT?

A WELL, IF HE DIDN'T MAKE ANY PAYMENTS ON IT AND IT'S BEEN FOUR MONTHS SINCE I TALKED TO HIM AND HE CALLED ME, NO, I WOULD NOT TELL HIM IT WAS STOLEN. I WANTED HIM CAUGHT.

Q YOU SAID YOU TOOK A WARRANT OUT OVER THE TELEPHONE. SO YOU HAVE NEVER PHYSICALLY SEEN ANY WARRANT FOR THE ARREST OF THE PERSON WHOM YOU KNEW AS JOEY BARKLEY?

A NO, BECAUSE THEY HAD NO INFORMATION ON A JOEY BARKLEY. NOTHING CAME UP THE COMPUTER.

Q SO YOU HAD NO INFORMATION -- WELL, YOU HAVE NEVER SEEN AN ARREST WARRANT ON ANYBODY AS IT RELATES TO THAT FORD MUSTANG?

A NO, I DIDN'T.

Q SO YOU DON'T KNOW WHETHER ONE IS ACTUALLY IN EXISTENCE?

A (NO RESPONSE.)

MR. SIMS: I HAVE NOTHING FURTHER.

SOLICITOR BAILEY: NO REDIRECT.

THE COURT: YOU MAY COME DOWN. IS SHE NOW GOING TO BE EXCUSED?

SOLICITOR BAILEY: YES, SIR.

THE COURT: ANY OBJECTION TO HER BEING EXCUSED?

MR. SIMS: NO, SIR.

THE COURT: YOU ARE NOW EXCUSED. THANK YOU SO MUCH.

SOLICITOR BAILEY: YOUR HONOR, I HAVE A BRIEF MATTER OF LAW PRIOR TO CALLING THE NEXT WITNESS.

THE COURT: I WILL LET YOU GO TO THE JURY ROOM AND I WILL CALL YOU BACK VERY SHORTLY.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: WHAT IS YOUR SITUATION?

SOLICITOR BAILEY: YOUR HONOR, MY NEXT WITNESS IS GLORYVEE PEREZ BLACKWELL.

THE COURT: YES, SIR.

SOLICITOR BAILEY: MR. DUFFIE STONE HAS ADVISED ME THAT HE HAS SOME INFORMATION THAT THERE

ARE WARRANTS OUT ON HER. I HAVE RUN A RAP SHEET ON HER. SHE DOES HAVE TWO CONVICTIONS WHICH I INTEND TO ELICIT.

THE RAP SHEET DOESN'T SHOW ANY OUTSTANDING ARREST WARRANTS OR ANYTHING OF THAT NATURE. I WOULD ASK THE COURT TO INQUIRE WHETHER OR NOT HE INTENDS TO TRY TO IMPEACH HER ON SOMETHING THAT I DON'T THINK EXISTS; AND IF HE DOES, TO LET US KNOW.

THE COURT: HE WILL HAVE TO HAVE A BASIS FOR IT.

SOLICITOR BAILEY: YES, SIR. I DIDN'T WANT TO LET THE CAT OUT OF THE BAG IF THERE IS NO CAT TO LET OUT.

THE COURT: THE RULE IS YOU, OF COURSE, HAVE TO HAVE A BASIS FOR CROSS EXAMINATION.

MR. SIMS: YOUR HONOR, WE HAVE INFORMATION ON THE NAME OF GLORYVEE RIVERA. THAT WAS ONE OF THE NAMES THAT THIS PERSON HAD. RIVERA WAS HER MARRIED NAME. WE HAVE A COPY OF -- THREE COPIES, MAYBE FOUR COPIES, OF SOME WARRANTS THAT ARE OUTSTANDING ON HER UNDER THE NAME OF GLORYVEE RIVERA.

THE COURT: CAN YOU TELL ME WHERE -- CAN YOU DIVULGE FOR ME IN WHAT JURISDICTION THESE WARRANTS ARE AND FOR WHAT CHARGES?

MR. SIMS: THESE ARE WARRANTS THAT COME

FROM -- THEY ARE TRAFFIC VIOLATIONS THAT WARRANTS WERE ISSUED ON 8/24/94 IN TRENTON, NEW JERSEY. I BELIEVE THIS IS WHERE SHE WAS STAYING. THEY GIVE A DRIVER'S LICENSE NUMBER OF R47522930059722.

THE COURT: WHAT ARE THE VIOLATIONS, SPEEDING? YOU SAY TRAFFIC VIOLATIONS.

MR. SIMS: THAT'S WHAT IT APPEARS TO BE, YOUR HONOR.

THE COURT: WHAT ELSE?

MR. SIMS: ALL FOUR OF THESE OR ALL THREE OF THESE ARE THE SAME THING.

THE COURT: JUST TRAFFIC TICKETS?

MR. SIMS: YES.

THE COURT: I WILL LET HIM ASK ABOUT TRAFFIC TICKET IF HE WANTS TO.

SOLICITOR BAILEY: ALL RIGHT, SIR. YOUR HONOR, I DIDN'T KNOW WHAT IT WAS. I WOULD LIKE AN OPPORTUNITY, SINCE THIS IS NEW TO ME AND NOTHING APPEARS IN THE RAP SHEET, TO CHECK WITH HER AND SEE IF THAT REALLY IS HER. IF IT IS, FINE. IF IT ISN'T, WE MAY NEED TO EXPLORE FURTHER.

THE COURT: HE GAVE YOU SOME NUMBERS THERE THAT WOULD VERIFY IT WITH A DRIVER'S LICENSE NUMBER.

SOLICITOR BAILEY: I DIDN'T NOTE THOSE NUMBERS. CAN I BORROW THAT?

MR. SIMS: SURE.

THE COURT: THESE COMMENTS ARE MADE OUTSIDE THE PRESENCE OF THE JURY.

SOLICITOR BAILEY: YES, SIR.

MR. SIMS: YES, SIR.

THE COURT: DO YOU WANT TO CROSS EXAMINE HER ON AN OUTSTANDING WARRANT FOR TRAFFIC TICKETS?

MR. SIMS: YOUR HONOR, I DON'T WANT TO GET INTO WHERE WE ARE GOING WITH THIS.

THE COURT: I DON'T WANT YOU TO DISCLOSE YOUR STRATEGY. THAT'S OKAY. IF IT'S HER, I WILL PERMIT IT.

(PAUSE.)

SOLICITOR BAILEY: WHILE THE JURY IS STILL OUT, THE WITNESS I INTEND TO CALL AFTER MRS. BLACKWELL IS HER EIGHT-YEAR-OLD DAUGHTER. I WOULD LIKE TO ANNOUNCE TO THE PEOPLE IN THE AUDIENCE THAT THIS IS AN EIGHT-YEAR-OLD CHILD.

SHE IS NATURALLY GOING TO BE VERY, VERY NERVOUS AND UPSET. I WILL REQUEST -- OF COURSE, IT'S A PUBLIC COURTROOM AND I CAN'T CONTROL WHO COMES AND GOES.

BUT IN DEFERENCE TO THE CHILD AND THE INTIMIDATION FACTOR WITH THESE CAMERAS AND EVERYTHING, IF ANYBODY WOULD AGREE TO VOLUNTARILY

LEAVE TO LET SOME OF THIS PRESSURE OFF OR HER, I WOULD APPRECIATE IT. IT'S NOT THE NEXT WITNESS BUT THE WITNESS AFTER THAT.

THE COURT: LET ME FIRST MAKE A DETERMINATION OF HOW THE YOUNG CHILD REACTS, AND THEN I WILL MAKE A DECISION FOR MYSELF.

SOLICITOR BAILEY: YOUR HONOR, SHE MAY REACT ONE WAY WITH A ROOM FULL OF PEOPLE AND ANOTHER WAY WITHOUT THAT. I WOULD ASK IF YOU WOULD CONSIDER POSSIBLY CLEARING THE COURTROOM FOR THE IN CAMERA HEARING OF THE CHILD.

THE COURT: I WILL DO SO. CAN WE GO AHEAD AND HAVE THE IN CAMERA HEARING NOW?

SOLICITOR BAILEY: JUDGE, I WOULD RATHER HAVE IT IMMEDIATELY BEFORE SHE TESTIFIES IF THAT'S ALL RIGHT WITH THE COURT.

THE COURT: I WILL DO THAT. I AM NOT GOING TO EXCLUDE THE PRESS FROM THE IN CAMERA HEARING.

SOLICITOR BAILEY: I UNDERSTAND, YOUR HONOR. I AM JUST TRYING TO MINIMIZE IT.

THE COURT: I UNDERSTAND THAT AND I WILL NOT EXCLUDE, OF COURSE, THE FAMILY OF THE VICTIM.

SOLICITOR BAILEY: YES, SIR.

THE COURT: THIS WILL BE SOLELY FOR THE --

MR. STONE: JUST FOR THE IN CAMERA HEARING?

THE COURT: THEN I WILL MAKE A DETERMINATION WHAT TO DO. DOES THAT GIVE YOU SOME PROBLEMS AS DEFENSE COUNSEL IF I ELECT TO ASK TO VOLUNTARILY LEAVE THE COURTROOM?

MR. STONE: THE ISSUE ON CHILD COMPETENCY, YOUR HONOR, IS WHETHER OR NOT -- OF COURSE, THE VICTIM'S BILL OF RIGHTS SPEAKS TO TREATING CHILDREN DIFFERENTLY THAN OTHER WITNESSES.

BUT SPECIFICALLY THE RECENT CASES HAVE INDICATED THE ISSUE IS WHETHER OR NOT THE CHILD CAN TESTIFY IN THE SAME ROOM AS THE DEFENDANT. THE FACT THAT THE COURTROOM -- AND THE CASE WAS EXACTLY ON THIS POINT -- THE COURTROOM WOULD BE INTIMIDATING IS NOT RELEVANT FOR YOUR CONSIDERATION. THAT'S NOT THE ISSUE AS TO WHETHER OR NOT --

THE COURT: YES, SIR, IT IS. ANYTHING THAT INTIMIDATES A WITNESS IS RELEVANT TO MY UNDERSTANDING.

MR. STONE: THE ISSUE CAME UP BEFORE -- AND THIS IS REALLY ON VIDEOTAPE EXAMINATIONS. THAT'S THE ISSUE THAT CAME UP BEFORE. BUT THE QUESTION THAT THE COURT HAS TO DETERMINE IS ONLY IF WHETHER OR NOT, AS FAR AS INTIMIDATION IN THE COURTROOM, IS IF THE VICTIM IS GOING TO BE INTIMIDATED BY THE PRESENCE OF THE DEFENDANT. THE PEOPLE INSIDE THE COURTROOM ARE

ABSOLUTELY IRRELEVANT.

THE COURT: WELL, WE WILL GIVE THE COURT AN OPPORTUNITY TO LOOK AT THAT IF I CONCLUDE THAT THAT CHILD IS UNCOMFORTABLE TESTIFYING BEFORE A WHOLE COURTROOM.

I WILL LET THE COURT TAKE A LOOK AT IT, BUT I WILL MAKE A DECISION. THAT CHILD IS GOING TO BE COMFORTABLE IN THIS COURTROOM TO THE EXTENT JUDGE COTTINGHAM CAN PROVIDE IT.

SOLICITOR BAILEY: THANK YOU, YOUR HONOR.

THE COURT: I UNDERSTAND YOUR POSITION.

MR. STONE: THANK YOU.

SOLICITOR BAILEY: WILL YOU INDULGE ME ONE MINUTE FURTHER WHILE I LOOK AT THIS?

THE COURT: YES, SIR.

(PAUSE.)

SOLICITOR BAILEY: IF I CAN HAVE A SECOND TO PULL A COUPLE OF PICTURES I WANT TO SHOW HER.

THE COURT: BEFORE SHE COMES OUT, WE HAVE GOT A JUROR SMOKING NOW ANYWAY. ALSO LET THE RECORD REFLECT THAT THE JURY HAS SPECIFICALLY ASKED TO TAKE NOTES AND I HAVE GRANTED THAT.

MR. SIMS: YES, SIR.

(PAUSE.)

THE COURT: READY TO PROCEED?

SOLICITOR BAILEY: YES, SIR.

THE COURT: YOU HAVE ADDRESSED THE ISSUES THAT YOU HAD? HAVE YOU RELAYED TO THEM THAT THAT IS ONE AND THE SAME PARTY OR NOT?

SOLICITOR BAILEY: YOUR HONOR, SHE ACKNOWLEDGES THAT IS HER ADDRESS AND THAT'S HER NAME. SHE JUST HAS NO RECOLLECTION OF THESE SPEEDING TICKETS.

THE COURT: I WILL LET HIM MAKE HIM INQUIRY AS A REASONABLE BASIS. BRING THE JURY IN.

SOLICITOR BAILEY: YOUR HONOR, BEFORE THEY COME IN --

THE COURT: HOLD THEM JUST A MINUTE.

SOLICITOR BAILEY: YOUR HONOR, I CAN THINK OF TWO REASONS WHY HE WOULD WANT TO GET INTO THAT. ONE WOULD BE IMPEACHMENT. I CERTAINLY DON'T THINK A NONCONVICTED SPEEDING OFFENSE IS IMPEACHMENT.

THE OTHER WOULD BE TO SHOW MOTIVE. I THINK AT THIS JUNCTURE SHE IS JUST A WITNESS, AND THERE IS NO INDICATION SHE HAS DONE ANYTHING.

THE COURT: I WILL LET HIM MAKE A PRELIMINARY INQUIRY.

SOLICITOR BAILEY: ALL RIGHT, SIR.

THE COURT: BRING THE JURY IN.

(THE JURY RETURNS TO THE COURTROOM.)

THE COURT: CALL YOUR NEXT WITNESS.

SOLICITOR BAILEY: GLORYVEE PEREZ BLACKWELL.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: GLORYVEE PEREZ BLACKWELL.

GLORYVEE PEREZ BLACKWELL, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.

THE WITNESS: P-E-R-E-Z, B-L-A-C-K-W-E-L-L.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MRS. BLACKWELL, I WILL ASK YOU A FEW BACKGROUND QUESTIONS. I KNOW YOU ARE NERVOUS. JUST TRY TO CALM DOWN. TELL THE JURY HOW OLD YOU ARE, PLEASE.

A I'M 25 YEARS OLD.

Q AND WHERE ARE YOU FROM ORIGINALLY?

A BENSALEM, PENNSYLVANIA.

Q WHERE WERE YOU BORN?

A I WAS BORN IN PUERTO RICO AND RAISED IN NEW JERSEY.

Q HOW OLD WERE YOU WHEN YOU MOVED FROM PUERTO RICO TO NEW JERSEY?

A LESS THAN A YEAR OLD.

Q HAVE YOU LIVED IN NEW JERSEY -- FOR HOW LONG?

A ABOUT 18, 19 YEARS.
Q AND HOW FAR DID YOU GO IN SCHOOL?
A TWELFTH GRADE.
Q WHAT TYPE WORK DO YOU DO?
A I'M A CERTIFIED MEDICAL ASSISTANT.
Q AND DID YOU HAVE TO HAVE SOME TRAINING FOR THAT?
A YES, I DID.
Q WHAT KIND OF TRAINING HAVE YOU HAD?
A I DID A YEAR OF TRAINING IN SCHOOL AND I DID SIX MONTHS OF INTERNSHIP.
Q AND WHAT TYPE WORK ARE YOU DOING NOW?
A I AM, LIKE I SAID, A CERTIFIED MEDICAL ASSISTANT. I DO LAB WORK. I TAKE BLOOD, I DO INJECTIONS, PHYSICAL THERAPY, ECHO CARDIOGRAMS. I DO A LITTLE BIT OF SECRETARIAL WORK AND ANSWER PHONES, FILING, ET CETERA.
Q WHO DO YOU WORK FOR?
A DR. LINENBAUGH.
Q WHERE IS HIS OFFICE?
A IN BRISTOL, PENNSYLVANIA.
Q IS THAT WHERE YOU LIVE?
A I LIVE IN BENSALEM, PENNSYLVANIA.
Q IS BENSALEM A SUBURB OF PHILADELPHIA?
A YES, IT IS.
Q HOW LONG HAVE YOU LIVED THERE?

A ABOUT A YEAR AND A HALF, MAYBE TWO.
Q NOW, BACK IN 1992 YOU HAD SOME PROBLEMS WITH THE LAW; DIDN'T YOU?
A YES, I DID.
Q YOU WERE CONVICTED BACK THEN IN NEW JERSEY OF POSSESSION OF COCAINE; IS THAT CORRECT?
A YES, I WAS.
Q AND IN 1991 YOU HAD A SHOPLIFTING CONVICTION; IS THAT CORRECT?
A YES, I DID.
Q AND HAVE YOU EVER HAD A SPEEDING TICKET?
A I DON'T RECALL ANY SPEEDING TICKETS.
Q IT IS POSSIBLE YOU HAD SOME AND DON'T REMEMBER?
A I JUST DON'T RECALL ANY SPEEDING TICKETS.
Q YOU HAVE SOME CHILDREN?
A YES, I HAVE THREE CHILDREN.
Q AND WHAT ARE THOSE CHILDREN'S NAMES AND AGES?
A GLORIA RIVERA, SHE IS THE OLDEST; THEN COMES EMILO RIVERA, HE IS WITH HIS DAD; AND MERCEDES BLACKWELL.
Q IS THAT CHILD WITH HER FATHER ALSO?
A YES, SHE IS.
Q GLORIA IS HOW OLD?
A SHE IS EIGHT YEARS OLD.
Q IS SHE WITH YOU?

A YES, SHE IS.
Q AND YOU WERE INITIALLY CHARGED WITH THE CRIME OF MURDER IN THIS CASE, WERE YOU NOT?
A YES, I WAS.
Q WERE THOSE CHARGES AGAINST YOU DROPPED?
A YES, THEY WERE.
Q DO YOU KNOW THIS MAN OVER HERE IN THE WHITE SHIRT WITH THE TIE?
A YES, I DO.
Q WHAT IS HIS NAME?
A MICHAEL TOSCANI.
Q MICHAEL TOSCANI. THAT'S THE NAME YOU KNEW HIM AS?
A THAT'S THE NAME I KNEW HIM AS.
Q WHEN DID YOU FIRST MEET BAYAN ALEKSEY OR MICHAEL TOSCANI?
A I MET MICHAEL ABOUT THE SECOND WEEK OF DECEMBER ON THE ROAD TO A NIGHTCLUB IN PHILADELPHIA.
Q AND THIS WAS 1997?
A YES, IT WAS.
Q BACK WHEN YOU KNEW HIM, DID HE DRESS LIKE HE IS DRESSED NOW, WITH A TIE AND WHITE SHIRT?
A NO, HE DIDN'T.
Q HAVE YOU EVER SEEN HIM WEARING A WHITE SHIRT AND

TIE?
A NO, I HAVEN'T.
Q WHAT WERE YOUR CIRCUMSTANCES WHEN YOU MET HIM?
A I WAS LIVING WITH A BEST FRIEND AND THE CIRCUMSTANCES WEREN'T GOOD. SHE WAS MARRIED AND SHE WAS HAVING MARITAL PROBLEMS. MICHAEL CAME ALONG AND HE OFFERED ME TO MOVE IN WITH HIM.
Q WERE YOU SEPARATED FROM YOUR HUSBAND?
A YES, I WAS.
Q HE WAS DOWN HERE, IS THAT CORRECT, IN SOUTH CAROLINA?
A YES, HE WAS IN SOUTH CAROLINA.
Q IN THE MARINE CORPS?
A HE IS IN THE MARINES NOW STILL.
Q Y'ALL SEPARATED AND YOU WENT BACK UP NORTH?
A YES, I DID.
Q AND MOVED IN WITH THIS FRIEND AND YOU RAN INTO MISTER --
A I MOVED IN WITH MY BEST FRIEND AND THEN I MET MICHAEL ABOUT, LIKE I SAID, THE SECOND WEEK OF DECEMBER.
Q WERE YOU WORKING THEN?
A YES, I WAS.
Q SAME JOB OR DIFFERENT JOB?
A DIFFERENT JOB.

Q WHAT WERE YOU DOING THEN?
A SAME THING, PHLEBOTOMIST. I DID LAB WORK, ECHO CARDIOGRAMS, FILING, ANSWERING PHONES.
Q WHEN YOU MET MICHAEL TOSCANI OR BAYAN ALEKSEY, DID HE HAVE A CAR?
A YES, HE DID.
Q WHAT KIND OF CAR WAS IT?
A A BRAND NEW 1998 WHITE G.T. MUSTANG.
Q THIS IS STATE'S 43 UP HERE. OTHER THAN THE CAR BEING WRECKED, IS THAT THE CAR HE HAD?
A THAT'S THE CAR.
Q DID YOU EVER DRIVE THAT CAR?
A NO, I NEVER DROVE THE CAR.
Q WHERE DID ALEKSEY LIVE AT THAT TIME?
A AT THE TIME I MET HIM, HE WAS AT THE WESTERN SUITES NEAR THE PHILADELPHIA AIRPORT.
Q AND WHAT TYPE RELATIONSHIP DID YOU DEVELOP WITH HIM OVER THAT BRIEF PERIOD OF TIME?
A IT WAS A FRIENDSHIP RELATIONSHIP. IT NEVER BECAME A BOYFRIEND/GIRLFRIEND RELATIONSHIP.
Q LET ME ASK YOU. WERE YOU EVER INTIMATE WITH HIM?
A YES, WE WERE INTIMATE.
Q BUT NOTHING SERIOUS?
A NO.

Q NOW, I WANT TO CALL YOUR ATTENTION TO NEW YEAR'S EVE, THAT TIME FRAME, AND ASK WHETHER OR NOT YOU AND TWO OF YOUR CHILDREN LEFT PENNSYLVANIA IN THAT WHITE MUSTANG WITH BAYAN ALEKSEY?

A YES, WE DID.

Q WHEN DID Y'ALL LEAVE?

A WE LEFT PENNSYLVANIA ABOUT ONE OR TWO O'CLOCK IN THE AFTERNOON. WE ACTUALLY WOKE UP ABOUT 11 AND HAD BREAKFAST. BY THE TIME WE LEFT PENNSYLVANIA, IT MUST HAVE BEEN ABOUT ONE OR TWO O'CLOCK IN THE AFTERNOON.

Q THIS WAS NEW YEAR'S EVE?

A THIS WAS DECEMBER 31, 1997.

Q AND WHERE WERE Y'ALL HEADING?

A DISNEY WORLD. IT WAS A GIFT FROM MICHAEL TO THE GIRLS FOR CHRISTMAS.

Q HOW LONG WERE YOU PLANNING ON BEING IN ORLANDO?

A ABOUT A WEEK. HE HAD MADE RESERVATIONS. EVERYTHING WAS TAKEN CARE OF BY HIM.

Q AND WHO PACKED THE CAR UP FOR Y'ALL TO LEAVE?

A MICHAEL PACKED THE BAGS, HE PACKED THE TRUNK, HE DID EVERYTHING.

Q NOW, WHEN Y'ALL LEFT, WHEN YOU LEFT PHILADELPHIA, WHO WAS DRIVING THE MUSTANG?

A MICHAEL DROVE THE WHOLE WAY.

Q WHERE WERE YOU SITTING IN THE CAR?

A IN THE PASSENGER SEAT.
Q YOUR BABY IS MERCEDES?
A MERCEDES WAS IN THE MIDDLE BETWEEN THE PASSENGER AND THE DRIVER IN THE BACK IN A CAR SEAT. GLORIA, MY EIGHT YEAR OLD, WAS SITTING RIGHT BEHIND ME, BEHIND THE PASSENGER SIDE.
Q AFTER YOU LEFT PENNSYLVANIA, YOU SAID THIS WAS, WHAT, TWO O'CLOCK OR SO?
A ABOUT ONE OR TWO O'CLOCK IN THE AFTERNOON.
Q AFTER IT GOT DARK, DID Y'ALL STOP ANYWHERE FOR GAS OR FOOD OR ANYTHING THAT YOU CAN RECALL?
A WE STOPPED TO HAVE DINNER. I THINK IT WAS A BURGER KING. HE PUT FUEL IN THE CAR. HE WASHED THE CAR.
Q WAS IT DARK?
A IT WAS DARK AT THAT TIME. WE ATE IN THE CAR AND WE TOOK OFF AGAIN AND THE KIDS FELL ASLEEP AT THAT TIME, RIGHT AFTER DINNER.
Q WHEN Y'ALL TOOK OFF, WHO WAS DRIVING?
A MICHAEL AGAIN. HE DROVE THE CAR.
Q WHERE WERE YOU SITTING?
A I WAS IN THE PASSENGER SIDE.
Q WHERE WERE THE KIDS?
A THE KIDS WERE IN THE SAME SPOT. GLORIA WAS BEHIND ME AND THE BABY WAS IN THE CAR SEAT IN THE

MIDDLE.
Q YOU SAID AFTER YOU LEFT, THE KIDS WENT TO SLEEP?
A YES. RIGHT AFTER DINNER THE KIDS FELL ASLEEP.
Q WHAT DID YOU DO?
A A WHILE AFTER THE CHILDREN FELL ASLEEP, I FELL ASLEEP ALSO. I KEPT WAKING UP BECAUSE I WANTED TO BE UP FOR THE NEW YEAR, TO WISH THE KIDS AND MICHAEL A HAPPY NEW YEAR'S; BUT BY THEN IT WAS ALREADY TOO LATE. IT MUST HAVE BEEN LIKE 11-SOMETHING WHEN WE GOT PULLED OVER.
Q WHEN YOU GOT PULLED OVER, WERE YOU AWAKE OR WERE YOU ASLEEP?
A NO, I WAS STILL ASLEEP. THE CAR WAS AT A COMPLETE STOP AND MICHAEL WOKE ME UP.
Q WHAT IS THE LAST THING YOU REMEMBER BEFORE YOU WENT TO SLEEP? WHAT WAS GOING ON?
A I REMEMBER MICHAEL STOPPING TO GET THREE HOTDOGS. THIS WAS LIKE THE LAST STOP BEFORE THE INCIDENT. HE HAD GOT SOME CAPPUCCINO AND A COUPLE OF HOTDOGS, AND I FELL BACK ASLEEP AT THAT POINT.
Q AFTER YOU FELL ASLEEP, WHAT'S THE NEXT THING YOU REMEMBER WHEN YOU WOKE UP? TAKE IT SLOW AND TELL THE JURY WHAT YOU REMEMBER HAPPENING.
A THE CAR WAS AT A COMPLETE STOP AND MICHAEL WOKE ME UP AND SAID WE WERE BEING PULLED OVER. I ASKED

HIM WHY. HE SAID HE WAS SPEEDING. SO I WAS DIGGING FOR MY DRIVER'S LICENSE.

IT WAS A ROUTINE STOP. I WANTED TO GET SOME I.D. IN CASE THE OFFICER WANTED TO ASK ME FOR SOME I.D. BY THAT TIME MICHAEL HAD HIS BACK TURNED TO ME AND WAS ROLLING DOWN THE WINDOW. THE OFFICER WALKED UP. I COULD NOT SEE THE OFFICER.

Q WHY COULDN'T YOU SEE THE OFFICER?

A HE WAS STANDING IN BETWEEN THE WINDOW.

Q WERE THE WINDOWS TINTED ON THIS CAR?

A YES, BUT THE WINDOW WAS DOWN SOME.

Q THE DRIVER'S WINDOW?

A THE DRIVER'S WINDOW WAS DOWN. I COULDN'T SEE THE OFFICER. I COULD HEAR HIS VOICE BUT I COULDN'T SEE HIM.

Q COULD YOU HEAR WHAT HE SAID?

A "HELLO, FOLKS OR GOOD EVENING, FOLKS." HE WAS POLITE THE WAY -- HE APPROACH US IN A POLITE WAY.

Q NOW, YOU COULDN'T SEE HIM. YOU COULD JUST HEAR HIM; IS THAT CORRECT?

A I JUST CAN HEAR HIS VOICE. I HEARD HIS VOICE, "HOW ARE YOU DOING?" THAT'S WHAT HE SAID, "HOW ARE YOU DOING, FOLKS?" AND MICHAEL RESPONDED BACK, "HOW ARE YOU DOING, OFFICER?" AND HE IMMEDIATELY OPENED FIRED. I DIDN'T SEE THE GUN. I DIDN'T SEE WHERE HE

GOT IT FROM.

Q DID YOU KNOW THERE WAS A GUN IN THE CAR?

A I DIDN'T KNOW THERE WAS A GUN IN THE CAR.

Q HOW DID YOU BECOME AWARE THAT HE WAS SHOOTING AT THIS OFFICER?

A I COULD SEE THE SPARKS FROM THE GUN. I MEAN, I CAN HEAR THE POPS. THEY WEREN'T LOUD BUT IT WAS POPS AND THE FLASHES FROM THE FIRE.

Q WHAT WAS THE SEQUENCE OF THE SHOTS THE BEST YOU CAN REMEMBER?

A WHAT DO YOU MEAN THE SEQUENCE?

Q HOW FAST?

A THEY WERE ONE AFTER THE OTHER, IMMEDIATELY.

Q DO YOU RECALL HOW MANY SHOTS?

A THREE OR FOUR SHOTS.

Q DID YOU HEAR SERGEANT LINGARD SAY ANYTHING THREATENING OR ANYTHING OF THAT NATURE --

A NO, NOT AT ALL.

Q -- WHEN HE APPROACHED THE CAR, OTHER THAN, "HOW ARE YOU DOING, FOLKS"?

A NOT AT ALL. THAT'S ALL HE SAID.

Q WHAT HAPPENED NEXT? WHAT IS YOUR NEXT RECOLLECTION AFTER THE SHOTS STOPPED?

A IMMEDIATELY AFTER HE PULLED THE TRIGGER ON THE OFFICER AND THE OFFICER MUST HAVE COLLAPSED, MICHAEL

TOOK OFF SPEEDING IMMEDIATELY. I RECALL HEARING FIRES AND I REMEMBER SEEING THE SHOOTING BACK, AND HE SAID, "NO, HE WENT DOWN. HE WENT DOWN." THAT'S WHAT HE SAID.

I WAS SCREAMING, I WAS SCARED AND HE TOOK OFF. HE PULLED OVER AT THE FOLLOWING EXIT. THE FIRST IMMEDIATE EXIT HE PULLED IN THERE AND WE ENDED UP IN HOLLY HILL. HE WAS STILL SPEEDING. AN OFFICER -- WE PASSED AN OFFICER --

Q LET ME INTERRUPT. YOU ARE KIND OF GOING FAST AND YOU ARE NERVOUS. I WANT TO SLOW YOU DOWN A LITTLE BIT. DID HE SAY ANYTHING BETWEEN THE TIME --

A I ASKED -- RIGHT AFTER HE DID THE SHOOTING AND WE PULLED OFF, AND I WAS YELLING AND SCREAMING, I ASKED HIM WHY DID HE DO IT. HE JUST SAID HE WASN'T GOING TO JAIL, HE WAS NOT GOING TO JAIL.

Q YOU SAID HE MADE AN EXIT OFF OF 95?

A HE TOOK THE FIRST EXIT OFF OF 95 AFTER THE SHOOTING AND WE ENDED UP IN HOLLY HILL. DURING THE TIME WE WERE IN THE CITY, HE WAS STILL SPEEDING. AN OFFICER WENT PAST US AND IMMEDIATELY HE MADE A U-TURN.

HE DIDN'T TURN HIS LIGHTS ON UNTIL HE GOT BACKUP. ANOTHER CAR CAME. WHEN THE OTHER CAR CAME, THEY TURNED ON THEIR LIGHTS. I BEGGED HIM TO PULL

OVER, NOT TO DO IT AGAIN. HE DID. HE PULLED OVER.

WHEN HE DID THAT, THE OFFICER HAD A SHOTGUN POINTED AT MICHAEL AND MICHAEL TURNED AROUND AND PUT THE GUN TO HIS HEAD. THERE WERE CONVERSATING BACK AND -- I DON'T KNOW WHAT THE OFFICER WAS SAYING TO HIM AND HE REPLIED BACK, "I WILL SHOOT MYSELF."

Q WHO SAID THAT?

A MICHAEL SAID HE WAS GOING TO SHOOT HIMSELF.

Q WHERE WAS THE GUN WHEN MICHAEL SAID, "I WILL SHOOT MYSELF"?

A IT WAS ON HIS HEAD.

Q ALL RIGHT. WHAT DID YOU DO?

A I TOOK THE KIDS AND I JUMPED OUT THE CAR. I GRABBED THE BABY IN THE MIDDLE, I GRABBED GLORIA WITH THE OTHER HAND AND I JUMPED OUT AND RAN TO THE OFFICER.

Q WHAT WAS YOUR STATE OF MIND WHEN YOU RAN TO THE OFFICER?

A I WAS YELLING, "OH, MY GOD. OH, MY GOD," AND I RAN TO HIM AND HE TOLD ME TO GET IN THE CAR.

Q NOW, OBVIOUSLY YOU LEFT WHATEVER PERSONAL ITEMS --

A I LEFT EVERYTHING IN THERE. GLORIA DIDN'T HAVE ANY SHOES ON. THE BABY DIDN'T HAVE ANY BOTTLES.

Q I WILL PUT SOME PICTURES UP HERE AND I WILL ASK

IF YOU CAN IDENTIFY ANY OF YOUR STUFF IN THESE PICTURES, OKAY? THIS IS STATE'S 63. THAT HAS BEEN TESTIFIED AS BEING THE PASSENGER SIDE OF THE CAR. DO YOU SEE ANYTHING THAT BELONGS TO YOU THERE?

A MY PURSE IS ON THE FLOOR.

Q IS THAT THAT LEOPARD-LOOKING THING UP THERE IN THE FRONT?

A YES, THAT IS MY PURSE. THOSE GLASSES ARE MINE. THAT WHITE MIGHT BE A DIAPER FROM THE BABY. I'M NOT SURE.

Q THAT IS BELOW THE AIR BAG?

A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q LET ME SHOW YOU THIS ONE HERE. THIS IS STATE'S 60. IS THAT THAT SAME PURSE --

A THAT'S MY PURSE.

Q -- YOU MENTIONED EARLIER?

A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q STATE'S 62, IS THAT YOUR SUNGLASSES THERE?

A YEAH, THOSE ARE MY SUNGLASSES AND THE BABY'S BOTTLE.

Q AGAIN, ON THE PASSENGER SIDE?

A YES, IT IS.

Q THIS IS STATE'S 61, WHICH IS TESTIFIED AS BEING THE DOOR, PASSENGER SIDE DOOR, PARTIALLY OPEN. DO YOU SEE ANYTHING YOU RECOGNIZE THERE?

A THAT'S MY KEY CHAIN.
Q HAS IT GOT SOMETHING WRITTEN ON IT?
A YEAH. IT'S FROM MY MEDICAL SCHOOL WHEN I GRADUATED THAT THEY GAVE ME THAT.
Q IT SAYS PROFESSIONAL SOMETHING ON IT THERE. THAT IS YOUR KEY CHAIN THERE?
A YES, IT IS.
Q THIS IS STATE'S 55, WHICH IS SOME KIND OF A PURSE-LOOKING THING. DO YOU RECOGNIZE THAT?
A THAT'S HIS. HE CARRIED HIS PERSONAL BELONGINGS IN THERE.
Q THAT'S MICHAEL'S?
A THAT'S MICHAEL'S.
Q THIS IS STATE'S 56. IS THAT IT?
A THAT'S IT.
Q DID YOU EVER LOOK INSIDE THAT?
A NO, I HAVEN'T.
Q WHEN DID HE CARRY THIS THING?
A AT ALL TIMES HE ALWAYS CARRIED IT WITH HIM.
Q LET ME ASK YOU IF RECOGNIZE THIS.
A THAT'S MY JACKET.
Q WHEN YOU GOT OUT OF THE CAR, DID YOU HAVE YOUR JACKET ON?
A YES, I DID. I HAD THAT ON.
Q DID YOU TURN THAT OVER TO THE POLICE?

A YES, I DID.

SOLICITOR BAILEY: OFFER THIS.

MR. SIMS: I HAVE NO OBJECTION, YOUR HONOR.

(STATE'S EXHIBIT NUMBER 67, JACKET IN BOX, IS RECEIVED INTO EVIDENCE.)

Q STATE'S EXHIBIT 5, HAD YOU EVER SEEN THAT GUN BEFORE THAT NIGHT?

A NO, I HAVEN'T.

Q DID YOU KNOW IT WAS IN THE CAR?

A NO, I DIDN'T.

Q DID YOU KNOW BAYAN ALEKSEY CARRIED A GUN?

A NO, I DIDN'T.

Q DID YOU HAVE ANY PRIOR KNOWLEDGE THAT BAYAN ALEKSEY WAS GOING TO FIRE THAT GUN OUT THE WINDOW AT SERGEANT FRANKIE LINGARD?

A I DID NOT HAVE ANY KNOWLEDGE OF WHAT HE WAS GOING TO OR HAD DONE.

Q WHEN WAS THE FIRST INDICATION THAT YOU HAD THAT ANYTHING LIKE THAT WAS GOING TO HAPPEN?

A WHEN IT HAPPENED, WHEN HE OPENED FIRE.

Q ANSWER ANY QUESTION THE DEFENSE MAY HAVE FOR YOU PLEASE.

CROSS EXAMINATION

BY MR. SIMS:

Q MRS. BLACKWELL, I JUST HAVE A FEW QUESTIONS FOR

YOU. YOU PREVIOUSLY IDENTIFIED THIS (INDICATING) AS SOMETHING THAT BAYAN HAD AND CARRIED WITH HIM, AND YOU SAY YOU NEVER SAW THIS BEFORE THAT NIGHT?

A RIGHT.

Q WHEN YOU PUT THE GUN IN HERE IT BULGES OUT AND A PERSON CARRYING THIS, BULGING AROUND LIKE THIS, YOU WOULD HAVE KNOWN THAT; WOULDN'T YOU?

A NO, I WOULDN'T HAVE.

MR. SIMS: WHERE IS STATE'S EXHIBIT 57? ONE MOMENT, YOUR HONOR. LET ME SEE IF I CAN FIND STATE'S 57.

(PAUSE.)

Q THIS IS STATE'S EXHIBIT 57, A PICTURE OF THE INTERIOR OF THE CAR AND WHAT HAS BEEN IDENTIFIED AS THE HOLSTER. IF YOU WILL LOOK AT THE TELEVISION MONITOR. THIS (INDICATING) HAS BEEN IDENTIFIED AS A HOLSTER. THIS (INDICATING) IS THE INTERIOR OF THE CAR. THE HOLSTER HAS A GUN IN IT. YOU WERE SITTING IN THE CAR --

SOLICITOR BAILEY: OBJECTION. YOUR HONOR, HE SAID THE HOLSTER HAS A GUN IN IT.

MR. SIMS: HAS A GUN, CAN HAVE A GUN.

SOLICITOR BAILEY: OH, I'M SORRY, CAN HAVE.

Q YOU ARE SITTING RIGHT THERE AND YOU NEVER SAW ANYTHING BY YOUR TESTIMONY?

A NO, I AM NOT FAMILIAR WITH HOLSTERS.
Q YOU ARE FAMILIAR WITH GUNS?
A I HAVE SEEN GUNS BEFORE.
Q LET'S GO BACK A LITTLE WAYS. NOW, YOU HAVE SEVERAL DIFFERENT NAMES THAT YOU HAVE BEEN KNOWN BY IN THE PAST; IS THAT CORRECT? YOU BEEN KNOWN BY GLORYVEE RIVERA?
A MY FIRST MARRIED NAME.
Q YOUR FIRST MARRIED NAME. GLORYVEE PEREZ?
A MY MAIDEN NAME.
Q GLORYVEE BLACKWELL?
A MY SECOND MARRIAGE.
Q DID YOU EVER DIVORCE YOUR HUSBAND?
A MY FIRST HUSBAND?
Q YOUR FIRST HUSBAND.
A HE DIVORCED ME.

SOLICITOR BAILEY: YOUR HONOR, I DON'T THINK THIS IS RELEVANT WHETHER SHE WAS DIVORCED. HE IS GETTING INTO CHARACTER ASSASSINATION. IT'S NOT PROBATIVE.

THE COURT: SHE HAS ANSWERED. GO AHEAD. THIS IS CROSS EXAMINATION. THERE IS SOME LATITUDE PERMITTED. SHE HAS RESPONDED TO HIS FIRST INQUIRY.

Q SO YOU DON'T KNOW WHETHER -- YOU NEVER DIVORCED HIM?

A NO, I DIDN'T.
Q AND I HAND YOU -- ARE THESE YOUR I.D.S WITH YOUR NAME ON THEM, EXCEPT ONE? THESE ARE PICTURES OF YOU; IS THAT CORRECT?
A YES, IT IS.
MR. SIMS: WE MOVE TO INTRODUCE THIS INTO EVIDENCE.
SOLICITOR BAILEY: YOUR HONOR, I HAVE NO OBJECTION WITH THE STIPULATION THAT THE ONE OF THEM THAT IS NOT HERS BE REMOVED. I HAVE NO OBJECTION TO THE OTHER FIVE COMING IN.
MR. SIMS: I WILL LET HER CROSS THAT ONE OUT THAT IS NOT HERS.
THE COURT: WITHOUT OBJECTION.
(DEFENDANT'S EXHIBIT NUMBER 8, COPY OF I.D. CARDS, IS RECEIVED INTO EVIDENCE.)
Q SO YOU, TOO, HAVE A NUMBER OF NAMES THAT YOU HAVE BEEN KNOWN BY IN THE PAST; IS THAT CORRECT?
A THAT'S CORRECT.
Q NOW, YOU MENTIONED OR YOU WERE ASKED SPECIFICALLY ABOUT A PRIOR CONVICTION FOR DRUGS; ISN'T THAT CORRECT?
A YES.
Q IS THIS A SITUATION WHEN YOU WERE LIVING IN PHILADELPHIA --

SOLICITOR BAILEY: YOUR HONOR, I WILL OBJECT. THE LAW IS REAL CLEAR THAT AS FAR AS IMPEACHMENT, THE CONVICTION COMES IN BUT THE DETAILS SURROUNDING THAT --

THE COURT: HE JUST ASKED HER, I THINK, WHERE SHE LIVED AT THE TIME. HE IS GOING TO FOLLOW THE RULE.

SOLICITOR BAILEY: AS LONG AS HE IS NOT GETTING INTO A LOT OF THE DETAILS.

THE COURT: NO, SIR, WE ARE NOT GOING INTO DETAILS. HE UNDERSTANDS THE RULES.

(THE FOLLOWING BENCH CONFERENCE WAS REPORTED.)

MR. SIMS: YOUR HONOR, THERE IS ONE THING. SHE JUST MENTIONED ABOUT ONE BUT SHE WAS INDICTED ON TEN SEPARATE COUNTS.

COURT REPORTER: JUDGE, I AM HAVING TROUBLE HEARING.

THE COURT: JUST A MINUTE.

(THE BENCH CONFERENCE WAS CONCLUDED.)

THE COURT: I WILL LET YOU GO TO THE JURY ROOM JUST A MINUTE.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: THE LAST QUESTION THAT YOU ASKED, LET ME HEAR YOUR OBJECTION AND LET ME HEAR

WHERE YOU ARE GOING. WHAT IS THE LAST QUESTION?

MR. SIMS: YOUR HONOR, THE LAST QUESTION THAT I ASKED WAS ABOUT THE DRUGS AND WHERE WAS SHE LIVING AT THE TIME.

THE COURT: YES, SIR, I UNDERSTAND. MR. BAILEY, YOU APPARENTLY THINK HE IS GOING INTO AN AREA THAT HE IS NOT PERMITTED TO GO? WHERE ARE YOU?

SOLICITOR BAILEY: YOUR HONOR, WHAT I THINK HE IS TRYING TO DO IS IMPEACH HER ON ARRESTS. I CAN UNDERSTAND IF THERE WAS AN OUTSTANDING WARRANT THAT WOULD SHOW MOTIVE.

BUT THE RULES ARE REAL CLEAR THAT IF SHE HAS GOT A CRIMESHE HAS BEEN CONVICTED OF, SHE CAN BE IMPEACHED ON THAT CRIME AND THAT'S OUT; BUT I THINK HE IS TRYING TO GET INTO ARRESTS THAT DIDN'T RESULT --

THE COURT: LET ME SEE WHERE YOU ARE GOING. YOU CAN'T DO THAT. YOU KNOW THAT. YOU ARE A FORMER SOLICITOR.

MR. SIMS: YES, SIR, BUT I DO THINK THAT I WOULD BE ABLE TO -- SHE WAS INDICTED FOR THESE. THESE ARE INDICTMENTS.

THE COURT: NO, SIR. A LOT OF PEOPLE HAVE BEEN INDICTED AND FOUND NOT GUILTY.

MR. SIMS: THE POINT IS, YOUR HONOR, SHE WAS INDICTED FOR TEN SEPARATE COUNTS. SHE PLED TO ONE OF THOSE COUNTS. SHE MADE A BARGAIN AND PLED TO ONE OF THOSE COUNTS. I THINK THAT THAT INFORMATION IS TOTALLY RELEVANT.

THE COURT: YOU CAN'T SAY SHE MADE A BARGAIN. THEY MAY NOT HAVE HAD SUFFICIENT PROOF. I WILL NOT GET INTO NINE DIFFERENT OTHER CASES WHETHER SHE WAS GUILTY OR NOT GUILTY.

I WILL PERMIT YOU TO INQUIRE AS TO WHETHER OR NOT SHE PLED GUILTY TO ONE OR THE OTHER OF THEM, BUT THE FACT THAT SHE WAS INDICTED, YOU DON'T WANT TO GIVE HER THE PRESUMPTION OF INNOCENCE THAT YOU WANT THIS JURY TO GIVE YOUR CLIENT. THAT'S NOT FAIR.

MR. SIMS: BUT SHE PLED TO THESE, YOUR HONOR. THESE ARE INDICTMENTS.

THE COURT: NO, SIR, YOU SAID SHE PLED TO ONE.

MR. SIMS: SHE PLED TO ONE.

THE COURT: I WILL PERMIT THAT.

MR. SIMS: YOUR HONOR, I THINK THAT I WOULD ALSO AT THIS TIME, SINCE THE COURT HAS RULED, AND I RESPECTFULLY UNDERSTAND THAT THE COURT HAS RULED, WOULD LIKE TO MAKE THIS COPY OF THE INDICTMENT A PART OF THE RECORD AND ALSO PURSUANT TO RULE 103 MAKE AN

OFFER OF PROOF TO THE COURT.

THE COURT: FIRST, I WILL MAKE IT A COURT'S EXHIBIT FOR THE PROTECTION OF THE RECORD. THEN I WILL PERMIT YOU TO MAKE AN OFFER OF PROOF SO THAT YOU WILL BE PROTECTED FOR THE RECORD. I UNDERSTAND THAT.

MR. SIMS: THANK YOU, YOUR HONOR.

THE COURT: BUT LET ME MAKE MY RULING ABUNDANTLY CLEAR. YOU ARE PERMITTED TO QUESTION HER WITH REGARDS TO THOSE THINGS THAT SHE HAS PLED GUILTY TO.

I AM GOING TO PERMIT YOU TO QUESTION HER AS TO THE OUTSTANDING ARREST WARRANTS FOR SPEEDING. I AM NOT GOING TO LET YOU GO INTO NINE MATTERS BY WHICH, THOUGH YOU SAY SHE WAS INDICTED BY THE GRAND JURY, SHE HAS NEVER BEEN TRIED OR PLED GUILTY.

TO DO THAT WOULD MEAN WE WOULD HAVE TO GO INTO FACTS IN NINE SEPARATE CASES. I DON'T KNOW WHY THE SOLICITOR UP THERE DROPPED THE CHARGES. IT WELL MAY BE HE DIDN'T HAVE SUFFICIENT EVIDENCE, BUT YOU MAY ASK HER ABOUT IT OUTSIDE THE PRESENCE OF THE JURY.

(COURT'S EXHIBIT NUMBER 2, INDICTMENTS AND CONVICTIONS OF RIVERIA, ARE MARKED FOR PURPOSES OF THE RECORD.)

(THE FOLLOWING TESTIMONY WAS REPORTED IN

CAMERA.)

CROSS EXAMINATION

BY MR. SIMS:

Q MRS. BLACKWELL, IN THE STATE OF NEW JERSEY, YOU WERE INDICTED FOR COUNT ONE, POSSESSION OF CONTROLLED AND DANGEROUS SUBSTANCES IN THE THIRD DEGREE; WERE YOU NOT?

A I DON'T RECALL.

Q COUNT TWO, POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE WITH INTENT TO DISTRIBUTE THIRD DEGREE?

A I DON'T RECALL.

Q COUNT THREE, POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE WITH INTENT TO DISTRIBUTE ON OR NEAR SCHOOL PROPERTY THIRD DEGREE?

A I DON'T RECALL.

Q COUNT FOUR, MAINTAINING A NARCOTIC NUISANCE FOURTH DEGREE?

A I DON'T RECALL.

Q COUNT FIVE, POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE THIRD DEGREE?

A I DON'T RECALL.

Q COUNT SIX, POSSESSION OF A CONTROLLED DANGEROUS SUBSTANCE WITH INTENT TO DISTRIBUTE SECOND DEGREE?

A I DON'T RECALL.

Q COUNT SEVEN, POSSESSION OF CONTROLLED DANGEROUS

SUBSTANCE WITH INTENT TO DISTRIBUTE ON OR NEAR SCHOOL PROPERTY THIRD DEGREE?

A I DON'T RECALL.

Q COUNT EIGHT, POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE FOURTH DEGREE?

A I DON'T RECALL.

Q COUNT NINE, POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE WITH INTENT TO DISTRIBUTE THIRD DEGREE?

A I DON'T RECALL.

Q COUNT TEN, POSSESSION OF CONTROLLED DANGEROUS SUBSTANCE WITH INTENT TO DISTRIBUTE ON OR NEAR SCHOOL PROPERTY THIRD DEGREE?

A I DON'T RECALL.

Q AND YOU PLED TO ONE OF THE COUNTS AND RECEIVED THREE YEARS PROBATION. DO YOU RECALL THAT?

A YES, I DO.

THE COURT: LET ME ASK YOU THIS. CAN YOU STATE FOR THE RECORD THE DISPOSITION OF THOSE INDICTMENTS? WERE THEY NOL-PROSSED, DISMISSED OR WHAT?

MR. SIMS: YOUR HONOR, WE HAVE INFORMATION THAT THE INDICTMENTS, THE OTHER INDICTMENTS, WERE DISMISSED PURSUANT TO THE PLEA IN WHICH SHE ENTERED INTO ON COUNT -- THE RECORD THAT WE HAVE SHOWS THAT SHE WAS ORDERED -- UNDER COUNT FIVE SHE PLED UNDER

COUNT FIVE.

SHE WAS SENTENCED TO THREE YEARS OF PROBATION ON THE CONDITION OF PROBATION. ONE OF THE CONDITIONS OF PROBATION WAS THE CONTINUED DRUG COUNSELING AND URINE MONITORING. COUNTS SIX, SEVEN, EIGHT, NINE, TEN AND ELEVEN WERE DISMISSED.

THE COURT: ALL RIGHT, SIR. MR. SOLICITOR, DO YOU CARE TO MAKE A STATEMENT FOR THE RECORD HERE? I HAVE RULED.

SOLICITOR BAILEY: NO, SIR, I THINK YOUR HONOR HAS ALREADY RULED ON THAT.

THE COURT: I WOULD PERMIT YOU TO DISCUSS WITH HER THE CONVICTION OF THE PLEA. I WOULD RESPECTFULLY DENY INQUIRY AS TO THE OTHER MATTERS INASMUCH AS SHE HAS NOT PLED GUILTY WITH REGARD TO ANY OF THEM.

SOLICITOR BAILEY: YOUR HONOR, JUST BY WAY OF CLARIFICATION OF YOUR RULING, YOU SAY THAT HE IS PERMITTED TO DISCUSS THE ONE THAT SHE PLED TO. MY UNDERSTANDING --

THE COURT: ONLY SUBJECT TO THE RULE NOW.

SOLICITOR BAILEY: YES, SIR.

THE COURT: HE KNOWS WHAT THE RULE IS. HE CAN GET HER TO ADMIT OR DENY. WE ARE NOT GOING INTO THE FACTS SURROUNDING IT.

SOLICITOR BAILEY: WHICH SHE HAS ALREADY ADMITTED.

MR. SIMS: I CAN GET HER TO ADMIT IT BEFORE THE JURY, TOO.

THE COURT: YES, SIR. LET'S TAKE A SHORT BREAK AND THEN WE WILL START BACK IMMEDIATELY.

SOLICITOR BAILEY: YES, SIR.

(WHEREUPON THERE WAS A RECESS.)

THE COURT: IS THERE ANY OTHER IN CAMERA, IN LIMINE MATTERS WE NEED TO DISCUSS OUTSIDE THE PRESENCE OF THE JURY? WE HAVE HAD A CONFERENCE IN CHAMBERS. YOU KNOW WHAT I HAVE TOLD YOU.

MR. SIMS: YES, SIR.

THE COURT: IF YOU WANT TO GET IT ON THE RECORD OUTSIDE THE PRESENCE OF THE JURY, DO SO NOW, PLEASE.

MR. SIMS: I DO, YOUR HONOR.

THE COURT: YOU MAY HAVE THAT OPPORTUNITY.

MR. SIMS: IN REGARDS TO THE MATTER, OUR POSITION IS THAT THE STATE HAS HAD THE OPPORTUNITY TO TRY, IN SEVERAL OTHER HEARINGS THAT WE HAVE HAD, THEY HAVE INDICATED THAT THEY WERE GOING TO USE THAT TO SHOW MOTIVE OR WHATEVER, THEY ARE GOING TO SHOW MOTIVE.

WE, TOO, HAVE INFORMATION AS RELATES TO THE

EXPLOSIVE AND VIOLENT TEMPER OF THIS LADY. SHE KICKED HER HUSBAND'S WINDSHIELD OUT, IN HAVING EXPERIENCE IN USING A SEMIAUTOMATIC WEAPON PRIOR TO THIS TIME. WE FEEL THAT IS GERMANE TO THE DEFENSE THAT THE STATE IS GOING TO HAVE --

THE COURT: WE ARE NOT GOING TO GET HER DOMESTIC RELATIONSHIPS INVOLVED IN THE TRIAL OF THIS CASE. I AM NOT GOING TO DO THAT. I AM GOING TO PERMIT YOU TO FOLLOW THE RULE AND THAT IS THIS.

YOU MAY ASK HER IF SHE HAS PLED GUILTY OR BEEN CONVICTED OF CERTAIN CRIMES. IF SHE SAYS NO AND YOU CAN IMPEACH HER, YOU MAY DO SO. IF SHE SAYS YES, THAT ENDS THAT INQUIRY.

SOLICITOR, DO YOU HAVE SOMETHING TO SAY?

SOLICITOR BAILEY: YES, SIR. YOUR HONOR, IT'S MY UNDERSTANDING THAT MR. SIMS IS GOING TO GO A LITTLE FURTHER THAN THAT AND TRY TO ASK HER ABOUT WHETHER OR NOT SHE HAD EVER SHOT A GUN BEFORE --

THE COURT: I WILL PERMIT THAT.

SOLICITOR BAILEY: -- AND IMPEACH HER WITH HER EX-HUSBAND OR HUSBAND'S TESTIMONY.

THE COURT: I WILL RULE ON THAT WHEN I GET TO IT, BUT I WILL PERMIT THE LIMITED INQUIRY ABOUT THE GUN.

SOLICITOR BAILEY: YES, SIR.

MR. SIMS: YOUR HONOR, I ALSO --

THE COURT: WE ARE NOT GOING INTO KICKING ANY WINDOWS OUT IN A DOMESTIC DISPUTE. WE ARE NOT GOING TO GET INVOLVED IN HER DIVORCES.

SOLICITOR BAILEY: THANK YOU, YOUR HONOR.

MR. SIMS: YOUR HONOR, I WOULD ALSO CITE TO THE COURT RULE 405, METHODS OF PROVING CHARACTER, (A), REPUTATION OR OPINION: IN ALL CASES IN WHICH EVIDENCE OR CHARACTER OR A TRAIT OF CHARACTER OF A PERSON IS ADMISSIBLE, PROOF MAY BE MADE BY TESTIMONY AS TO REPUTATION OR BY TESTIMONY IN THE FORM OF AN OPINION. ON CROSS EXAMINATION INQUIRY IS ALLOWABLE INTO RELEVANT SPECIFIC INSTANCES OF CONDUCT.

THE COURT: NO, SIR. LOOK AT THE RULE THAT SAYS THAT EVEN THOUGH MATTERS MAY BE PROBATIVE, IF IN MY OPINION THEY WOULD UNDULY LENGTHEN THE TRIAL OF THIS CASE OR UNDULY INVOLVE OTHER ISSUES NOT RELEVANT OR CONFUSE THE ISSUES IN THE TRIAL OF THIS CASE, IN MY DISCRETION I CAN EXCLUDE THEM. I WOULD DO IT ON THAT BASIS, BUT CLEARLY YOU ARE NOT ENTITLED TO THIS. I WILL NOT LET YOU DO IT, PERIOD.

MR. SIMS: I UNDERSTAND THE COURT'S RULING. I WOULD RESPECTFULLY --

THE COURT: I UNDERSTAND. YOU HAVE GOT YOUR JOB TO DO AND I CERTAINLY RESPECT THAT. I HAVE

MINE TO DO AND I JUST DON'T THINK IT IS APPROPRIATE. I WILL LET YOU ASK HER ABOUT PRIOR CHARGES OF WHICH SHE PLED GUILTY OR BEEN CONVICTED. I WILL LET YOU MAKE AN INQUIRY ABOUT HER KNOWLEDGE OF GUNS SINCE THAT HAS COME INTO THIS.

WE ARE NOT GOING INTO HER DIVORCES. WE ARE NOT GOING INTO THE EIGHT OR NINE OTHER INDICTMENTS OR CHARGES. WE DON'T EVEN KNOW UPON WHICH BASIS THEY WERE DISMISSED.

WHAT OTHER CONCERNS DO YOU HAVE? WE ARE CERTAINLY NOT GOING TO TALK ABOUT KICKING OUT THE WINDOW. MAYBE HE DESERVED TO HAVE THE WINDOW KICKED OUT. I DON'T KNOW.

MR. SIMS: YOUR HONOR, IF HE DESERVED IT, THE FACT THAT SHE KICKED IT OUT, IT SHOWS THAT SHE HAS A TEMPER AND IS CAPABLE OF VIOLENCE.

THE COURT: I HAVE SEEN A LOT OF WINDOWS KICKED OUT WHEN TEMPER WAS NOT INVOLVED. ANYTHING FURTHER?

SOLICITOR BAILEY: NO, SIR.

THE COURT: ARE WE READY TO RESUME THIS CROSS EXAMINATION?

MR. SIMS: IF I CAN HAVE JUST ONE MINUTE.

THE COURT: SURELY. AND FOR PROFFER IF YOU CARE TO ASK CERTAIN OTHER QUESTIONS, YOU MAY DO SO

OUTSIDE THE PRESENCE OF THE JURY.

MR. SIMS: YOUR HONOR, WE WOULD PROFFER THE INFORMATION FOR THE RECORD SO THAT IT WILL BE IN FACT ON THE RECORD.

THE COURT: WHICH INFORMATION?

MR. SIMS: IN REGARD TO THE DOMESTIC INFORMATION, HER ATTITUDE AND THE VIOLENT TEMPER THAT WE WANT TO POINT OUT, WE THINK IT IS GERMANE TO OUR CASE AND THAT WE SHOULD BE ABLE TO PROFFER THAT SO THAT THE RECORD WOULD BE CLEAR.

THE COURT: I UNDERSTAND THAT. THE RECORD IS CLEAR AS TO WHERE YOU PROPOSE TO GO AND WHERE I HAVE STOPPED YOU.

MR. SIMS: YES, SIR. IF I MAY PROCEED.

THE COURT: OUTSIDE THE PRESENCE OF THE JURY?

MR. SIMS: YES, SIR.

THE COURT: YOU CERTAINLY MAY.

(THE FOLLOWING TESTIMONY WAS REPORTED IN CAMERA.)

CROSS EXAMINATION

BY MR. SIMS:

Q MRS. BLACKWELL, YOU ARE MARRIED TO MARCUS BLACKWELL; IS THAT CORRECT?

A YES.

Q AND IN YOUR RELATIONSHIP WITH HIM, YOU ALL HAVE HAD A VERY STORMY RELATIONSHIP; ISN'T THAT RIGHT?
A NOT VERY STORMY. WE HAD OUR UPS AND DOWNS LIKE EVERY MARRIAGE DOES.
Q INCLUDING THE INCIDENT IN WHICH YOU KICKED OUT THE WINDOW OF HIS CAR; ISN'T THAT RIGHT?
A I DIDN'T KICK IT OUT. I KICKED IT AND CRACKED IT. I DID NOT KICK IT OUT.
Q THAT WAS WHEN YOU ALL LIVED IN PHILADELPHIA; ISN'T THAT RIGHT?
A BENSALEM.
Q BENSALEM. WHEN YOU MOVED DOWN HERE TO SOUTH CAROLINA AND HE WAS IN BEAUFORT, HE WAS IN THE MARINE CORPS; IS THAT CORRECT?
A YES, IT IS.
Q WHEN YOU MOVED DOWN HERE -- HE HAS A .380; DOESN'T HE?
A HE HAS A GUN.
Q A SEMIAUTOMATIC WEAPON?
A I DON'T KNOW WHAT KIND OF GUN. I'M NOT FAMILIAR WITH GUNS.
Q YOU ARE NOT FAMILIAR WITH GUNS, BUT IT LOOKS LIKE THIS ONE; DOESN'T IT?
A PROBABLY.
Q AND IT HAS A CLIP IN IT THAT HAS BULLETS THAT

YOU PUT BULLETS IN IT?

A LIKE I SAID, I AM NOT FAMILIAR WITH GUNS.

Q IS THIS THE GUN THAT YOU TOOK OUT AND SHOT AND TOLD HIM THAT YOU TOOK THAT GUN OUT AND SHOT IT?

A THAT I SHOT IT? NO, I DID NOT SHOOT NO GUN.

Q YOU HAD THE GUN ON THE BED WHEN HE CAME HOME WITH THE BULLETS SURROUNDING IT?

A NO, I DID NOT.

Q AND YOU TOLD HIM THAT YOU HAD SHOT THAT GUN?

A NO, I HAD NOT. NO, I DID NOT.

MR. SIMS: YOUR HONOR, THAT'S AS FAR AS WE INTEND TO GO; BUT I DO WANT TO BE SURE IN TERMS OF THE RULING THAT WE HAVE HAD IS THAT YOU WILL ALLOW ME TO ASK THAT QUESTION AS RELATES TO THE GUN.

THE COURT: I WILL.

MR. SIMS: THANK YOU.

THE COURT: I THINK WE ARE IN AGREEMENT NOW?

SOLICITOR BAILEY: WE ARE NOT IN AGREEMENT, JUDGE, BUT I UNDERSTAND THE COURT'S RULING.

THE COURT: YOU ARE ONLY IN DISAGREEMENT WITH REGARDS TO THE QUESTION THAT I AM PERMITTING ON THE GUN.

SOLICITOR BAILEY: YES, SIR. FOR THE RECORD MY OBJECTION IS THAT HE IS SEEKING TO IMPEACH

ON A COLLATERAL MATTER.

THE COURT: YES, SIR. WELL, WE ARE NOT GOING FAR INTO THAT. I WILL LET THE LIMITED INQUIRY. BRING THE JURY.

(THE JURY RETURNS TO THE COURTROOM.)

THE COURT: THE JURY IS PRESENT. THE DEFENDANT IS IN COURT.

CROSS EXAMINATION

BY MR. SIMS:

Q MRS. BLACKWELL, YOU ARE MARRIED TO MARCUS BLACKWELL; IS THAT CORRECT?

A YES, I AM.

Q MR. BLACKWELL IS PRESENTLY ON ACTIVE DUTY IN THE UNITED STATES MARINE CORPS; IS THAT CORRECT?

A YES, HE IS.

Q I BELIEVE YOU MET HIM WHEN HE WAS STATIONED IN PHILADELPHIA?

A YES, I DID.

Q THAT'S WHERE YOU ALL GOT MARRIED; IS THAT CORRECT?

A YES.

Q HE IS THE FATHER OF YOUR BABY; IS THAT RIGHT?

A YES, HE IS.

Q SHORTLY AFTER YOU ALL GOT MARRIED, HE WAS TRANSFERRED DOWN TO BEAUFORT, SOUTH CAROLINA; IS THAT

CORRECT?
A YES, HE WAS.
Q HE OWNS A GUN, DOESN'T HE?
A YES, HE DOES.
Q AND I BELIEVE IT'S A SEMIAUTOMATIC .380?
A LIKE I SAID EARLIER, I AM NOT FAMILIAR WITH GUNS; BUT, YES, HE OWNS ONE.
Q DOES IT LOOK LIKE THIS ONE?
A IT PROBABLY DOES. I MEAN, I NEVER HAVE HELD IT OR ANYTHING.
Q SO YOU HAVE NEVER SHOT THAT WEAPON?
A NO, I NEVER SHOT THE WEAPON.
Q AND YOU MET MICHAEL -- YOU CALL HIM MICHAEL -- YOU MET BAYAN IN DECEMBER, THE SECOND WEEK OF DECEMBER?
A AROUND THE SECOND WEEK OF DECEMBER.
Q AND AT THAT POINT YOU HAD NO JOB; IS THAT CORRECT?
A THAT'S NOT TRUE. I HAD A JOB WHEN I MET HIM.
Q YOU HAD A JOB?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
A YOU HAD NO PLACE TO STAY?
A I WAS STAYING WITH MY BEST FRIEND.
Q BUT YOUR BEST FRIEND WAS HAVING PROBLEMS?
A MARITAL PROBLEMS.

Q AND YOU NEEDED A PLACE TO STAY TO GET AWAY FROM THAT?
A I COULD HAVE STAYED WITH HER AND PUT UP WITH THE PROBLEMS BUT, YOU KNOW, MICHAEL -- LIKE I SAID, MICHAEL OFFERED TO GET ME OUT OF THAT SITUATION.
Q YOU SAW AN OPPORTUNITY TO GET OUT AND LIVE A DIFFERENT LIFESTYLE, DIDN'T YOU?
A NO, I SAW AN OPPORTUNITY TO GET AWAY FROM THE PROBLEMS.
Q YOU MOVED IN WITH MICHAEL SHORTLY AFTER MEETING HIM?
A NOT SHORTLY AFTER. I MEAN, IT TOOK ABOUT TWO WEEKS, I'D SAY AT THE MOST, A WEEK AND A HALF, A WEEK AND A HALF PROBABLY.
Q A WEEK AND A HALF AFTER MEETING HIM, THEN YOU TOOK YOUR CHILDREN AND YOU MOVED IN WITH HIM?
A WE WENT TO THE SUITES, YES.
Q YOU WENT -- WHERE WERE YOU STAYING WHEN YOU FIRST WENT WITH HIM?
A I DON'T RECALL. IT WAS A SUITE. I DON'T RECALL THE NAME OF IT.
Q IN A HOTEL?
A IT WAS A SUITE.
Q A SUITE?
A A SUITE HOTEL.

Q HOW LONG DID YOU LIVE THERE?
A WE STAYED THERE FOR ABOUT A WEEK.
Q AND THEN AFTER A WEEK, YOU MOVED TO ANOTHER HOTEL?
A AFTER A WEEK HE WANTED TO GO ANOTHER HOTEL.
Q AND YOU FOLLOWED HIM TO ANOTHER HOTEL?
A YES, WE DID.
Q HOW LONG DID YOU STAY THERE?
A ABOUT ANOTHER WEEK. THAT'S WHEN WE TOOK THE TRIP TO DISNEY WORLD.
Q NOW, I BELIEVE YOU SAID ON DIRECT EXAMINATION SOMETHING TO THE EFFECT THAT MICHAEL DID ALL OF THE PACKING?
A YES, HE DID.
Q HE PACKED YOUR CLOTHES?
A NO, HE PACKED THEM INTO THE CAR.
Q BUT YOU PACKED YOUR OWN CLOTHES FOR YOUR CHILDREN AND EVERYTHING ELSE. SO YOU DID HELP HIM IN THE PACKING; ISN'T THAT CORRECT?
A I PACKED MY BAGS AND HE PUT THEM IN THE CAR.
Q AND YOU ALL LEFT ABOUT ONE OR TWO O'CLOCK IN THE AFTERNOON?
A WE WOKE UP ABOUT 10:30 OR 11 O'CLOCK, WENT OUT TO BREAKFAST. BY THE TIME WE LEFT PHILADELPHIA, IT WAS ONE OR TWO O'CLOCK IN THE AFTERNOON.

Q AND YOU DIDN'T DRIVE THE CAR PRIOR TO YOUR LEAVING PHILADELPHIA?
A I DID NOT DRIVE THE CAR AT ALL.
Q YOU DIDN'T TAKE THE CAR AND GO ANYWHERE?
A NO, I DID NOT.
Q SO MICHAEL GOT IN BEHIND THE STEERING WHEEL, LEFT PHILADELPHIA, DROVE THROUGH MARYLAND?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
Q DROVE THROUGH THE DISTRICT OF COLUMBIA?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
Q INTO VIRGINIA, NORTH CAROLINA. AND AT THE SOUTH CAROLINA BORDER, IS THAT WHEN YOU STARTED TO DRIVE?
A NO, I DID NOT DRIVE AT ALL.
Q SO ALL THOSE LONG HOURS, MICHAEL WAS THE ONLY ONE DRIVING AND YOU WERE THE ONE WHO WAS JUST SITTING THERE; RIGHT?
A YES.
Q YOU GOT HERE AND WHEN YOU GOT TO SOUTH CAROLINA, YOU DIDN'T TAKE THE WHEEL?
A NO, I DID NOT TAKE THE WHEEL.
Q YOU DIDN'T DRIVE INTO ORANGEBURG COUNTY AT ABOUT 11:30 THAT NIGHT?
A I DID NOT.
Q WHY WOULD YOU GO AND DIG FOR YOUR DRIVER'S LICENSE WHEN YOU WEREN'T UNDER THE STEERING WHEEL?

A IT'S NATURAL FOR AN OFFICER, A STATE TROOPER, TO ASK FOR THE PASSENGER'S I.D. AND THE DRIVER'S I.D. AT THAT TIME OF NIGHT.

Q YOU WERE IN THE PASSENGER SIDE?

A YES, I WAS.

Q YOU WERE -- DIDN'T HAVE ANY CONTROL OVER THE CAR?

A OF COURSE NOT.

Q THERE WOULD BE NO NEED FOR HIM TO ASK FOR YOUR DRIVER'S LICENSE.

A IT'S ROUTINE --

Q UNLESS --

THE COURT: LET HER ANSWER.

MR. SIMS: I'M SORRY.

A ROUTINE STOP FROM A STATE TROOPER, THEY ALWAYS WANT TO SEE THE PASSENGER'S I.D. AND THE DRIVER'S I.D.

Q FOR A ROUTINE TRAFFIC VIOLATION WITH YOUR SITTING IN THE PASSENGER SEAT, YOUR NOT HAVING ANY CONTROL OF THE CAR, THE OFFICER IS NOT CONCERNED WITH YOU; IS HE?

A NOT YET.

Q HE IS CONCERNED WITH THE DRIVER.

A LIKE I SAID, ON NEW YEAR'S EVE --

SOLICITOR BAILEY: JUDGE, SHE CAN'T TESTIFY

WHAT THE OFFICER MAY BE CONCERNED ABOUT.

MR. SIMS: SHE TALKED ABOUT THE ROUTINE, YOUR HONOR.

THE COURT: THIS IS CROSS EXAMINATION. GO AHEAD.

Q SO ISN'T IT TRUE THAT WHEN TROOPER LINGARD CAME UP TO THAT WINDOW, HE DIDN'T SEE BAYAN ALEKSEY SITTING IN THAT SEAT, HE SAW YOU?

A THAT IS NOT TRUE.

Q HE RELAXED AT THAT TIME, DIDN'T HE?

A WHO RELAXED?

Q THE TROOPER BECAUSE HE SAW A WOMAN SITTING THERE IN THE DRIVER'S SEAT.

A THAT'S NOT TRUE. IT'S A LIE.

Q AT THAT POINT YOU TOOK THE GUN AND YOU WERE THE ONE WHO DID THE SHOOTING.

A I DID NOT DO THE SHOOTING.

Q THE GUN WAS IN PLAIN VIEW. IT WAS IN THE HOLSTER RIGHT BY YOUR LEG.

A I NEVER SAW THE GUN. MICHAEL WAS ON THE DRIVER'S SIDE THE WHOLE TIME. MICHAEL SHOT THE STATE TROOPER AND THAT'S THE TRUTH.

Q THIS GUN, THAT HOLSTER, STATE'S EXHIBIT NUMBER 57 CLEARLY SHOWS A HOLSTER BY THE DRIVER'S SEAT IN PLAIN VIEW.

A I TOLD YOU EARLIER, I AM NOT FAMILIAR WITH HOLSTERS. AND AGAIN, I DID NOT DRIVE THE CAR. MICHAEL TOSCANI SHOT THE TROOPER. I SAW HIM DO IT.

Q WHEN YOU LEFT THE SCENE, THERE WAS ABOUT 12 MILES BEFORE ANYBODY ELSE SAW YOU; ISN'T THAT CORRECT?

A I DON'T REMEMBER. I WAS FRANTIC, I WAS SCARED, I WAS YELLING.

Q WHEN YOU GAVE YOUR FIRST WRITTEN STATEMENT TO THE POLICE OFFICERS, YOU SAID THAT YOU TURNED DOWN 173.

A THAT HE TOOK THE FIRST EXIT DOWN 176, 173. I DON'T KNOW. I'M NOT SURE. BUT HE TOOK THE FIRST EXIT AND WAS STILL SPEEDING DOWN INTO HOLLY HILL.

Q AND THEN YOU SAID IN YOUR SECOND STATEMENT HE WENT DOWN 176. THAT WAS AFTER YOU HAD AN OPPORTUNITY TO TALK WITH THE POLICE OFFICERS ABOUT WHAT THE ROUTE WAS; ISN'T THAT RIGHT?

A LIKE I SAID, THE NIGHT OF THE INCIDENT, I WAS SCARED, I WAS CRYING, I WAS PARANOID. EVERYTHING HAPPENED SO FAST. I KNOW THAT HE TOOK THE FIRST EXIT AFTER SHOOTING THE TROOPER.

Q LET'S GET SOMETHING STRAIGHT HERE. YOUR BABY IS IN THE BACK SEAT?

A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q BY YOUR TESTIMONY HE IS DRIVING WILD, DRIVING FAST?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
Q YOUR BABY IS IN THE BACK SEAT. YOU ARE IN THE FRONT SEAT. YOUR LITTLE GIRL IS SITTING BEHIND YOU. BUT WHEN THE CAR IS STOPPED IN HOLLY HILL, YOU JUMP OUT WITH THE BABY IN YOUR HANDS.
A I GRABBED THE BABY AND MY EIGHT-YEAR OLD AND RAN TO SAFETY OF COURSE.
Q THAT ONLY TOOK A SECOND ACCORDING TO -- WELL, LET ME GO THIS WAY WITH YOU. WHILE HE WAS TRAVELING 100 MILES AN HOUR, YOU ARE CLIMBING ACROSS SEATS, UNSTRAPPING BABIES OUT OF BACK SEATS, GETTING THEM UP FRONT WITH YOU?
A (WITNESS SHAKES HEAD.) (INDICATING NEGATIVE RESPONSE.)
Q YOU SAID SOMETHING EARLIER ABOUT PULLING OVER?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
Q YOU TESTIFIED ABOUT PULLING OVER.
A WHEN HE PULLED OVER IN HOLLY HILL, WHEN THE POLICE TURNED THEIR LIGHTS ON, I BEGGED HIM TO STOP AND HE DID. I BEGGED HIM NOT TO SHOT THE OFFICER AGAIN AND HE DIDN'T. BUT HE TOOK THE GUN AND PUT IT TO HIS HEAD. BY THAT TIME I SAW THE OPPORTUNITY AND RAN TO SAFETY WITH MY CHILDREN.

Q I BELIEVE YOU SAID ABOUT PULLING OVER EVEN BEFORE HOLLY HILL.
A NO --
Q IT'S ON THE RECORD.
SOLICITOR BAILEY: YOUR HONOR, THAT IS NOT WHAT SHE SAID. THAT IS A MISSTATEMENT OF HER TESTIMONY.
THE COURT: I WILL LET HER -- THE JURY IS THE FINDER OF THE FACTS. THEY KNOW WHAT WAS SAID HERE. I WILL LET THEM DETERMINE WHAT SHE SAID. IF SHE FEELS SHE NEEDS TO CORRECT HIS ASSERTION, SHE MAY DO SO.
SOLICITOR BAILEY: THANK YOU, YOUR HONOR.
THE COURT: YOU MAY CORRECT HIM IF HE NEEDS CORRECTING.
A I DID NOT SAY THAT WE PULLED OVER BEFORE HOLLY HILL. NO, I DID NOT SAY THAT.
Q MAY I FINISH NOW?
A GO AHEAD.
Q WHEN YOU JUMPED OUT OF THE OUT CAR, YOU JUMPED OUT OF THE CAR, AND YOU HAD YOUR BABY IN YOUR ARMS?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
Q YOU KNEW THAT NO POLICE OFFICER IS GOING TO SHOOT YOU WITH A BABY IN YOUR ARMS. THAT'S WHY WHEN YOU STOPPED AND CHANGED, YOU GOT YOUR BABY AND PUT

HER IN YOUR ARMS SO THAT WHEN YOU GOT STOPPED AGAIN, YOU WOULD HAVE A BABY IN YOUR ARMS AND NO POLICE OFFICER IS GOING TO SHOOT A WOMAN WITH A BABY IN HER ARMS.

A NO, NO, NO. THAT'S NOT RIGHT. WHEN HE STOPPED, WHEN I ASKED HIM TO PULL OVER, HE DID. THE OFFICER WAS TALKING TO HIM, TO MICHAEL DIRECTLY. I HAD THE OPPORTUNITY AND SAW THE OPPORTUNITY.

HIS BACK WAS TURNED TO ME WITH HIS GUN IN HIS HAND. I TOOK THE BABY OUT THE CAR SEAT, GRABBED THE EIGHT YEAR OLD BY THE HAND AND I JUMPED OUT THE CAR AND RAN. THAT'S WHEN HE PULLED OFF AGAIN.

Q MICHAEL NEVER POINTED A GUN AT ANYBODY, DID HE?

A WHEN HE SHOOT THE TROOPER HE DID.

Q HE DIDN'T POINT IT AT ANYBODY IN HOLLY HILL?

A IN HOLLY HILL, I HAVE NO IDEA. AFTER I JUMPED OUT THE CAR WITH MY CHILDREN, I DON'T KNOW WHAT HAPPENED AFTER THAT. AFTER THAT I CANNOT TELL YOU WHAT HAPPENED. I WASN'T THERE.

Q AND YOU NEVER SAW MICHAEL WITH A GUN PRIOR TO THAT NIGHT?

A PRIOR TO THAT NIGHT, NO, I DID NOT SEE MICHAEL WITH A GUN.

Q WHEN YOU GOT OUT OF THE CAR, YOU HAD YOUR BABY IN YOUR ARM, YOU TOOK YOUR OTHER BABY IN YOUR ARM AND

YOU RAN BACK TO THE POLICE. THEY GREETED YOU WITH OPEN ARMS, DIDN'T THEY? THEY DIDN'T EVEN TRY TO ARREST YOU OR DO ANYTHING TO YOU THAT NIGHT, DID THEY?

A NO, I RAN FOR SHELTER. I RAN TO THE CAR FOR SHELTER.

Q THEY PUT YOU IN THE CAR AND LEFT YOU AND YOUR BABY IN THE CAR BY YOURSELF, YOU AND YOUR EIGHT-YEAR-OLD GIRL IN THE CAR BY YOURSELF. SO YOU HAD THE OPPORTUNITY TO TALK WITH YOUR YOUNG CHILD, TELL HER WHAT TO SAY; DIDN'T YOU?

A MY CHILD WAS UP. RIGHT AFTER THE SHOOTING MY SCREAMING, MY HOLLERING, WOKE HER UP AFTER THE SHOOTING. IN FACT, SHE WAS HALF ASLEEP. SHE WASN'T ASLEEP COMPLETELY. SHE WOKE UP.

Q SHE WAS HALF ASLEEP?

A YEAH.

A A YOUNG CHILD WAKING UP AT 11, 12 O'CLOCK AT NIGHT HALF ASLEEP DOESN'T KNOW WHAT IS HAPPENING; DOES SHE?

SOLICITOR BAILEY: OBJECTION TO WHAT THE CHILD KNOWS, JUDGE. MR. SIMS KNOWS THAT IS NOT AN APPROPRIATE QUESTION, EVEN ON CROSS EXAMINATION.

MR. SIMS: YOUR HONOR, SHE SAID THAT HER CHILD --

SOLICITOR BAILEY: HE CAN'T TESTIFY.

THE COURT: WAIT A MINUTE. LET HIM HAVE HIS CROSS EXAMINATION AND LET HER ANSWER. GO AHEAD.

Q A YOUNG CHILD WAKING UP AT THAT HOUR OF NIGHT, GROGGY, DOESN'T KNOW WHAT IS GOING ON; ISN'T THAT RIGHT?

SOLICITOR BAILEY: OBJECTION, YOUR HONOR.

THE COURT: I SUSTAIN THAT. SHE CAN'T -- YOU MAY ASK THAT CHILD THAT QUESTION.

Q YOU SAT OUT THERE IN FRONT OF THE POLICE DEPARTMENT FOR A LONG TIME, DIDN'T YOU?

A THEY CHECKED ME, THEY PAT ME DOWN. THEY EVEN PATTED MY EIGHT YEAR OLD DOWN. THEY EVEN CHECKED THE BABY FOR WEAPONS OR ANYTHING OF ANY KIND.

Q AND THEN THEY LEFT YOU ALONE?

A NO, THE DID NOT LEAVE US ALONE. THEY KEPT QUESTIONING US.

Q THAT IS WHEN YOU GAVE YOUR FIRST STATEMENT?

A I GAVE MY FIRST STATEMENT AT THE STATION, NOT THERE AT THE SCENE OR WHERE THEY TOOK US TO. WE WERE OUTSIDE FOR A GOOD 45 MINUTES IN THE COLD. MY CHILD HAD NO SHOES ON OF ANY KIND, NO DIAPERS, NO MILK.

Q YOU BROUGHT YOUR CHILD TO SOUTH CAROLINA. YOU DROVE THE CAR INTO SOUTH CAROLINA.

A NO, I DID NOT DRIVE THE CAR INTO ANYWHERE.
MR. SIMS: ONE MOMENT, YOUR HONOR.
(PAUSE.)
Q THAT'S INTERESTING. YOU SAID YOU HEARD THE OFFICER?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
Q YOU SAID YOU SAW HIM POINT THE GUN BUT NOT ONE TIME DID YOU SAY "WATCH OUT"?
A NO. I DID NOT SAY I SAW HIM POINT THE GUN. I SAID I HEARD THE OFFICER'S VOICE GREET US KINDLY. IMMEDIATELY AFTER THAT HE OPENED FIRE. HIS BACK WAS TURNED. I DID NOT SEE THE GUN AT ANY TIME. I DIDN'T SEE WHERE HE GOT IT FROM. I DIDN'T SEE WHAT HE DID WITH IT AFTER HE SHOT THE TROOPER.
Q AND NOT ONE TIME AT ANY STATEMENT THAT YOU HAVE EVER GIVEN, HAVE YOU EVER ASKED WHAT HAPPENED TO THE OFFICER.
A YES.
Q YOU GAVE A STATEMENT --
A -- IN THE CAR WHEN I WAS IN THE BACK SEAT OF THE PATROL OFFICER.
Q YOU DIDN'T WRITE IT DOWN IN YOUR STATEMENT, DID YOU?
A NO, I DIDN'T WRITE IT DOWN IN MY STATEMENT.
Q YOU DIDN'T PUT IT ON THE TAPE WHEN THEY TAPED

THE CONVERSATION WITH YOU. YOU NEVER ONCE SAID ANYTHING ABOUT WHAT HAPPENED TO THE OFFICER.

A I HAVE KNOWN. IT WAS ON T.V. I WAS INCARCERATED. I SEEN WHAT HAD HAPPENED. I KNEW THE OFFICER WAS DECEASED BY THEN.

Q YOU HAD THE OPPORTUNITY PRIOR TO YOUR DAUGHTER BEING QUESTIONED, YOU HAD THE OPPORTUNITY TO TALK WITH HER; DIDN'T YOU?

A WE DIDN'T. WE WERE SITTING -- SURROUNDED BY PEOPLE.

Q BUT YOU TALKED TO HER?

A I WAS TALKING TO HER, CONSOLING HER TO CALM DOWN; BUT TO TALK TO HER IN A CONVERSATION ABOUT THE SITUATION, IT'S IMPOSSIBLE.

Q YOU WERE ASKED ON THE TAPE WHETHER OR NOT MICHAEL, AS YOU KNEW HIM, HAD ANY DRUG INVOLVEMENT AND YOU SAID NO?

A RIGHT, NOT THAT I HAVE KNOWN OF. SO I ANSWERED THE QUESTION NO. I NEVER SAW HIM DRINK ALCOHOL. I NEVER SAW HIM WITH ANY DRUGS, SO NO. I ANSWERED THE QUESTION AS I KNEW.

MR. SIMS: YOUR HONOR, THOSE ARE THE QUESTIONS WE HAVE AT THIS TIME.

SOLICITOR BAILEY: YOUR HONOR, VERY BRIEFLY ON REDIRECT.

REDIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MRS. BLACKWELL, MR. SIMS ASKED YOU ABOUT THE OTHER NAMES THAT YOU HAD USED BESIDES BLACKWELL. I THINK RIVERIA AND PEREZ?

A MY FIRST AND MY MAIDEN NAME. THAT'S IT.

Q THERE WAS A PIECE OF PAPER THAT HE PUT INTO EVIDENCE HERE THAT HAD SOME I.D. CARDS OF YOURS?

A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q ONE OF THESE I.D. CARDS IS A SOCIAL SECURITY, GLORYVEE PEREZ?

A THAT'S MY MAIDEN NAME.

Q THAT'S YOUR MAIDEN NAME. THEN THERE IS AN ARMED FORCES DEPENDENT CARD WITH THE NAME BLACKWELL?

A THAT'S MY MILITARY I.D.

Q THAT'S YOUR NAME AT THIS TIME; IS THAT CORRECT?

A THAT'S CORRECT.

Q ANOTHER CHECK CASHING CARD WITH PEREZ. AGAIN, YOUR MAIDEN NAME?

A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q THEN HERE IS A PENNSYLVANIA DRIVER'S LICENSE WITH THE NAME OF PEREZ.

A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q AND THEN GLORYVEE BLACKWELL. THIS IS SOME KIND OF FEDERAL CREDIT UNION; IS THAT CORRECT?

A THAT'S CORRECT.
Q SO ALL THE NAMES THAT YOU HAVE USED HAVE BEEN YOUR MAIDEN NAME OR A MARRIED NAME THAT YOU HAD AT THE TIME; IS THAT CORRECT?
A THAT'S CORRECT.
Q HAVE YOU EVER USED AN ALIAS, A NAME THAT YOU DIDN'T HAVE?
A NO.
Q THANK YOU.

SOLICITOR BAILEY: YOUR HONOR, THAT'S ALL I HAVE.

THE COURT: YOU MAY COME DOWN. THANK YOU.

SOLICITOR BAILEY: YOUR HONOR, I HAVE A MATTER OF LAW BEFORE THE NEXT WITNESS.

THE COURT: YES, SIR. HAVE WE CONCLUDED WITH THIS WITNESS AT THIS TIME?

SOLICITOR BAILEY: YES, SIR, I HAVE NOTHING FURTHER.

THE COURT: I WILL LET HER GO BACK INTO SEQUESTRATION.

SOLICITOR BAILEY: YOUR HONOR, I DON'T PLAN ON CALLING -- WELL, CAN WE TAKE THIS UP?

THE COURT: YES. I WILL LET YOU GO TO THE JURY ROOM, PLEASE.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: LET'S DEAL WITH THIS WITNESS. WHAT WAS YOUR QUALM ABOUT THIS WITNESS?

SOLICITOR BAILEY: YES, SIR. YOUR HONOR, A COUPLE OF THINGS WITH REGARD TO THIS WITNESS. I DO NOT INTEND TO CALL HER AGAIN IN THIS CASE. SO I THINK THAT SHE SHOULD BE LIFTED FROM SEQUESTRATION.

HER DAUGHTER WILL BE TESTIFYING NEXT AND THAT'S WHAT I WANTED TO TAKE UP WITH YOU, YOUR HONOR. I ALSO WANTED TO GET THE COURT'S RULING BASED ON TWO EVIDENCE RULES. MRS. BLACKWELL GAVE A WRITTEN STATEMENT --

THE COURT: FIRST, LET'S DEAL WITH THE CHILD. ARE YOU ASKING ME TO PERMIT HER, SHE HAVING ALREADY TESTIFIED, TO REMAIN IN THE COURTROOM WHILE THE CHILD TESTIFIES?

SOLICITOR BAILEY: YES, SIR.

THE COURT: I WILL DO THAT.

SOLICITOR BAILEY: YES, SIR. YOUR HONOR, THE SECOND THING IS ON JANUARY 1ST, MRS. BLACKWELL GAVE A HANDWRITTEN STATEMENT TO LAW ENFORCEMENT. SHE GAVE LATER ON THAT DAY, 2:45 A.M. ON JANUARY 1ST, GAVE A TAPED STATEMENT.

UNDER RULE 106 IF A PORTION OF A WRITING COMES IN, WE ARE ENTITLED TO BRING THE REST OF IT IN. SHE WAS QUESTIONED BY MR. SIMS NOT ONLY ON THE

HANDWRITTEN STATEMENT, BUT ON THE TAPED STATEMENT, PORTIONS OF THAT STATEMENT.

ALSO IF YOU RECALL IN HIS OPENING ARGUMENT, MR. STONE MADE A REFERENCE TO MY MAKING A DEAL WITH THE DEVIL, WHICH COULD HAVE BUT ONE MEANING WITH THE JURY THAT I HAVE CUT SOME KIND OF A DEAL WITH MRS. PEREZ AND THAT SHE IS FABRICATING HER TESTIMONY BASED ON THAT DEAL.

BOTH OF THESE STATEMENTS PREDATE ANY POSSIBLE ARRANGEMENT I MAY HAVE HAD WITH HER. SO I WOULD LIKE TO INTRODUCE THE TAPE AND THE STATEMENT THAT SHE GAVE LAW ENFORCEMENT AT THIS TIME PURSUANT TO RULE 106 AND RULE 801.

THE COURT: WHAT DO YOU SAY?

MR. SIMS: YOUR HONOR, WE WOULD OBJECT TO THAT. I MADE REFERENCES TO IT. I DID NOT INTRODUCE IT OR TRY TO INTRODUCE IT. I ASKED HER WHAT SHE SAID. I ASKED HER WHAT SHE SAID TWICE. THAT RULE TALKS ABOUT IN ALL FAIRNESS --

THE COURT: YOU JUST WANT TO INTRODUCE IT TO SHOW THAT SHE GAVE THESE STATEMENTS PRIOR TO WHEN?

SOLICITOR BAILEY: PRIOR TO -- THAT SHE MADE -- BASICALLY SAYING THE SAME THING ON JANUARY 1ST THAT SHE IS SAYING NOW. SO HER TESTIMONY COULD NOT BE THE PRODUCT OF ANY KIND OF PLEA

NEGOTIATION AS INTIMATED BY MR. STONE IN HIS OPENING STATEMENT, AND ALSO THE FACT THAT MR. SIMS GOT INTO BOTH OF THESE STATEMENTS, DISCUSSING SPECIFIC THINGS IN THOSE STATEMENTS.

MR. SIMS: YOUR HONOR, I NEVER SAID ANYTHING AS RELATES TO A DEAL.

THE COURT: WHY CAN'T WE STIPULATE THAT THE STATEMENT THAT SHE MADE INITIALLY IS THE SAME STATEMENT SHE MADE AFTER THE SOLICITOR GOT INVOLVED?

MR. SIMS: YOUR HONOR, I ASKED HER --

THE COURT: YOU'RE THE ONE THAT SAID SHE MADE A DEAL WITH THE DEVIL.

MR. SIMS: THAT WAS IN THE OPENING ARGUMENTS THAT THERE WAS A QUESTION THAT SHE MADE A DEAL WITH THE DEVIL. AT NO POINT HAS ANYBODY BROUGHT OUT SPECIFIC -- I ASKED HER REFERENCES, GENERAL REFERENCES, ABOUT HER STATEMENT. I ASKED HER ABOUT A RECORDED STATEMENT. I DID NOT TRY TO CROSS EXAMINE --

THE COURT: WHY NOT DO THIS. IF THIS ISSUE COMES UP, LEAVE HERE HER TO PUT HER BACK IN REPLY IF THAT ISSUE COMES UP.

SOLICITOR BAILEY: JUDGE, I THINK IT HAS COME UP. I DON'T THINK IT COULD COME UP AGAIN BECAUSE I DON'T INTEND TO CALL HER AGAIN. SHE HAS

TESTIFIED FULLY AND COMPLETELY.

THE COURT: IS THERE ANYTHING DIFFERENT IN THE STATEMENTS THAT SHE MADE, ORAL OR WRITTEN, DIFFERENT FROM HER TESTIMONY TODAY? THAT'S THE ONLY PROBLEM I AM HAVING.

SOLICITOR BAILEY: YOUR HONOR, IF THERE IS A DIFFERENCE, I AM NOT AWARE OF IT. THERE MAY BE SOME MINOR DIFFERENCES. I'VE NEVER SEEN TWO STATEMENTS THAT WERE 100 PERCENT IDENTICAL.

THE COURT: WHY CAN'T YOU JUST ELICIT THIS INFORMATION BY JUST ASKING HER IF THE STATEMENT SHE MADE INITIALLY IS THE SAME POSITION SHE HAS HAD TODAY WITHOUT PUTTING THE STATEMENTS IN?

SOLICITOR BAILEY: YES, SIR, IF THAT IS THE COURT'S RULING.

THE COURT: I WILL PERMIT THAT I THINK IN FAIRNESS. I WILL PERMIT YOU TO GO INTO THAT, BUT I DON'T THINK YOU NEED TO PROVE IT BY PUTTING THE STATEMENTS IN THE RECORD FOR THE JURY'S CONSIDERATION.

SOLICITOR BAILEY: I JUST WANTED THEM TO HEAR THEM TWICE.

THE COURT: I UNDERSTAND THAT. I WILL NOT PERMIT THAT.

SOLICITOR BAILEY: YES, SIR.

THE COURT: DOES THAT ADDRESS YOUR CONCERNS?

MR. SIMS: YOUR HONOR, I THINK HE HAD HIS OPPORTUNITY. WHAT HE WANTS IS HE WANTS TO BOLSTER HIS OWN --

THE COURT: NO, SIR. HE WANTED AN IN LIMINE RULING FROM ME.

MR. SIMS: I UNDERSTAND BUT THE EFFECT OF IT IS GOING TO BE TO BOLSTER HIS OWN CLIENT'S TESTIMONY WHEN HE HAD THE OPPORTUNITY ON DIRECT AND CROSS (SIC) EXAMINATION.

THE COURT: IN FAIRNESS TO THE STATE, HE IS ENTITLED TO DO THIS RATHER THAN -- IN FAIRNESS TO YOU, I WILL NOT LET HIM DO IT THE WAY HE WANTED TO DO IT; BUT THIS WAS PROPERLY RAISED IN LIMINE OUTSIDE THE PRESENCE OF THE JURY. IN FAIRNESS TO THE PROCESS, I AM GOING TO PERMIT IT. BRING THE JURY IN.

SOLICITOR BAILEY: YOUR HONOR, THIS WOULD BE VERY BRIEF AND THEN WE HAVE THE MATTER INVOLVING THE CHILD AFTER THAT.

THE COURT: I WILL SEND THEM RIGHT BACK OUT. HOLD THEM JUST ONE MINUTE. ONCE YOU DO THIS, I WILL PERMIT CROSS EXAMINATION ON THIS ISSUE, YOU UNDERSTAND?

SOLICITOR BAILEY: YOUR HONOR, I THINK IF

THAT OCCURS, IF HE SPECIFICALLY CROSS EXAMINES HER ON THE STATEMENT, CLEARLY THAT WOULD THEN OPEN THE DOOR TO 106 AND THE WHOLE THING.

THE COURT: I WILL SEE IF IT OPENS THE DOOR OR NOT. I WILL DEAL WITH THAT. HE MAY NOT BUT IF HE OPENS THE DOOR, THEN I WILL DEAL WITH IT WHEN THE DOOR IS OPEN.

SOLICITOR BAILEY: YES, SIR.

THE COURT: THESE ARE ASTUTE ATTORNEYS. I DOUBT THAT WILL OCCUR.

GLORYVEE PEREZ BLACKWELL, HAVING BEEN PREVIOUSLY DULY SWORN, RESUMED THE WITNESS STAND AND TESTIFIED AS FOLLOWS:

(THE JURY RETURNS TO THE COURTROOM.)

THE COURT: THE JURY IS PRESENT. THE DEFENDANT IS PRESENT. PROCEED.

SOLICITOR BAILEY: A COUPLE MORE QUESTIONS ON REDIRECT, YOUR HONOR.

REDIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MRS. BLACKWELL, CALLING YOUR ATTENTION TO ABOUT 3:35 A.M. SHORTLY AFTER YOU WITNESSED THIS MURDER, DO YOU RECALL GIVING A HANDWRITTEN STATEMENT TO AN ORANGEBURG COUNTY DEPUTY SHERIFF AND AGENT DARNELL OVER HERE?

A YES, I RECALL.

Q THAT WAS ABOUT 3:35 A.M. ON JANUARY THE 1ST?

A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q AND IS YOUR RECOLLECTION OF THAT STATEMENT THAT YOU SAID ESSENTIALLY THE SAME THING THAT YOU SAID HERE UNDER OATH TO THIS JURY?

A YES.

Q WOULD YOU STATE WHETHER OR NOT AT 2:45 A.M. ON JANUARY THE 1ST, DID YOU GIVE A TAPED STATEMENT TO S.L.E.D AGENTS?

A YES, I DID.

Q WAS YOUR STATEMENT AT THAT TIME SUBSTANTIALLY THE SAME AS WHAT YOU ARE TELLING THIS JURY --

A YES.

Q -- UNDER OATH AT THIS TIME?

A YES.

Q IS WHAT YOU SAID THEN THE TRUTH?

A YES, IT IS.

Q IS WHAT YOU ARE SAYING NOW UNDER OATH THE TRUE SO HELP YOU GOD?

A YES, I SWEAR IT'S THE TRUTH.

THE COURT: ANY CROSS EXAMINATION?

MR. SIMS: NOTHING, YOUR HONOR.

THE COURT: YOU MAY COME DOWN. THE WITNESS WILL REMAIN HERE IN THE COURTROOM. WE NEED TO HAVE

ANOTHER MATTER WE WILL NEED TO TAKE OUTSIDE THE PRESENCE OF THE JURY?

SOLICITOR BAILEY: YES, SIR.

THE COURT: I HAVE ANOTHER QUESTION OF LAW THAT I WILL HAVE TO DISCUSS, MR. FOREMAN, AND LADIES AND GENTLEMEN. I WILL LET YOU GO TO THE JURY ROOM.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: MR. BAILEY.

SOLICITOR BAILEY: YOUR HONOR, MY NEXT WITNESS IS AN EIGHT-YEAR-OLD CHILD. NATURALLY SHE IS GOING TO BE INTIMIDATED BY THE COURTROOM ATMOSPHERE. THERE ARE A LARGE NUMBER OF SPECTATORS. THERE ARE TWO TELEVISION CAMERAS, ONE STILL CAMERA HERE.

I WOULD JUST ASK THE COURT TO MAKE WHATEVER ACCOMMODATION IT COULD. I REALIZE THE PRESS IS ENTITLED TO BE HERE, THE PUBLIC IS ENTITLED TO BE HERE; BUT I WOULD ASK IF THE COURT WOULD CONSIDER SOMETHING TO MAKE THIS ATMOSPHERE LESS INTIMIDATING TO A CHILD THAT AGE WHO WITNESSED WHAT SHE WITNESSED.

THE COURT: WELL, WHAT I FIRST WILL DO IS BRING THE CHILD IN AND MAKE AN APPROPRIATE RULING ON THE COMPETENCY TO TESTIFY AND SEE HOW WE DO.

LADIES AND GENTLEMEN, LET ME SAY THIS TO YOU. I HAVE BEEN EXTREMELY IMPRESSED THROUGHOUT THESE PROCEEDINGS WITH THE DECORUM THAT HAS BEEN

EXERCISED BY ALL MEMBERS.

THERE HAVE BEEN SOME VERY DIFFICULT CIRCUMSTANCES HERE AND I APPRECIATE AND UNDERSTAND THAT. THIS CHILD'S TESTIMONY WOULD BE OF GREAT INTEREST TO A LOT OF FOLKS, INCLUDING THE COMMUNITY AT LARGE.

I AM GOING TO MAKE EVERY EFFORT TO KEEP YOU IN THIS COURTROOM, BUT PLEASE NOW MAKE NO COMMENTS. DO NOT TALK IN ANY WAY. KEEP ABSOLUTELY QUIET. LET'S LET THIS CHILD GET THROUGH HER TESTIMONY OR WHATEVER SHE NEEDS TO TELL THE JURY.

TO THE EXTENT POSSIBLE, I AM GOING TO ATTEMPT TO LEAVE THE COURTROOM AS IT IS. THE PRESS WOULD NEVER BE EXCLUDED BECAUSE I DESIRE TO KEEP YOU HERE IF YOU CARE TO BE.

NOW, BEFORE THE TAKING OF THIS TESTIMONY, IF ANYBODY NEEDS TO LEAVE OR FEEL LIKE THEY SHOULD LEAVE, PLEASE DO SO AT THIS TIME. I AM GOING TO PERMIT ANYBODY TO ENTER THIS COURTROOM. I DON'T WANT ANYBODY ENTERING THIS COURTROOM OR LEAVING ONCE THIS CHILD COMES INTO THIS COURTROOM.

GENTLEMEN, OF COURSE, WE ARE ALL FAMILIAR WITH THE RULE THAT THIS CHILD NOW IS PRESUMED TO BE COMPETENT TO TESTIFY.

MR. SIMS: YOUR HONOR, I UNDERSTAND THAT,

BUT I DO FOR THE RECORD ENTER AN OBJECTION. THE COURT JUST MADE A DECISION AND WE DID NOT HAVE AN OPPORTUNITY TO RESPOND. FOR THE RECORD WE WOULD OBJECT --

THE COURT: SOMETIMES I REVERSE MY DECISION. LET ME HEAR YOU. YOU WERE THE ONE WHO DIDN'T WANT TO CLOSE IT A WHILE AGO.

MR. SIMS: YOUR HONOR, WHAT WE ARE SAYING NOW IS THAT FOR THE RECORD WE WOULD OBJECT TO HAVING THE MOTHER HERE DURING THE YOUNG LADY'S TESTIMONY.

IT IS MY UNDERSTANDING OF THE RULE AND OF THE LAW IN THE STATE OF SOUTH CAROLINA THAT A WITNESS IS SUPPOSED TO TESTIFY INDEPENDENTLY AND WITHOUT THE AID OR BENEFIT OF ANY OTHER PERSON OR THING.

IN THIS SITUATION BY ALLOWING THE MOTHER TO BE HERE, YOU ARE ADDING AN ADDITIONAL BENEFIT OR AN ADDITIONAL MATTER TO BE BOUGHT INTO HER TESTIMONY IN THE FACT THAT HER MOTHER IS GOING TO BE HERE.

SHE WILL SEE HER MOTHER. SHE IS GOING TO BE ABLE TO BE INFLUENCED BY GESTURES, LOOKS, FROWNS OR ANYTHING THAT HER MOTHER MAY DO WHEN SHE IS ASKED A QUESTION OR NOT ASKED A QUESTION.

THE COURT: LET ME ANSWER IT THIS WAY. THE MOTHER IS IN MY PRESENCE. I ASSURE YOU THAT THAT

CONDUCT WILL NOT BE PERMITTED. I HAVE NO REASON TO EXPECT IT.

I AM GOING TO PERMIT THAT EIGHT-YEAR-OLD CHILD TO HAVE THE COMFORT OF HER MOTHER IN THIS COURTROOM IN THESE STRANGE PROCEEDINGS. THAT'S GOING TO HAPPEN.

I CAN ASSURE YOU THAT THERE WILL BE NO COACHING OR ANYTHING ELSE. THE MOTHER IS IN MY VIEW. I WANT THE CHILD TO HAVE THE COMFORT OF HER MOTHER. ANY RESPONSE?

SOLICITOR BAILEY: YOUR HONOR, THE ONLY OTHER THING AND I THINK I MAY HAVE MENTIONED THIS BEFORE, BUT AS FAR AS YOUR HONOR'S PRELIMINARY FINDING WHETHER OR NOT THIS CHILD IS COMPETENT TO TESTIFY, I DON'T KNOW OF ANY REASON WHY THAT COULDN'T BE DONE IN CHAMBERS.

YOU WILL BE TESTING NOT HER ABILITY TO BE A GOOD WITNESS NECESSARILY, BUT HER ABILITY TO KNOW RIGHT FROM WRONG, A LIE FROM THE TRUTH AND HER LEVEL OF BEING ABLE TO EXPRESS HERSELF. THAT CAN JUST AS WELL BE ACCOMPLISHED IN CHAMBERS.

THE COURT: WHAT IS THE OBJECTION TO DOING IT IN THE COURTROOM?

SOLICITOR BAILEY: JUST THAT I AM CONCERNED WITH JUST THE INTIMIDATING ATMOSPHERE.

THE COURT: THAT'S WHAT I WANT TO KNOW. IF I DETECT THE CHILD IS INTIMIDATED, THEN I WILL DO SOMETHING ELSE. WHAT IS YOUR POSITION ON THAT? WOULD YOU PREFER TO DO THIS IN CHAMBERS?

MR. STONE: WE DON'T HAVE ANY OBJECTION TO DOING IT IN CHAMBERS.

THE COURT: ALL RIGHT. LET'S DO IT IN CHAMBERS.

SOLICITOR BAILEY: YOUR HONOR?

THE COURT: SIR?

SOLICITOR BAILEY: LET ME WITHDRAW THAT BECAUSE ALEKSEY WILL BE IN THERE AND RIGHT FACE TO FACE WITH HERE. ON SECOND THOUGHT I THINK IT MAY BE BETTER TO DO IT AT A DISTANCE.

THE COURT: I HAVE SOME PROBLEMS WITH THAT BECAUSE THAT WOULD ADDRESS THE CONCERNS THE DEFENSE COUNSEL RAISES. THE MOTHER HERE IS IN THE MIDDLE OF THE COURTROOM AT SOME DISTANCE FROM THE WITNESS STAND. I WILL DO IT MY WAY AND I WILL MAKE A DETERMINATION. BRING THAT CHILD IN. PLEASE REMEMBER MY ADMONITIONS.

GLORIA MARIA RIVERIA, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

THE COURT: GLORIA, HOW ARE YOU DOING?

THE WITNESS: FINE.

THE COURT: I AM JUDGE COTTINGHAM. MAY I ASK YOU A FEW QUESTIONS, PLEASE?

THE WITNESS: YES.

THE COURT: LET ME ASK YOU THIS. HOW OLD ARE YOU, GLORIA?

THE WITNESS: EIGHT.

THE COURT: WHAT GRADE IN SCHOOL ARE YOU IN?

THE WITNESS: THIRD. I'M NOT IN SCHOOL YET.

THE COURT: YOU ARE NOT IN SCHOOL. WHEN DO YOU START SCHOOL?

THE WITNESS: THE 1ST OF SEPTEMBER.

THE COURT: THE 1ST OF SEPTEMBER. DO YOU LIKE SCHOOL?

THE WITNESS: YES.

THE COURT: ARE YOU A GOOD STUDENT?

THE WITNESS: YES.

THE COURT: DO YOU STUDY HARD?

THE WITNESS: YES.

THE COURT: WE ARE GLAD TO HAVE YOU WITH US TODAY. DO YOU FEEL ALL RIGHT?

THE WITNESS: YES.

THE COURT: LET ME ASK YOU THIS. DO YOU MIND IF WE ASK YOU A FEW QUESTIONS?

THE WITNESS: YES.

THE COURT: WILL YOU ANSWER THEM TRUTHFULLY?

THE WITNESS: YES.

THE COURT: DO YOU KNOW WHAT IT MEANS TO TELL THE TRUTH?

THE WITNESS: YES.

THE COURT: DO YOU KNOW WHAT IT MEANS TO TELL A STORY?

THE WITNESS: YES.

THE COURT: DO YOU KNOW WHAT IT MEANS NOT TO TELL THE TRUTH?

THE WITNESS: YES.

THE COURT: DO YOU PROMISE US HERE THAT YOU WILL TELL THE TRUTH?

THE WITNESS: YES.

THE COURT: THANK YOU SO MUCH. LISTEN, GLORIA, THAT GENTLEMAN THERE IS MR. BAILEY AND THIS GENTLEMAN HERE IS MR. STONE AND MR. SIMS. WILL YOU ANSWER SOME QUESTIONS FOR THEM, TOO?

THE WITNESS: YES.

THE COURT: WE WANT YOU TO KNOW WE ARE GLAD TO HAVE YOU HERE, OKAY?

THE WITNESS: (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)

THE COURT: THANK YOU SO MUCH. MR. BAILEY, YOU MAY ASK HER SOME QUESTIONS IF YOU CARE TO.

SOLICITOR BAILEY: YOUR HONOR, DO YOU WANT TO GET INTO THE MERITS AT THIS POINT OR JUST PRELIMINARILY?

THE COURT: NO, SIR, JUST AS TO QUALIFICATION.

(THE FOLLOWING TESTIMONY WAS REPORTED IN CAMERA.)

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q GLORIA, WHAT IS YOUR FULL NAME?

A GLORIA MARIA RIVERA.

Q WHERE DO YOU LIVE?

A PHILADELPHIA.

Q WHO DO YOU LIVE WITH THERE?

A MY MOM.

Q WHAT'S HER NAME?

A GLORYVEE.

Q YOU ARE EIGHT YEARS OLD?

A YES.

Q YOU ARE GOING INTO THIRD GRADE NOW, RIGHT?

A YES.

Q AND LAST YEAR HOW DID YOU DO IN SCHOOL?

A GOOD.

Q WHAT KIND OF GRADES DID YOU MAKE?
A A.S AND B.S.
Q WHAT DID YOU MAKE YOUR A.S IN?
A MATH.
Q AND WHAT'S YOUR TEACHER'S NAME LAST YEAR?
A MISS GWEN.
Q DO YOU LIKE SCHOOL?
A YES.
Q AND YOU DON'T KNOW WHAT YOUR TEACHER'S NAME IS GOING TO BE THIS YEAR BECAUSE YOU HAVEN'T STARTED YET, DO YOU?
A NO.
Q WHAT KIND OF THINGS DO YOU LIKE TO DO WHEN YOU ARE IN PENNSYLVANIA?
A I LIKE TO GO SWIMMING.
Q TO GO WHAT?
A SWIMMING.
Q SWIMMING. DO YOU HAVE A POOL WHERE YOU LIVE?
A NO, BUT I GO SWIMMING AT MY AUNT'S POOL. SHE HAS A PARK THAT HAS A SWIMMING POOL.
Q HAVE YOU GONE TO CHURCH BEFORE WITH YOUR GRANDPARENTS OR ANYBODY?
A YES.
Q YOU KNOW WHAT IT MEANS TO TELL THE TRUTH, DON'T YOU?

A YES.
Q AND YOU KNOW WHAT IT MEANS TO TELL A LIE, DON'T YOU?
A YES.
Q DO YOU KNOW THAT WHEN SOMEBODY ASKS YOU SOMETHING, SHOULD YOU TELL THE TRUTH OR TELL A LIE?
A TELL THE TRUTH.
Q IF SOMEBODY HERE IN THIS COURTROOM ASKS YOU SOME QUESTIONS, WILL YOU TELL THE TRUTH?
A YES.
Q HAS ANYBODY TOLD YOU WHAT TO SAY?
A NO.
Q IF SOMEBODY ASKED YOU SOMETHING AND YOU REMEMBER WHAT HAPPENED, WOULD YOU TELL THEM WHAT HAPPENED THE BEST YOU COULD REMEMBER?
A YES.
Q ARE YOU NERVOUS?
A NO.
Q YOU'RE NOT?
A (WITNESS SHAKES HEAD.) (INDICATING NEGATIVE RESPONSE.)
Q YOU ARE THE ONLY PERSON THAT HAS BEEN UP HERE TODAY THAT HASN'T BEEN NERVOUS. SO YOU ARE DOING WELL. GLORIA, THAT'S ALL I HAVE GOT RIGHT NOW. I MIGHT BE ASKING YOU SOME MORE QUESTIONS LATER ON.

THERE WILL BE SOME OTHER PEOPLE SITTING IN HERE, RIGHT OVER HERE (INDICATING). IS THAT OKAY WITH YOU?

A YES.

Q SOME OF THESE MEN OVER HERE MAY WANT TO TALK TO YOU, OKAY?

A YES.

CROSS EXAMINATION

BY MR. SIMS:

Q HELLO.

A HI.

Q HOW ARE YOU DOING?

A FINE.

Q YOU ARE A NICE, PRETTY LITTLE GIRL. HOW ARE YOU TODAY?

A FINE.

Q THAT'S GOOD. MY NAME IS THOMAS SIMS AND I MAY NEED TO ASK YOU SOME QUESTIONS. DO YOU MIND?

A NO.

Q I CAN'T HEAR YOU.

A NO.

Q I BET YOU CAN TALK LOUDER THAN THAT WHEN YOU ARE OUT ON THE PLAYGROUND.

A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)

Q NOW, LET ME ASK YOU THIS. THE JUDGE TALKED TO

YOU A FEW MOMENTS AND MR. BAILEY JUST TALKED TO YOU A FEW MINUTES ABOUT KNOWING HOW TO THE TELL THE TRUTH.
A YES.
Q LET ME ASK YOU A QUESTION. DO YOU KNOW WHAT IT MEANS TO TELL THE TRUTH?
A YES.
Q IN YOUR MIND WHAT DOES THAT MEAN?
A IT MEANS THAT IF YOU TELL THE TRUTH, LIKE IT'S GOOD.
Q IT'S GOOD?
A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)
Q DO YOU KNOW WHAT HAPPENS WHEN YOU DON'T TELL THE TRUTH?
A YOU WILL BE PUNISHED.
Q YOU WILL BE PUNISHED. DO YOU GO TO CHURCH?
A NO, BUT MY MOM PRAYS A LOT.
Q I'M SORRY?
A MY MOM PRAYS A LOT.
Q YOUR MOM PRAYS A LOT. DO YOU PRAY WITH HER?
A YES.
Q DO YOU UNDERSTAND WHAT WILL HAPPEN TO YOU -- WHETHER OR NOT GOD WILL LIKE IT IF YOU TELL THE TRUTH OR TELL A LIE?
A HE WOULD LIKE IT IF I TELL THE TRUTH.

Q I AM HARD OF HEARING. I AM AN OLD MAN.
A HE WOULD LIKE IF I TELL THE TRUTH.
Q HE WOULDN'T LIKE IT IF YOU TOLD THE TRUTH?
A HE WOULD LIKE IT.
Q HE WOULD LIKE IT IF YOU TOLD THE TRUTH. YOU ARE GOING TO TELL US THE TRUTH TODAY?
A YES.
Q SO YOU KNOW WHAT HAPPENS WHEN YOU DON'T TELL THE TRUTH, RIGHT?
A YES.
Q DOES YOUR MOTHER PUNISH YOU WHEN YOU DON'T TELL THE TRUTH?
A YES.

MR. SIMS: THAT'S ALL I HAVE, YOUR HONOR. THANK YOU VERY MUCH.

THE COURT: LET THE RECORD REFLECT THAT RULE 601 COVERS THIS ISSUE. I FIND THIS CHILD FULLY COMPETENT TO TESTIFY. THIS CHILD IS SUBSTANTIAL AND RATIONAL AND RESPONSIVE TO THE QUESTIONS ASKED. SHE IS SUFFICIENTLY AWARE OF HER MORAL DUTY TO TELL THE TRUTH AND THE PROBABILITY OF PUNISHMENT IF SHE SHOULD FAIL TO TELL THE TRUTH.

I FURTHER FIND THAT THE FACTORS IN STATE VERSUS GIVENS AND STATE VERSUS GREEN ARE APPLICABLE IN THIS CASE, AND SHE IS ABSOLUTELY QUALIFIED TO

TESTIFY.

LET THIS RECORD REFLECT THAT THIS RULING AND TESTIMONY IS MADE OUTSIDE THE PRESENCE OF THE JURY WITH THE DEFENDANT PRESENT. ARE WE NOW READY TO PROCEED?

SOLICITOR BAILEY: THE STATE IS READY, YOUR HONOR.

THE COURT: WE ARE GOING TO ASK SOME PEOPLE TO COME IN, AND THEY WILL ASK YOU SOME QUESTIONS. WILL YOU PLEASE ANSWER THEM AND TELL THE TRUTH? WILL YOU DO THAT FOR ME?

THE WITNESS: YES.

THE COURT: THANK YOU SO MUCH. BRING THE JURY.

(THE JURY RETURNS TO THE COURTROOM.)

SOLICITOR BAILEY: GLORIA RIVERIA.

CLERK: WILL YOU TELL US YOUR NAME.

THE WITNESS: GLORIA.

GLORIA MARIA RIVERIA, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q HEY, GLORIA. WOULD YOU TELL US WHAT YOUR FULL NAME IS.

A GLORIA MARIA RIVERA.

Q ARE YOU A LITTLE BIT NERVOUS?
A YES.
Q YOU ARE? WELL, NOBODY WILL SAY ANYTHING TO GET YOU UPSET; OKAY? SO JUST CALM DOWN AND WE ARE JUST GOING TO ASK YOU A FEW QUESTIONS; ALL RIGHT? GLORIA, HOW OLD ARE YOU?
A EIGHT.
Q WHEN IS YOUR BIRTHDAY?
A SEPTEMBER 11TH.
Q WHERE DO YOU LIVE?
A IN PHILLY.
Q WHO IS YOUR MOM?
A GLORYVEE.
Q HAVE YOU STARTED SCHOOL YET THIS YEAR?
A NO.
Q WHAT GRADE ARE YOU GOING INTO WHEN YOU START?
A THIRD.
Q WHEN DOES SCHOOL START?
A SEPTEMBER 1ST.
Q LAST YEAR DID YOU GO TO SCHOOL UP IN PENNSYLVANIA?
A NO.
Q WHERE DID YOU GO TO SCHOOL?
A NORTH CAROLINA.
Q AND DID YOU MAKE GOOD GRADES IN SCHOOL?

A YES.
Q WHAT KIND OF GRADES DID YOU MAKE?
A A.S AND B.S.
Q VERY GOOD. WHAT IS YOUR FAVORITE SUBJECT?
A ART.
Q WHO WAS YOUR TEACHER LAST YEAR?
A MISS GWEN.
Q DID YOU LIKE HER?
A YES.
Q GLORIA, DO YOU KNOW WHAT IT MEANS TO TELL THE TRUTH?
A YES.
Q WHAT DOES THAT MEAN?
A IT MEANS IF YOU TELL THE TRUTH, YOU WON'T BE PUNISHED. IT'S GOOD TO TELL THE TRUTH.
Q AND IS IT BAD TO TELL A LIE?
A YES.
Q AND IF ANYBODY IN HERE, INCLUDING ME OR THE JUDGE OR SOMEBODY ELSE, ASKS YOU A QUESTION, ARE YOU GOING TO TELL US THE TRUTH?
A YES.
Q NOW, HAVE YOU GONE TO CHURCH BEFORE WITH YOUR GRANDPARENTS OR ANYBODY?
A YES.
Q YOU KNOW IT'S WRONG TO TELL A LIE?

A YES.
Q AND HAVE YOU PRAYED AT HOME?
A YES.
Q WHO DO YOU PRAY WITH?
A MY MOM.
Q SO YOU ARE WILLING TO TELL US THE TRUTH WHEN WE ASK YOU SOME QUESTIONS; IS THAT RIGHT?
A YES.
Q GLORIA, DO YOU HAVE ANY BROTHERS AND SISTERS?
A YES.
Q TELL US WHO ARE THEY AND WHAT THEIR NAMES ARE.
A MY SISTER IS MERCEDES.
Q OKAY. HOW OLD IS MERCEDES?
A ONE YEAR OLD.
Q SO SHE IS JUST A BABY?
A YES.
Q AND YOU ARE EIGHT YEARS OLD?
A YES.
Q AND LET ME ASK YOU THIS, GLORIA. HAS ANYBODY TOLD YOU WHAT TO SAY HERE?
A NO.
Q SO WHATEVER SOMEBODY ASKS YOU, ARE YOU GOING TO TELL US THE TRUTH THE BEST YOU CAN REMEMBER IT?
A I WILL SAY YES.
Q DO YOU KNOW THIS MAN SITTING OVER AT THE TABLE

IN THE WHITE SHIRT?

A YES.

Q WHAT IS HIS NAME?

A MICHAEL.

Q DO YOU KNOW HIS LAST NAME?

A NO.

Q AND HOW DO YOU HAPPEN TO KNOW MICHAEL?

A MY MOM FIRST MET HIM. SHE TOLD ME IN THE MORNING ABOUT HIM.

Q SHE TOLD YOU SHE MET MICHAEL?

A YES.

Q AND DID YOU AND YOUR MOTHER END UP LIVING IN THE HOTEL FOR A WHILE?

A YES.

Q WAS MICHAEL IN THE HOTEL WITH YOU?

A YES.

Q AND HOW ABOUT YOUR LITTLE SISTER, WAS SHE THERE, TOO?

A YES.

Q DO YOU KNOW WHAT KIND OF CAR MICHAEL HAD WHEN Y'ALL MET HIM?

A A WHITE MUSTANG.

Q DID YOU EVER RIDE IN THE WHITE MUSTANG?

A YES.

Q DO YOU REMEMBER WHEN Y'ALL DECIDED TO COME DOWN

TO FLORIDA?
A YES.
Q THAT'S BEEN A LITTLE WHILE AGO, HASN'T IT?
A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)
Q WHERE WERE YOU GOING IN FLORIDA?
A DISNEY WORLD.
Q WERE YOU EXCITED ABOUT GOING TO DISNEY WORLD?
A YES.
Q HAVE YOU EVER BEEN THERE BEFORE?
A NO.
Q HOW DID Y'ALL -- WHEN Y'ALL LEFT PHILADELPHIA TO COME TO DISNEY WORLD, WHOSE CAR WERE Y'ALL IN?
A MICHAEL'S.
Q DO YOU REMEMBER WHERE YOU SAT WHEN Y'ALL GOT IN THE CAR TO LEAVE?
A YES.
Q WHERE DID YOU SIT?
A BEHIND THE PASSENGER'S.
Q IN THE BACK SEAT?
A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)
Q WHERE WAS YOUR SISTER MERCEDES?
A SHE WAS NEXT TO ME.
Q WAS THERE A CAR SEAT IN THE CAR?

A YES.
Q WAS MERCEDES IN THE CAR SEAT?
A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)
Q WHO WAS DRIVING THE CAR WHEN Y'ALL LEFT?
A MICHAEL.
Q WHERE WAS YOUR MOM?
A PASSENGER SIDE.
Q WAS SHE IN THE FRONT SEAT?
A YES.
Q AND WAS IT DAYTIME OR DARK WHEN Y'ALL LEFT PENNSYLVANIA?
A DARK.
Q AND DO YOU REMEMBER STOPPING ANYWHERE TO GET GAS OR GET SOMETHING TO EAT OR ANYTHING?
A YES.
Q DO YOU REMEMBER WHAT YOU HAD TO EAT?
A NO.
Q AND AFTER Y'ALL FINISHED GETTING SOMETHING TO EAT, WAS IT DARK?
A YES.
Q DID YOU GET SLEEPY?
A YES.
Q DO YOU REMEMBER GOING TO SLEEP IN THE CAR?
A YES.

Q WHEN YOU WENT TO SLEEP, WHO WAS DRIVING THE CAR?
A MICHAEL.
Q WHERE WAS YOUR MOM?
A STILL THE SAME SIDE, THE PASSENGER SIDE.
Q WHERE WAS MERCEDES?
A BESIDE ME. SHE FELL ASLEEP TOO.
Q DO YOU REMEMBER WHAT IT WAS THAT WOKE YOU UP?
A YES.
Q WHAT WAS IT?
A I HEARD A BANG LIKE ON THE DOOR.
Q A BANG? WAS IT A LOUD NOISE?
A NO.
Q JUST A BANG NOISE?
A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)
Q WHEN YOU HEARD THE BANG, DID THAT WAKE YOU UP?
A YES.
Q WHAT IS THE FIRST THING THAT YOU REMEMBER HEARING OR SEEING AFTER THAT BANG NOISE WOKE YOU UP?
A I HEARD MY MOM TELL MICHAEL TO SLOW DOWN BECAUSE HE WAS DRIVING FAST.
Q DID YOU EVER SEE A GUN AT THAT POINT AT THAT TIME?
A NO.
Q AND WHAT HAPPENED AFTER YOU HEARD YOUR MOM TELL

MICHAEL TO SLOW DOWN?
A MY MOM SAID THEY WAS COPS BEHIND US.
Q AND WHAT HAPPENED THEN?
A MY MOM TOLD MICHAEL TO PULL OVER.
Q AND WHERE DID HE PULL OVER? DID HE PULL OVER?
A YES.
Q AND WHAT HAPPENED? DO YOU REMEMBER WHAT HAPPENED? HOW WERE YOU FEELING BY THEN, BY THE TIME MICHAEL PULLED OVER?
A SAD.
Q WHY WERE YOU SAD?
A BECAUSE I THOUGHT HE WAS GOING TO DO SOMETHING TO ME AND MY MOMMA AND MY BABY SISTER.
Q WHY DID YOU THINK THAT?
A BECAUSE HE HAD A GUN.
Q DID YOU SEE THE GUN?
A YES.
Q WHERE WAS THE GUN WHEN YOU SAW IT?
A HE WAS POINTING IT TO HIS HEAD.
Q MICHAEL POINTED IT TO HIS HEAD?
A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)
Q WHERE WAS HE SITTING WHEN HE POINTED THE GUN TO HIS HEAD?
A THE DRIVER'S SIDE.

Q WHAT HAPPENED THEN?
A HE SAID HE WAS GOING TO SHOOT HIS SELF.
Q WHAT HAPPENED THEN WHEN HE SAID THAT?
A MY MOM PULLED ME AND MY SISTER OUT OF THE CAR.
Q AND WHAT HAPPENED AFTER THAT?
A WE WENT IN THE POLICE'S CAR.
Q HOW WERE YOU FEELING THEN WHEN YOU GOT OUT OF THE CAR?
A SAD.
Q AND DO YOU REMEMBER WHAT YOUR MOTHER WAS SAYING OR DOING WHEN SHE GOT Y'ALL OUT OF THE CAR?
A SHE SAID, "DON'T WORRY."
Q WAS SHE UPSET?
A YES.
Q WHAT HAPPENED TO THE CAR AFTER Y'ALL GOT OUT, THE MUSTANG?
A HE WAS DRIVING FAST AGAIN.
Q GLORIA, YOU KNOW WHAT IT MEANS TO TELL THE TRUTH; RIGHT?
A YES.
Q DID YOUR MOM EVER DRIVE THAT CAR THAT NIGHT WHILE YOU WERE AWAKE?
A NO.
Q IF SHE HAD BEEN DRIVING, WOULD YOU TELL US THAT?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q AND SHE HADN'T BEEN DRIVING?
A NO.
Q HAS ANYBODY TOLD YOU WHAT TO SAY HERE TODAY?
A NO.
Q HAVE I TOLD YOU TO?
A NO.
Q HAS YOUR MOM TOLD YOU WHAT TO SAY?
A NO.
Q IS WHAT YOU ARE TELLING US THE TRUTH?
A YES.
Q THANK YOU.

CROSS EXAMINATION
BY MR. SIMS:

Q HI, GLORIA.
A HI.
Q DO YOU MIND IF I CALL YOU THAT?
A YES.
Q WHAT DO YOU WANT ME TO CALL YOU THEN?
A MARIA.
Q MARIA. THAT'S YOUR NICKNAME?
A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)
Q THAT'S WHAT ALL YOUR FRIENDS CALL YOU?
A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)

Q LET ME JUST ASK YOU A COUPLE OF QUESTIONS. CAN I ASK YOU SOME QUESTIONS?

A YES.

Q WHEN YOU ALL LEFT TO COME TO -- IN THE CAR WITH MICHAEL, YOU WERE IN THE BACK; RIGHT?

A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q AND MICHAEL WAS DRIVING WHEN YOU WENT TO SLEEP?

A YES.

Q AND YOU DON'T KNOW WHO DROVE WHILE YOU WERE ASLEEP, DO YOU?

A (WITNESS SHAKES HEAD.) (INDICATING NEGATIVE RESPONSE.)

Q YOU CAN'T SHAKE YOUR HEAD. I AM NOT BEING A MEANY.

A NO.

Q YOU CAN'T SHAKE YOUR HEAD BECAUSE THIS LADY HERE HAS GOT TO HEAR WHAT YOU HAVE TO SAY. AND DO YOU SEE ALL THOSE PEOPLE OVER THERE? THEY ARE WHAT WE CALL JURORS. THEY HAVE TO HEAR YOU, TOO.

A YES.

Q I TOLD EARLIER I'M AN OLD MAN. SOMETIMES MY HEARING IS NOT GOOD, SO I HAVE TO KIND OF COME UP A LITTLE BIT SO I CAN HEAR YOU. NOW, WHEN YOU SAID THAT YOU SAW MICHAEL PUT THE GUN TO HIS HEAD, Y'ALL GOT OUT OF THE CAR AT THAT TIME; DIDN'T YOU?

A YES.
Q YOU AND YOUR MOM AND YOUR LITTLE BABY SISTER MERCEDES?
A YES.
Q NOW, YOU AND YOUR MOM, Y'ALL GOT IN -- THEY PUT YOU IN ANOTHER CAR, RIGHT?
A YES.
Q YOU SAT THERE, YOU AND YOUR MOM SAT THERE, RIGHT, AND JUST WAITED BY YOURSELF?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
Q SO THERE WAS NOBODY ELSE BUT YOU AND YOUR MOM AND Y'ALL WERE SITTING THERE WAITING, RIGHT?
A AND MY BABY SISTER.
Q AND YOUR SISTER. YOU, YOUR MOM AND YOUR SISTER, Y'ALL WAITED A LITTLE WHILE RIGHT THERE. THEN LATER THEY TOOK Y'ALL SOMEWHERE; ISN'T THAT RIGHT?
A YES.
Q AND WHEN THEY TOOK YOU, WERE YOU AND YOUR MOTHER AND MERCEDES TOGETHER THEN?
A YES.
Q YOU HAD THE CHANCE, I BELIEVE, AT ONE POINT TO TALK TO SOME MEN?
A YES.
Q DID YOU TALK WITH YOUR MOM ALSO?
A YES.

Q AND AFTER YOU TALKED WITH THE MEN THE FIRST TIME AND AFTER YOU TALKED WITH YOUR MOM THE FIRST TIME, YOU WENT TO STAY SOMEWHERE ELSE; RIGHT?
A YES.
Q AND YOUR LITTLE SISTER -- WAS YOUR LITTLE SISTER WITH YOU?
A YES.
Q SO YOU AND HER WERE TOGETHER?
A (WITNESS NODS.) (INDICATING AFFIRMATIVE RESPONSE.)
Q AND THOSE MEN CAME TO TALK TO YOU AGAIN; IS THAT RIGHT?
A YES.
Q BETWEEN THE TIME THAT THEY TOOK YOU AND YOUR SISTER THERE AND THE TIME THOSE MEN CAME BACK TO TALK TO YOU, DID YOU TALK TO YOUR MOM DURING THAT TIME?
A NO.
Q YOU DIDN'T HAVE A CHANCE TO TALK TO YOUR MOM?
A NO.
Q WHO DID YOU TALK TO?
A I DON'T KNOW.
Q YOU CAN'T REMEMBER? THAT'S OKAY. THAT'S FINE. NOW, THEN YOU WENT AND SPENT SOME TIME WITH YOUR GRANDMA; IS THAT RIGHT?
A YES.

Q THAT WAS UP IN NORTH CAROLINA?
A YES.
Q THAT WAS MRS. BLACKWELL?
A YES.
Q AND YOU TALKED WITH HER, DIDN'T YOU?
A YES.
Q AND YOU TALKED WITH HER ABOUT WHAT HAD HAPPENED ON THAT NIGHT, DIDN'T YOU?
A YES.
Q AND THEN YOU WENT BACK HOME WITH YOUR MOM?
A YES.
Q AND YOU AND YOUR MOM HAVE TALKED ABOUT WHAT HAD HAPPENED, HAVE YOU NOT?
A YES.
Q AND YOU LOVE YOUR MOM A LOT, DON'T YOU?
A YES.
Q YOU LOVE YOUR LITTLE SISTER MERCEDES?
A YES.
Q Y'ALL GET ALONG FINE?
A YES.
Q YOU PLAY WITH HER A LOT?
A YES.
Q AND THAT'S YOUR MOM OVER THERE IN THE COURTROOM HERE TODAY?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q I CAN'T HEAR YOU.

A YES.

Q THANK YOU VERY MUCH. THANK YOU.

MR. SIMS: I HAVE NOTHING FURTHER, YOUR HONOR.

SOLICITOR BAILEY: THAT'S ALL I HAVE, GLORIA. THANK YOU VERY MUCH.

THE COURT: I WILL LET YOU GO TO THE JURY ROOM JUST A MOMENT, PLEASE. I WILL BE CALLING YOU BACK VERY SHORTLY.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: I WANT THIS RECORD TO REFLECT THAT DURING THE CHILD'S TESTIMONY, THE MOTHER WAS SITTING AT A DISTANCE OF MORE THAN 30 FEET AWAY WITHIN THE GENERAL POPULATION OF THE COURTROOM. THERE WAS ABSOLUTELY NO SUGGESTION BY HER, NO GYRATIONS BY HER IN ANY WAY THAT WOULD TEND TO INFLUENCE THE CHILD'S TESTIMONY.

MR. SIMS: YOUR HONOR, THAT'S THE COURT'S INTERPRETATION; HOWEVER, WE WOULD WANT TO POINT OUT FOR THE RECORD ALSO THAT EVEN THOUGH THE MOTHER IS SITTING IN THE GENERAL POPULATION, SHE IS SITTING ON THE FIRST ROW DIRECTLY BEHIND THE SOLICITOR'S OFFICE.

THE COURT: YES, SIR.

MR. SIMS: FURTHER, THAT DURING THE

TESTIMONY OF THE YOUNG GIRL, THE MOTHER WAS IN TEARS AND EVERYBODY WAS CONSOLING HER. THE YOUNG GIRL DEFINITELY HAS A DIRECT LINE OF SIGHT --

THE COURT: NO, SIR, THAT DID NOT OCCUR. YOU MAY HAVE THOUGHT IT OCCURRED. I SAT HERE AND LISTENED VERY CAREFULLY ABOUT THE THING. OBVIOUSLY THE MOTHER WOULD BE CONCERNED WITH THE CHILD'S TESTIMONY, BUT THE GENERAL PEOPLE WERE NOT AROUND HER CONSOLING HER IN ANY WAY.

MR. SIMS: YOUR HONOR, I WILL NOT DIFFER --

THE COURT: I UNDERSTAND YOU HAVE GOT YOUR INTERPRETATION. I CONCLUDE BEYOND ANY REASONABLE DOUBT THAT THERE WAS ENTIRELY NO IMPROPRIETY ON BEHALF OF THAT MOTHER IN CONCERT WITH THE TESTIMONY OF THIS CHILD. LET'S TAKE A SHORT BREAK AND WE WILL RESUME. HAVE YOU GOT YOUR NEXT WITNESS READY?

SOLICITOR BAILEY: YES, SIR.

(WHEREUPON THERE WAS A RECESS.)

THE COURT: BRING THE JURY PLEASE.

(THE JURY RETURNS TO THE COURTROOM.)

THE COURT: CALL YOUR NEXT WITNESS PLEASE.

SOLICITOR BAILEY: L. C. KNIGHT.

THE COURT: LET THE RECORD REFLECT THE DEFENDANT IS IN THE COURTROOM.

CLERK: STATE YOUR NAME FOR THE RECORD,

PLEASE.

THE WITNESS: L. C. KNIGHT.

L. C. KNIGHT, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME, PLEASE, FOR THE COURT REPORTER.

THE WITNESS: INITIALS L. C. KNIGHT, K-N-I-G-H-T.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. KNIGHT, YOU LIVE IN SUMMERVILLE?

A THAT'S CORRECT.

Q WHERE ARE YOU EMPLOYED?

A SOUTH CAROLINA LAW ENFORCEMENT DIVISION.

Q HOW LONG HAVE YOU WORKED FOR S.L.E.D.?

A A LITTLE OVER 23 YEARS.

Q WHAT IS YOUR RANK?

A CAPTAIN.

Q WHAT IS YOUR POSITION AT THIS TIME WITH S.L.E.D.?

A SUPERVISOR OF THE LOW COUNTRY REGION, WHICH CONSISTS OF 12 COUNTIES IN THE LOWER PART OF THE STATE OF SOUTH CAROLINA. ORANGEBURG COUNTY IS ONE OF THE COUNTIES.

Q AND HOW MANY S.L.E.D. AGENTS ARE UNDER YOUR

DIRECT SUPERVISION?
A TWENTY.
Q AND STATE WHETHER OR NOT THESE TWO GENTLEMEN HERE, KENNY MEARS AND GEORGE DARNELL, ARE TWO OF THE AGENTS UNDER YOUR SUPERVISION.
A YES, THEY ARE.
Q YOU HAVE NOTHING DO WITH THE LAB, DO YOU?
A NO, SIR.
Q THE S.L.E.D. FORENSIC LAB?
A NO, SIR.
Q NOW, DID YOU ASSIGN AGENTS DARNELL AND MEARS TO WORK THIS CASE, THAT BEING THE MURDER OF SERGEANT FRANKIE LINGARD THAT OCCURRED ON NEW YEAR'S EVE?
A YES, SIR, I DID.
Q AND I WANT TO CALL YOUR ATTENTION TO THE TIME FRAME SOMEWHERE AROUND TWO, 2 A.M. ON JANUARY 1ST, AND ASK WHETHER OR NOT YOU PLACED A TELEPHONE CALL TO TROOPER BERES AT THE MEDICAL UNIVERSITY.
A YES, SIR, I DID.
Q WHAT DID YOU TELL TROOPER BERES WHEN YOU CALLED HIM UP?
A I ASKED HIM TO SEE THAT THEY COULD BAG BAYAN ALEKSEY'S HANDS AS SOON AS POSSIBLE, AND I THINK THAT WAS AROUND 2:15 TO 2:20 WHEN I CALLED.
Q WHAT WAS THE REASON FOR MAKING THAT CALL?

A TO TRY AND HOPEFULLY PRESERVE ANY GUNSHOT RESIDUE IF THERE WAS ANY ON HIS HANDS.

Q THE EVIDENCE IS THIS MURDER OCCURRED SOMEWHERE IN THE NEIGHBORHOOD OF 11:30 ON NEW YEAR'S EVE. WOULD YOU TELL THE JURY WHY THE CALL WAS NOT MADE ANY EARLIER THAT THAN ON THE BAGGING OF HIS HANDS?

A ONE REASON IS I DIDN'T ARRIVE ON THE SCENE UNTIL 1:25 AND AGENT DARNELL AND MEARS WERE BEHIND ME. AS SOON AS WE COULD GET TOGETHER AND GET OUR FACTS TOGETHER WHAT WAS GOING ON, IT WAS DECIDED I WOULD CALL AND HAVE THIS DID.

ALSO MY EXPERIENCE HAS BEEN THE FIRST PRIORITY OF THE MEDICAL STAFF IS TO TREAT THE INDIVIDUAL THAT COMES IN THE HOSPITAL. HE HAD BEEN TRANSPORTED BECAUSE HE WAS IN AN ACCIDENT. SO AT THE TIME I MADE THE CALL I WASN'T SURE HE COULD DO IT THEN.

Q I WANT TO CALL YOUR ATTENTION NOW TO JANUARY 2ND, THE EVENING OF JANUARY 2ND, AND ASK IF YOU RECALL ANY TELEPHONE CONVERSATIONS THAT YOU MIGHT HAVE HAD WITH AGENT GEORGE DARNELL.

A WHEN WAS THAT AGAIN?

Q JANUARY THE 2ND.

A YOU MEAN THE ENTIRE DAY?

Q THE EVENING OF JANUARY THE 2ND.

A THE EVENING? YES SIR, SEVERAL.

Q WITHOUT GETTING INTO HEARSAY, WHAT WAS THE NATURE OF THOSE TELEPHONE CONVERSATIONS?
A ONE PARTICULAR ONE, AGENT DARNELL CALLED ME AND ASKED ME ABOUT TRANSFERRING MR. ALEKSEY FROM ISOLATION BACK TO THE COMMON AREA IN THE JAIL. UPON US TALKING ABOUT IT, WE DECIDED THAT WASN'T OUR RESPONSIBILITY.

HE WAS UNDER THE CONTROL OF THE ORANGEBURG DETENTION CENTER, AND IT WAS ALL RIGHT WITH US IF THEY WANTED TO DO IT BECAUSE WE HAD NOT PLACED HIM IN ISOLATION TO BEGIN WITH.

Q DID YOU COMMUNICATE THAT TO AGENT DARNELL?
A YES, SIR, I DID.
Q DO YOU RECALL OTHER CONVERSATIONS YOU HAD WITH HIM DURING THAT TIME FRAME?
A WE TALKED MANY TIMES DURING THAT DAY BECAUSE OF PEOPLE CALLING IN FROM THE NORTHEAST BRINGING US INFORMATION.
Q ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE FOR YOU.

CROSS EXAMINATION
BY MR. STONE:
Q AGENT KNIGHT, WHAT IS YOUR RANK?
A CAPTAIN.
Q CAPTAIN KNIGHT?

A YES, SIR.
Q YOU ASSIGNED KENNY MEARS TO THIS CASE AS LEAD INVESTIGATING OFFICER?
A YES, SIR.
Q DID YOU DO THAT BECAUSE THIS IS A SERIOUS CASE?
A I DID THAT BECAUSE HE IS ONE OF MY GOOD INVESTIGATORS.
Q HE IS ONE OF YOUR BEST INVESTIGATORS, ISN'T HE?
A YES, SIR.
Q DID YOU ALSO KNOW, SIR, IN THE LAST 15 CASES THAT AGENT MEARS CLOSED, HE HAS OBTAINED CONFESSIONS IN ALMOST A THIRD OF THOSE?
A I GUESS YOU ARE RIGHT, YES, SIR.
Q AND WHEN YOU INSTRUCTED -- DID YOU INSTRUCT THE MEDICAL STAFF OR SOMEONE ELSE TO BAG THE HANDS?
A I ASKED TROOPER BERES.
Q TO HAVE SOMEONE BAG THEM?
A YES, SIR, HAVE SOMEONE BAG THEM.
Q THAT WAS ABOUT 2:55?
A TWO-FIFTEEN, 2:20, YES, SIR.
Q AT THAT TIME DID ANYONE TELL YOU, TROOPER BERES OR ANYONE, INDICATE TO YOU THAT THERE WAS A PROBLEM WITH BAGGING HIS HANDS?
A NO, SIR.
Q ANYTHING ABOUT A PROBLEM WITH THE DEFENDANT'S

HANDS AT THAT TIME?

A WHAT ARE YOU SAYING PROBLEM, SIR?

Q WHEN YOU TALKED TO TROOPER BERES, DID HE SAY, "I MESSED WITH HIS HANDS A LOT. I RUBBED HIS HANDS A LOT OR THERE IS BLOOD ON HIS HANDS," OR ANYTHING LIKE THAT?

A I DIDN'T ASK THAT, SIR. I JUST ASKED IF THEY COULD BAG HIS HANDS.

Q BUT HE DIDN'T TELL YOU THERE WAS ANY PROBLEM WITH THAT?

A NO, SIR.

MR. STONE: I DON'T HAVE ANYTHING ELSE, YOUR HONOR.

SOLICITOR BAILEY: NO REDIRECT, YOUR HONOR. MAY HE BE EXCUSED?

THE COURT: YES. CAPTAIN, YOU MAY BE EXCUSED BUT YOU ARE ENTITLED NOW TO REMAIN IN THE COURTROOM IF YOU CARE TO.

THE WITNESS: THANK YOU, SIR.

SOLICITOR BAILEY: THE STATE CALLS DR. JOHN CHANDLER.

CLERK: STATE YOUR NAME FOR THE RECORD, PLEASE.

THE WITNESS: JOHN CLETUS CHANDLER.

JOHN CLETUS CHANDLER, BEING

FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: PLEASE SPELL YOUR LAST NAME FOR THE COURT REPORTER.

THE WITNESS: C-H-A-N-D-L-E-R.

COURT REPORTER: SPELL YOUR MIDDLE NAME, PLEASE.

THE WITNESS: C-L-E-T-U-S.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q DR. CHANDLER, YOU ARE AN M.D.?

A YES, SIR.

Q WHERE DO YOU LIVE?

A I LIVE IN CHARLESTON.

Q WOULD YOU BRIEFLY TELL THE JURY WHAT YOUR EDUCATIONAL BACKGROUND IS.

A I AM A PHYSICIAN. I WENT TO THE UNIVERSITY OF VIRGINIA MEDICAL SCHOOL IN CHARLOTTESVILLE AND SUBSEQUENTLY COMPLETED OR ABOUT TO COMPLETE MY SURGERY TRAINING AT THE MEDICAL UNIVERSITY OF SOUTH CAROLINA.

Q ARE YOU LICENSED IN SOUTH CAROLINA AS A PHYSICIAN?

A YES, SIR.

Q WHERE ARE YOU EMPLOYED AT THIS TIME? WHERE DO YOU PRACTICE?

A THE MEDICAL UNIVERSITY.
Q WHAT PART OF THE MEDICAL UNIVERSITY?
A THE DEPARTMENT OF SURGERY.
Q I WANT TO CALL YOUR ATTENTION TO JANUARY 1ST, 1998, THE EARLY MORNING HOURS. WERE YOU ON DUTY?
A YES, SIR.
Q AT THE MEDICAL UNIVERSITY?
A YES, SIR.
Q IN WHAT CAPACITY?
A I WAS THE CHIEF TRAUMA RESIDENT AT THAT TIME.
Q IS THE TRAUMA UNIT THE SAME AS THE EMERGENCY ROOM?
A YES, SIR.
Q JUST A DIFFERENT TERMINOLOGY FOR IT?
A YES, SIR.
Q IN THE COURSE OF YOUR DUTIES THAT MORNING, DID YOU PARTICIPATE IN THE TREATMENT OF A PERSON IDENTIFIED ON THE HOSPITAL RECORDS AS JUSTIN MATEEKI?
A YES, SIR.
Q AND DID YOU LATER LEARN THIS PERSON WAS BAYAN ALEKSEY?
A YES, SIR.
Q CAN YOU IDENTIFY THAT PERSON?
A YES, SIR.
Q CAN YOU POINT HIM OUT, PLEASE?

A (INDICATING).
Q YOU ARE INDICATING THE YOUNG MAN IN THE WHITE SHIRT AND TIE; IS THAT CORRECT?
A YES, SIR.
Q NOW, HAVE YOU HAD AN OPPORTUNITY TO REVIEW THE MEDICAL UNIVERSITY FILE INVOLVED IN HIS TREATMENT?
A YES, SIR.
Q AND DO YOU HAVE A COPY WITH YOU?
A NO, SIR.
Q I WILL GIVE YOU A COPY OF THE RECORDS IN THE EVENT YOU NEED TO REFRESH YOUR MEMORY BECAUSE I WILL ASK YOU ABOUT SOME SPECIFIC DATES -- EXCUSE ME -- TIMES. TAKE A LOOK AT THAT AND SEE IF THAT APPEARS TO BE THE RECORD YOU REVIEWED.
A (PAUSE.) THIS WOULD BE IT, SIR.
Q ALL RIGHT, SIR. TELL THE JURY PLEASE WHAT TIME MR. ALEKSEY WAS ADMITTED TO THE TRAUMA UNIT.
A AT 45 MINUTES AFTER MIDNIGHT ON THE 1ST.
Q IT WAS 12:45 P.M.?
A THAT WOULD BE 12:45 A.M.
Q A.M., I'M SORRY. APPROXIMATELY HOW LONG WAS HE IN THE TRAUMA UNIT?
A APPROXIMATELY, I WOULD SAY, APPROXIMATELY THREE HOURS.
Q AND AFTER THAT WHERE WAS HE MOVED?

A TO THE SEVENTH FLOOR.
Q WHAT IS ON THE SEVENTH FLOOR?
A THE SEVENTH FLOOR IS THE NEUROSURGICAL AND NEUROLOGY WARD AND TRAUMA PATIENTS ARE HOUSED THERE.
Q DID YOU HAVE ANY INVOLVEMENT WITH MR. ALEKSEY AFTER HE GOT MOVED OUT THE TRAUMA UNIT?
A NO, SIR.
Q WHILE HE WAS IN THE TRAUMA UNIT, APPROXIMATELY WHAT PERCENT OR HOW MUCH TIME OF THE TIME HE WAS THERE WERE YOU IN HIS PHYSICAL PRESENCE ATTENDING TO HIM OR OBSERVING OTHER PEOPLE DOING THINGS WITH HIM?
A I WOULD HAVE BEEN THERE APPROXIMATELY 50 PERCENT OF THE TIME.
Q AND DO YOU RECALL -- WERE YOU THERE WHEN HE ARRIVED?
A YES, SIR.
Q WHEN THE AMBULANCE ARRIVED?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
Q AND WOULD YOU STATE WHETHER OR NOT YOU RECALL WHETHER OR NOT HE WAS HANDCUFFED?
A HE WAS, SIR.
Q AND WAS HE ON A SPINE BOARD?
A SPINE BOARD, YES, SIR.
Q AND WHAT IS AN OXYGEN MONITOR?
A AN OXYGEN MONITOR IS A DEVICE WHICH TAPES OVER A

FINGER, HAS A LIGHT SENSOR WHICH CAN DETECT OXYGEN LEVELS IN THE BLOOD STREAM.

Q DO YOU REMEMBER WHETHER OR NOT THERE WAS AN OXYGEN MONITOR ON HIM WHEN HE CAME IN OR WHETHER THERE WAS ONE PUT ON WHEN HE ARRIVED?

A I KNOW THERE WOULD HAVE BEEN ONE AFTER HE ARRIVED. WHETHER OR NOT WE PUT IT ON HIM OR E.M.S. PUT IT ON, I AM NOT SURE.

Q SO AT SOME POINT IN THE HOSPITAL, THERE WAS AN OXYGEN MONITOR ON HIS FINGER?

A YES, DEFINITELY, SIR.

Q DID YOU INSTRUCT ANY OF THE OFFICERS THAT WERE THERE GUARDING HIM AT ANY POINT TO REMOVE THE HANDCUFFS?

A YES, SIR.

Q WHY WAS THAT?

A TO COMPLETE OUR EXAMINATION AND TO PLACE HIM IN A MORE STABLE POSITION AND ALSO EVENTUALLY TRANSFER HIM TO A C.A.T. SCAN.

Q AND BASED ON YOUR RECOLLECTION OF MR. ALEKSEY'S TREATMENT AT THE TRAUMA UNIT AND THE OBSERVATIONS THAT YOU MADE OF HIS TREATMENT AND A REVIEW OF THE MEDICAL RECORDS, WHAT PROCEDURES TOOK PLACE THAT WOULD HAVE REQUIRED MR. ALEKSEY TO BE HANDCUFFED AND THEN RECUFFED AGAIN?

A FIRST OF ALL, UPON ARRIVAL FOR THE EXAMINATION, AND THEN SUBSEQUENTLY WOULD HAVE HAD TO HAVE BEEN UNCUFFED TO START I.V.S IN BOTH HANDS. THAT MAY HAVE OCCURRED. HE MAY NOT HAVE BEEN CUFFED IN BETWEEN THOSE TIMES, BUT THEN AGAIN AS HE TRANSFERRED TO THE C.A.T. SCANNER.

Q TELL THE JURY HOW THE C.A.T. SCAN WORKS, WHAT POSITION YOU HAVE TO GET INTO TO DO A C.A.T. SCAN.

A THE POSITION IS SUPINE, WHICH MEANS LAYING ON YOUR BACK WITH YOUR LEGS EXTENDED. HE WAS ON A STRETCHER IN A SIMILAR POSITION. HE WOULD HAVE BEEN TRANSFERRED SIMPLY TO THE STRETCHER WHICH IS PART OF THE C.T. SCANNER.

Q WOULD HE HAVE BEEN UNCUFFED FOR THAT?

A MY RECOLLECTION, SIR, IS HE WAS CUFFED BEHIND HIS BACK WHEN HE ARRIVED. IN ORDER TO DO THE EXAM, HE WAS UNCUFFED, BUT WOULD HAVE BEEN CUFFED TO THE BED OR TO THE BOARD AND WOULD HAVE TO HAVE BEEN UNCUFFED TO GET TO THE C.T. SCANNER.

Q WAS HE TRANSFERRED FROM THE SPINE BOARD TO A BED?

A YES, SIR, AT SOME POINT HE WOULD HAVE BEEN.

Q WOULD THAT HAVE REQUIRED HIM BEING UNCUFFED AND CUFFED TO THE BED?

A PROBABLY, SIR.

Q WAS THERE AN I.V. INSERTED?
A YES, SIR, THERE WERE MULTIPLE I.V.S.
Q AND THAT WOULD HAVE REQUIRED THE HANDCUFFS BE TAKEN OFF?
A YES, SIR.
Q AND WHEN SOMEONE IS ADMITTED TO THE E.R. OR TREATED AT THE E.R., DO THEY KEEP THEIR STREET CLOTHES ON OR ARE THEY GIVEN HOSPITAL CLOTHES?
A WHEN A TRAUMA ALERT IS CALLED, MEANING THE HIGHEST LEVEL OF A TRAUMA, THEY UNDERGO A COMPLETE EXAMINATION THAT REQUIRES REMOVAL OF THE CLOTHES AND THEY ARE USUALLY CUT OFF.
Q IF SOMEONE IS HANDCUFFED, WOULD YOU HAVE TO TAKE THE HANDCUFFS OFF TO REMOVE THE CLOTHING AND PUT THE HOSPITAL CLOTHING ON?
A YES, SIR.
Q AND ACCORDING TO THE RECORDS, WERE THERE X-RAYS DONE OF MR. ALEKSEY'S NECK?
A YES.
Q WOULD HE HAVE BEEN REQUIRED TO BE UNCUFFED FOR THAT?
A NOT NECESSARILY, SIR.
Q WHAT ABOUT X-RAYS OF THE CERVICAL SPINE? WOULD THAT REQUIRE TO BE UNCUFFED?
A THOSE ARE IN THE SAME. I WOULD SAY NO, THE NECK

AND CERVICAL SPINE.

Q WHAT POSITION DOES A PATIENT HAVE TO BE --

A I'M SORRY --

Q -- IN FOR A CERVICAL SPINE X-RAY?

A I APOLOGIZE. THERE IS A POSITION CALLED A SWIMMER'S WHERE ONE HAND IS EXTENDED OVER THE HEAD.

Q CAN YOU DEMONSTRATE FOR THE JURY.

A (INDICATING)

Q ONE HAND IS UP, LIKE YOUR LEFT HAND IS UP AND THE RIGHT HAND IS DOWN?

A YES, SIR.

Q COULD YOU DO THAT BEING CUFFED?

A NO, SIR.

Q DO YOU KNOW WHETHER THAT CERVICAL X-RAY HAD TO BE DONE MORE THAN ONE TIME?

A I'M NOT AWARE.

Q CAN YOU CHECK THE RECORDS AND SEE IF THAT REFRESHES YOUR MEMORY.

A (PAUSE.) YES, SIR. THERE WAS A REPETITION OF SWIMMER SEVERAL TIMES, AT LEAST TWICE.

Q SO HE WOULD HAVE HAD TO ASSUME THAT POSITION TWO TIMES?

A YES, SIR.

Q THE FIRST X-RAY DIDN'T TAKE FOR SOME REASON?

A IT WAS INADEQUATE.

Q AND WHAT IS AN ASSESSMENT FOR NEUROLOGICAL FUNCTION?
A IN GENERAL A QUICK TRAUMA ASSESSMENT WOULD INCLUDE LEVEL OF CONSCIOUSNESS, ORIENTATION AND THEN WOULD REQUIRE ASSESSMENT OF HIS MOTOR FUNCTION AND SENSORY FUNCTION, WHICH WOULD MEAN HAVING HIM SIMPLY GRASP AND EXAMINE HIS HANDS ON BOTH SIDES AND HIS FEET AND TESTING FOR SENSATION IN DIFFERENT PARTS OF THE BODY.
Q WHEN YOU GRASP HIS HANDS TO TEST THE NEUROLOGICAL FUNCTION, WOULD YOU HAVE TO UNCUFF HIM?
A IF HIS HANDS WERE IN A POSITION IN WHICH THEY WERE CUFFED IN FRONT OF HIM AND YOU DO IT AT THE SAME TIME, PROBABLY NOT.
Q IF THEY WERE CUFFED BEHIND HIM, COULD YOU DO IT?
A NO, SIR, YOU COULD NOT DO IT.
Q THAT WOULD REQUIRE HIM TO BE UNCUFFED, EITHER LEFT UNCUFFED OR CUFFED IN FRONT?
A YES, SIR.
Q AND DOES THAT REQUIRE SQUEEZING THE PERSON'S HANDS?
A THE PATIENT SQUEEZES THE EXAMINER'S HANDS.
Q AND THAT DETERMINES THE GRIP STRENGTH?
A YES, SIR.
Q WAS THAT DONE WITH MR. ALEKSEY?

A YES, SIR.

Q WHOSE HANDS DID HE SQUEEZE, DO YOU KNOW?

A I CAN'T SAY FOR SURE.

Q BUT THAT WAS DONE ACCORDING TO THE RECORDS?

A YES, SIR.

Q ALL THE PROCEDURES WE HAVE TALKED ABOUT, THE NEUROLOGICAL ASSESSMENT WHERE HE WOULD HAVE TO SQUEEZE SOMEBODY'S HANDS, THE TWO X-RAYS OF CERVICAL SPINE IN THE SWIMMER'S POSITION, THE C.A.T. SCAN, THE NECK X-RAYS, THE CUTTING OFF OF THE CLOTHING, THE INSERTION OF I.V., APPLICATION OF OXYGEN MONITOR, THE TRANSFER FROM THE BOARD TO THE BED, DID THAT ALL OCCUR DOWNSTAIRS IN THE TRAUMA ROOM BEFORE HE WENT UPSTAIRS?

A YES, SIR. THE ONLY EXCEPTION, SIR, IS THAT HE MIGHT HAVE BEEN TRANSFERRED FROM THE BOARD ON THE FLOOR WHEN HE WAS TRANSFERRED TO THE NEW BED. I'M NOT SURE EXACTLY WHERE THAT OCCURRED. HE WOULD HAVE BEEN TRANSFERRED AT SOME POINT.

Q WAS HE PUT IN A BED IN THE TRAUMA UNIT?

A USUALLY HE IS TRANSFERRED UP ON THE STRETCHER.

Q HE BASICALLY STAYS ON THE STRETCHER EXCEPT FOR THE PROCEDURES HE UNDERGOES?

A YES, SIR.

Q BASED ON YOUR RECOLLECTION, YOUR REVIEW OF THE

MEDICAL RECORDS, APPROXIMATELY HOW MANY TIMES WOULD HE HAVE BEEN UNCUFFED AND RECUFFED?

A I WOULD SAY BETWEEN EIGHT AND TWELVE TIMES AT LEAST.

Q THANK YOU, SIR. PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

CROSS EXAMINATION

BY MR. STONE:

Q THE I.V. GOES IN THE BACK OF THE HAND; IS THAT CORRECT?

A OCCASIONALLY, SIR. IT CAN ALSO GO IN THE ANTECUBITAL FOSSA.

Q HELP ME WITH THAT AGAIN.

A THERE ARE A NUMBER OF VEINS THAT THE TRAUMA NURSES ARE INSTRUCTED FIRST TO ATTEMPT LINES IN. THE ANTECUTIBAL FOSSA ARE THE LARGER ONES.

Q OKAY. I DON'T HAVE ANY MEDICAL BACKGROUND SO WHEN YOU SAID WHATEVER IT WAS THAT YOU JUST GOT THROUGH SAYING, YOU HAVE GOT TO EXPLAIN IT TO ME. YOU ARE POINTING HERE (INDICATING)?

A AT THE INSIDE OF THE ELBOW.

Q THE INSIDE OF ELBOW HERE (INDICATING)?

A YES, SIR.

Q THAT'S WHATEVER IT WAS THAT YOU JUST GOT THROUGH SAYING?

A YES, SIR.
Q DO YOU KNOW WHERE THE I.V.S WERE PLACED ON MR. ALEKSEY?
A I HAD IT JUST TWO SECONDS AGO. I WILL CHECK AGAIN, SIR. HE HAD ONE PLACED IN THE RIGHT ANTECUBITAL FOSSA ON THE RIGHT ELBOW AND ONE IN THE LEFT FOREARM.
Q THE LEFT FOREARM. NOW, WHEN HE WAS DOING THE -- WHATEVER IT WAS THAT YOU WERE DESCRIBING HERE, THE SWIMMER'S --
A THE SWIMMER'S POSITION.
Q THAT IS BASICALLY STANDING HERE AND DOING THIS (INDICATING), RIGHT?
A THEY ARE LYING AT THE TIME AND USUALLY THEIR HANDS END UP HAVING TO BE HELD AT THAT POINT.
Q DO YOU KNOW WHETHER OR NOT HIS HANDS WERE HELD OR NOT?
A I DO NOT KNOW FOR SURE.
Q IS THERE ANYTHING IN THE RECORD THAT WOULD INDICATE HIS HANDS WERE WASHED?
A I CAN REVIEW THE RECORDS BUT I DOUBT THAT THEY WOULD INDICATE. THEY HAVE TO BE WASHED. IN ORDER TO PUT THE PULSE OXIMETER ON, THE FINGER NEEDS TO BE CLEANED; AND IN ORDER TO START I.V.S, THEY ARE USUALLY SWABBED DOWN WITH ALCOHOL.

Q SWABBED DOWN ON THE SPOT YOU ARE PUTTING THE NEEDLE IN?

A TRUE, BUT MULTIPLE I.V.S ARE OFTEN ATTEMPTED BEFORE GETTING ONE.

Q DO YOU KNOW IF MULTIPLE I.V.S. WERE ATTEMPTED?

A I DON'T KNOW, SIR.

Q ALL YOU KNOW IS THE SPOTS THAT THE NEEDLE WAS PLACED IN THE ARM, THAT WAS WIPED DOWN BY ALCOHOL?

A YES, SIR.

MR. STONE: NOTHING ELSE, YOU HONOR.

SOLICITOR BAILEY: NO REDIRECT, YOUR HONOR. MAY HE BE EXCUSED?

MR. STONE: NO OBJECTION.

THE COURT: YES, SIR, HE MAY BE EXCUSED. THANK YOU.

SOLICITOR BAILEY: THANK YOU, DOCTOR. I APOLOGIZE FOR KEEPING YOU WAITING. THE STATE CALLS KENNY MEARS.

CLERK: STATE YOUR NAME FOR THE RECORD, PLEASE.

THE WITNESS: KENNY MEARS.

KENNY MEARS, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME.

THE WITNESS: M-E-A-R-S.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. MYERS, YOU ARE A S.L.E.D. AGENT; IS THAT CORRECT?

A YES, SIR.

Q AND WHAT IS YOUR EDUCATIONAL BACKGROUND?

A I HAVE A BACHELOR OF SCIENCE DEGREE, ALSO A MASTER'S OF SCIENCE.

Q AND HOW LONG HAVE YOU WORKED FOR S.L.E.D.?

A I'VE BEEN WORKING WITH S.L.E.D. FOR ALMOST FIVE YEARS.

Q WHAT IS YOUR PRESENT POSITION WITH S.L.E.D.?

A I'M A CRIMINAL INVESTIGATOR.

Q ARE YOU WHAT IS KNOWN AS A FIELD AGENT AS OPPOSED TO SOMEBODY WHO WORKS OUT OF THE LAB?

A A FIELD AGENT, YES, SIR.

Q WHAT OFFICE DO YOU WORK OUT OF?

A I WORK OUT OF THE LOW COUNTRY REGION, CHARLESTON OFFICE.

Q DO Y'ALL ORDINARILY GET -- DO YOU TEAM UP WITH ANOTHER AGENT ON A MAJOR CASE?

A YES, SIR. A LOT OF TIMES THERE WILL BE TWO AGENT WORKING.

Q WOULD YOU STATE WHETHER OR NOT L. C. KNIGHT IS YOUR CAPTAIN.

A YES, SIR, HE IS THE CAPTAIN.
Q HE IS IN CHARGE OF THE LOW COUNTRY OFFICE?
A YES, SIR.
Q DID HE ASSIGN YOU, ALONG WITH AGENT GEORGE DARNELL HERE, TO WORK THIS CASE?
A THAT'S CORRECT.
Q AND WHEN WERE YOU FIRST CONTACTED AND ASSIGNED THE CASE? DO YOU RECALL THAT?
A IT WAS APPROXIMATELY 1:30 ON THE 1ST OF JANUARY, THAT MORNING.
Q WHERE DID YOU GO INITIALLY? WHAT'S THE FIRST PLACE?
A I WAS TOLD TO REPORT TO THE SUMMERVILLE AREA WHERE A SUBJECT HAD WRECKED THAT WAS INVOLVED IN THE SHOOTING OF AN OFFICER.
Q WHEN YOU ARRIVED AT THE K-MART PARKING LOT IN SUMMERVILLE, WAS THE SCENE SECURED WITH THAT YELLOW TAPE TO KEEP BYSTANDERS OUT?
A YES, SIR, THE SCENE WAS SECURED.
Q WHAT WAS YOUR GENERAL OBSERVATIONS THAT YOU MADE THERE?
A I SAW SEVERAL OFFICERS' CARS PARKED AROUND, SEVERAL OFFICERS AROUND AND ALSO A WRECKED MUSTANG WITH THE TAPE SECURING IT.
Q WHEN YOU ARRIVED HAD MR. ALEKSEY BEEN REMOVED TO

THE HOSPITAL?

A THAT'S CORRECT. HE HAD ALREADY BEEN MOVED.

Q AFTER FINDING THAT OUT, DID YOU THEN GO TO THE MEDICAL UNIVERSITY?

A YES, SIR, I DID.

Q AND DO YOU RECALL ABOUT WHAT TIME YOU ARRIVED AT THE MEDICAL UNIVERSITY?

A I ARRIVED AT M.U.S.C. SHORTLY AFTER 3 A.M.

Q WERE YOU BY YOURSELF OR WAS AGENT DARNELL OR SOMEBODY ELSE WITH YOU?

A I WAS BY MYSELF.

Q AND AT THAT TIME DID YOU KNOW THE DEFENDANT BY THE NAME OF BAYAN ALEKSEY?

A NO, SIR.

Q DID YOU HAVE A NAME FOR HIM AT THAT TIME?

A WHEN I ARRIVED AT THE HOSPITAL, I RECEIVED A CARD, I.D. CARD OR DRIVER'S LICENSE, WITH JUSTIN MATEEKI.

Q ALL RIGHT, SIR. AND DID YOU SEE BAYAN ALEKSEY AT THE HOSPITAL?

A YES, SIR.

Q CAN YOU POINT OUT THE PERSON YOU SAW AT THE HOSPITAL?

A THE SUBJECT SITTING OVER THERE BY MR. SIMS IN THE WHITE SHIRT AND THE GRAY AND BLACK TIE.

Q AND WHAT PART OF THE HOSPITAL WAS HE IN WHEN YOU SAW HIM?
A HE WAS ON THE SEVENTH FLOOR.
Q AND HOW WAS HE DRESSED?
A HE WAS IN HOSPITAL ROOM DRESS, HOSPITAL GOWN.
Q DO YOU RECALL THE CONDITIONS OF HIS HANDS AT THAT TIME?
A HIS HANDS WERE BAGGED.
Q WHO ELSE WAS PRESENT IN AND AROUND MR. ALEKSEY'S ROOM WHEN YOU GOT THERE AROUND 3 A.M. THERE WERE TROOPERS WELCH AND BERES, ALSO A NURSE ON DUTY, MRS. ALTHOUSE.
Q WHAT IS YOUR RECOLLECTION OF ALEKSEY'S PHYSICAL CONDITION WHEN YOU SAW HIM?
A WHEN I FIRST ARRIVED, HE WAS LYING IN THE BED, SORT OF MOVING AROUND.
Q AND WHAT ABOUT HIS MENTAL CONDITION? DID YOU MAKE ANY OBSERVATIONS OF HIS DEMEANOR?
A HE DIDN'T SAY VERY MUCH WHEN I FIRST GOT THERE AND AFTER A WHILE --
Q DON'T TELL ME ANYTHING HE SAID. WAS HE CONSCIOUS AND ALERT?
A HE WAS CONSCIOUS AND OPENED HIS EYES, LOOKING AROUND.
Q I CALL YOUR ATTENTION TO ABOUT 3:59 A.M. ON

JANUARY 1ST. AFTER ASCERTAINING THAT MR. ALEKSEY WAS CONSCIOUS AND ALERT, WHAT, IF ANYTHING, DID YOU DO?

A I READ MATEEKI OR ALEKSEY HIS MIRANDA RIGHTS.

Q HOW DID YOU GO ABOUT READING THOSE RIGHTS TO HIM?

A I READ IT RIGHT FROM THE CARD THAT I KEEP IN MY POCKET.

Q DO YOU HAVE THAT CARD WITH YOU?

A YES, SIR.

Q GO AHEAD AND TAKE THAT OUT.

A (WITNESS COMPLIES.)

Q WAS ANYBODY ELSE AROUND WHEN YOU READ THE RIGHTS TO HIM?

A YES, SIR.

Q WHO WAS THAT?

A TROOPER WELCH AND NURSE MRS. ALTHOUSE.

Q GO AHEAD PLEASE. FOR THE BENEFIT OF THE JURY READ THE RIGHTS OUT LOUD INTO THE RECORD THE SAME WAY YOU READ THEM TO MR. ALEKSEY THAT MORNING.

A I READ THE MIRANDA WARNINGS FROM THIS CARD TO ALEKSEY THAT MORNING. IT STATES, "YOU HAVE THE RIGHT TO REMAIN SILENT." AFTER I READ EACH SENTENCE, I ASKED HIM IF HE UNDERSTOOD. HE STATED THAT HE DID.

THE SECOND ONE: "ANYTHING YOU SAY CAN AND WILL BE USED AGAINST YOU IN A COURT OF LAW." THE THIRD:

"YOU HAVE THE RIGHT TO TALK TO A LAWYER AND HAVE HIM PRESENT WITH YOU WHILE YOU ARE BEING QUESTIONED."

FOURTH, "IF YOU CANNOT AFFORD TO HIRE A LAWYER, ONE WILL BE APPOINTED TO REPRESENT YOU BEFORE ANY QUESTIONING IF YOU WISH." THE FIFTH ONE: "YOU CAN DECIDE AT ANY TIME TO EXERCISE THESE RIGHTS AND NOT ANSWER ANY QUESTIONS OR MAKE ANY STATEMENTS." HE INDICATED THAT HE UNDERSTOOD HIS RIGHTS.

Q DOES S.L.E.D. OR DO Y'ALL HAVE A FORM, A PREPRINTED FORM, THAT YOU CAN USE TO GIVE SOMEBODY THEIR RIGHTS AND HAVE THEM ACKNOWLEDGE THOSE RIGHTS IN WRITING AND WAIVE THOSE RIGHTS AND SIGN OFF ON THAT?

A YES, SIR, WE DO.

Q DID YOU USE THAT FORM ON THIS OCCASION?

A NO, SIR, I DID NOT.

Q WHY NOT?

A THE REASON THAT FORM WAS NOT USED BAYAN'S HANDS WERE IN A BAG, AND THEY WERE CUFFED TO THE SIDE OF THE BED. HE COULDN'T SIGN THE RIGHTS.

Q VERY BRIEFLY, MR. MEARS, YOU SAID YOU WERE A FIELD AGENT?

A YES, SIR.

Q AS OPPOSED TO A FORENSICS MAN LIKE MR. BAKER WHO TESTIFIED EARLIER?

A THAT'S CORRECT.
Q VERY BRIEFLY AND BASICALLY, WHAT IS THE DIFFERENCE IN THE TYPE OF S.L.E.D. WORK YOU DO AND THE TYPE SOMEBODY LIKE MR. BAKER THAT GOES OUT TO A CRIME SCENE DOES?
A USUALLY CRIME SCENE TECHNICIANS ARE SPECIALIZED IN CERTAIN FIELDS. A CRIMINAL INVESTIGATOR USUALLY INTERVIEW, COLLECT PHYSICAL EVIDENCE, IF THERE IS ANY, AND ALSO GET STATEMENTS AND THINGS FROM POTENTIAL WITNESSES AND SUSPECTS.
Q ARE YOU TRAINED AS A FIELD AGENT TO DO STUFF LIKE TAKING GUNSHOT RESIDUE KITS AND THINGS LIKE THAT?
A NO, SIR.
Q CALLING YOUR ATTENTION TO ABOUT 5:35, 5:40 A.M. OR SO, WERE YOU PRESENT WHEN AGENT BRETT BAKER ARRIVED AT THE HOSPITAL?
A YES, SIR, I WAS.
Q DO YOU HAVE ANY NOTES OR ANYTHING THAT INDICATE WHAT TIME HE ARRIVED AT THE DEPARTMENT OF NEUROLOGY?
A I DON'T HAVE ANY NOTES WITH ME, BUT I DO HAVE SOME NOTES THAT HE ARRIVED AT 5:40 A.M.
Q IS YOUR RECOLLECTION BASED ON YOUR NOTES?
A YES, SIR.
Q DID YOU OBSERVE MR. BAKER DO ANYTHING IN YOUR

PRESENCE?

A YES, SIR.

Q WHAT DID YOU OBSERVE?

A AGENT BAKER DID THE G.S.R., GUNSHOT RESIDUE TESTS. HE ALSO TOOK BAYAN'S FINGERPRINTS.

Q DO YOU RECALL OFFHAND WHICH ONE HE DID 1ST?

A HE DID THE GUNSHOT RESIDUE.

Q GUNSHOT RESIDUE?

A GUNSHOT RESIDUE TEST FIRST.

Q I WANT TO JUMP AHEAD A LITTLE BIT HERE, SO I WON'T NEED TO RECALL YOU TOO MANY TIMES, TO FEBRUARY THE 13TH AND ASK WHETHER OR NOT YOU TOOK A BLACK JACKET FROM THE JAIL HERE IN ORANGEBURG UP TO S.L.E.D. AND LOGGED THAT IN?

A YES, SIR, I DID.

Q WOULD YOU TAKE A LOOK AT THAT AND SEE IF YOU RECOGNIZE IT.

A YES, SIR. THAT APPEARS TO BE THE JACKET THAT I TOOK UP TO S.L.E.D.

Q YOU RETRIEVED THAT FROM THE ORANGEBURG JAIL?

A YES, SIR, I DID.

MR. STONE: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

SOLICITOR BAILEY: OFFERED WITHOUT OBJECTION.

(STATE'S EXHIBIT NUMBER 68, JACKET IN BAG, IS RECEIVED INTO EVIDENCE.)

Q WHEN YOU TAKE STUFF TO S.L.E.D., IS THERE SOMEBODY WHO LOGS THAT IN, SOMEBODY AT THE S.L.E.D. LAB OR ARE THERE EVIDENCE TECHNICIANS THAT CHECK THAT STUFF IN?

A THAT'S CORRECT. IT WAS TAKEN TO S.L.E.D. AND LOGGED IN BY THE TECHNICIAN THERE AT THE S.L.E.D. LABORATORY.

Q WAS THAT JACKET LOGGED IN AND LEFT WITH CONNIE MCKAY AT S.L.E.D. TO THE BEST OF YOUR RECOLLECTION?

A YES, SIR, IT WAS.

SOLICITOR BAILEY: THAT'S ALL OF MR. MEARS AT THIS TIME. I RESERVE THE RIGHT TO RECALL HIM LATER ON.

THE COURT: SUBJECT TO RECALL. YOU MAY EXAMINE.

MR. STONE: THANK YOU, YOUR HONOR.

CROSS EXAMINATION

BY MR. STONE:

Q JUST A FEW QUESTIONS, AGENT. WHEN YOU GOT THERE AND YOU READ HIM HIS RIGHTS, I BELIEVE YOU READ HIM HIS RIGHTS AT 2:59; IS THAT CORRECT?

A I THINK IT WAS APPROXIMATELY 3:59.

Q MIGHT BE. DO YOU HAVE THE FORM WITH YOU BY ANY

CHANCE?
A NO, SIR, I DON'T.
Q LET ME ASK YOU THIS. YOU ARE A TRAINED INVESTIGATOR. I KNOW THE SOLICITOR ASKED YOU EARLIER ABOUT FORENSICS. YOU DON'T KNOW ANYTHING ABOUT FORENSICS AND YOU DON'T DEAL IN FORENSICS; IS THAT CORRECT?
A NO, I DO NOT.
Q YOU ARE A TRAINED INVESTIGATOR; IS THAT CORRECT?
A THAT'S CORRECT.
Q THIS IS WHAT YOU HAVE BEEN DOING FOR FIVE YEARS; IS THAT RIGHT?
A WITH S.L.E.D. FOR FIVE YEARS.
Q WERE YOU IN LAW ENFORCEMENT PRIOR TO THAT?
A YES, SIR.
Q WHERE WERE YOU THEN?
A I WAS WITH THE CITY OF WALTERBORO.
Q HOW MANY YEARS WERE YOU IN LAW ENFORCEMENT WITH WALTERBORO?
A APPROXIMATELY 13.
Q DID YOU DO ANY LAW ENFORCEMENT PRIOR TO THAT?
A NO, SIR.
Q SO FOR 18 YEARS YOU HAVE BEEN IN SOME FORM OF LAW ENFORCEMENT; IS THAT CORRECT?
A THAT'S CORRECT.

Q NOW, DID YOU HAVE -- YOU HAVE A MASTER'S OF SCIENCE?

A MASTER'S OF ART, M.A.

Q PARDON ME?

A M.A, MASTER OF ARTS.

Q WHAT IS THAT IN?

A MANAGEMENT.

Q THAT WAS FROM WHERE?

A WESTERLY UNIVERSITY.

Q NOW, BUT FOR 18 YEARS YOU HAVE BEEN IN LAW ENFORCEMENT AS A TRAINED INVESTIGATOR; IS THAT RIGHT?

A THAT'S CORRECT.

Q WHEN YOU WENT TO THE HOSPITAL, THE FIRST THING YOU DID -- YOU DIDN'T DO ANY INVESTIGATION PRIOR TO GETTING TO THE HOSPITAL, DID YOU?

A ARE YOU TALKING ABOUT PRIOR THAT NIGHT OR THAT MORNING?

Q YES, SIR. LET ME REPHRASE MY QUESTION. THE VERY FIRST THING YOU DID TO INVESTIGATE THIS CASE WAS BASICALLY TO READ BAYAN ALEKSEY HIS RIGHTS; IS THAT CORRECT?

A I WENT TO SUMMERVILLE FIRST AT THE CRIME SCENE WHERE THE ACCIDENT HAPPENED.

Q DID YOU DO ANYTHING AT THE CRIME SCENE?

A NO, SIR, I DIDN'T DO ANYTHING THERE.

Q THE FIRST THING YOU DID IN THIS CASE WAS TO READ MR. ALEKSEY HIS RIGHTS; IS THAT RIGHT?
A BASICALLY.
Q YOU WENT THERE IN ORDER TO READ HIM HIS RIGHTS AND TO GET A STATEMENT FROM HIM IF YOU COULD; IS THAT CORRECT?
A NO, SIR, I WENT THERE TO START THE INVESTIGATION OF THE CASE.
Q AND YOU STARTED THE INVESTIGATION OF THE CASE BY READING HIM HIS RIGHTS; IS THAT CORRECT?
A YES, SIR, THAT'S THE FIRST THING I DID.
Q YOU ARE TRAINED TO DO THAT, ARE YOU NOT?
A I AM A TRAINED CRIMINAL INVESTIGATOR, YES, SIR.
Q PART OF THAT CRIMINAL INVESTIGATION IS TAKING STATEMENTS, IS IT NOT?
A THAT'S CORRECT.
Q PART OF THAT TRAINING IS ALSO TAKING CONFESSIONS AND STATEMENTS; IS THAT CORRECT?
A STATEMENTS, INTERVIEWS, YES, SIR.
Q AND CONFESSIONS?
A IF NECESSARY, YES, SIR.
Q YOU WERE IN HERE EARLIER WHEN I ASKED THE OTHER AGENT, BUT IS IT NOT TRUE THAT THE LAST 15 CLOSED CASES YOU HAD, ROUGHLY A THIRD OF THOSE ENDED IN CONFESSIONS; DIDN'T THEY?

SOLICITOR BAILEY: YOUR HONOR, I WILL OBJECT TO HIM GETTING INTO ALL THE PRIOR CASES AGENT MEARS WORKED. I DON'T THINK IT'S RELEVANT TO THIS CASE.

MR. STONE: I AM NOT INTERESTED IN THE OTHER CASES, YOUR HONOR. THE ONLY THING I AM INTERESTED IN IS IF HE IS GOOD AT HIS JOB AND HOW MANY CONFESSIONS HE GETS ON A REGULAR BASIS.

THE COURT: I WILL PERMIT THAT QUESTION.

MR. STONE: THANK YOU.

SOLICITOR BAILEY: I WILL STIPULATE THAT HE IS GOOD AT HIS JOB.

THE COURT: I THOUGHT YOU MIGHT.

Q AND YOU ARE GOOD AT GETTING CONFESSIONS, TOO; AREN'T YOU?

A PRETTY GOOD AT MY JOB.

Q DID YOU DO ANY OTHER INVESTIGATION AS TO THE BACKGROUND OF BAYAN ALEKSEY?

A DID I DO ANY OTHER INVESTIGATIONS?

Q I KNOW AGENT DARNELL DID. I WAS CURIOUS IF YOU ALSO FOUND OUT ABOUT ANY PRIOR ARRESTS OF MR. ALEKSEY?

A YES, SIR, WE WORKED THE CASE TOGETHER.

Q YOU WORKED IT TOGETHER?

A YES.

Q SO WHATEVER HE LEARNED, YOU PROBABLY LEARNED AT THE SAME TIME; IS THAT RIGHT?
A THAT'S CORRECT.
Q NOW, YOU LEARNED, DID YOU NOT, THAT MR. ALEKSEY WENT UNDER THE NAME OF MICHAEL TOSCANI; IS THAT CORRECT?
A NO, SIR.
Q YOU NEVER LEARNED THAT?
A AT A LATER POINT I UNDERSTAND THAT HE WENT UNDER THE NAME.
Q ALL RIGHT, SIR. AND AT SOME TIME YOU LEARNED THAT HE WAS ARRESTED FOR THEFT AND FRAUD UNDER THE NAME OF MICHAEL TOSCANI, DIDN'T YOU?
A I CAN'T REMEMBER THE NAME THAT HE WAS ARRESTED UNDER BUT THERE WAS SEVERAL NAMES THAT HE USED.
Q ALL RIGHT, SIR. DID YOU RECALL HIM BEING ARRESTED FOR THEFT AND FRAUD?
A I THINK IT WAS FOR THEFT OR FRAUD, CREDIT CARD FRAUD.
Q YOU KNOW ALSO THAT HE WAS ARRESTED IN NEW YORK UNDER THE NAME OF BAYAN ALEKSEY FOR POSSESSION OF STOLEN PROPERTY, DO YOU NOT?
A I DON'T EXACTLY RECALL WITHOUT MY NOTES WHAT HE WAS ARRESTED FOR AND WHERE.
Q DO YOU HAVE ANY NOTES WITH YOU THAT YOU WOULD

LIKE TO REFLECT -- I AM NOT TRYING TO BLIND SIDE YOU.

A I DON'T HAVE ANY WITH ME.

Q TELL ME WHAT YOU REMEMBER THEN. YOU KNOW HE ALSO WENT UNDER THE NAME OF VINCENT CARUSO?

A THAT DOESN'T RING A BELL.

Q DO YOU KNOW WHETHER OR NOT HE WAS ARRESTED FOR UNLAWFUL TAKING UNDER THE NAME OF VINCENT CARUSO?

A I DON'T RECALL THAT.

Q DOES MICHAEL DIAZ RING A BELL?

A MICHAEL DIAZ?

Q YES, SIR.

A NO, SIR, NOT RIGHT OFFHAND.

Q HOW ABOUT FRANK ALEKSEY?

A NO, SIR.

Q SAL VICCARO?

A VICARRO, FOR SOME REASON I HAVE HEARD THAT NAME. THE FIRST NAME DOES NOT RING A BELL.

Q MR. ALEKSEY, DID YOU KNOW WHETHER OR NOT HE WAS ARRESTED UNDER THE NAME OF SAL VICCARO FOR BAIL JUMPING AS A RESULT OF A GRAND LARCENY CHARGE?

A I REMEMBER SOME CHARGE OF BAIL JUMPING, BUT I DON'T RECALL WHAT PARTICULAR NAME IT WAS UNDER.

Q THAT'S FAIR. BUT YOU KNOW, SIR, DO YOU NOT, THAT MR. ALEKSEY HAS SEVERAL ALIASES; IS THAT CORRECT?

A YES, SIR.
Q HE HAS GOT SOME I.D.S, AS I THINK WE HAVE ALL SEEN AT THIS POINT, THAT GO ALONG WITH THESE ALIASES; IS THAT CORRECT?
A YES, SIR.
Q AND HE HAS BEEN ARRESTED FOR A NUMBER OF CHARGES UNDER THESE VARIOUS NAMES; IS THAT CORRECT?
A HE HAS BEEN ARRESTED UNDER SOME NAMES. I DON'T KNOW WHAT NAMES HE WAS ARRESTED UNDER.
Q YOU ALSO KNOW THAT HE HAS NEVER BEEN TO TRIAL ON ANY OF THOSE CHARGES, HAS HE?
A I DON'T KNOW.
Q YOU DON'T KNOW THAT?
A NOT RIGHT OFFHAND.
Q DID YOU FIND ANY CONVICTIONS?
A I NEED MY NOTES TO REALLY TELL YOU.
Q AND IN ANY OF THESE ARRESTS, NOT ONE TIME WAS HE EVER ARRESTED FOR RESISTING ARREST OR ASSAULT ON A POLICE OFFICER; WAS HE?
A AS I STATED EARLIER, I DON'T KNOW WITHOUT MY NOTES.

MR. STONE: I DON'T HAVE ANYTHING ELSE.

SOLICITOR BAILEY: I HAVE A FEW QUESTIONS, YOUR HONOR, ON REDIRECT IF I MIGHT.

THE COURT: YES, SIR, YOU MAY.

REDIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. MEARS, SINCE MR. STONE GOT INTO THIS, HE ASKED YOU ABOUT YOUR KNOWLEDGE OF PRIOR ARRESTS AND PRIOR ALIASES OF HIS CLIENT. NOW, HOW DO YOU GO ABOUT DETERMINING INITIALLY WHAT SOMEBODY'S ARREST RECORD IS AND WHETHER OR NOT THEY HAVE GOT ANY ALIASES?

A IN THIS PARTICULAR CASE, IT WAS -- WE REFERRED SOME OF THIS INFORMATION TO OUR INTELLIGENCE DIVISION.

Q WHAT IS A RAP SHEET?

A A RAP SHEET IS A PERSON'S PERSONAL CRIMINAL RECORD OF HIS HISTORY.

Q AS PART OF YOUR INVESTIGATION, DID YOU RUN A RAP SHEET TO DETERMINE WHAT ARREST RECORDS WERE LISTED ON THE N.C.I.C. COMPUTER --

A YES, SIR, A RAP SHEET WAS RAN.

Q -- AND WHAT ALIASES WERE LISTED. LET ME HAND YOU THIS AND SEE IF YOU CAN TELL ME WHETHER OR NOT THAT IS MR. ALEKSEY'S RAP SHEET.

A YES, SIR, IT IS.

Q AND IS THERE A PLACE ON THERE WHERE THEY LIST THE DIFFERENT NAMES SOMEBODY HAS USED? I WILL GET YOU TO FIND THAT IF YOU CAN.

A YES, SIR, THERE IS A PLACE WHERE THE SUBJECT'S NAME IS LISTED.

Q WHAT NAMES HAS BAYAN ALEKSEY BEEN ARRESTED UNDER?

A IT LOOKS LIKE CRIMINAL IMPERSONATION --

Q GIVE ME THE NAMES. IS THERE A PLACE WHERE IT LISTS THE ALIASES HE USED?

A IT'S SOME CONTINUATION. I DON'T KNOW IF THEY ARE IN ORDER OR NOT. HERE IS ONE HERE --

Q HOLD ON JUST A SECOND. I WILL HAND YOU Y'ALL'S S.L.E.D. REPORT AND SEE IF THAT CONTAINS THE RAP SHEET.

THE COURT: BEFORE WE PROCEED, I THINK THE JURY IS A LITTLE HOT IN HERE. LET'S TAKE A SHORT BREAK AND GIVE YOU AN OPPORTUNITY TO STRETCH A FEW MOMENTS. I WILL BE CALLING YOU RIGHT BACK.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: I APOLOGIZE FOR THE INTERRUPTION.

MR. STONE: NO, SIR, THAT'S FINE.

THE COURT: WE WILL TAKE A SHORT BREAK. LET EVERYBODY STRETCH A MOMENT AND WE WILL START AGAIN.

(WHEREUPON THERE WAS A RECESS.)

THE COURT: ARE WE READY?

SOLICITOR BAILEY: THE STATE IS READY, YOUR HONOR.

THE COURT: ONE MINUTE, PLEASE. LET'S GET ON THE RECORD.

MR. STONE: YOUR HONOR, I BROUGHT OUT AND I DISCUSSED THIS WITH MR. SIMS PRIOR TO DOING IT, I BROUGHT OUT MY CLIENT'S PRIOR ARREST RECORD WHICH IS INDICATED IN THE RAP SHEET THAT I BELIEVE AGENT MEARS IS REFERRING TO AND HAS REFERRED TO.

I DID THAT FOR THE PURPOSE OF SHOWING THAT MY CLIENT HAD BEEN ARRESTED A NUMBER OF TIMES UNDER THE SAME ALIASES THAT THE SOLICITOR HAD REFERRED TO IN THE FAKE I.D.S AND THE VARIOUS OTHER ALIASES.

AT NO TIME DID HE ASSAULT ANY OF THE POLICE OFFICERS OR RESIST ANY ARRESTS AT THE TIME OF THOSE ARRESTS. BASICALLY WHAT HE WOULD DO IS GIVE A FAKE I.D. GET AND GET OUT OF IT OF AND NEVER BE BROUGHT TO TRIAL.

THAT'S THE REASON WE BROUGHT THE ARREST RECORD IN, WHICH I RECOGNIZE WOULD NOT NORMALLY BE RELEVANT. I THINK ALSO IT WAS IMPORTANT IN OUR DECISION TO DO THAT AFTER THE FACT OF THE JACKSON/DENNO HEARING THAT WE DISCUSSED WHERE MR. ALEKSEY TOLD BOTH MEARS AND DARNELL THAT HE HAD SOME PRIOR PROBLEMS IN NEW YORK, BUT IT WAS NOTHING

OR ANYTHING THAT WAS VERY SERIOUS.

THE COURT: MR. ALEKSEY, ORDINARILY IN THIS PHASE OF THE TRIAL, AN ARREST RECORD WHICH IS NOT THE SUBJECT OF A CONVICTION IS NOT ADMISSIBLE AS AGAINST YOU IN THE TRIAL OF THIS CASE.

YOUR ATTORNEY, HOWEVER, HAS SAID AND I ACCEPT THE REASONS FOR IT, FOR TRIAL STRATEGY HE NEEDED TO BRING THAT OUT FOR THE PURPOSES HE HAS INDICATED ON THE RECORD. DO YOU UNDERSTAND THAT?

DEFENDANT ALEKSEY: YES, YOUR HONOR.

THE COURT: THAT IS TRIAL STRATEGY. I CERTAINLY ACCEPT IT. ARE YOU READY NOW?

SOLICITOR BAILEY: YES, SIR.

THE COURT: BRING THE JURY.

(THE JURY RETURNS TO THE COURTROOM.)

REDIRECT EXAMINATION CONTINUED

BY SOLICITOR BAILEY:

Q MR. MEARS, I THINK BEFORE THE BREAK WE WERE DISCUSSING AS PART OF YOUR INVESTIGATION, YOU HAD RUN A RAP SHEET WHICH CONTAINS COMPUTERIZED INFORMATION ON A PERSON'S ALIASES AND ARREST RECORD. DO YOU HAVE THAT IN FRONT OF YOU NOW?

A YES, SIR, I DO.

Q HAVE YOU LOCATED THE SPOT WHERE IT LISTS THE ALIASES A PERSON HAS USED?

A YES, SIR.
Q IS THERE IDENTIFYING INFORMATION IN THERE SUCH AS F.B.I. NUMBERS AND SO FORTH WHERE THEY CAN TELL THEY ARE TALKING ABOUT THE SAME PERSON EVEN THOUGH THEY HAVE DIFFERENT NAMES?
A YES, SIR, IT IS.
Q DO YOU HAVE MR. ALEKSEY'S RAP SHEET IN FRONT OF YOU?
A YES, SIR, I DO.
Q WHAT ALIASES HAS HE USED IN THE PAST?
A THE ALIASES HERE ARE BRIAN R. ALEKSEY.
Q HOLD ON ONE SECOND, BRIAN R. ALEKSEY?
A BAYAN R. ALEKSEY, RONALD ALEKSEY.
Q HANG ON A MINUTE. (WRITING ON BOARD.) OKAY.
A STEVEN -- WITH A V. -- LARGRASSA, L-A-R-G-R-A-S-S-A.
Q CAN YOU GIVE ME THE LAST NAME AGAIN.
A LARGRASSA, L-A-R-G-R-A-S-S-A.
Q ALL RIGHT.
A THERE IS ANOTHER STEVEN LARASSA, L-A-R-A-S-S-A.
Q L-A-R-A-S-S-A?
A CORRECT.
Q OKAY.
A BINNY ALEKSEY.
Q BINNY?

A B-I-N-N-Y.
Q B-I-N-N-Y?
A CORRECT.
Q ALL RIGHT.
A ALSO BINNIE, WITH AN I.E., B-I-N-N-I-E, ALEKSEY.
Q B-I-N-N-I-E?
A YES, SIR.
Q OKAY.
A ANOTHER BRYAN RONALD, B-R-Y-A-N, RONALD.
Q B-R-Y-A-N?
A YES, SIR.
Q AND THE LAST NAME?
A RONALD, R-O-N-A-L-D.
Q ALL RIGHT, SIR.
A VINCENT RONALD ALEKSEY.
Q OKAY.
A BAYAN E. ALEKSEY, WITH AN E. NOT AN R., MIDDLE INITIAL E.
Q OKAY.
A AND SAL VICCARO.
Q HOW DO YOU SPELL VICCARO?
A V-I-C-C-A-R-O.
Q IS THAT IT?
A THAT'S IT.
Q NOW, IF YOU WOULD GO THROUGH THERE AND PLEASE

TELL THE JURY WHAT ARRESTS HE HAS HAD, WHAT DIFFERENT OFFENSES.

A ARREST CHARGES ARE CRIMINAL MISCHIEF IN THE THIRD DEGREE, ATTEMPTED GRAND LARCENY IN THE THIRD, POSSESSION OF FORGED INSTRUMENT, PETIT LARCENY, ANOTHER POSSESSION OF FORGED INSTRUMENT, CRIMINAL POSSESSION OF STOLEN PROPERTY, ATTEMPTED FORGERY, FORGERY IN THE SECOND DEGREE, GRAND LARCENY IN THE FOURTH, INVALID USE OF CREDIT CARD, VIOLATION OF SOME TYPE OF LAW, L-O-C LAW, WHATEVER THAT IS.

CRIMINAL POSSESSION OF STOLEN PROPERTY AND ANOTHER INTENT AND FRAUD TRANSACTION, CRIMINAL POSSESSION OF STOLEN PROPERTY, ANOTHER CRIMINAL -- THIS IS CRIMINAL IMPERSONATION, ANOTHER --

Q DOES IT SAY IMPERSONATION OF WHAT?

A IT JUST SAYS CRIMINAL IMPERSONATION FIRST, CLASS E. FELONY. ANOTHER CRIMINAL POSSESSION OF STOLEN PROPERTY. THAT'S ALL OF THEM.

Q IS THERE ANY INDICATION ON THE RAP SHEET THAT HE WAS WANTED ANYWHERE?

A I DON'T SEE ANYTHING HERE TO INDICATE WHERE HE WAS WANTED. I SEE VINCENT RONALD ALEKSEY, FUGITIVE FROM ANOTHER STATE, DISPOSITION UNREPORTED. IT DOESN'T GIVE THE STATE EITHER. THERE IS A WANTED FROM A POLICE DEPARTMENT IN HATBORO. THAT'S IN

PENNSYLVANIA, ON A MICHAEL VICARI FOR LARCENY.

Q ALL RIGHT, SIR.

A AN OUTSTANDING WARRANT.

Q MICHAEL VICARI?

A RIGHT, V-I-C-A-R-I, VICARI.

Q THAT'S NOT ON THE LIST OF ALIASES. CAN YOU CHECK THAT AND SEE IF THE SOCIAL SECURITY NUMBER AND OTHER IDENTIFICATION INFORMATION IS THE SAME.

A THERE IS NOT A SOCIAL SECURITY NUMBER ON THIS WANTED INFORMATION, SO I HAVE NO WAY OF TELLING.

Q THAT DOES APPEAR ON THE PRINTOUT FROM HIS RAP SHEET, THE INFORMATION INPUT FOR HIS NAME?

A THERE IS ALSO ANOTHER WANTED, COUNTY POLICE, ON BAYAN ALEKSEY. THAT'S IN NEW YORK.

Q CAN YOU TELL WHAT THAT OFFENSE IS FOR?

A THAT'S FOR -- IT LOOKS LIKE UNAUTHORIZED USE OF REGISTRATION, POSSESSION OF STOLEN PROPERTY AND UNAUTHORIZED USE OF REGISTRATION.

Q THANK YOU, MR. MEARS. THAT'S ALL I HAVE AT THIS TIME.

RECROSS EXAMINATION

BY MR. STONE:

Q AGAIN, THOSE ARE ARRESTS; IS THAT CORRECT?

A THE LAST I READ WAS WANTED. THE FIRST PORTION WERE ARRESTS.

Q THOSE STARTED SOMETIME IN 1992; IS THAT RIGHT?
A I THINK IT GOES BACK TO '87.
Q IT GOES BACK TO '87?
A I BELIEVE SO.
Q UNDER A NUMBER OF ALIASES, NEVER BEEN CONVICTED OF ALL THOSE CHARGES THAT YOU JUST READ, AND ALL OF THESE FAKE I.D.S (INDICATING) WERE ON HIM THE NIGHT HE WAS STOPPED; IS THAT RIGHT?
A I DON'T KNOW IF THEY WERE ON HIM THE NIGHT HE WAS STOPPED. I MEAN, I DON'T KNOW WHERE THEY CAME FROM.
Q THANK YOU.

THE COURT: SUBJECT TO RECALL?

SOLICITOR BAILEY: YES, SIR. YOUR HONOR, I HAVE GOT A WITNESS FROM NORTH CAROLINA THAT I WOULD LIKE TO CALL OUT OF ORDER.

THE COURT: YOU MAY DO SO.

SOLICITOR BAILEY: JAMES WEINER.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: JAMES WEINER.

JAMES WEINER, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER.

THE WITNESS: W-E-I-N-E-R.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. WEINER, YOU ARE FROM NORTH CAROLINA; IS THAT CORRECT?

A YES, SIR.

Q WE APPRECIATE YOU COMING HERE ON SHORT NOTICE UNDER SUBPOENA. WE APOLOGIZE FOR KEEPING YOU WAITING SO LONG. WHAT PART OF NORTH CAROLINA DO YOU LIVE IN?

A I LIVE IN WINSTON SALEM, NORTH CAROLINA.

Q HOW ARE YOU EMPLOYED?

A I'M EMPLOYED BY PAY-TEL COMMUNICATIONS IN GREENSBORO, NORTH CAROLINA.

Q WHAT IS PAY-TEL COMMUNICATIONS?

A WE OWN AND OPERATE INMATE TELEPHONE SYSTEMS IN COUNTY JAILS.

Q AND WOULD YOU STATE WHETHER OR NOT -- FIRST OF ALL, WHAT IS YOUR POSITION WITH PAY-TEL?

A INMATE TELECOMMUNICATIONS OPERATIONS MANAGER.

Q WHAT DOES THAT ENCOMPASS?

A I BASICALLY RUN THE INMATE TELEPHONE DIVISION OF PAY-TEL COMMUNICATIONS.

Q IN JANUARY OF 1998, DID PAY-TEL PROVIDE LONG DISTANCE SERVICE FOR THE ORANGEBURG/CALHOUN DETENTION CENTER HERE IN ORANGEBURG?

A WE PROVIDED ALL INMATE TELEPHONE SERVICE FROM

THAT JAIL.

Q DOES PAY-TEL HAVE A SYSTEM IN PLACE FOR MAKING A RECORD OF WHATEVER LONG DISTANCE CALLS ARE MADE FROM THE DETENTION CENTER FROM ORANGEBURG?

A YES, SIR. ALL CALLS HAVE --- THEY HAVE A RECORD OF ALL CALLS.

Q AND ARE THOSE RECORDS MADE IN THE NORMAL COURSE OF YOUR BUSINESS?

A YES, SIR.

Q AND THE BUSINESS ACTIVITY OF PAY-TEL?

A YES, SIR.

Q AND DOES THAT INFORMATION SHOW THE NUMBER CALLED, THE DATE THE CALL WAS MADE AND THE LENGTH OF THE TELEPHONE CONVERSATION?

A YES, IT INCLUDES THAT INFORMATION.

Q AND ARE YOU FAMILIAR WITH THE METHOD OF PREPARATION OF THOSE TYPE RECORDS?

A YES, SIR.

Q IS PART OF YOUR RESPONSIBILITY TO MAINTAIN THOSE RECORDS?

A YES, SIR.

Q AND BE RESPONSIBLE FOR THEM?

A YES, SIR.

Q ARE THE PHONE RECORDS MADE SIMULTANEOUS WITH THE ACTUAL CALLS?

A YES, SIR. AT THE COMPLETION OF EVERY CALL, IT'S WRITTEN TO THE HARD DRIVE.

Q AND THEN YOU HAVE THAT PRINTED OUT AS FAR AS YOUR PERMANENT RECORDS THAT YOU MAINTAIN?

A WE KEEP A DATA COPY OF ALL THOSE RECORDS.

Q AT MY REQUEST DID YOU PRODUCE SOME OF THE TELEPHONE RECORDS FROM THE MONTH OF JANUARY 1998 THAT WERE MADE FROM THE ORANGEBURG REGIONAL DETENTION CENTER THROUGH YOUR SYSTEM?

A YES, I DID.

Q I WILL HAND YOU TWO DIFFERENT PACKAGES OF FORMS AND ASK IF THOSE ARE THE FORMS YOU BROUGHT WITH YOU.

A YES, SIR, THEY ARE.

Q WHAT IS THE DIFFERENCE IN THE TWO PACKAGES THERE?

A THERE ARE TWO PHONES IN THE CELL THAT THE REQUEST WAS FROM.

Q WHAT REQUEST WAS THAT FROM?

A C. BLOCK, ALL CALLS MADE BETWEEN THE 1ST AND THE 7TH OF JANUARY, 1998.

Q ALL RIGHT, SIR. JANUARY 1ST, 1998, THROUGH JANUARY 7, 1998?

A YES, SIR.

Q ONE OF THEM ON THE LEFT-HAND COLUMN HAS RIGHT AND ONE HAS LEFT?

A RIGHT.
Q IS THAT THE TWO DIFFERENT TELEPHONES IN C. BLOCK?
A YES, SIR. THERE ARE TWO PHONES AND THE WAY YOU FACE THEM IS HOW THEY ARE LABELED.
Q THANK YOU.
SOLICITOR BAILEY: YOUR HONOR, I WOULD OFFER THESE AT THIS TIME.
MR. STONE: NO OBJECTION.
THE COURT: WITHOUT OBJECTION.
(STATE'S EXHIBITS NUMBER 69 AND 70, PHONE RECORDS OF PAY-TEL, ARE RECEIVED INTO EVIDENCE.)
Q MR. WEINER, THAT'S ALL I HAVE. IF THE DEFENSE HAS ANYTHING FOR YOU, PLEASE ANSWER ANY QUESTIONS THEY HAVE.
CROSS EXAMINATION
BY MR. STONE:
Q YOU DON'T HAVE ANY IDEA WHO MADE ANY OF THOSE CALLS, DO YOU?
A NO, SIR, ONLY WHAT CELL BLOCK THOSE CALLS CAME FROM.
Q YOU'VE JUST GOT AN IDEA OF THE NUMBERS TO AND FROM AND VARIOUS THINGS LIKE THAT; IS THAT RIGHT?
A YES, SIR.
Q ALL RIGHT, SIR. CAN YOU TELL ON THIS THING HOW

LONG THESE CALLS LASTED?

A YES, SIR. THERE IS A DURATION COLUMN, NUMBER OF SECONDS.

Q I'M TRYING TO MAKE SURE I UNDERSTAND IT. THIS IS IT RIGHT HERE (INDICATING)?

A YES, SIR. WE CALL THEM BILLING SECONDS.

Q IN THIS DIRECTION (INDICATING)?

A YES, SIR. IT SHOWS THE CALL, BILLING SECONDS AND THAT (INDICATING) MEANS THE CALL IS COMPLETED.

Q THESE NUMBERS ARE BY SECONDS?

A YES, SIR. THE MAXIMUM IS A TEN-MINUTE COLLECT CALL, SO 600 SECONDS.

Q THAT'S THE MAXIMUM?

A YES, SIR.

Q THANK YOU. I DON'T HAVE ANYTHING ELSE.

THE COURT: YOU MAY COME DOWN.

SOLICITOR BAILEY: MAY HE BE EXCUSED?

THE COURT: YES, SIR. WE WILL EXCUSE YOU.

THE WITNESS: THANK YOU.

SOLICITOR BAILEY: YOUR HONOR, I HAVE A VERY, VERY BRIEF MATTER OF LAW IN REGARD TO THE NEXT WITNESS.

THE COURT: I WILL LET YOU GO TO THE JURY ROOM JUST A MOMENT.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: YES, SIR.

SOLICITOR BAILEY: WE CALL TROOPER WELCH.

THE COURT: TROOPER WELCH. WHAT IS YOUR MATTER OF LAW?

SOLICITOR BAILEY: YOUR HONOR, IF YOU RECALL TROOPER WELCH TESTIFIED AT THE JACKSON V. DENNO HEARING.

THE COURT: YES, SIR.

SOLICITOR BAILEY: THERE WAS SORT OF GRAY AREA WHERE THERE WAS SOME SPONTANEOUS CONVERSATION, AND THEN THERE WERE SOME QUESTIONS AND SOME THINGS THAT SHOULD NOT COME IN BECAUSE OF LACK OF MIRANDA.

IN ORDER TO KEEP THE RECORD CLEAN, I WANT TO STAY TOTALLY AWAY FROM ANY OF THE CONVERSATIONS AND JUST HAVE MR. WELCH TESTIFY AS A WITNESS TO THE MIRANDA WARNINGS THAT MR. MEARS GAVE.

I HADN'T HAD A CHANCE TO TALK TO MR. WELCH TODAY, AND I JUST WANTED TO ADVISE HIM OF THAT SO THAT HE DOESN'T INADVERTENTLY GET INTO ANY OF THOSE CONVERSATIONS.

THE COURT: YOU WILL RECALL THAT THERE WAS A SMALL AREA WHERE THE STATE ADMITTED THAT THERE WAS NOT PROPER MIRANDIZING.

MR. STONE: YES, SIR.

THE COURT: DOES HE UNDERSTAND THIS AREA

NOW TO STAY AWAY FROM?

SOLICITOR BAILEY: YES, SIR, I JUST WANTED -- IF I COULD, YOUR HONOR, WITH THE COURT'S PERMISSION TO INSTRUCT HIM --

THE COURT: YES, SIR. YOU HAVE NO OBJECTION TO THAT?

MR. STONE: NO, SIR. IN FACT, I DON'T HAVE ANY QUESTION THAT AGENT MEARS READ HIM HIS RIGHTS. IF THAT IS THE ONLY PURPOSE FOR THIS WITNESS, I WILL STIPULATE TO THAT, UNLESS HE HAS GOT SOMETHING ELSE TO OFFER.

SOLICITOR BAILEY: HE DOESN'T. AGAIN, I APPRECIATE THE STIPULATION, BUT I WOULD LIKE THE JURY TO KNOW THAT ALL THE I.S WERE DOTTED AND T.S WERE CROSSED AS FAR AS MIRANDA.

THE COURT: YES, SIR. HE IS SATISFIED WITH THAT ISSUE. THERE WAS JUST A SMALL PORTION WHERE A STATEMENT WAS MADE WITHOUT MIRANDIZING.

SOLICITOR BAILEY: YES, SIR. I AM NOT GETTING INTO ANY OF THE STATEMENTS.

THE COURT: ALL RIGHT. BRING THE JURY BACK.

(THE JURY RETURNS TO THE COURTROOM.)

THE COURT: SWEAR THE TROOPER, PLEASE.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: KYLE V. WELCH.

KYLE V. WELCH, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER.

THE WITNESS: W-E-L-C-H.

DIRECT EXAMINATION.

BY SOLICITOR BAILEY:

Q MR. WELCH, YOU ARE A CORPORAL WITH THE HIGHWAY PATROL?

A YES, SIR, I AM.

Q HOW LONG HAVE YOU BEEN WITH THE PATROL?

A ELEVEN YEARS.

Q AND WHAT COUNTY DO YOU WORK IN?

A CHARLESTON COUNTY.

Q DID YOU WORK IN CHARLESTON COUNTY BACK IN DECEMBER AND JANUARY --

A YES, SIR, I DID.

Q -- OF THIS YEAR. CALLING YOUR ATTENTION TO JANUARY 1ST, DID YOU HAVE AN OCCASION TO GO TO THE OLD K-MART IN SUMMERVILLE?

A YES, SIR, I DID.

Q WERE YOU INVOLVED IN THE CHASE OF THE WHITE MUSTANG?

A YES, SIR, I WAS.

Q AND WHEN YOU ARRIVED AT THE PARKING LOT, BRIEFLY WHAT OBSERVATIONS DID YOU MAKE IN THE PARKING LOT?
A I SEEN A STATE HIGHWAY PATROL CAR AND A WHITE FORD MUSTANG THAT APPEARED TO BE INVOLVED IN A COLLISION AND ALSO A SUSPECT THAT WAS BEING HANDCUFFED ON THE PARKING LOT, IN THE PARKING LOT.
Q DID YOU OBSERVE HIM BEING HANDCUFFED BY ANOTHER TROOPER?
A YES, SIR.
Q CAN YOU POINT OUT FOR THE RECORD THE PERSON YOU OBSERVED BEING HANDCUFFED?
A YES, SIR, THE GENTLEMAN IN THE WHITE SHIRT WITH THE GRAY AND BLACK TIE.
Q AND DID YOU MAKE ANY OBSERVATIONS OF THE CAR, THE MUSTANG?
A YES, SIR, I DID.
Q WHAT DID YOU OBSERVE INSIDE THE CAR?
A ON THE DRIVER'S SIDE FLOORBOARD, THERE WAS A STAINLESS STEEL PISTOL THAT WAS JAMMED BACK. THE SLIDE WAS LOCKED BACK AND IT WAS SITTING ON THE FLOORBOARD.
Q IN YOUR PRESENCE WAS ANOTHER TROOPER ASSIGNED TO WATCH THE GUN?
A YES, SIR, HE WAS.
Q WHO WAS THAT?

A LANCE CORPORAL PAUL BROUTHERS.
Q AND AT THE TIME YOU WERE THERE, DID YOU SEE ANYBODY MESS WITH THE GUN OR MOVE IT OR ANYTHING FROM THE TIME YOU ARRIVED UNTIL THE TIME TROOPER BROUTHERS WAS ASSIGNED TO WATCH IT?
A NO, SIR, I DID NOT.
Q ABOUT HOW LONG WAS ALEKSEY IN THE PARKING LOT?
A APPROXIMATELY 15 TO 30 MINUTES.
Q AFTER THE AMBULANCE LEFT WITH MR. ALEKSEY TO GO TO THE MEDICAL UNIVERSITY, WHAT WERE YOU ASSIGNED TO DO?
A MY JOB WAS TO PROVIDE SECURITY.
Q AND HOW DID YOU GET FROM THE PARKING LOT TO THE MEDICAL UNIVERSITY?
A I DROVE MY PATROL CAR, FOLLOWED THE AMBULANCE TO M.U.S.C.
Q AT THE TIME MR. ALEKSEY ARRIVED AT THE HOSPITAL, WAS HE HANDCUFFED?
A YES, SIR, HE WAS.
Q WHAT PART OF THE HOSPITAL WAS HE INITIALLY TAKEN TO?
A HE WAS TAKEN TO THE EMERGENCY ROOM.
Q WHO ELSE WAS ASSIGNED BESIDES YOU TO GUARD MR. ALEKSEY AT THE HOSPITAL?
A TROOPER BERES.

Q AND WERE YOU WITH MR. ALEKSEY THE ENTIRE TIME HE WAS IN THE EMERGENCY ROOM?
A YES, SIR, I WAS.
Q AND WHAT IS YOUR RECOLLECTION OF THE TYPES OF MEDICAL TREATMENTS THAT YOU OBSERVED HIM UNDERGOING?
A THEY WERE DOING A LOT OF THINGS TO HIM MEDICALLY. THERE WERE DOCTORS AND NURSES THAT WERE ASSIGNED TO DIFFERENT TASKS. I AM NOT REALLY SURE WHAT THEY WERE DOING.
Q DID ANY OF THE THINGS THEY WERE DOING REQUIRE ANY OF THE HOSPITAL PERSONNEL TO INSTRUCT YOU AND TROOPER BERES TO UNCUFF MR. ALEKSEY?
A YES, SIR.
Q DID YOU DO THAT ON MORE THAN ONE OCCASION?
A YES, SIR, WE DID.
Q DID YOU REPLACE THE CUFFS ON MORE THAN ONE OCCASION?
A YES, SIR, WE DID.
Q APPROXIMATELY HOW MANY TIMES DO YOU RECALL TAKING THE CUFFS OFF AND PUTTING THE CUFFS BACK ON AGAIN, EITHER YOU DOING THAT OR TROOPER BERES DOING IT?
A ROUGHLY FOUR TO SIX TIMES.
Q AND WHAT IS YOUR RECOLLECTION ABOUT THE CONDITION OF MR. ALEKSEY'S HANDS?

A EXTREMELY BLOODY.
Q AND HOW IS IT YOU RECALL BLOOD BEING ON HIS HANDS?
A I REMEMBER THAT EACH TIME WE HAD TO TAKE THE HANDCUFFS ON AND OFF, WE HAD TO DON GLOVES AND AFTERWARDS WE HAD TO WASH THE KEY, THE HANDCUFF KEY, OFF AFTER USING THEM EACH TIME.
Q DO YOU RECALL MR. ALEKSEY'S HANDS BEING BAGGED WHEN THEY COMPLETED THE EMERGENCY ROOM TREATMENT?
A YES, SIR, I DO.
Q AND AFTER HIS HANDS WERE BAGGED, WAS HE REMOVED TO A DIFFERENT PART OF THE HOSPITAL?
A YES, SIR. ONCE HE WAS RELEASED FROM THE EMERGENCY ROOM, HE WAS THEN TAKEN TO THE SEVENTH FLOOR.
Q DID YOU GO UP TO THE SEVENTH FLOOR AND CONTINUE TO WATCH HIM?
A YES, I DID.
Q DID YOU GO INTO THE ROOM WHERE HE WAS PLACED?
A YES, SIR, I DID.
Q WHAT IS YOUR RECOLLECTION OF ALEKSEY'S PHYSICAL AND MENTAL CONDITION AT THE TIME HE WAS TAKEN UPSTAIRS TO THE PRIVATE ROOM?
A HE HAD SOME HEAD TRAUMA, WAS BLEEDING QUITE PROFUSELY OUT OF IT, ON THE SCENE AND AT THE

HOSPITAL. ONCE AT THE HOSPITAL HE APPEARED TO BE ALERT AND CONSCIOUS. HE WAS VERY INQUISITIVE, ASKING QUESTIONS, WANTING TO TALK TO MYSELF AND TROOPER BERES.

Q WITHOUT GOING INTO THE CONTENT OF THE CONVERSATION YOU HAD WITH HIM, WERE YOU ABLE TO COMMUNICATE WITH HIM AND HAVE HIM COMMUNICATE WITH YOU IN AN INTELLIGENT FASHION?

A YES, SIR, WE WERE.

Q CALLING YOUR ATTENTION TO ABOUT 3:59 A.M., DO YOU RECALL A S.L.E.D. AGENT COMING TO THE HOSPITAL?

A YES, SIR.

Q AND WHAT, IF ANYTHING, DID YOU HEAR THE S.L.E.D. AGENT DO?

A HE READ MR. ALEKSEY HIS MIRANDA WARNINGS VERBATIM FROM A MIRANDA CARD.

Q WHO ELSE WAS PRESENT WHEN THAT OCCURRED?

A THE ATTENDING NURSE, MRS. BILLIE ALTHOUSE.

Q AND CALLING YOUR ATTENTION TO ROUGHLY 5:30, 5:40, THAT TIME FRAME, DO YOU RECALL ANOTHER S.L.E.D. MAN COMING IN THERE FOR ANY REASON?

A YES, SIR, AGENT BAKER FROM S.L.E.D.

Q WHAT, IF ANYTHING, DID MR. BAKER DO?

A HE DID A GUNSHOT RESIDUE TEST.

Q WHAT IS YOUR BEST RECOLLECTION OF THE

APPROXIMATE TIME THAT OCCURRED?

A IT WAS ROUGHLY, I WOULD SAY, AROUND ANYWHERE FROM 5:30 TO SIX O'CLOCK IN THE MORNING.

Q PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE FOR YOU.

CROSS EXAMINATION

BY MR. STONE:

Q HE WAS BLEEDING PROFUSELY FROM THE HEAD?

A YES, SIR.

Q WHEN YOU SAY BLEEDING PROFUSELY, WHAT DO YOU MEAN?

A A LARGE AMOUNT OF BLOOD.

Q THAT WAS WHEN YOU SAW HIM WHERE?

A IN THE PARKING LOT AT THE K-MART AND ALSO AT THE HOSPITAL.

Q HE WAS STILL BLEEDING PROFUSELY AT THE HOSPITAL?

A HE HAD BLOOD THAT WAS ALL OVER HIM AT THAT POINT.

Q THIS IS BAYAN ALEKSEY, THIS GUY RIGHT HERE?

A YES, SIR, IT IS.

Q THIS IS THE SAME MAN THAT WAS TREATED BY THE E.M.S. PERSONNEL?

A YES, IT IS.

Q THE SAME MAN TREATED BY THE DOCTOR?

A YES, IT IS.

Q THE SAME MAN THAT WAS SEEN BY TROOPER WOODS? DO YOU REMEMBER TROOPER WOODS BEING OUT AT THE SCENE, TOO?
A YES, SIR, I DO.
Q WHEN DID YOU FIND OUT THE GUNSHOT RESIDUE TEST WAS NEGATIVE?
A I CAN'T REALLY RECALL.
Q PRIOR TO THE FACT THAT -- YOU DID FIND IT OUT PRIOR TO TODAY, DIDN'T YOU?
A YES, SIR, I DID.
Q THAT WAS AFTER THE EVENT THAT TOOK PLACE, WAS IT NOT?
A AFTER WHICH EVENT?
Q AFTER DECEMBER 31, JANUARY, WHENEVER?
A YES, SIR.
Q WHENEVER YOU SAW HIM.
A YES, SIR.
Q YOU NEVER MADE ANY NOTES AT THE TIME OF SEEING MR. ALEKSEY CONCERNING ANY BLOOD ON HIS HANDS OR ANYTHING LIKE THAT, DID YOU?
A REPEAT THAT QUESTION AGAIN, PLEASE.
Q AT THE TIME THAT YOU DEALT WITH MR. ALEKSEY AT THE HOSPITAL, DID YOU MAKE ANY NOTES ABOUT HOW BLOODY HIS HANDS WERE?
A NO, SIR, I DIDN'T FEEL THERE WAS ANY NEED.

Q DID YOU EVER TELL ANYBODY THAT?
A NO, SIR. I MEAN, IT WAS THERE FOR EVERYBODY TO SEE.
MR. STONE: NO QUESTIONS.
SOLICITOR BAILEY: NO REDIRECT, YOUR HONOR.
THE COURT: YOU MAY COME DOWN.
THE WITNESS: THANK YOU, YOUR HONOR.
THE COURT: CAN THIS OFFICER BE EXCUSED?
SOLICITOR BAILEY: YES, SIR.
THE COURT: YOU ARE EXCUSED. THANK YOU SO MUCH.
SOLICITOR BAILEY: BILLIE ALTHOUSE.
CLERK: STATE YOUR NAME FOR THE RECORD.
THE WITNESS: BILLIE ALTHOUSE.
BILLIE ALTHOUSE, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER, PLEASE.
THE WITNESS: A-L-T-H-O-U-S-E.
DIRECT EXAMINATION
BY SOLICITOR BAILEY:
Q MRS. ALTHOUSE, HOW ARE YOU EMPLOYED?
A I AM A REGISTERED NURSE WITH THE STATE OF SOUTH CAROLINA.
Q AND WHERE ARE YOU FROM? WHERE DO YOU LIVE NOW?

A I LIVE IN MOUNT PLEASANT.
Q WHERE DO YOU WORK?
A I WORK AT THE MEDICAL UNIVERSITY.
Q DID YOU WORK AT THE MEDICAL UNIVERSITY BACK IN JANUARY OF THIS YEAR?
A YES, I DID.
Q AS AN R.N.?
A YES, SIR.
Q IN WHAT PART OF THE HOSPITAL DID YOU WORK?
A NEUROLOGY, NEUROSURGERY, SEVEN EAST.
Q WHAT WAS YOUR POSITION WITH NEUROLOGY AND NEUROSURGERY?
A THAT PARTICULAR NIGHT I WAS CHARGE NURSE.
Q WHAT IS A CHARGE NURSE?
A CHARGE NURSE IS THE -- MY DUTIES INCLUDED PATIENT ASSESSMENT, AND ALSO I WAS IN CHARGE OF OTHER PATIENTS AND NURSES AS WELL.
Q SO YOU WERE THE HEAD NURSE ON THAT PARTICULAR FLOOR?
A YES, SIR.
Q IS THAT CORRECT?
A YES, SIR.
Q AND WHEN YOU SAY YOU DO ASSESSMENTS, WHAT DO YOU MEAN BY THAT?
A PHYSICAL ASSESSMENTS, NEUROLOGICAL ASSESSMENTS.

Q HOW DO YOU DO A NEUROLOGICAL ASSESSMENT?

A HEAD TO TOE ASSESSMENT OF A PATIENT. WE CHECK FOR HOW ALERT THEY ARE TO PERSON, PLACE, TIME, IF THEIR PUPILS ARE EQUAL, REACTIVE, WHAT THEIR LEVEL OF CONSCIOUSNESS IS.

Q IS THERE ANY PHYSICAL CONTACT WITH THE PERSON WHEN YOU DO THAT ASSESSMENT?

A OH, YES.

Q WHAT DOES THAT ENCOMPASS?

A WE CHECK ALSO FOR HEART RATE AND RHYTHM. WE DO PALPATIONS. WE CHECK FOR WHETHER THEY MOVE ALL THEIR EXTREMITIES.

Q DO YOU TEST FOR GRIP STRENGTH?

A YES, BILATERAL GRIP STRENGTH.

Q HOW DO YOU DO THAT?

A I ASK THEM TO HOLD MY HAND AND SQUEEZE.

Q I WANT TO CALL YOUR ATTENTION TO JANUARY 1ST, 1998, THE EARLY MORNING HOURS. WERE YOU ON DUTY ON THE SEVENTH FLOOR AT THAT TIME?

A YES, I WAS.

Q WOULD YOU STATE WHETHER OR NOT THE DEFENDANT OVER HERE, BAYAN ALEKSEY, WAS ADMITTED TO THE SEVENTH FLOOR.

A YES, SIR.

Q WAS HE ADMITTED UNDER THE NAME ALEKSEY OR A

DIFFERENT NAME?

A HE WAS ADMITTED UNDER CONFIDENTIAL PATIENT.

Q AND WHAT IS YOUR RECOLLECTION OF HIS MENTAL STATUS AT THE TIME HE ARRIVED?

A WHEN HE ARRIVED ON MY FLOOR, HE WAS ALERT BUT VERY SOMBULENT.

Q WHAT DOES THAT MEAN?

A VERY SLEEPY.

Q WAS HE AWAKE AND CONSCIOUS?

A HE WAS AWAKE AND CONSCIOUS.

Q WERE YOU ABLE TO COMMUNICATE WITH HIM? WITHOUT SAYING WHAT YOU SAID TO HIM, COULD YOU COMMUNICATE WITH HIM?

A OH, YES.

Q AND TALK TO HIM?

A YES.

Q DID HE TALK TO YOU AND COULD YOU UNDERSTAND HIM?

A YES.

Q DO YOU RECALL WHEN HE GOT TO YOUR FLOOR WHAT HE WAS WEARING?

A WHEN HE CAME TO THE FLOOR TO MY RECOLLECTION, I BELIEVE -- IT'S REALLY HARD FOR ME TO REMEMBER. I KNOW WE HAD TO LOG ROLL HIM AND I DID SO WITH A P.C.A., A NURSE'S AID. I HELPED HER AND WE PULLED OUT A BLACK OR NAVY BLUE, IT LOOKED LIKE A...

Q SHIRT OF SOME TYPE?
A IT WAS MORE OF A SWEATSHIRT GARMENT THAT WAS CUT OFF OF HIM, PROBABLY DOWNSTAIRS.
Q WHEN YOU SAY YOU GOT TO LOG ROLL HIM, WHAT DOES THAT MEAN?
A WE LOG ROLLED HIM TO PREVENT FURTHER INJURY, IF THERE WAS ANY.
Q HOW DO YOU LOG ROLL SOMEBODY?
A WE PHYSICALLY, EACH OF US, PHYSICALLY WOULD TAKE HIM AND ROLL HIM OVER.
Q ALL RIGHT. WHATEVER CLOTHES CAME WITH HIM, WHETHER ON HIM OR WITH HIM, WAS THAT TURNED OVER TO S.L.E.D. LATER ON?
A YES, IT WAS.
Q AND DID YOU PERSONALLY DO THIS ASSESSMENT ON HIM?
A YES, I DID.
Q THE PHYSICAL ASSESSMENT BY GRABBING HIS HANDS?
A YES, I DID.
Q WERE HIS HANDS BAGGED WHEN HE CAME UP?
A INITIALLY WHEN HE FIRST CAME TO THE FLOOR THEY WERE.
Q TO DO THIS ASSESSMENT, DID YOU HAVE TO TAKE THE BAGS OFF TO DO IT?
A I DID BUT IT WAS ONLY AFTER THE S.L.E.D. AGENT

CAME TO THE FLOOR.

Q SO THE ENTIRE TIME HE WAS UP THERE, HE HAD THE BAGS ON HIS HANDS?

A CORRECT.

Q I CALL YOUR ATTENTION TO ABOUT 3:59 A.M. WERE YOU PRESENT WHEN A S.L.E.D. AGENT, MR. MEARS OVER HERE, ARRIVED AT THE HOSPITAL?

A YES, SIR.

Q WHAT WAS MR. ALEKSEY'S CONDITION AT THAT TIME AS FAR AS HIS MENTAL STATUS?

A HE WAS ALERT AND ORIENTED.

Q WAS HE ON ANY KIND OF MEDICATION AT THAT TIME?

A NO, SIR.

Q DID YOU OBSERVE MR. MEARS READ MIRANDA RIGHTS TO MR. ALEKSEY?

A I DID.

Q WAS HE CONSCIOUS AND ALERT WHEN THOSE RIGHTS WERE READ TO HIM?

A IN MY OPINION HE WAS.

Q PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

MR. STONE: I DON'T HAVE ANY QUESTIONS. THANK YOU.

THE COURT: YOU MAY COME DOWN. MAY THIS WITNESS BE EXCUSED?

SOLICITOR BAILEY: YES, SIR.

MR. STONE: YES, SIR.

SOLICITOR BAILEY: THANK YOU. WE NEXT CALL GEORGE DARNELL.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: GEORGE DARNELL, D-A-R-N-E-DOUBLE-L.

GEORGE DARNELL, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. DARNELL, YOU ARE A S.L.E.D. AGENT?

A YES, SIR.

Q HOW MUCH LAW ENFORCEMENT EXPERIENCE DO YOU HAVE?

A APPROXIMATELY 20 YEARS.

Q WHERE ARE YOU ASSIGNED NOW?

A ASSIGNED TO THE LOW COUNTRY AREA REGION OUT OF THE CHARLESTON OFFICE.

Q ARE YOU A FIELD AGENT?

A YES, SIR, I AM.

Q DO YOU WORK WITH MR. KENNY MEARS ON OCCASION?

A YES, SIR, I DO.

Q IS YOUR CAPTAIN L. C. KNIGHT?

A YES, SIR.

Q DID MR. KNIGHT ASSIGN YOU AND KENNY MEARS TO

WORK ON THIS CASE, THAT BEING THE MURDER OF SERGEANT FRANKIE LINGARD?

A YES, SIR, HE DID.

Q AND WHEN WERE YOU FIRST CONTACTED IN REGARD TO THIS CASE? WHEN WERE YOU ASSIGNED TO THE CASE?

A ONE O'CLOCK IN THE MORNING ON JANUARY 1, '97 (SIC), I RECEIVED A CALL FROM LIEUTENANT VINCE PADGETT. AT THE DIRECTION OF CAPTAIN KNIGHT, HE ADVISED ME THAT A TROOPER HAD BEEN KILLED AT THE 97-MILE MARKER ON I-95 IN ORANGEBURG COUNTY AND FOR ME TO PROCEED TO I-95 AND THAT AGENT MEARS WOULD BE EN ROUTE TO SUMMERVILLE WHERE THE SUSPECT HAD BEEN CAPTURED AND TRANSFERRED TO THE SUMMERVILLE HOSPITAL. I PROCEEDED ON TO SANTEE.

Q OKAY. WHY DID YOU GO TO SANTEE?

A I WENT TO THE ORIGINAL CRIME SCENE WHERE THE INCIDENT HAD TAKEN PLACE. UPON MY ARRIVAL I MET WITH CAPTAIN KNIGHT AND WE WERE WAITING ON THE FORENSICS TEAM.

I WAS ADVISED THAT THE FEMALE SUBJECT AND TWO SMALL CHILDREN THAT HAD JUMPED OUT THE CAR IN HOLLY HILL HAD BEEN PICKED UP BY CORPORAL MELANIE ANDERSON OF THE HIGHWAY PATROL AND RETURNED TO THE SCENE.

Q WHEN YOU SAY THE SCENE, YOU MEAN BACK OUT TO 95?

A RIGHT, BACK TO I-95. I MET WITH SOME OF THE

ORANGEBURG COUNTY INVESTIGATORS. CAPTAIN KNIGHT AND MYSELF DISCUSSED IT AND DECIDED WE WOULD GO TO THE SANTEE SUBSTATION, ORANGEBURG COUNTY SHERIFF'S DEPARTMENT SUBSTATION THERE IN SANTEE, TO START GATHERING STATEMENTS FROM THE NARCOTICS TEAM THAT HAD ASSISTED THE HIGHWAY PATROL AND WHAT TROOPERS WE HAD THERE AT THE PRESENT TIME AND AS WELL INTERVIEW MRS. GLORYVEE BLACKWELL AND HER DAUGHTER.

Q WHERE DID YOU ENCOUNTER MRS. BLACKWELL AND HER DAUGHTER GLORIA?

A I GOT THEM OUT -- THEY WERE IN THE BACK SEAT OF CORPORAL ANDERSON'S PATROL CAR.

Q WHILE YOU WERE THERE, WERE SOME ITEMS OF CLOTHING BELONGING TO MRS. BLACKWELL TURNED OVER TO YOU?

A THE JACKET --

Q LET ME HAND YOU WHAT HAS BEEN MARKED AS STATE'S 67 AND ASK WHETHER OR NOT THIS WAS TURNED OVER TO YOU.

A THE JACKET WAS. I THINK AGENT MEARS CARRIED THAT LATER ON. I PICKED UP SOME SWEAT PANTS AND A T-SHIRT, I THINK IT WAS, SOLICITOR, FROM THE JAIL THE NEXT DAY.

Q OKAY.

A AND THEN TRANSPORTED IT TO HEADQUARTERS.

Q AND WAS THAT STUFF LOGGED IN WITH SUSIE WILSON OF S.L.E.D.?
A YES, SIR. IT WAS ON JANUARY 6TH, I BELIEVE IT WAS.
Q AS PART OF YOUR INVESTIGATION -- WE HAVE DISCUSSED THIS WITH MR. MEARS -- DID Y'ALL RUN A RAP SHEET ON BAYAN ALEKSEY ONCE YOU DETERMINED HIS NAME?
A OUR INTELLIGENCE PEOPLE DID. LIEUTENANT DOTTIE CROMACK WAS ASSISTING US WITH INTELLIGENCE ON HIM, AND SHE RAN THE RAP SHEET AND SENT IT DOWN TO US.
Q AND DID YOU TAKE THE INFORMATION ON THE RAP SHEET AT FACE VALUE? DID YOU DO FURTHER INVESTIGATION ON WHAT APPEARS ON THE RAP SHEET?
A WELL, WE WERE DIGGING INTO IT FURTHER AND THEN WE STARTED GETTING CALLS ONCE THE NEWS GOT OUT ON T.V. AND SO FORTH ABOUT --
MR. STONE: OBJECTION.
Q DON'T SAY ANYTHING THAT ANYBODY TOLD YOU --
THE COURT: SUSTAINED.
Q -- BUT DURING THE COURSE OF YOUR INVESTIGATION, DID YOU VERIFY CERTAIN INFORMATION IN THE RAP SHEET?
A YES, SIR, WE DID.
Q WOULD YOU STATE WHETHER OR NOT YOU DETERMINED WHETHER OR NOT THERE WAS ANY OUTSTANDING WARRANTS AGAINST BAYAN ALEKSEY.

A YES, SIR, THERE IS.

Q WHAT WARRANTS WERE OUTSTANDING? DON'T GO INTO THE SPECIFICS BUT HOW MANY WARRANTS WERE OUTSTANDING?

A SOLICITOR, I AM THINKING MAYBE FIVE OR SIX.

Q ALL RIGHT, SIR. AND DID YOU ALSO RUN A RAP SHEET OF GLORYVEE PEREZ BLACKWELL?

A YES, SIR, WE DID.

Q DID THAT INDICATE THAT SHE WAS WANTED ANYWHERE?

A NO, SIR.

SOLICITOR BAILEY: YOUR HONOR, THAT'S ALL I HAVE OF MR. DARNELL AT THIS TIME. I RESERVE THE RIGHT TO RECALL.

THE COURT: YOU MAY EXAMINE SUBJECT TO HIS RECALL OR YOU MAY DELAY YOUR EXAMINATION TO HIS RECALL, EITHER WAY.

MR. STONE: YES, SIR. LET ME ADDRESS THE COMMENTS THAT HE MADE A FEW MINUTES AGO.

CROSS EXAMINATION

BY MR. STONE:

Q YOU SAID WHEN YOU GOT TO THE SCENE, YOU GOT GLORYVEE PEREZ AND HER DAUGHTER OUT OF THE BACK SEAT OF WHOSE CAR? I DIDN'T UNDERSTAND, I APOLOGIZE.

A CORPORAL MELANIE ANDERSON OF THE HIGHWAY PATROL.

Q WHERE WAS CORPORAL ANDERSON?

A RIGHT ON 95, RIGHT THERE BACK OFF FROM THE CRIME

SCENE.

Q AND WHEN YOU GOT THERE, WAS CORPORAL ANDERSON IN THE CAR?

A SHE WAS IN THE PATROL CAR WITH GLORYVEE AND THE CHILD OR CHILDREN.

Q SO YOU WERE NOT INVOLVED IN GETTING GLORYVEE PEREZ BLACKWELL AND HER CHILD OUT OF THE CAR WHEN THEY WERE AT THE HOLLY HILL POLICE DEPARTMENT? THAT WAS NOT YOU?

A NO, SIR.

Q YOU GOT MRS. PEREZ BLACKWELL'S, HER CLOTHES, FROM THE JAIL THE NEXT DAY?

A I THINK IT WAS THE NEXT DAY, YES, SIR.

Q ALL RIGHT, SIR.

MR. STONE: I DON'T HAVE ANYTHING ELSE FOR THIS WITNESS AT THIS TIME.

THE COURT: ANY REDIRECT?

SOLICITOR BAILEY: NO, SIR, YOUR HONOR.

THE COURT: YOU MAY COME DOWN SUBJECT TO RECALL.

SOLICITOR BAILEY: BEAR WITH ME ONE SECOND, PLEASE.

(PAUSE.)

SOLICITOR BAILEY: CALL SUSIE WILSON.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: SUSIE WILSON.

SUSIE WILSON, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER.

THE WITNESS: W-I-L-S-O-N.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MRS. WILSON, ARE YOU EMPLOYED AT S.L.E.D.?

A YES, SIR.

Q WHAT DO YOU DO AT S.L.E.D.?

A I AM THE EVIDENCE SUPERVISOR.

Q AND WOULD YOU JUST BRIEFLY EXPLAIN HOW EVIDENCE IS HANDLED AT S.L.E.D.

A AN OFFICER WILL COME IN AND PRESENT PAPERWORK AND THE EVIDENCE. FROM WHAT WE LOOK AT, WE DECIDE WHERE WE NEED TO ROUTE IT, HOW WE NEED TO PACKAGE IT.

Q THERE ARE DIFFERENT PARTS OF THE LAB WHERE DIFFERENT ITEMS GO DEPENDING ON WHAT TESTS NEED TO BE DONE ON THOSE ITEMS?

A YES, SIR.

Q AND YOU HANDLE ALL THAT PAPERWORK, YOU OR SOMEBODY THAT WORKS UNDER YOU?

A YES, SIR.

Q IS THAT CORRECT?

A THAT'S CORRECT.

Q I WANT TO CALL YOUR ATTENTION TO JANUARY 2ND, 1998, AND ASK WHETHER OR NOT BRETT BAKER OF S.L.E.D. LOGGED IN SEVERAL ITEMS OF EVIDENCE IN THIS CASE.

A YES, HE DID.

Q AND I WILL GO AHEAD AND LIST THE ITEMS AND THEN WHEN I FINISH, YOU LET ME KNOW WHETHER OR NOT HE LOGGED THOSE ITEMS IN WITH YOU ON THAT DATE.

A OKAY.

Q THAT WOULD BE FOUR BULLETS FROM THE AUTOPSY WHICH BEAR S.L.E.D. ITEM NUMBERS 9, 10, 11 AND 12; FIVE NINE MILLIMETER SHELL CASINGS, ITEMS 24 THROUGH 28; NINE MILLIMETER BRYCO PISTOL, S.L.E.D. ITEM NUMBER 34; A BLACK J.P. HOLSTER, S.L.E.D. ITEM 35; A NINE MILLIMETER BOX OF AMMUNITION, S.L.E.D. ITEM 36; SOME LATENT PRINTS, ITEMS 39, 40, 41; GUNSHOT RESIDUE KIT FROM THE MUSTANG, S.L.E.D. ITEM 47; CLOTHING FROM THE SUSPECT BAYAN ALEKSEY, ITEMS 50 AND 51; GUNSHOT RESIDUE KIT FROM ALEKSEY, S.L.E.D. ITEM 46; A HIGHWAY PATROL JACKET FROM SERGEANT FRANKIE LINGARD, ITEM 49; AND A GUNSHOT RESIDUE KIT FROM MR. LINGARD, S.L.E.D. ITEM 48. DID YOU LOG ALL THOSE ITEMS IN?

A YES, SIR.

Q IN CALLING YOUR ATTENTION NOW TO JANUARY 6TH, DID YOU LOG IN S.L.E.D. ITEM 52, BEING A BLACK JACKET

BROUGHT IN BY MR. DARNELL?

A YES, I DID.

Q WHAT IS FIRE LOCK?

A FIRE LOCK IS A SECURED STORAGE AREA LOCATED IN THE FIREARMS DEPARTMENT.

Q WHO HAS ACCESS TO THAT?

A THAT WOULD BE FIREARMS PERSONNEL, MYSELF, THE LABORATORY COORDINATOR AND THE ASSISTANT COORDINATOR.

Q WERE THE BULLETS THAT WE MENTIONED PUT IN FIRE LOCK?

A YES, THEY WERE.

Q WHAT ABOUT THE PISTOL AND THE SHELL CASINGS AND THE BOX OF AMMUNITION AND LATENT LIFTS? WHAT WAS DONE WITH THEM?

A THE SHELL CASINGS WERE TO BE SUBMITTED FOR LATENT PRINTS, SO MR. BAKER KEPT THOSE HIMSELF.

Q HE LOGGED THAT IN ON PAPER BUT HE KEPT PHYSICAL CUSTODY HIMSELF?

A YES, SIR.

Q WAS THAT SAME TRUE WITH THE GUN AND AMMUNITION BOX?

A YES, SIR.

Q WHAT IS THE D.16 OR LARGE PROCESSING FRIDGE?

A THAT IS A SECURED REFRIGERATED STORAGE AREA WHERE EVIDENCE IS KEPT.

Q WOULD YOU STATE WHETHER OR NOT YOU PUT SERGEANT LINGARD'S JACKET AND THE OTHER ITEMS OF CLOTHING IN THIS LARGE PROCESSED REFRIGERATOR, D.16.
A YES, I DID.
Q THAT IS A LOCKED, SECURED FACILITY?
A YES, SIR.
Q WHAT IS THE TRACE EVIDENCE ROOM?
A THE TRADE EVIDENCE ROOM, WHICH IS ROOM 338, IS A SECURED STORAGE AREA FOR TRACE EVIDENCE.
Q DID YOU PUT THE THREE GUNSHOT RESIDUE KITS IN THAT TRACE EVIDENCE ROOM?
A YES, I DID.
Q WERE THEY ALL IN SEALED CONTAINERS WHEN YOU RECEIVED THEM AND WHEN YOU PUT THEM IN DIFFERENT PLACES WHERE THEY ARE SUPPOSED TO GO?
A YES, SIR.
Q THAT'S ALL I HAVE. PLEASE ANSWER ANY QUESTIONS MR. STONE MAY HAVE.

CROSS EXAMINATION

BY MR. STONE:

Q YOU RECEIVED A GUNSHOT RESIDUE TEST FROM THE HANDS OF BAYAN ALEKSEY --
A YES, SIR.
Q -- IS THAT CORRECT? YOU DIDN'T DO ANYTHING TO SUBSTANTIALLY CHANGE OR ALTER THAT IN ANY WAY, DID

YOU?

A NO, SIR.

Q YOU FOLLOWED YOUR NORMAL EVIDENCE PROCEDURES; IS THAT CORRECT?

A YES, SIR.

Q YOU ALSO RECEIVED A GUNSHOT RESIDUE TEST FROM TROOPER LINGARD; IS THAT CORRECT?

A YES, SIR.

Q AND YOU DIDN'T CHANGE OR ALTER THAT IN ANY WAY, DID YOU?

A NO, SIR.

Q YOU DIDN'T RECEIVE ANY GUNSHOT RESIDUE FROM THE HANDS OF GLORYVEE PEREZ BLACKWELL, DID YOU?

A NO, SIR.

Q I DON'T HAVE ANY OTHER QUESTIONS. THANK YOU.

THE COURT: ANYTHING FURTHER?

SOLICITOR BAILEY: NO, SIR. MAY SHE BE EXCUSED?

THE COURT: YES, YOU MAY BE EXCUSED. THANK YOU SO MUCH.

SOLICITOR BAILEY: CALL CONNIE MCKAY.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: CONNIE MCKAY.

CONNIE MCKAY, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER.

THE WITNESS: M-C-K-A-Y.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MRS. MCKAY, YOU ARE AN EVIDENCE TECHNICIAN AT S.L.E.D.?

A YES, I AM.

Q AND THE PRIOR WITNESS ALREADY EXPLAINED HOW EVIDENCE WORKS AT S.L.E.D., SO I WON'T GET INTO THAT. I WILL CALL YOUR ATTENTION TO FEBRUARY 13TH OF THIS YEAR AND ASK WHETHER OR NOT IN YOUR CAPACITY AT S.L.E.D., DID YOU ACCEPT WHAT IS DESIGNATED S.L.E.D. ITEM 56, A BLACK KAWASAKI JACKET, FROM AGENT KENNY MEARS?

A I DID.

Q DID YOU LOG THAT IN AND PLACE IT IN D.16 OR THE LARGE PROCESSING REFRIGERATOR?

A YES, I DID.

SOLICITOR BAILEY: THAT'S ALL I HAVE.

MR. STONE: NO QUESTIONS

THE COURT: YOU MAY COME DOWN AND ARE EXCUSED FROM FURTHER PARTICIPATION. THANK YOU.

SOLICITOR BAILEY: YOUR HONOR, I NEXT RECALL BRETT BAKER.

DONALD BRETT BAKER, HAVING BEEN DULY PREVIOUSLY SWORN, RESUMED THE WITNESS STAND AND TESTIFIED AS FOLLOWS:

THE COURT: MR. BAKER, YOU HAVE BEEN PREVIOUSLY SWORN.

THE WITNESS: YES, SIR.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. BAKER, YOU PREVIOUSLY TESTIFIED THAT YOU CARRIED CERTAIN ITEMS INTO S.L.E.D. ON JANUARY 2ND, 1998, AND LOGGED THOSE IN WITH MRS. MCKAY; IS THAT CORRECT?

A YES, SIR, THAT'S CORRECT.

Q OR MRS. WILSON?

A YES, SIR.

Q NOW, CALLING YOUR ATTENTION TO S.L.E.D. ITEMS 24 THROUGH 27 AND NUMBER 28, THE FIVE NINE MILLIMETER SHELL CASINGS THAT YOU RETRIEVED FROM THE SCENE OF THE MURDER AND S.L.E.D. ITEM 34, WHICH IS EXHIBIT NUMBER 5, THE NINE MILLIMETER PISTOL, WHEN YOU CARRIED THAT TO S.L.E.D. AND LOGGED THAT IN, DID YOU RETAIN PHYSICAL POSSESSION OF THOSE ITEMS FOR PURPOSES OF TRYING TO GET LATENT PRINTS?

A YES, SIR, THAT'S CORRECT. BASICALLY ANY EVIDENCE THAT I COLLECT, AGAIN, THAT IS GOING TO BE

KEPT BY ME FOR LATENT -- CHECK FOR LATENT PRINTS OR FINGERPRINTS -- I PHYSICALLY KEEP THAT LOCKED IN MY PERSONAL LOCKER AND SECURE. I ACTUALLY GO DOWN WITH THE PAPERWORK, LOGGING IT IN SO TO SPEAK OR ACTUALLY TO EVIDENCE CONTROL SAYING, "I HAVE GOT THIS IN MY CUSTODY."

Q DID YOU THEN CHECK THOSE ITEMS FOR LATENT PRINTS?

A YES, SIR, I SURE DID.

Q AFTER DOING THAT DID YOU PUT THEN IN FIRE LOCK?

A YES, SIR.

Q ON JANUARY 7, 1998?

A YES, SIR. I PUT THEM IN FIRE LOCK AND THAT IS BASICALLY A SECURE HOLDING FACILITY WHERE GUNS AND OTHER EVIDENCE IS GOING TO THE FIREARMS DEPARTMENT. THAT'S A SECURE FACILITY THAT I DON'T EVEN HAVE A KEY TO IT. I ACTUALLY HAVE TO HAVE ONE OF THE EXAMINERS OR A PERSON OVER THERE OPEN THE SECURE ROOM AND, OF COURSE, MY EVIDENCE IS ALSO SEALED AT THAT TIME.

Q AND BETWEEN JANUARY 2ND AND WHEN YOU PUT THEM IN FIRE LOCK, WERE THEY ALSO IN A SECURE PLACE?

A YES, SIR. THEY ARE HOUSED IN THE STATE FORENSIC LABORATORY, WHICH IS ALSO A SECURE FACILITY.

SOLICITOR BAILEY: THAT'S ALL I HAVE OF MR. BAKER AT THIS TIME. I RESERVE THE RIGHT TO

RECALL.

MR. STONE: NO, SIR, I DON'T HAVE ANY QUESTIONS.

THE COURT: YOU ARE EXCUSED, SUBJECT TO BEING RECALLED, MR. BAKER.

SOLICITOR BAILEY: YOUR HONOR, CAN WE APPROACH BRIEFLY?

THE COURT: YES, SIR.

COURT REPORTER: DO YOU NEED THIS ON THE RECORD?

SOLICITOR BAILEY: NO.

(WHEREUPON THERE WAS A BENCH CONFERENCE OFF THE RECORD IN THE PRESENCE OF THE JURY BUT OUT OF THE HEARING OF THE JURY.)

THE COURT: HAVE YOU GOT ANY SHORT WITNESSES?

SOLICITOR BAILEY: YES, SIR, I AM CHECKING.

THE COURT: THE JURY HAS BEEN HERE VERY PATIENTLY SINCE ABOUT NINE O'CLOCK THIS MORNING.

SOLICITOR BAILEY: YOUR HONOR, I HAVE GOT TWO PROBABLY FIVE-MINUTE WITNESSES AND ONE STIPULATION THAT WE COULD DO.

THE COURT: LET'S DO THAT. LET'S TAKE YOUR TWO FIVE-MINUTE WITNESSES.

SOLICITOR BAILEY: CALL HUBERT RICKENBAKER.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: HUBERT RICKENBAKER.

HUBERT RICKENBAKER, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER.

THE WITNESS: R-I-C-K-E-N-B-A-K-E-R.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. RICKENBAKER, YOU ARE FROM ORANGEBURG?

A YES, SIR.

Q WHERE DO YOU WORK?

A ORANGEBURG/CALHOUN DETENTION CENTER.

Q HOW LONG HAVE YOU WORKED THERE?

A FIFTEEN YEARS.

Q WHAT IS YOUR RANK?

A CAPTAIN.

Q AS A CAPTAIN OF THE DETENTION CENTER, WHAT ARE YOUR DUTIES AND RESPONSIBILITIES?

A SHIFT SUPERVISOR.

Q WERE YOU WORKING ON JANUARY 1ST OF THIS YEAR?

A YES, I WAS.

Q I WANT TO CALL YOUR ATTENTION TO JANUARY 1ST, 1998, AND ASK WHETHER OR NOT Y'ALL HAD AN INMATE THAT WAS INCARCERATED THAT DAY NAMED BAYAN ALEKSEY.

A YES, SIR.

Q DID YOU HAVE HIM ADMITTED UNDER THAT NAME OR A DIFFERENT NAME?

A HE WAS ADMITTED UNDER A DIFFERENT NAME.

Q DO YOU RECALL WHAT THAT WAS?

A MICHAEL DIANGELO.

Q MICHAEL DIANGELO?

A OR SOMETHING TO THAT EFFECT.

Q HOLD ON ONE SECOND. BEAR WITH ME ONE SECOND. (WRITING ON BOARD.) DO YOU SEE THAT INMATE HERE IN COURT?

A YES, SIR.

Q POINT HIM OUT, PLEASE.

A SITTING BY MR. SIMS.

Q FOR THE RECORD THAT IS THE DEFENDANT BAYAN ALEKSEY IN THE WHITE SHIRT AND TIE; IS THAT CORRECT?

A YES, SIR.

Q AND HE WAS ADMITTED TO THE JAIL AS AN INMATE CHARGED WITH THE MURDER OF FIRST SERGEANT FRANKIE LINGARD?

A SIR, I DON'T REMEMBER THE EXACT CHARGE. I KNOW HE WAS ADMITTED TO THE JAIL.

Q ON JANUARY 1ST OF THIS YEAR?

A YES, SIR.

Q WHERE WAS HE PLACED TO THE BEST OF YOUR

RECOLLECTION ON JANUARY 1ST WHEN HE WAS FIRST ADMITTED TO THE DETENTION CENTER?

A HE WAS PLACED IN MAXIMUM SECURITY.

Q WHAT IS MAXIMUM? TELL THE JURY WHAT MAXIMUM SECURITY IS.

A BASICALLY LOCKED DOWN 23/1. YOU ARE LOCKED DOWN 23 HOURS OUT OF THE DAY.

Q WHO DECIDES WHERE AN INMATE IS PLACED?

A SIR?

Q WHO MAKES THAT DETERMINATION WHEN SOMEONE GETS PUT IN JAIL WHETHER THEY GO TO MAXIMUM OR --

A BASICALLY THE TYPE OF CRIME.

Q WHAT PERSON MAKES THAT DECISION?

A BASICALLY ON THE FIRST ADMISSION, THE BOOKING OFFICER, SHIFT SUPERVISOR OR WHOEVER.

Q DID YOU GO TO WORK THE NEXT DAY, JANUARY 2ND?

A YES, SIR.

Q AND WHAT TIME DID YOUR SHIFT START?

A FOUR O'CLOCK IN THE AFTERNOON.

Q AND WHEN YOU WENT TO WORK ON JANUARY THE 2ND, WAS HE STILL IN MAX?

A YES, SIR.

Q AND DID YOU HAVE A CONVERSATION WITH -- FIRST OF ALL, WHO IS THE DIRECTOR OF THE DETENTION CENTER?

A THE DIRECTOR OF THE DETENTION CENTER IS

MR. WILLIE BAMBERG.

Q WHO IS THE SECOND COMMAND THERE?

A MRS. DOZIER.

Q MRS. DOZIER. WHAT IS HER JOB TITLE?

A SHE IS DEPUTY DIRECTOR.

Q DID YOU HAVE A CONVERSATION WITH DEPUTY DIRECTOR DOZIER ON JANUARY 2ND?

A NOT DIRECTLY, SIR.

Q WELL, DID YOU MOVE MR. ALEKSEY FROM THE MAXIMUM PART OF THE JAIL TO A DIFFERENT PART OF THE JAIL?

A YES, SIR.

Q WAS THAT BASED ON INSTRUCTIONS YOU RECEIVED FROM SOMEBODY IN THE CHAIN OF COMMAND AT THE DETENTION CENTER?

A INSTRUCTIONS FROM HER, INSTRUCTIONS I RECEIVED FROM HER.

Q FROM WHO?

A FROM MRS. DOZIER.

Q WHERE DID YOU PLACE MR. ALEKSEY?

A IN THE INFIRMARY CELL.

Q WHAT IS THE INFIRMARY CELL?

A IT'S AN ISOLATED CELL MAINLY USED FOR PEOPLE THAT ARE SICK OR INJURED OR WHEN WE NEED TO GET A CLOSER SUPERVISION ON SOMEONE.

Q NOW, CAN YOU STATE WHETHER OR NOT YOU HAD A

CONVERSATION WITH BAYAN ALEKSEY AFTER HE WAS MOVED TO THE INFIRMARY CELL.

A YES, SIR.

Q WHO INITIATED THAT, YOU OR HIM?

A I WAS TOLD BY ANOTHER OFFICER THAT HE WANTED TO SEE A WHITE SHIRT, WHICH IS SLANG FOR A SUPERVISOR.

Q WHEN YOU GOT THAT WORD FROM THE OTHER OFFICER, DID YOU GO TO THE INFIRMARY CELL WHERE MR. ALEKSEY WAS?

A I WENT TO HIS CELL, YES, SIR.

Q WHAT, IF ANYTHING, DID HE TELL YOU?

A HE WANTED TO KNOW WHY HE HAD BEEN MOVED FROM MAX TO THE INFIRMARY CELL.

Q DID YOU RESPOND TO HIM?

A YES, SIR.

Q WHAT DID YOU TELL HIM?

A I TOLD HIM THAT I HAD ORDERS FROM THE DEPUTY DIRECTOR, CHIEF OF SECURITY, TO MOVE HIM UP IN THAT AREA.

Q AND WAS ANYTHING ELSE SAID AT THAT TIME?

A HE WANTED TO MAKE A TELEPHONE CALL TO HIS MOTHER, AND I TOLD HIM I HAD TO GET ANY PHONE CALLS APPROVED BEFORE I COULD DO A PHONE CALL.

Q WAS ANYTHING ELSE SAID?

A THEN HE ASKED WHO MOVED HIM UP THERE AND I TOLD

HIM POSSIBLY S.L.E.D. OR THE DEPUTY DIRECTOR, AND AT THE TIME HE SAID HE WANTED TO SEE SOMEONE FROM S.L.E.D.

Q WHEN HE TOLD YOU THAT, WHAT DID YOU DO?

A I WENT AND TOLD MRS. DOZIER, MY SUPERIOR OFFICER, THAT HE WANTED TO SEE SOMEONE FROM S.L.E.D.

Q MR. RICKENBAKER, PLEASE ANY QUESTIONS THE DEFENSE MAY HAVE FOR YOU.

MR. STONE: BRIEFLY.

CROSS EXAMINATION

BY MR. STONE:

Q ARE THESE LISTED AS PODS OR WHAT?

A SIR?

Q I'M SORRY. ARE THESE CELLS LISTED IN PODS? IS THAT HOW THAT WORKS?

A YES, SIR.

Q WHAT POD IS WHAT?

A POD C. IS MAXIMUM SECURITY.

Q AND THEN THE INFIRMARY CELL IS WHAT?

A JUST INFIRMARY AS STATED.

Q AND HE WAS MOVED INTO THE INFIRMARY. THAT WAS JANUARY THE 2ND?

A YES, SIR.

Q AND S.L.E.D. HAD HIM MOVED INTO THAT POSITION OR YOU DON'T KNOW, DO YOU?

A I DON'T KNOW.
Q AND HE CAME TO YOU AND ASKED TO SPEAK TO S.L.E.D. ABOUT BEING MOVED; IS THAT RIGHT?
A IN OUR CONVERSATION HE SAID HE WANTED TO SEE SOMEONE FROM S.L.E.D.
Q ALL RIGHT, SIR.

MR. STONE: I DON'T HAVE ANYTHING ELSE.

SOLICITOR BAILEY: NO REDIRECT, YOUR HONOR.

THE COURT: YOU MAY COME DOWN AND ARE EXCUSED. THANK YOU SO MUCH.

SOLICITOR BAILEY: CALL MRS. DOZIER.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: VERNETIA DOZIER.

VERNETIA DOZIER, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER.

THE WITNESS: D-O-Z-I-E-R.

COURT REPORTER: SPELL YOUR FIRST NAME, PLEASE.

THE WITNESS: V-E-R-N-E-T-I-A.

DIRECT EXAMINATION
BY SOLICITOR BAILEY:
Q MRS. DOZIER, YOU LIVE HERE IN ORANGEBURG?
A YES, SIR, I DO.

Q WHAT IS YOUR EMPLOYMENT?
A ORANGEBURG/CALHOUN REGIONAL DETENTION CENTER.
Q HOW LONG HAVE YOU WORKED THERE?
A THIRTEEN AND A HALF HEARS.
Q WHAT IS YOUR JOB IN THE DETENTION CENTER?
A DEPUTY DIRECTOR.
Q ARE YOU THE NUMBER TWO PERSON IN THE DETENTION CENTER?
A YES, I AM.
Q WHAT ARE YOUR DUTIES AND RESPONSIBILITIES THERE?
A I OVERSEE THE ADMINISTRATION PART OF THE DETENTION CENTER AND I ALSO MAKE ADMINISTRATIVE DECISIONS, AS FAR AS SEGREGATION AND DIFFERENT THINGS DEALING WITH SECURITY.
Q WERE YOU WORKING ON JANUARY 1ST, NEW YEAR'S DAY?
A NO, I WASN'T.
Q DO YOU KNOW WHETHER OR NOT ON THAT DAY AN INMATE WAS ADMITTED UNDER THE NAME OF MICHAEL DIANGELO ON THE 1ST?
A YES, HE WAS.
Q AND CAN YOU IDENTIFY THAT PERSON IN COURT HERE?
A HE'S SITTING BY HIS ATTORNEY, MR. SIMS, IN THE WHITE SHIRT.
Q FOR THE RECORD THAT IS THE DEFENDANT BAYAN ALEKSEY?

A YES, IT IS.
Q DO YOU KNOW WHAT PART OF THE JAIL HE WAS INITIALLY PLACED IN?
A PART C., WHICH IS THE MAXIMUM SECURITY SECTION.
Q DO YOU KNOW WHOSE DECISION IT WAS TO PLACE HIM IN MAXIMUM?
A I WAS NOT THERE AT THE TIME, SO I CAN'T ANSWER THAT QUESTION.
Q ON JANUARY 2ND DID YOU GO TO WORK?
A YES, I DID.
Q AND WOULD YOU STATE WHETHER OR NOT A DECISION WAS MADE TO MOVE MR. ALEKSEY FROM MAX TO A DIFFERENT PART OF THE FACILITY?
A ON THAT DAY APPROXIMATELY FOUR O'CLOCK, I DECIDED TO MOVE MR. ALEKSEY FOR HIS OWN SAFETY.
Q WHERE DID YOU DECIDE TO MOVE HIM?
A I PLACED HIM IN THE INFIRMARY CELL WHICH IS A SINGLE CELL, AND HE WAS THE ONLY PERSON IN THAT CELL.
Q DID ANYONE ELSE HAVE ANY INPUT INTO THAT DECISION TO MOVE HIM OR DID YOU MAKE THAT AS DEPUTY DIRECTOR?
A I MADE THAT DECISION.
Q THAT WAS FOR SAFETY?
A YES, IT WAS.
Q AND DID YOU GIVE SOME INSTRUCTIONS TO SOMEONE TO

MAKE THAT MOVE?
A. I TOLD CAPTAIN RICKENBAKER TO MAKE SURE HE GOT MOVED.
Q NOW, CALLING YOUR ATTENTION TO LATER ON THAT AFTERNOON, ON JANUARY 2ND, DID YOU HAVE OCCASION TO SEE CAPTAIN RICKENBAKER AGAIN?
A YES, I DID.
Q AND WHAT, IF ANYTHING, DID HE TELL YOU?
A HE TOLD ME THAT MR. ALEKSEY WANTED TO SEE A S.L.E.D. AGENT.
Q IN RESPONSE TO THAT, WHAT DID YOU DO?
A I CALLED OVER AT THE SHERIFF'S DEPARTMENT, THE INVESTIGATION UNIT, AND SPOKE WITH WANDA FITZGERALD AND SHE TOOK THE MESSAGE.
Q YOU TOLD HER THAT MR. ALEKSEY WANTED TO SEE A S.L.E.D. AGENT?
A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)
Q LATER ON WAS ALEKSEY TAKEN OUT OF THE INFIRMARY CELL AND PLACED IN GENERAL POPULATION?
A YES, HE WAS.
Q DO YOU RECALL WHEN THAT WAS?
A WELL, HE WAS NOT BACK -- WE RECEIVED A CALL REQUESTING THAT HE BE MOVED BACK INTO GENERAL POPULATION.
Q WHO DID THAT CALL COME FROM?

A IT CAME FROM THE S.L.E.D. AGENT.
Q DO YOU RECALL WHEN THAT CALL WAS RECEIVED?
A NO, I'M NOT SURE.
Q BUT IN RESPONSE --
A IT WAS BEFORE FIVE O'CLOCK, BEFORE I LEFT.
Q AND IN RESPONSE TO THAT CALL, WAS HE MOVED INTO GENERAL POPULATION?
A YES, HE WAS.
Q DO INMATES AT THE JAIL HAVE TELEPHONE PRIVILEGES?
A YES, THEY DO.
Q DOES IT MAKE A DIFFERENCE IF THEY ARE IN, SAY, IN MAX OR IN THE GENERAL POPULATION?
A NO, IT DOESN'T.
Q AND HOW DO THEY MAKE A LONG DISTANCE CALL?
A ALL TELEPHONE CALLS ARE MADE AND THEY ARE COLLECT CALLS.
Q AND DOES PAY-TEL HANDLE THAT?
A PAY-TEL HANDLES ALL THE TELEPHONES.
Q ON JANUARY 2ND, 1998, WAS MR. ALEKSEY IN CELL BLOCK C.
A HE WAS.
Q PLEASE ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.
MR. STONE: NO QUESTIONS.

THE COURT: YOU MAY COME DOWN AND ARE EXCUSED.

THE WITNESS: THANK YOU.

SOLICITOR BAILEY: YOUR HONOR, I THINK WE CAN PUT A STIPULATION ON THE RECORD IN REGARD TO MRS. FITZGERALD. SHE HAS SOME MEDICAL PROBLEMS AND CAN'T BE HERE.

I BELIEVE OUR STIPULATION WAS THAT MRS. FITZGERALD IS A SECRETARY AT THE SHERIFF'S OFFICE, RECEIVED A TELEPHONE CALL FROM MRS. DOZIER THAT MR. ALEKSEY WANTED TO SEE A S.L.E.D. AGENT.

AGENTS MEARS AND DARNELL WERE AT THE SHERIFF'S OFFICE AT THAT TIME, AND SHE COMMUNICATED THAT TO THE S.L.E.D. AGENTS.

THE COURT: IS THAT A STIPULATION?

MR. STONE: ABSOLUTELY, NO PROBLEM.

THE COURT: THANK YOU.

SOLICITOR BAILEY: I DON'T HAVE ANOTHER SHORT WITNESS, JUDGE.

THE COURT: LADIES AND GENTLEMEN, I APPRECIATE YOUR PATIENCE AND ATTENTION HERE TODAY. YOU HAVE BEEN VERY DILIGENT IN YOUR DUTIES. IT'S SIMPLY THE SIGN OF A GOOD JUROR.

PLEASE REMEMBER NOW MY CONTINUING ADMONITIONS. THAT IS SO IMPORTANT. DON'T DISCUSS

THE CASE WITH ANYONE. PERMIT NO ONE TO DISCUSS IT WITH YOU. DO NOT UNDER ANY CIRCUMSTANCES DISCUSS IT AMONG YOUR FELLOW JURORS.

DO NOT READ ANYTHING ABOUT THIS CASE. DO NOT LISTEN TO ANYTHING ON T.V. DO NOT LOOK AT ANYTHING ON T.V. AGAIN, WHATEVER YOUR JUDGMENT IS AND VERDICT, IT MUST BE BASED ON THE EVIDENCE HEARD IN THIS COURTROOM.

LIEUTENANT EDWARDS HAS MADE ARRANGEMENTS FOR A NICE DINNER FOR YOU TONIGHT, I THINK AROUND 7:30 OR SO. THE JURY IS NOW DISCHARGED AND PLEASE HAVE THEM BACK READY TO GO AT 9:30 IN THE MORNING. THANK YOU SO MUCH. EVERYBODY ELSE REMAIN SEATED FOR A FEW MOMENTS.

(THE JURY IS EXCUSED AT 7:10 P.M.)

THE COURT: SOLICITOR, ANYTHING ELSE WE CAN DO TONIGHT BY WAY OF STIPULATION OR OTHERWISE?

SOLICITOR BAILEY: JUDGE, I CAN'T THINK OF ANYTHING.

THE COURT: ANY MOTIONS IN LIMINE OR IN CAMERA MATTERS WE NEED TO DISCUSS?

SOLICITOR BAILEY: IF YOUR HONOR WOULD GIVE ME A SECOND TO CHECK MY WITNESS LIST.

THE COURT: HOW ABOUT IT, MR. SIMS, MR. DUFFIE?

MR. STONE: I CAN'T THINK OF ANYTHING RIGHT NOW, YOUR HONOR. NO, SIR, I CAN'T THINK OF ANYTHING.

THE COURT: GENTLEMEN, PRIOR TO LETTING THE AUDIENCE LEAVE, MAKE SURE THAT THE JURY HAS DEPARTED THIS FLOOR, PLEASE. AFTER THEY ARE DEPARTED AND HAVE USED THE ELEVATORS, THEN YOU CAN DISCHARGE THEM. THANK YOU.

SOLICITOR BAILEY: JUDGE, I CAN'T THINK OF ANYTHING ELSE WE CAN ACCOMPLISH TONIGHT.

THE COURT: LADIES AND GENTLEMEN, WE ARE IN RECESS. WE WILL BEGIN AGAIN AT 9:30. PLEASE REMAIN IN YOUR SEATS UNTIL TOLD TO LEAVE BY THE BAILIFFS. THANK YOU SO MUCH. SEE YOU IN THE MORNING AT 9:30.

(WHEREUPON THE PROCEEDINGS WERE CONCLUDED FOR AUGUST 28, 1998.)

(THE FOLLOWING PROCEEDINGS WERE REPORTED ON AUGUST 29, 1998.)

THE COURT: LET THE RECORD REFLECT THE DEFENDANT IS IN THE COURTROOM. SOLICITOR BAILEY, ANY PRELIMINARY MATTERS BEFORE WE BEGIN?

SOLICITOR BAILEY: NO, SIR, JUDGE.

THE COURT: GENTLEMEN FOR THE DEFENSE?

MR. STONE: ONLY TO INQUIRE OF THE JURY IF THEY HAVE SEEN ANY MEDIA COVERAGE OR ANYTHING LIKE THAT. I AM SURE YOU WILL BE COVERING THAT ANYWAY.

THE COURT: THAT WILL BE DONE. BRING THE JURY PLEASE.

(THE JURY RETURNS TO THE COURTROOM AT 9:34 A.M.)

THE COURT: THE JURY IS PRESENT. GOOD MORNING, MR. FOREMAN, AND LADIES AND GENTLEMEN. I TRUST YOU HAD A GOOD EVENING AND THE ARRANGEMENTS MADE BY LIEUTENANT EDWARDS WAS SATISFACTORY TO ALL OF YOU.

YOU WILL RECALL ON YESTERDAY MY VARIOUS ADMONITIONS. I ASK YOU AGAIN NOW UPON YOUR OATH AS JURORS: HAS ANYBODY ATTEMPTED TO TALK TO YOU ABOUT THIS CASE? IF SO, PLEASE STAND.

(THERE WAS NO RESPONSE.)

HAVE YOU ATTEMPTED TO TALK TO ANYBODY THEMSELVES ABOUT THE CASE? IF SO, PLEASE STAND. HAVE YOU BEEN A PARTY TO A CONVERSATION INVOLVING ANY ISSUE IN THIS CASE? PLEASE STAND.

(THERE WAS NO RESPONSE.)

THE COURT: WOULD ANY OF YOU HAVE READ OR HEARD ANYTHING ABOUT THIS CASE, OTHER THAN WHAT IS IN THE COURTROOM?

(THERE WAS NO RESPONSE.)

THE COURT: THANK YOU SO MUCH. I APPRECIATE YOUR CONTINUED OBEDIENCE TO THESE

ADMONITIONS. CALL YOUR NEXT WITNESS.

SOLICITOR BAILEY: THE STATE CALLS DOROTHY FULLER.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: DOROTHY L. FULLER.

DOROTHY L. FULLER, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

CLERK: SPELL YOUR LAST NAME FOR THE COURT REPORTER.

THE WITNESS: FULLER, F-U-E-L-E-R.

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MS. FULLER, WHERE ARE YOU EMPLOYED?

A I WORK FOR THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION, COMMONLY KNOWN AS S.L.E.D.

Q TELL THE JURY WHAT YOUR EDUCATIONAL BACKGROUND IS.

A YES, SIR. I GRADUATED FROM WOFFORD COLLEGE WITH A DEGREE IN CHEMISTRY. WHILE I WAS AT WOFFORD, I INTERNED IN THE TRACE EVIDENCE DEPARTMENT IN THE FORENSIC LABORATORY OF S.L.E.D., WHICH IS WHERE I AM NOW EMPLOYED.

I HAVE DONE TWO SEPARATE INTERNSHIPS THERE BEFORE I WAS EMPLOYED IN THE TRACE EVIDENCE DEPARTMENT. AFTER MY DEGREE IN CHEMISTRY FROM

WOFFORD, I IMMEDIATELY STARTED WORKING AT S.L.E.D. IN THE TRACE EVIDENCE DEPARTMENT.

WHILE I HAVE BEEN THERE, I HAVE UNDERGONE EXTENSIVE TRAINING UNDER MY DIRECT SUPERVISOR AND TRAINING OFFICER, LIEUTENANT JOE POWELL. I HAVE ALSO ATTENDED GRADUATE COURSES IN FORENSICS AT THE MCCRONE RESEARCH INSTITUTE IN CHICAGO, ILLINOIS.

Q YOU MIGHT HAVE SAID THIS BEFORE. HOW LONG HAVE YOU WORKED AT S.L.E.D. IN A FULL-TIME CAPACITY, NOT COUNTING THE INTERNSHIP?

A TWO YEARS.

Q AND AT THE PRESENT TIME, WHAT DO YOU DO AT S.L.E.D.?

A I AM A TRACE EVIDENCE EXAMINER IN THE TRACE EVIDENCE DEPARTMENT.

Q WOULD YOU TELL THE JURY WHAT TRACE EVIDENCE IS, WHAT YOUR DEPARTMENT DOES AT S.L.E.D.

A TRACE EVIDENCE IS BASICALLY COMPRISED OF SEVERAL DIFFERENT DISCIPLINES. WE ANALYZE ANYTHING FROM HAIR AND FIBER, GUN POWDER EXAMINATIONS, DISTANCE CALCULATIONS, EXPLOSIVE, PAINTS AND GUN PRIMER EXAMINATIONS.

Q AND HAVE YOU TESTIFIED IN THE PAST AS AN EXPERT IN THE FIELD OF TRACE EVIDENCE --

A YES, SIR, I HAVE.

Q -- IN COURTS OF THIS STATE.

SOLICITOR BAILEY: YOUR HONOR, I WOULD TENDER MS. FULLER AS AN EXPERT IN TRACE EVIDENCE.

MR. STONE: JUST A QUESTION.

THE COURT: YES, SIR.

VOIR DIRE EXAMINATION

BY MR. STONE:

Q WHEN DID YOU DO YOUR INTERN PROGRAM?

A IT WOULD HAVE BEEN THE JANUARY OF MY JUNIOR YEAR, WHICH WAS '95 AND AUGUST OF '95 AS WELL.

Q NINETY-FIVE?

A YES, SIR.

Q WHO WAS IN THE TRACE LAB AT THAT TIME?

A MIKE AVERY WAS THE LIEUTENANT AND JOE POWELL WAS ACTUALLY THE ANALYST THAT I WORKED WITH.

Q AND YOU WENT TO WOFFORD?

A YES, SIR.

MR. STONE: IF SHE WENT TO WOFFORD, I DON'T HAVE ANY OBJECTION.

THE COURT: I FIND SHE IS AN EXPERT IN THIS FIELD.

SOLICITOR BAILEY: THANK YOU, YOUR HONOR.

DIRECT EXAMINATION CONTINUED

BY SOLICITOR BAILEY:

Q MS. FULLER, I WANT TO CALL YOUR ATTENTION TO

CERTAIN ITEMS OF EVIDENCE IN THIS CASE AND PLEASE REFER TO YOUR FILE IF YOU NEED TO --

A YES, SIR.

Q -- TO REFRESH YOUR MEMORY WHEN I ASK YOU THESE QUESTIONS. I WILL REFERENCE YOUR LAB NUMBER L.9811, AND I WILL GO THROUGH SOME ITEMS. RATHER THAN USING THE EVIDENCE NUMBERS, I WILL USE THE S.L.E.D. I.D. NUMBERS.

A THANK YOU.

Q I WILL ASK WHETHER OR NOT IN THE COURSE OF YOUR DUTIES YOU ACCEPTED CUSTODY OF A NINE MILLIMETER BRYCO SEMIAUTOMATIC PISTOL, SERIAL NUMBER 749485?

A YES, SIR, I DID.

Q AND DID YOU ALSO RECEIVE A GUNSHOT RESIDUE KIT WITH THE NAME JUSTIN MATEEKI, ALSO KNOWN AS BAYAN ALEKSEY, WHICH WAS OBTAINED BY BRETT BAKER? THAT IS YOUR ITEM NUMBER 46.

A YES, SIR, I DID.

Q AND DID YOU GET THAT FROM THE TRACE EVIDENCE ROOM, ROOM 338, ON JANUARY 5, 1998?

A YES, SIR.

Q DID YOU ALSO GET A GUNSHOT RESIDUE KIT FROM A FORD MUSTANG, S.L.E.D. ITEM 47, ON THAT SAME DAY, JANUARY 5, 1998?

A YES, SIR. THERE WERE THREE GUNSHOT RESIDUE KITS

PACKAGED INDIVIDUALLY, YET IN THE SAME CONTAINER; AND THAT WAS WITH THE FORD MUSTANG, JUSTIN MATEEKI AND FRANKIE LINGARD.

Q WAS THE FRANKIE LINGARD ONE NUMBER 48?

A YES, SIR.

Q I WILL HAND YOU WHAT IS ALREADY IN EVIDENCE, MS. FULLER, WHICH I BELIEVE ARE THE THREE GUNSHOT RESIDUE KITS. FOR THE RECORD THOSE ARE EXHIBITS 45, 64 AND 47, AND ASK IF THOSE ARE THE PACKAGES YOU RECEIVED.

A EXHIBIT NUMBER 45, THE GUNSHOT RESIDUE KIT FROM JUSTIN MATEEKI, BEARS MY INITIALS ON THE BACK SEAL FROM WHERE I OPENED AND CLOSED THIS KIT; AND THAT IS THE KIT THAT I RECEIVED.

Q WAS THAT SEALED WHEN YOU RECEIVED IT?

A YES, SIR.

Q WERE ALL OF THE ITEMS SEALED?

A YES, SIR. UNLESS THERE IS A BREACH OF THE INTEGRITY OF THE SEAL, I DO NOT MAKE A NOTATION OF IT BECAUSE I KNOW THAT IT WAS SEALED. OTHERWISE I WOULD MAKE A NOTE.

STATE'S EXHIBIT NUMBER 64, GUNSHOT RESIDUE FROM FRANKIE LINGARD, ALSO BEARS MY INITIALS ON THE BACK SEAL. EXHIBIT NUMBER 47, GUNSHOT RESIDUE KIT FROM THE FORD MUSTANG, ALSO BEARS MY INITIALS ON THE BACK

SEAL.

Q I WILL HAND YOU STATE'S 5 AND ASK IF THAT IS THE BRYCO PISTOL I JUST REFERRED TO?

A IT IS THE BRYCO NINE MILLIMETER, SERIAL NUMBER 749485, WHICH IS THE BRYCO NINE MILLIMETER THAT I HAD IN MY CUSTODY.

SOLICITOR BAILEY: BEAR WITH ME ONE SECOND, PLEASE.

(PAUSE.)

Q I HAND YOU A BLACK POLO BRAND T-SHIRT AND ASK YOU IF YOU RECEIVED THAT. THIS IS STATE'S 46 IN EVIDENCE.

A STATE'S EXHIBIT NUMBER 46 IS A BLACK T-SHIRT. IT HAS MY ITEM NUMBER 50 AND 51, MY SIGNATURE AS WELL AS MY LIEUTENANT'S SIGNATURE. SO, YES, SIR, THIS IS THE SHIRT THAT WAS IN MY CUSTODY.

Q DID YOU OBTAIN THAT FROM THE LARGE PROCESS REFRIGERATOR ON JANUARY 2ND, 1998?

A ONE SECOND. YES, SIR, FROM THE LARGE PROCESSING REFRIGERATOR ON THE 8TH OF JANUARY.

Q ON THAT SAME DAY DID YOU RECEIVE S.L.E.D. ITEM 52, WHICH HAS BEEN IDENTIFIED AS A JACKET BELONGING TO GLORYVEE PEREZ, WHICH IS STATE'S 67?

A YES, SIR, STATE'S EXHIBIT 67.

Q THAT'S A DIFFERENT BOX, I BELIEVE.

A IT DOES HAVE MY INITIALS ON THE BOTTOM AND EXHIBIT -- MY NUMBER 52 IS THE BLACK JACKET. I RECEIVED IT INTO -- JOE POWELL RECEIVED IT INTO HIS CUSTODY ON THE 9TH OF JANUARY. I WAS WORKING WITH HIM AT THE TIME. THIS WAS A CASE THAT WE WORKED TOGETHER.

Q IS THAT COMMON AT S.L.E.D. THAT YOU WOULD WORK TOGETHER WITH ANOTHER AGENT?

A DURING MY TRAINING PERIOD IN TRACE EVIDENCE, THE TRAINING PERIOD IS LONG. IT'S THREE YEARS OF EXCRUCIATINGLY TEDIOUS WORK. WE WORK VERY CLOSELY WITH OUR TRAINING OFFICER, IN THIS CASE THE LIEUTENANT OF THE TRACE EVIDENCE DEPARTMENT.

WHILE I AM IN TRAINING BEFORE I BECOME COURT QUALIFIED IN A FIELD, SUCH AS GUNSHOT RESIDUE, AS AN EXPERT, I WORK EVERY CASE WITH MY LIEUTENANT, JOE POWELL. SO, YES, SIR, IT'S VERY COMMON THAT HE OR I ONE WILL TAKE THE EVIDENCE INTO OUR CUSTODY AND WORK IT TOGETHER.

Q I WANT TO NEXT CALL YOUR ATTENTION TO S.L.E.D. ITEM 56, WHICH IS A BLACK MOTORCYCLE JACKET. THAT'S STATE'S 68 AND ASK WHETHER OR NOT YOU RECEIVED THAT IN THE COURSE OF YOUR DUTIES AT S.L.E.D.

A YES, SIR. THIS IS THE BLACK JACKET THAT I RECEIVED INTO MY CUSTODY ON THE 3RD OF MARCH.

Q DID YOU GET THAT OUT OF THE D.16 SECURED REFRIGERATOR?
A YES, SIR.
Q I WANT TO NEXT CALL YOUR ATTENTION TO S.L.E.D. ITEM 49, WHICH IS STATE'S 15, WHICH HAS BEEN PREVIOUSLY IDENTIFIED AS THE JACKET WORN BY FIRST SERGEANT FRANKIE LINGARD WHEN HE WAS MURDERED ON NEW YEAR'S EVE. DID YOU RECEIVE THAT IN THE COURSE OF YOUR DUTIES AT S.L.E.D.?
A YES, SIR. ONE MOMENT, PLEASE. YES, SIR, THIS IS THE JACKET. IT BEARS MY INITIALS AS WELL AS LIEUTENANT JOE POWELL'S INITIALS IN THE BACK.
Q DID YOU GET THAT OUT OF THE LARGE PROCESSING REFRIGERATOR ON JANUARY 7, 1998?
A YES, SIR, I DID.
Q MS. FULLER, AS PART OF YOUR WORK IN THE TRACE DEPARTMENT AT S.L.E.D., DO YOU ROUTINELY FIRE THE PISTOLS THAT ARE SENT TO YOU AS PART OF YOUR NORMAL PROCEDURE?
A YES, SIR. WHEN WE DO A GUN POWDER EXAMINATION ON CLOTHING, MOST OF THE TIME WHAT THEY WANT IS A DISTANCE FROM MUZZLE TO TARGET.

DURING THAT COURSE THE ONLY WAY TO ACTUALLY CREATE AN ACCURATE DISTANCE DETERMINATION IS TO TEST FIRE THE WEAPON USED IN THE INCIDENT, AS WELL AS

SIMILAR AMMUNITION.

AND IN THIS PARTICULAR CASE WE DID. WE TEST FIRED THIS WEAPON TO DETERMINE A DISTANCE FROM THE VICTIM TO THE MUZZLE OF THE WEAPON.

Q BEFORE WE GET INTO THAT SPECIFICALLY, WOULD YOU JUST BRIEFLY EXPLAIN TO THE JURY HOW A SEMIAUTOMATIC PISTOL LIKE THAT WORKS, HOW YOU FIRE IT, HOW YOU PUT A ROUND IN THE CHAMBER TO FIRE.

A YES, SIR. WELL, WHEN A WEAPON IS DISCHARGED, THERE ARE SEVERAL DIFFERENT THINGS THAT HAPPEN AT ONE TIME. EXCUSE ME FOR POINTING IT AT YOU. TYPICALLY THERE WILL BE A BULLET ALREADY CHAMBERED IN THE BARREL.

THE TRIGGER IS DEPRESSED AND AS THE TRIGGER IS DEPRESSED, THAT ENABLES THE FIRING PIN AT THE BACK OF THE GUN TO HIT THE BACK OF THE CARTRIDGE. THE CARTRIDGE CONTAINS THE BULLET, THE GUN POWDER AND THE GUN PRIMER.

THE PRIMER MIXTURE IS WHAT THE FIRING PIN ACTUALLY HITS, THE PRIMER CAP, WHICH CONTAINS THAT MIXTURE. IN THAT MIXTURE IS THE ELEMENTS THAT WE ARE LOOKING FOR ON THE GUNSHOT RESIDUE KIT, PRIMARILY LEAD, BARIUM AND ANTIMONY.

AS THE FIRING PIN HITS THE PRIMER MIXTURE, THE PRIME MIXTURE -- THE SHOCK FROM THE FIRING PIN

ACTUALLY CAUSES A SMALL EXPLOSION WITH THE PRIMER MIXTURE.

THAT EXPLOSION IN TURN IGNITES THE GUN POWDER. THE GUN POWDER AS IT IS BURNING CREATES ENOUGH PRESSURE TO WHERE THE BULLET IS ACTUALLY PROJECTED OUT OF THE BARREL OF THE GUN.

AS IT IS PROJECTED OUT OF THE BARREL OF THE GUN, THE SLIDE IS RACKED BACK AND THE EMPTY CARTRIDGE CASING AT THAT POINT, BECAUSE THE BULLET HAS EJECTED FROM THE GUN, ACTUALLY COMES OUT OF THE EJECTION PORT, WHICH IS THIS LITTLE PORT RIGHT HERE (INDICATING) WHICH YOU SEE IS OPEN. IT ACTUALLY COMES OUT THAT PART.

Q ONCE THAT IS EJECTED, DOES ANOTHER ROUND AUTOMATICALLY GO INTO THE CHAMBER?

A PROVIDED THAT THE GUN WORKS PROPERLY, YES, SIR.

Q NOW, TELL THE JURY, PLEASE, JUST IN LAYMAN'S TERMS IF YOU CAN, WHAT THE DIFFERENCE IS IN GUN POWDER AND GUNSHOT RESIDUE.

A GUN POWDER IS ACTUALLY A PART OF GUNSHOT RESIDUE. EVERYTHING THAT COMES OUT -- EXCLUDING THE BULLET -- EVERYTHING THAT COMES OUT OF THE GUN IS CONSIDERED GUNSHOT RESIDUE.

HOWEVER WHEN WE ARE DEFINING OUR EXAMINATIONS IN THE TRACE EVIDENCE DEPARTMENT, WE TYPICALLY USE GUN

POWDER TO DEFINE THE MATERIAL THAT FOLLOWS ALONG BEHIND THE BULLET.

IT'S A LITTLE BIT HEAVIER, THE PART THAT BURNS THAT CREATES THE PRESSURE THAT EJECTS THE BULLET OUT THE BARREL. THAT ACTUALLY FOLLOWS FAIRLY CLOSELY BEHIND THE BULLET FOR A SET AMOUNT OF DISTANCE AND WILL DEPOSIT AROUND THE BULLET HOLE IF IT'S WITHIN A CLOSE ENOUGH DISTANCE.

WHEREAS THE GUNSHOT RESIDUE OR THE GUN PRIMER IS WHAT I DESCRIBED EARLIER IS WHAT STARTS THE IGNITION OF THE GUN POWDER. IT IS MUCH MORE FRAGILE AND SMALLER.

SO WHEN IT ACTUALLY HITS AIR, IT PRETTY MUCH STOPS AND WILL ACTUALLY ENCAPSULATE THE GUN AND EVERYTHING ELSE THAT WAS IN CLOSE VICINITY OF THAT GUN UPON DISCHARGE.

Q YOU HAVE TOUCHED ON THIS, BUT COULD YOU GO INTO A LITTLE MORE DETAIL ON THE PHYSICAL CHARACTERISTICS OF THE POWDER, GUNSHOT POWDER, AS FAR AS THE SIZE PARTICLES AND SO FORTH.

A YES, SIR. THEY ARE -- AGAIN, THEY ARE LARGER THAN THE GUN PRIMER. YOU MAY BE ABLE TO ACTUALLY VISUALLY SEE THEM. IF YOU HAVE EVER FIRED A WEAPON INTO LIKE A PIECE OF WHITE CLOTH OR SOMETHING AND SEEN THE PARTICLES AROUND THE BULLET HOLE, THOSE ARE

MOST LIKELY THE GUN POWDER PARTICLES YOU ARE ACTUALLY LOOKING AT.

YOU CAN USE A STEREOSCOPE, WHICH IS JUST BASICALLY A RIGGED-UP MAGNIFYING GLASS WITH LIGHTS, THAT YOU CAN IDENTIFY THESE GUN POWDER PARTICLES WITH AS OPPOSED TO GUNSHOT RESIDUE OR GUN PRIMER RESIDUE ON THE HANDS, WHICH YOU REALLY CANNOT VISIBLY SEE, UNLESS YOU FIRED A WEAPON MANY, MANY TIMES AND YOUR HANDS GET BLACK, THAT'S ACTUALLY A CAKING EFFECT OF THE GUN PRIMER RESIDUE.

Q AS FAR AS THE CHARACTERISTICS, SPECIFIC CHARACTERISTICS, OF THE GUNSHOT RESIDUE THAT YOU SAID WOULD ENCOMPASS THE GUN WHEN IT WAS FIRED --

A YES, SIR.

Q -- CAN YOU GO INTO A LITTLE MORE DETAIL ON THAT, MAYBE SOMETHING THEY COULD COMPARE IT WITH IN EVERYDAY LIFE.

A CERTAINLY.

Q AS FAR AS THE SIZE PARTICLES, JUST THE CHARACTERISTICS OF THE ACTUAL RESIDE.

A YES, SIR. SPECIFICALLY ONE OF THE CHARACTERISTICS OF GUN PRIMER RESIDUE IS IT REACTS SOMETHING LIKE FLOUR WHEN YOU ARE COOKING OR DUST AROUND YOUR HOUSE.

IF YOU NOTICE DUST GETS ON EVERYTHING. WHEN YOU

ARE COOKING SO DOES FLOUR. IF IT GETS ON THE COUNTER, IT STAYS ON THE COUNTER UNTIL YOU WIPE IT OFF.

HOWEVER IT IS EASILY WIPED OFF. IT JUST FORMS A THIN SHEET WHEREVER IT LANDS. GUN PRIMER DOES MUCH OF THE SAME EFFECT. IT WILL ACTUALLY LAND AND LIGHTLY LAY ON WHATEVER IT LANDS ON FIRST UNTIL IT IS WIPED OFF.

Q IS IT A WET OR DRY SUBSTANCE?

A IT IS A DRY SUBSTANCE. WHEN IT COMES OUT OF THE GUN, EVERYTHING IS INCREDIBLY HOT. AND WHAT IS HAPPENING IS THE GUN PRIMER IS BEING BURNED WITH THAT EXPLOSION.

AS SOON AS IT IS HITTING AIR, IT'S COOLING DOWN SO QUICKLY THAT IT FORMS A SEMI MOLTEN STATE AND ACTUALLY VERY, VERY SMALL ROUND PARTICLES OF GUN PRIMER WILL FORM. THIS IS WHAT WE LOOK FOR WHEN WE DO A GUN PRIMER EXAMINATION. WE ARE LOOKING FOR THOSE PARTICLES.

Q PLEASE TELL THE JURY WHAT A GUNSHOT RESIDUE KIT IS.

A THE GUNSHOT RESIDUE KIT IS A KIT CREATED FOR THE COLLECTION OF GUNSHOT RESIDUE, TYPICALLY OFF A PERSON'S HANDS. THIS KIT IS USED TO COLLECT THAT MATERIAL.

IT HAS Q-TIP SWABS THAT WE USE FOR ONE PART OF THE COLLECTION, AS WELL AS SMALL ALUMINUM STICKY STUBS, IF YOU WILL, THAT WE ALSO USE TO STICK ON EACH REGION OF THE HAND.

IN THE COLLECTION OF THIS KIT, WHAT WE DO IS YOU FIRST TAKE THE ALUMINUM STUB WITH THE STICKY MATERIAL ON IT, AND YOU STICK IT ON EACH REGION OF THE HAND INDIVIDUALLY, ONE STUB FOR EACH REGION.

THAT WILL ENABLE US TO GET ANY PARTICLES THAT ARE ON THE HAND. IF THERE ARE ANY THERE, WE WILL TEST THAT AND ACTUALLY FIND DEFINITIVE PARTICLES AND LOOK UNDER A MICROSCOPE TO SEE DEFINITIVE PARTICLES OF GUN PRIMER.

THE Q-TIP SWAB IS THEN USED NEXT ON EACH REGION OF THE HAND. THAT GIVES US AN ELEMENTAL CONCENTRATION OF WHAT IS ON THE HANDS AND WHICH CAN INDICATE THE PRESENCE OF GUNSHOT RESIDUE OR NOT.

TO MAKE SURE THAT WE HAVE THE GUNSHOT RESIDUE AND NOT CONTAMINANTS FROM YOUR EVERYDAY LIVING, WE TAKE A CONTROL FROM SOME OTHER PART OF THE BODY, SUCH AS THE BACK OF YOUR CALF OR YOUR STOMACH OR SOMETHING LIKE THAT.

THAT WILL LET US KNOW WHAT TYPE OF ENVIRONMENTAL CONTAMINANTS YOU HAVE ON YOUR BODY AT THAT TIME THAT THE GUNSHOT RESIDUE KIT IS TAKEN.

Q IS THERE A THRESHOLD AMOUNT OF GUNSHOT RESIDUE THAT YOU WANT TO FIND BEFORE YOU WOULD DECLARE A POSITIVE TEST FOR THE EXISTENCE OF GUNSHOT RESIDUE?

A THERE IS WHEN YOU ARE DEALING WITH A LIVE PERSON. WHEN YOU ARE A DEALING WITH A DECEASED PERSON, THE GUNSHOT RESIDUE WILL REMAIN ON THE HANDS INDEFINITELY BECAUSE THEY ARE NOT MOVING. THEIR HEART IS NO LONGER BEATING. THEY HAVE NO MORE ABSORPTION FROM THEIR SKIN.

TECHNICALLY THE GUN PRIMER PARTICLES WILL REMAIN ON THE HANDS INDEFINITELY UNTIL THE HANDS ARE EITHER WIPED CLEAN OR FROM THE ENVIRONMENT. PERHAPS THEY ARE OUT IN THE RAIN. THE RAIN WOULD ACTUALLY WASH IT OFF ON SOMETHING LIKE THAT.

HOWEVER, WHEN YOU ARE A DEALING WITH A LIVE PERSON IN THE CASE OF THE DISCHARGE OF A WEAPON, IT IS VERY CRUCIAL TO GET THIS MATERIAL AS SOON AS YOU POSSIBLY CAN. THE REASON BEING IS IT'S SO FRAGILE. MUCH LIKE FLOOR OR MUCH LIKE DUST, ALL YOU HAVE TO DO IS WIPE IT OFF.

IT'S THAT EASY. YOU JUST HAVE TO WIPE IT OFF OR WASH IT OFF, AND THAT WILL GET RID OF IT, AS WELL AS YOUR ABSORPTION RATE OF YOUR SKIN. EVEN IF I WERE TO JUST SIT HERE FOR SIX HOURS, IT WOULD BE GONE. IF I SHOT A WEAPON AND WITHIN SIX HOURS, IT WOULD

DISAPPEAR BECAUSE OF THE TYPICAL NORMAL ABSORPTION RATE OF YOUR BODY FROM YOUR SKIN.

Q I MIGHT HAVE ASKED THAT LAST QUESTION AWKWARDLY. LET ME ASK IT AGAIN. WHAT I WAS TRYING TO ASK BY THE LAST QUESTION IS WHETHER OR NOT WHEN YOU ARE DOING YOUR TEST FOR THE PRESENCE OF GUNSHOT RESIDUE TO DETERMINE THE EXISTENCE, YOU ARE LOOKING FOR CERTAIN CHEMICAL SUBSTANCES; IS THAT CORRECT?

A YES, SIR. EXCUSE ME.

Q THAT MAY BE FOUND IN THE ENVIRONMENT BUT MAY BE FOUND AS A RESULT OF GUNSHOT RESIDUE?

A YES, SIR.

Q IS THERE A THRESHOLD AMOUNT? I MEAN, ARE THERE SOME THINGS THERE THAT MAY BE CONSISTENT WITH GUNSHOT RESIDUE BUT NOT ENOUGH FOR YOU TO CLARIFY A POSITIVE TEST RESULT?

A EXCUSE ME, I MISUNDERSTOOD YOUR QUESTION. YES, THERE IS. WE ARE LOOKING FOR THE THREE BASIC ELEMENTS THAT I IDENTIFIED EARLIER: LEAD, BARIUM AND ANTIMONY.

OF THESE THREE ELEMENTS, WE HAVE TO HAVE A CERTAIN AMOUNT OF EACH ONE OF THEM TO IDENTIFY IT AS INDICATIVE OF GUNSHOT RESIDUE. IF WE DO NOT HAVE ALL THREE OF THOSE OR TWO, DEPENDING ON WHAT ANALYSIS WE ARE USING, IF WE DO NOT HAVE ENOUGH OF THAT

THRESHOLD, THEN IT IS NOT REPORTED AS INDICATIVE OF GUNSHOT RESIDUE.

Q THANK YOU. LET'S SWITCH NOW TO GUN POWDER. HOW DO YOU GO ABOUT TESTING FOR THE PRESENCE OF GUN POWDER?

A FOR A GUN POWDER EXAMINATION, THAT DEALS PRIMARILY, LIKE I SAID, WITH THE CLOTHING WITH A BULLET HOLE IN IT. WE HAVE THREE BASIC EXAMINATIONS THAT WE DO FOR GUN POWDER.

THE FIRST IS A VISUAL EXAMINATION. AN ANALYST'S EYES ARE ONE OF OUR BEST TOOLS. WHAT WE ARE LOOKING FOR: ARE THERE ANY CHARACTERISTICS OF GUN POWDER OR ANY GUN POWDER PARTICLES ON THAT CLOTHING?

FOR INSTANCE, IF I FIND A HOLE IN A PIECE OF CLOTHING, THEN I WOULD PUT IT UNDER THIS BIG MAGNIFYING GLASS AND LOOK FOR BURNS AROUND THE HOLES, SOOT, LEAD AND ANY GUN POWDER PARTICLES.

THE NEXT TEST WOULD BE WHAT IS CALLED A MODIFIED GRICE TEST, WHICH IS A CHEMICAL EXAMINATION FOR THE PRESENCE OF PARTIALLY BURNT GUN POWDER PARTICLES.

AFTER THAT WE DO WHAT IS CALLED A SODIUM RESINATE, ANOTHER CHEMICAL TEST, WHICH WE THEN USE TO FIND THE PRESENCE OF LEAD, WHICH ACTUALLY WILL FOLLOW BEHIND THE GUN POWDER IN A LEAD CLOUD, IF YOU WILL.

Q WHEN YOU FIRE A GUN, DOES THE GUNSHOT POWDER, THE GUN POWDER THAT COMES OUT OF THE BARREL, FORM A PATTERN WHEN IT COMES INTO CONTACT WITH AN OBJECT?

A YES, SIR. WHEN YOU THINK OF THE DISCHARGE OF A FIREARM, THE BULLET PRETTY MUCH GOES IN A STRAIGHT LINE. IT IS GOING AT A RELATIVELY HIGH RATE OF SPEED, AND IT WILL ACTUALLY HIT WHAT YOU ARE AIMING AT IN A STRAIGHT LINE.

THE GUN POWDER IS SMALLER AND ONCE IT LEAVES THAT BARREL, IT ACTUALLY STARTS OPENING UP. SO WHAT YOU HAVE IS A CONE EFFECT, IF YOU WILL. IT STARTS VERY SMALL AND THEN GOES OUTWARD TO APPROXIMATELY A RADIUS OF SIX INCHES. WITH THAT WHAT WE DO IS -- A PATTERN IS ACTUALLY GENERATED IF IT IS CLOSE ENOUGH TO THE MATERIAL TO BE DEPOSITED.

Q DOES THE DISTANCE AT WHICH THE PATTERN WOULD BE PRESENT VARY FROM WEAPON TO WEAPON?

A YES, SIR. IT NOT ONLY VARIES FROM WEAPON TO WEAPON, BUT IT ALSO -- DEPENDING ON THE AMMUNITION THAT IS USED.

Q USING THE AMMUNITION THAT WAS SENT TO YOU WITH THE WEAPON, STATE'S 5, THE BRYCO NINE MILLIMETER PISTOL THAT YOU TESTIFIED YOU FIRED, DID YOU FIRE THAT TO DETERMINE THE DISTANCE AT WHICH -- THE FURTHEST DISTANCE FROM THE END OF THE BARREL WHICH

WOULD LEAVE A GUN POWDER PATTERN?

A YES, SIR, WE DID.

Q TELL THE JURY HOW YOU WENT ABOUT DOING THAT AND WHAT RESULTS YOU REACHED, PLEASE.

A WELL, THE FIRST THING WE DID WAS WE TOOK THE VICTIM'S JACKET AND ANALYZED IT TO FIND IF THERE WAS THE PRESENCE OF GUN POWDER PARTICLES OR LEAD, A PATTERN PRESENT.

Q YOU ARE REFERRING TO THE HIGHWAY PATROL JACKET?

A YES, SIR.

Q IS THAT CORRECT?

A YES, SIR. IF YOU WILL LET ME GET MY NOTES REAL QUICK.

Q SURE.

A IN THIS CASE THERE WERE EIGHT HOLES, AND OF THE EIGHT HOLES NONE OF THEM ACTUALLY HAD A PATTERN FORMED BY THE GUN POWDER. THERE WAS ALSO NO LEAD PRESENT. THEREFORE IT WAS BASICALLY WHAT WE CALL THE EXTENSION POINT.

WE NEEDED TO KNOW HOW FAR THE GUN COULD BE FIRED LEAVING A PATTERN AND WHEN WOULD THAT PATTERN STOP, THUS LEAVING NO GUN POWDER PARTICLES OR NO LEAD. WE THEN TOOK THIS WEAPON USING SIMILAR AMMUNITION AND TEST FIRED IT INTO PIECES OF WHITE COTTON CLOTH AT SPECIFIC DISTANCES.

WE DO THIS DISTANCE DETERMINATION BY SIX-INCH INTERVALS: SHOOT AT CONTACT, SIX INCHES, TWELVE INCHES, ON UP TO HOWEVER FAR WE NEED TO GO UNTIL WE DETERMINE THAT THERE IS NO PATTERN OF GUN POWDER LEFT.

FROM THAT WE THEN TAKE OUR PATTERNS OR LOSS OF PATTERN WHEN IT WAS FOUND WITH THE GUN, COMPARE IT TO WHAT WE HAVE WITH OUR VICTIM'S JACKET IN THIS CASE AND DETERMINE A DISTANCE.

Q WHAT IS THE GREATEST DISTANCE AT WHICH THAT PARTICULAR WEAPON WOULD LEAVE A GUN POWDER PATTERN?

A I AM GOING TO REFER TO MY REPORT.

Q OKAY.

A TEST FIRING THE BRYCO NINE MILLIMETER AND USING THE SAME CALIBER BRAND AND TYPE OF AMMUNITION THAT WAS USED IN THIS INCIDENT, NO PATTERN OF GUN POWDER RESIDUE WAS DEPOSITED AT A DISTANCE OF FOUR FEET.

Q YOU TESTIFIED YOU DIDN'T FIND ANY GUNSHOT PATTERN ON THE JACKET ON ANY OF THE BULLET HOLES; IS THAT CORRECT?

A CORRECT. THERE WAS NO PATTERN ON ANY OF THE BULLET HOLES.

Q SO TO MAKE SURE I UNDERSTAND YOU CORRECTLY, YOU FOUND SOME EVIDENCE OF GUN POWDER BUT NO PATTERN; IS THAT CORRECT?

A SPECIFICALLY ON A FEW OF THE HOLES, WE WOULD FIND -- WE FOUND ONE OR TWO SPOTS THAT WERE INDICATIVE OF GUN POWDER. HOWEVER, THAT IS NOT ENOUGH TO CREATE A PATTERN. THEREFORE WHAT WE GO BY IS THE PATTERN ITSELF, IF THERE ARE MORE THAN FIVE SPOTS. IN THIS CASE I DID NOT FIND FIVE SPOTS.

Q SO WHAT DID THE LACK OF GUN POWDER PATTERN ON THAT JACKET INDICATE TO YOU AS FAR AS THE DISTANCE FROM WHICH THE PERSON WEARING THAT JACKET WAS SHOT?

A YES, SIR. USING THIS WEAPON IN SIMILAR -- THE SAME TYPE OF AMMUNITION THAT WAS USED IN THIS INSTANCE, WE DETERMINED THAT THE DISTANCE FROM THE MUZZLE OF THIS GUN TO THAT JACKET WOULD HAVE BEEN FOUR FEET OR GREATER.

Q ALL RIGHT. I WANT TO NEXT ASK YOU ABOUT THE GUNSHOT RESIDUE KIT MR. BAKER TOOK --

COURT REPORTER: JUDGE, CAN I HAVE ONE SECOND, PLEASE. I'VE GOT A LITTLE EQUIPMENT PROBLEM.

(PAUSE.)

COURT REPORTER: ALL RIGHT, JUDGE. I'M READY.

Q MRS. FULLER, I WANT TO CALL YOUR ATTENTION TO STATE'S EXHIBIT 64, WHICH IS S.L.E.D. ITEM 48, THIS BEING THE GUNSHOT RESIDUE KIT THAT MR. BAKER TOOK FROM THE HANDS OF FRANKIE LINGARD AT THE AUTOPSY.

A YES, SIR.
Q I WANT TO ASK IF YOU DID THE TEST THAT YOU HAVE DESCRIBED FOR THE PRESENCE OF GUNSHOT RESIDUE ON THAT GUNSHOT RESIDUE KIT?
A YES, SIR, I DID.
Q WHAT WERE THE RESULTS OF THAT TEST?
A IN THE SAMPLE SUBMITTED FROM F. LINGARD, THE QUANTITIES OF METAL DETECTED ON THE HAND REGION DO NOT INDICATE THE PRESENCE OF GUNSHOT RESIDUE.
Q NOW, IS THERE A TIME FRAME BASED ON YOUR QUALIFICATIONS AS A S.L.E.D TRACE EXPERT, THE TRAINING YOU HAVE RECEIVED AND THE ACTUAL WORK YOU HAVE DONE, IS THERE A TIME FRAME IN TERMS OF HOURS OR MINUTES OR WHATEVER AT WHICH YOU WANT TO DO A GUNSHOT RESIDUE KIT, NOT TEST IT BUT COLLECT IT?
A THE COLLECTION OF THE KIT, AGAIN, ON A DECEASED PERSON, THE COLLECTION OF THE KIT CAN BE TAKEN SEVERAL HOURS TO EVEN SEVERAL DAYS AFTERWARDS. THE GUNSHOT RESIDUE WILL REMAIN ON A DECEASED PERSON'S HANDS INDEFINITELY PROVIDED THERE IS NO DESTRUCTION OF THAT EVIDENCE, EITHER BY THE ENVIRONMENT OR BY MOVING THE VICTIM'S HANDS.
AGAIN, ON A LIVE PERSON, IT IS CRUCIAL TO TAKE THAT GUNSHOT RESIDUE KIT AS QUICKLY AS POSSIBLE; AND WE HAVE A THRESHOLD LIMIT OF SIX HOURS. AFTER SIX

HOURS PAST THE INCIDENT, WE DO NOT ACCEPT GUNSHOT RESIDUE KITS.

Q IS THAT UNIFORM THROUGHOUT THE DIFFERENT LABS THAT DO THIS KIND OF WORK, THAT SIX-HOUR TIME FRAME, OR DOES IT VARY FROM LAB TO LAB?

A AS I UNDERSTAND, IT IS THE NATIONAL AVERAGE. EACH LABORATORY PRETTY MUCH HAS THEIR OWN TIME LIMIT; HOWEVER, IT IS AN ACCEPTED TIME LIMIT ACROSS THE NATION. AND I BELIEVE THE FEDERAL BUREAU OF INVESTIGATION ACTUALLY USES A FOUR-HOUR TIME LIMIT.

Q SO IF THE F.B.I. IS DOING A GUNSHOT RESIDUE TAKEN AFTER FIVE HOURS, THEY WOULDN'T TEST IT?

A ON A LIVE PERSON.

Q TO MAKE SURE WE ARE CLEAR ON THIS, WHAT IS IT AFTER THE PERIOD OF SIX HOURS THAT WOULD CAUSE YOU NOT TO EVEN WANT TO RUN THE TEST?

A LIKE I SAID BEFORE, THIS MATERIAL IS INCREDIBLY FRAGILE. IF I DID NOTHING BUT SIT HERE FOR SIX HOURS, THIS MATERIAL WILL BE GONE. WE WOULD NOT BE ABLE TO FIND ENOUGH ON THE HANDS TO INDICATE GUNSHOT RESIDUE.

Q LET ME INTERRUPT YOU A SECOND TO MAKE SURE I UNDERSTAND WHAT YOU ARE SAYING. LET'S ASSUME THAT YOU FIRED THAT GUN IN FRONT OF YOU.

A YES, SIR.

Q YOU KNOW YOU FIRED IT. THEN YOU SET YOUR STOPWATCH FOR SIX HOURS, AND YOU HOLD YOUR HAND INSIDE WITH NO RAIN, NO WIND OR ANYTHING AND DON'T TOUCH ANYTHING. AT THE END OF SIX HOURS, WOULD YOU EXPECT TO FIND GUNSHOT RESIDUE THERE?

A NO, SIR, I WOULD NOT EXPECT TO FIND ANY GUNSHOT RESIUDE AT THE END OF SIX HOURS.

Q WHY NOT?

A IT'S POSSIBLE TO HAVE SOME, HOWEVER IT'S NOT PROBABLE BECAUSE THE GUNSHOT RESIDUE AGAIN IS SO FRAGILE, AND YOU ACTUALLY HAVE AN ABSORPTION RATE. EVERYBODY ABSORBS AT DIFFERENT RATES BUT IT IS PRETTY MUCH ACCEPTED THAT AFTER SIX HOURS, THERE WILL BE NONE LEFT.

Q THAT'S EVEN ASSUMING YOU HAVE COME INTO CONTACT WITH NOTHING ENVIRONMENTALLY; IS THAT CORRECT?

A YES, SIR.

Q WERE YOU PRESENT IN THE COURTROOM THROUGHOUT THIS ENTIRE TRIAL, FROM OPENING STATEMENTS ON UP TO RIGHT NOW?

A YES, SIR, I HAVE BEEN.

Q WERE YOU PRESENT WHEN TARA CLARK, THE E.M.S. ATTENDANT, TESTIFIED ABOUT THE TREATMENT GIVEN TO MR. ALEKSEY AT THE SCENE AT THE K-MART PARKING LOT?

A YES, SIR.

Q WERE YOU PRESENT WHEN THE DIFFERENT TROOPERS TESTIFIED ABOUT THE CHASE, THE DIFFERENT LOCATIONS BETWEEN ORANGEBURG, BERKLEY, CHARLESTON, DORCHESTER COUNTIES?

A YES, SIR.

Q AND WERE YOU PRESENT WHEN TROOPER BERES AND TROOPER WELCH TESTIFIED ABOUT THE DIFFERENT PROCEDURES THEY OBSERVED AND THE FACT THAT THEY TOOK THE HANDCUFFS ON AND OFF ON SEVERAL OCCASIONS?

A YES, SIR.

Q WERE YOU PRESENT WHEN DR. CHANDLER TESTIFIED ABOUT HIS OBSERVATION OF DIFFERENT PROCEDURES THAT HE UNDERWENT IN THE TRAUMA UNIT IN WHICH DR. CHANDLER RECALLED APPROXIMATELY, I BELIEVE, EIGHT TO TWELVE TIMES THAT HE OBSERVED THE HANDCUFFS BEING REMOVED AND PUT BACK ON AGAIN?

A YES, SIR.

Q WERE YOU PRESENT WHEN TROOPER BERES DEMONSTRATED ON MY HANDS HOW HE WENT ABOUT TAKING THE HANDCUFFS OFF AND PUTTING THE HANDCUFFS ON? DID YOU HEAR ALL OF THAT?

A YES, SIR.

Q WERE YOU PRESENT WHEN TROOPER BERES TESTIFIED THAT AT APPROXIMATELY 2:30 A.M. MR. ALEKSEY'S HANDS WERE BAGGED?

A YES, SIR.
Q DOES THIS BAGGING OF SOMEBODY'S HANDS STOP THE LOSS OF GUNSHOT RESIDUE?
A ON A LIVE PERSON, NO, SIR, IT DOESN'T NECESSARILY DO THAT. BAGGING OF THE HANDS IS TYPICALLY FOR A DECEASED INDIVIDUAL. WHAT IT IS DOING IS IT'S TRYING TO PROTECT THE HANDS FROM BEING BUMPED AROUND AND THE GUNSHOT RESIDUE BEING KNOCKED OFF.

BUT WHEN YOU ARE DEALING WITH A LIVE PERSON, THEY ARE STILL ABLE TO MOVE THEIR HANDS INSIDE THAT BAG; THEREFORE, IT'S REALLY NOT HELPING ANYTHING AND AS WELL THE BAG CAN ACTUALLY PRODUCE A SWEATING EFFECT, KIND OF LIKE WHEN YOU ARE IN BED AND YOU GET UNDER THE BLANKET.

YOU MAY BE COLD BEFORE YOU GET UNDER THE BLANKET; BUT AS SOON AS YOU GET UNDER IT, YOU START WARMING UP AND GETTING HOT. YOU ACTUALLY MAY EVEN START SWEATING.

THAT IS THE SAME THAT GOES FOR YOUR HANDS. IF YOU PUT A LAYER OVER THEM, THEY MAY ACTUALLY START SWEATING AND ANY PERSPIRATION WILL ACTUALLY DECREASE THE AMOUNT OF GUNSHOT RESIDUE FOUND ON THE HANDS.
Q WERE YOU ALSO PRESENT WHEN TROOPER LIN SHIRER TESTIFIED AND MR. MOSELY, THE DISPATCHER, TESTIFIED

ABOUT THE APPROXIMATE TIME THE SHOOTING OCCURRED, ROUGHLY 11:30 P.M. OR THEREABOUTS?

A YES, SIR.

Q WERE YOU PRESENT WHEN BRETT BAKER TESTIFIED WHEN HE TOOK THE GUNSHOT RESIDUE KIT FROM MR. ALEKSEY'S HANDS SOMEWHERE IN THE NEIGHBORHOOD OF 5:30 A.M. THE FOLLOWING MORNING?

A YES, SIR.

Q NOW, TAKING ALL THAT INTO CONSIDERATION, ASSUMING THAT THE PERSON WHOSE GUNSHOT RESIDUE KIT WAS TAKEN BY MR. BAKER HAD FIRED THAT PISTOL UP THERE FIVE TIMES AT ROUGHLY 11:30 ON DECEMBER 31, 1997, WOULD YOU EXPECT TO DETECT GUNSHOT RESIDUE ON THOSE HANDS ROUGHLY TAKEN SIX HOURS LATER, TAKING INTO CONSIDERATION THE FACTORS THAT YOU HAVE HEARD IN COURT HERE TODAY AND YESTERDAY AND THE DAY BEFORE?

A TAKING INTO CONSIDERATION THAT A COLLECTION KIT WAS TAKEN ON A LIVE PERSON SIX HOURS AFTER THE INCIDENT, I WOULD NOT EXPECT TO FIND LEVELS INDICATIVE OF GUNSHOT RESIDUE ON THOSE HANDS, NO, SIR.

Q AND CALLING YOUR ATTENTION TO S.L.E.D. ITEM 46, WHICH IS STATE'S 45, THE GUNSHOT RESIDUE KIT THAT MR. BAKER TOOK FROM THE DEFENDANT JUSTIN ALEKSEY, DID YOU ANALYZE THAT ANYWAY?

A YES, SIR. IF YOU WILL PERMIT ME.
Q YES, MA'AM.
A THE GUNSHOT RESIDUE ANALYSIS INFORMATION FORM WHICH IS FOUND INSIDE THE GUNSHOT RESIDUE KIT ACTUALLY HAS AN APPROXIMATE TIME FOR THE INCIDENT AT 11:45, AND THE COLLECTION TIME WAS 5:30 THE NEXT MORNING.

THAT IS ACTUALLY FIVE HOURS AND 45 MINUTES, WHICH IS VERY CLOSE TO THE SIX-HOUR LIMIT BUT STILL WITHIN OUR POLICY. WE WILL TAKE KITS UP TO SIX HOURS AND THEREFORE WE DID RUN THIS KIT.

Q AND WOULD YOU TELL THE JURY IN TERMS OF POSITIVE OR NEGATIVE RESULTS, WAS THE TEST POSITIVE OR NEGATIVE FOR THE PRESENCE OF GUNSHOT RESIDUE?
A IN THE SAMPLE SUBMITTED FROM J. MATEEKI, THE QUANTITIES OF METALS DETECTED ON THE HAND REGION DO NOT INDICATE THE PRESENCE OF GUNSHOT RESIDUE.
Q DOES THAT ANSWER THAT YOU GAVE ME INDICATE THAT THERE WAS NOTHING INDICATIVE OF THE ELEMENTS OF GUNSHOT RESIDUE ON HIS HANDS?
A ONE MOMENT. COULD YOU ASK THAT ONE MORE TIME?
Q I WILL TRY. WHAT WERE YOUR TEST RESULTS? DO YOU HAVE YOUR WORK SHEETS THERE TO DETERMINE THE DIFFERENT THINGS YOU FOUND CHEMICALLY FROM THE KIT?
A YES, SIR. THESE ARE THE RESULTS FROM ONE OF THE

ANALYSES THAT WE DID FOR THE GUNSHOT RESIDUE ON JUSTIN MATEEKI'S HANDS. THE LEVELS THAT WERE FOUND ON HIS HANDS WERE NOT SUITABLE FOR OUR POLICY, MEANING THAT WE HAVE, AGAIN, AS I SAID EARLIER, THE THRESHOLDS.

YOU HAVE TO HAVE SO MUCH OF EACH OF THESE ELEMENTS THAT WE LOOK FOR TO WRITE A REPORT SAYING IT IS INDICATIVE OF GUNSHOT RESIDUE; AND NO REGION OF HIS HAND HAD QUITE ENOUGH TO INDICATE GUNSHOT RESIDUE.

Q DID YOU FIND ANYTHING ON HIS HANDS CONSISTENT WITH GUNSHOT RESIDUE?

A NOT NECESSARILY CONSISTENT WITH GUNSHOT RESIDUE; HOWEVER, THE LEVELS ON THE RIGHT PALM REGION OF HIS HAND WERE JUST BELOW THRESHOLD LEVELS FOR WHAT WE WILL REPORT AS INDICATIVE OF GUNSHOT RESIDUE. THEREFORE IT WAS WRITTEN AS A NEGATIVE; HOWEVER, IT DOES INDICATE TO ME THAT SOMETHING WAS THERE.

Q NOW, DID THE TEST RESULTS THAT YOU GOT THAT BASICALLY AMOUNTED TO A NEGATIVE TEST RESULT ACCORDING TO YOUR PROTOCOL, THE PROTOCOL YOU USE?

A YES, SIR.

Q IS THAT ANY EVIDENCE THAT MR. ALEKSEY DID NOT FIRE A GUN AT APPROXIMATELY 11:30 ON NEW YEAR'S EVE?

A NO, SIR. ONE OF THE MISCONCEPTIONS OF THE

GUNSHOT RESIDUE KIT ON A LIVE PERSON IS THAT IT WILL TELL YOU DEFINITIVELY WHETHER OR NOT THIS PERSON SHOT A WEAPON.

JUST BECAUSE I HAVE A NEGATIVE GUNSHOT RESIDUE RESULT DOES NOT MEAN THIS PERSON DID NOT FIRE A WEAPON, THE REASON BEING THIS MATERIAL IS SO FRAGILE AND IT CAN BE EASILY WIPED OFF AND ABSORBED INTO THE SKIN; THEREFORE, A NEGATIVE RESULT DOES NOT NECESSARILY MEAN HE DID NOT FIRE A WEAPON.

Q THANK YOU. I WANT TO KIND OF SWITCH GEARS HERE A MINUTE AND ASK YOU ABOUT HOW Y'ALL HANDLE -- YOU TESTIFIED ABOUT SOME CLOTHING THAT YOU TOOK, TWO LEATHER OR VINYL TYPE JACKETS AND A BLACK T-SHIRT THAT WAS TAKEN FROM MR. ALEKSEY AT THE HOSPITAL.

A YES, SIR.

Q DO YOU HAVE THAT INFORMATION IN FRONT OF YOU? IN THE TRACE DEPARTMENT AS PART OF YOUR PROTOCOL, DO Y'ALL ROUTINELY CHECK THE CLOTHING OF A SUSPECTED SHOOTER FOR THE PRESENCE OF GUNSHOT RESIDUE OR GUN POWDER?

A YES, SIR. WHEN YOU ARE DEALING WITH A SUSPECT'S CLOTHING, AGAIN YOU ARE NOT DEALING WITH A SPECIFIC BULLET HOLE. THE TESTS THAT WE DO FOR GUN POWDER EXAMINATIONS ARE NOT UNIQUE TO GUN POWDER.

THEREFORE WE HAVE TO HAVE CERTAIN ASSUMPTIONS SO

THAT WHEN WE DO FIND MATERIAL ON THE CLOTHING WE CAN SAY THAT IT IS GUN POWDER, SUCH AS THE BULLET HOLE, THINGS LIKE THAT OR A MARKING FROM THE GUN ITSELF.

MAYBE IT WAS SO CLOSE THAT THERE ACTUALLY IS -- YOU CAN TELL IF IT WERE A CYLINDER, A REVOLVER. YOU CAN TELL WHERE THE CYLINDER WAS VERSUS THE END OF THE GUN, SOMETHING LIKE THAT.

UNLESS THAT IS PRESENT, WE TYPICALLY DO NOT DO EXAMINATIONS ON SUSPECT CLOTHING FOR GUN POWDER AND WE RARELY EVER DO EXAMINATIONS FOR GUNSHOT RESIDUE ON SUSPECT CLOTHING OR ANY CLOTHING FOR THAT MATTER BECAUSE THIS EXAMINATION, THIS IS THE ONLY TEST RIGHT NOW THAT OUR LABORATORY HAS FOR GUNSHOT RESIDUE.

THIS TEST IS DESIGNED SPECIFICALLY FOR THE HANDS OF AN INDIVIDUAL. IT IS NOT NECESSARILY DESIGNED FOR OBJECTS, PARTICULARLY CLOTHING. THE STICKY STUBS CAN BE USED FOR OBJECTS AND THINGS LIKE THAT.

IN THIS PARTICULAR INSTANCE, I ACTUALLY USED SOME STICKY STUBS AND TRIED TO SEE IF THERE WAS SOME GUNSHOT RESIDUE ON ANY OF THE CLOTHING.

Q WHY DID YOU DO THAT IF YOU NORMALLY DON'T TEST THE SUSPECTED SHOOTER'S CLOTHING FOR THE PRESENCE OF GUNSHOT RESIDUE? WHY DID YOU DO IT IN THIS CASE?

A IN A CASE SUCH AS THIS, IT'S CONSIDERED -- IT WAS NECESSARY TO PROVE, EVEN THOUGH SCIENTIFICALLY I

KNEW I WOULD NOT FIND ANYTHING ON THIS CLOTHING USING THIS EXAMINATION, I NEEDED TO PROVE THAT TO THOSE THAT ARE NOT SCIENTISTS.

Q SO YOU WENT AHEAD AND DID THE TESTING OF THE CLOTHING ANYWAY?

A JUST IN CASE IT WAS POSSIBLE.

Q THE TWO JACKETS AND THE BLACK T-SHIRT?

A YES, SIR.

Q YOU CHECKED ALL THAT. YOU USED THE STICKIES -- I AM NOT GOOD AT TERMINOLOGY -- BUT THE STUBBIES?

A STUBS.

Q DID YOU FIND ANY EVIDENCE OF GUNSHOT RESIDUE ON ANY OF THE CLOTHING WORN BY GLORYVEE BLACKWELL OR BAYAN ALEKSEY?

A ON THE BLACK POLO T-SHIRT, I USED THE STUBS AND DID NOT FIND ANY GUNSHOT RESIDUE. ON THE BLACK COAT FROM BLACKWELL, AGAIN I DID NOT FIND ANY GUNSHOT RESIDUE USING THE SAME EXAMINATION.

Q THERE WERE TWO BLACK JACKETS THAT YOU CHECKED; IS THAT CORRECT?

A YES, SIR. I WAS LOOKING FOR MY REPORT. IT WAS THE BLACK --

Q ITEM 56.

A ITEM 56. AGAIN, WE DID NOT FIND ANY GUNSHOT RESIDUE.

Q DOES THAT MEAN THERE WAS NO GUNSHOT RESIDUE ON THERE?
A NOT NECESSARILY. AGAIN, THIS EXAMINATION, THE COLLECTION OF THIS MATERIAL, IS SUITABLE FOR HANDS AND NOT NECESSARILY GOOD TO USE ON CLOTHING. YOU HAVE GOT FABRIC HERE AND THE GUNSHOT RESIDUE IS SO FRAGILE AND SO SMALL THAT IT ACTUALLY CAN GO DOWN INTO THE WEAVE OF THE FABRIC, THEREBY USING THIS METHOD OF THE STICKY STUB, WE ARE UNABLE TO ACTUALLY COLLECT IT OUT OF THE CLOTHING, IF IT IS THERE TO BEGIN WITH.
Q ARE THERE CERTAIN SURFACES THAT GUNSHOT RESIDUE DOES NOT READILY ADHERE TO?
A YES, SIR.
Q LIKE WHAT?
A THE GUNSHOT RESIDUE?
Q YES.
A WELL, WATER REPELLANT CLOTHING OR SLICK CLOTHING, IT WOULD PROBABLY NOT READILY ADHERE TO IT UNLESS THE DISCHARGE OF THE WEAPON WAS SO CLOSE TO THE GUN THAT IT ACTUALLY HIT THE MATERIAL BEFORE IT HAD COOLED DOWN COMPLETELY, THEREBY IT WOULD STICK.
Q WHAT WAS THE TEXTURE OF THE SLEEVES OF THE TWO JACKETS THAT YOU TESTED?
A THE MOTORCYCLE JACKET IS ACTUALLY A TYPE OF --

ALMOST A LEATHER MATERIAL. THE OTHER JACKET, THIS OTHER BLACK JACKET, IS ALSO THAT SAME TYPE OF MATERIAL, VERY SLICK.

Q ARE THEY THE TYPE OF MATERIAL THAT YOU WOULD EXPECT GUNSHOT RESIDUE TO ADHERE TO?

A NOT NECESSARILY, NO, SIR.

Q WITH REGARD TO YOUR ITEM 51, WHICH IS THE POLO BRAND BLACK T-SHIRT REMOVED FROM JUSTIN MATEEKI AT THE HOSPITAL.

A YES, SIR.

Q IS THERE ANYTHING ABOUT THAT GARMENT, ASSUMING SOMEBODY FIRING A HANDGUN WEARING IT, THAT WOULD CAUSE IT TO -- WOULD IT BE DIFFICULT FOR GUNSHOT RESIDUE TO ADHERE TO IT?

A MAY I SHOW YOU?

Q YES.

A IN THIS PARTICULAR INSTANCE, YOU ARE DEALING WITH -- AND IT HAS BEEN CUT UP FROM OUR EXAMINATIONS PREVIOUSLY AND ALSO FROM THE HOSPITAL. IF I CAN FIND ONE, I WAS TRYING TO SHOW YOU THAT'S IT SHORT SLEEVED.

IT IS A SHORT SLEEVE T-SHIRT. THAT (INDICATING) IS ACTUALLY THE SLEEVE TO THE T-SHIRT; THEREFORE, YOU WOULD NOT EXPECT -- AGAIN, THE RESIDUE THAT WE ARE LOOKING FOR IS PRIMARILY FOUND ON THE HAND REGION AND

A T-SHIRT IS MORE TOWARD THE SHOULDER REGION AND NOT NECESSARILY THE HANDS.

Q IN YOUR EXPERIENCE AS A TRACE EXPERT AT THE S.L.E.D. LAB IN COLUMBIA, HAVE YOU EVER UNDER ANY CIRCUMSTANCES DETECTED THE PRESENCE OF GUNSHOT RESIDUE ON A SUSPECTED SHOOTER'S CLOTHING?

A IN MY EXPERIENCE OF THE CASES THAT I HAVE RUN GUNSHOT RESIDUE EXAMINATIONS ON CLOTHES, I HAVE NOT FOUND ANY MATERIAL.

Q I WANT TO CALL YOUR ATTENTION NEXT -- AND I AM ABOUT TO FINISH UP HERE -- TO STATE'S 47, WHICH IS S.L.E.D. ITEM 47 ALSO, THE GUNSHOT RESIDUE COLLECTION KIT FROM THE MUSTANG.

A YES, SIR.

Q THAT MR. BAKER TESTIFIED HE GOT FROM THE DRIVER'S SIDE OF THE CAR. DID YOU TEST THAT FOR THE PRESENCE OF GUNSHOT RESIDUE?

A YES, SIR, WE DID.

Q WOULD YOU TELL THE JURY, PLEASE, WHAT THE RESULTS OF THAT TEST WERE.

A CERTAINLY.

Q FIRST OF ALL, IS THERE ANY INDICATION IN MR. BAKER'S PAPERWORK TO YOU AS TO WHAT PART OF THE CAR EACH ONE OF THE STUBS WAS COLLECTED SAMPLES FROM?

A YES, SIR. LET ME GET MY RECORDS. AGAIN, THIS

IS THE GUNSHOT RESIDUE ANALYSIS SHEET THAT WAS FOUND INSIDE THE WHITE FORD MUSTANG. IF YOU NOTICE IT JUST SAYS, "OVER" AND ON THE BACK SIDE IS SOME SCRIBBLING THAT I DIDN'T QUITE UNDERSTAND.

SO I ACTUALLY HAD A CONFERENCE WITH MR. BAKER ON THE 6TH OF JANUARY TO MAKE SURE THAT I UNDERSTOOD WHERE EXACTLY EACH ONE WAS FROM. HE TOOK SWABS AS WELL AS STUBS.

THE STUBS LABELED RIGHT PALM AND RIGHT BACK WERE TAKEN FROM THE INSIDE OF THE CAR, DRIVER'S DOOR, JUST BELOW THE WINDOW. THE LEFT PALM AND LEFT BACK STUB WERE TAKEN FROM INSIDE OF THE CAR, VISIBLE PORTION OF THE DRIVER'S DOOR WINDOW.

THE SWABS -- THE CONTROL WAS TAKEN ON THE OUTSIDE OF THE CAR FROM THE FRONT PASSENGER SIDE JUST ABOVE THE WHEEL AND THE RIGHT PALM AND RIGHT BACK SWAB WERE TAKEN FROM THE INSIDE OF THE CAR ROOF ON THE DRIVER'S SIDE JUST ABOVE THE WINDOW.

THE LEFT PALM AND LEFT BACK SWAB WERE TAKEN ON THE OUTSIDE OF THE CAR, DRIVER'S DOOR WINDOW, VISIBLE PORTION AND PORTION OF THE DOOR JUST BELOW THE WINDOW.

Q DID YOU CHECK THAT MATERIAL FOR THE PRESENCE OF GUNSHOT RESIDUE?

A YES, SIR, I DID.

Q WHAT WERE THE RESULTS OF YOUR EXAMINATION?

A IN THE SAMPLE SUBMITTED FROM THE WHITE FORD MUSTANG, METALS CONSISTENT WITH GUNSHOT RESIDUE WERE FOUND ON THE OUTSIDE PORTION OF THE DRIVER'S DOOR WINDOW.

NONROUND PARTICLES CONTAINING BARIUM, ANTIMONY AND LEAD WERE FOUND ON THE INSIDE PORTION OF THE DRIVER'S DOOR. THESE PARTICLES MAY BE ASSOCIATED WITH GUNSHOT RESIDUE.

ALSO ROUND LEAD PARTICLES WERE FOUND ON THE INSIDE PORTION OF THE DRIVER'S DOOR WINDOW. ROUND LEAD PARTICLES ARE ONE OF THE COMPONENTS OF GUNSHOT RESIDUE.

Q DID YOU HAVE A POSITIVE TEST RESULT?

A YES, SIR, WE DID.

Q FOR THE PRESENCE OF GUNSHOT RESIDUE FROM THE WINDOWS AREA OF THE DRIVER'S SIDE OF THE MUSTANG?

A YES, SIR, ON THE ROUND LEAD PARTICLES ON THE INSIDE PORTION OF THE DRIVER'S DOOR WINDOW, INSIDE PORTION OF THE DRIVER'S DOOR AND THE OUTSIDE PORTION OF THE DRIVER'S DOOR WINDOW.

Q YOU WERE PRESENT IN COURT WHEN MR. BAKER TESTIFIED ABOUT THE LOCATION IN WHICH HE FOUND THE SHELL CASINGS ON I-95?

A YES, SIR.

Q. YOU WERE ALSO PRESENT AND YOU FIRED THAT GUN, STATE'S EXHIBIT NUMBER 5, WITH THE EJECTION PORT ON THE RIGHT-HAND SIDE WHERE THE SHELL CASINGS WERE EJECTED FROM?

A YES, SIR.

Q TAKING THAT INTO CONSIDERATION AND ASSUMING THAT THAT WEAPON WAS FIRED FROM THE WINDOW OF A CAR AIMING BEHIND THE CAR, WOULD THAT BE CONSISTENT WITH CREATING THAT GUNSHOT RESIDUE THAT YOU DETECTED ON THE WINDOW AREA OF THE INSIDE AND OUTSIDE?

A TAKING INTO CONSIDERATION THAT ALL OF THE CARTRIDGE CASES WERE FOUND ON THE OUTSIDE OF THE CAR, AS WELL AS THE GUNSHOT RESIDUE COMPONENTS THAT WE FOUND BOTH ON THE OUTSIDE AND INSIDE PORTION OF THE DRIVER'S DOOR WINDOW, THAT IS CONSISTENT THAT THE GUN WAS ACTUALLY HELD SOMEWHAT OUTSIDE THE CAR UPON DISCHARGE FROM THE DRIVER'S SEAT.

Q MS. FULLER, THAT'S ALL I HAVE AT THIS TIME. PLEASE ANSWER ANY QUESTIONS THAT MR. STONE MAY HAVE.

CROSS EXAMINATION

BY MR. STONE:

Q AGENT FULLER, YOU FOUND GUNSHOT RESIDUE OUTSIDE THE CAR?

A EXCUSE ME. ON THE OUTSIDE PORTION OF THE DRIVER'S DOOR WINDOW, YES, SIR.

Q AND ON THE OUTSIDE PORTION OF THE DRIVER'S SIDE WINDOW -- WELL, YOU HAVE LISTENED TO ALL THE TESTIMONY IN THE LAST FEW DAYS; HAVEN'T YOU?

A YES, SIR.

Q YOU HAVE PRETTY MUCH BEEN HERE THROUGH MOST OF IT. YOU FOUND POSITIVE GUNSHOT RESIDUE ON THE OUTSIDE, ON THE OUTSIDE OF THE CAR; IS THAT RIGHT?

A ON THE OUTSIDE PORTION OF THE WINDOW, WE FOUND METAL CONSISTENT WITH GUNSHOT RESIDUE.

Q THE WINDOW IS PRETTY SLICK, ISN'T IT?

A YES, SIR, IT IS.

Q THE CAR ENAMEL IS PRETTY SLICK, ISN'T IT?

A YES, SIR, IT SHOULD BE.

Q AND YOU HEARD THE TESTIMONY THIS CAR WAS GOING 60, 70 MILES AN HOUR DOWN THE ROAD?

A YES, SIR.

Q IS THAT RIGHT?

A YES, SIR.

Q THIS CAR, DESPITE ALL THE ACTIVITY, AND THAT'S ONE OF THE ELEMENTS YOU WORRY ABOUT, ISN'T IT, YOU HAVE GOT ACTIVITY AND YOU HAVE ABSORPTION, IS THAT RIGHT, THAT YOU WORRY ABOUT BREAKING DOWN THE GUNSHOT RESIDUE FROM?

A YES, SIR, ON A LIVE SUSPECT.

Q AND AS FAR AS ACTIVITY GOES, THE CAR WENT

THROUGH A LOT OF ACTIVITY; DIDN'T IT?

A YES, SIR, IT DID.

Q GUNSHOT RESIDUE IS NOTHING NEW. I MEAN, THIS IS NOT VOODOO SCIENCE. YOU HAVE BEEN DOING THIS FOR A WHILE, HAVEN'T YOU?

A YES, SIR, I BELIEVE SO.

Q IN FACT, S.L.E.D. HAS GOT A WHOLE LABORATORY SET FOR IT; DON'T THEY?

A IT IS PART OF OUR TRACE EVIDENCE DEPARTMENT, YES, SIR.

Q WHO IS IN THAT TRACE LAB NOW?

A LIEUTENANT JOE POWELL IS THE SUPERVISOR OF THE TRACE EVIDENCE DEPARTMENT. HE IS QUALIFIED IN GUNSHOT RESIDUE. MYSELF, JOHN BARRON, A TRACE EVIDENCE EXPERT OF 22 YEARS OR MORE. HE ALSO DOES GUNSHOT RESIDUE. AND KIMBERLY BLACK, ANOTHER TRACE EVIDENCE EXAMINER WHO ALSO IS QUALIFIED IN GUNSHOT RESIDUE.

Q SO YOU HAVE GOT FIVE OF YOU WORKING IN THIS ONE DEPARTMENT?

A FOUR OF US RIGHT NOW.

Q SO OBVIOUSLY S.L.E.D. THINKS ENOUGH OF THIS TO DEVOTE A PRETTY SIZABLE DEPARTMENT TO IT; DON'T THEY?

A YES, SIR, THEY DO. HOWEVER WE NOT ONLY DO JUST GUNSHOT RESIDUE, WE DO SEVERAL OTHER THINGS.

Q BUT GUNSHOT RESIDUE TESTING IS NOT NEW, IS IT?
A NO, SIR.
Q IT'S BEEN AROUND FOR QUITE A WHILE?
A YES, SIR.
Q I WANT TO MAKE SURE I UNDERSTAND THIS. WHEN A GUN IS FIRED, IT RELEASES -- DID YOU SAY GUNSHOT OR GUN POWDER? I REALIZE IT RELEASES BOTH BUT GIVE ME THE DIFFERENCE.
A IT DOES RELEASE BOTH. GUN POWDER ACTUALLY TRAVELS BEHIND THE BULLET FOR A SHORT PERIOD OF DISTANCE. THE GUNSHOT RESIDUE OR THE GUN PRIMER IS ACTUALLY WHAT DOES TRAVEL OUTSIDE. IT DOES DISCHARGE FROM THE END OF THE BARREL, AS WELL AS THE EJECTION PORT AND ANY OTHER OPENING IN THE GUN.
Q THAT IS GUNSHOT?
A YES, SIR.
Q LET'S TALK ABOUT GUNSHOT THEN. EVERY TIME A GUN IS FIRED IT GOES OUT THE FRONT, SOME OF IT GOES OUT THE FRONT, AND ANY OTHER CREVICE, HOLE OR ANYTHING LIKE THAT; IS THAT RIGHT?
A YES, SIR.
Q SO THIS (INDICATING) HAS AN EJECTION PORT. IS THAT WHAT THAT IS CALLED?
A YES, SIR.
Q SO WHEN THE EJECTION PORT -- AND I DON'T KNOW

HOW TO WORK THIS THING -- THE EJECTION PORT OPENS UP LIKE THIS (INDICATING) AND IT DOES IT EVERY TIME IT'S FIRED, DOES IT NOT?

A YES, SIR.

Q WHEN IT OPENS UP, THE GUNSHOT COMES OUT OF THAT AS WELL; DOESN'T IT?

A YES, SIR, IT SHOULD.

Q IN FACT, IF IT'S GOT ANY HOLES AROUND HERE (INDICATING), ANYTHING AROUND THE BARREL, THE GUNSHOT IS GOING TO COME OUT OF THERE AS WELL; RIGHT?

A YES, SIR, IT SHOULD.

Q THAT COMES OUT PER BULLET, DOES IT NOT?

A YES, SIR.

Q IT'S NOT JUST ONE TIME IT COMES OUT AND THAT IT'S. IT PRETTY MUCH EVERY BULLET?

A NO, SIR. EACH CARTRIDGE CONTAINS THE GUN PRIMER OR THE GUNSHOT RESIDUE, AS WE ARE CALLING IT RIGHT NOW; AND THEREFORE EVERY TIME A BULLET IS FIRED, THE GUN PRIMER IS THE FIRST INITIATOR AND THEREFORE IT WILL BE WITH EVERY FIRING.

Q SO IN OTHER WORDS, IF I SHOT THIS GUN ONE TIME, THE GUNSHOT RESIDUE WOULD COME AND ENVELOPE MY HAND; IS THAT RIGHT?

A YES, SIR.

Q IN FACT, IF I SHOT IT AGAIN, IT WOULD DO THE

SAME THING AGAIN ON TOP OF THAT; RIGHT?
A YES, SIR.
Q THEN IF I DID IT A THIRD TIME, IT WOULD ADD JUST A LITTLE BIT MORE; WOULDN'T IT?
A YES, SIR.
Q IN FACT, EVERY TIME I SHOT THIS GUN, IT WOULD ADD MORE GUNSHOT RESIDUE THAN IT DID THE TIME BEFORE; IS THAT RIGHT?
A IT IS AN ADDITION EFFECT, MEANING THAT EVERY TIME YOU HAVE A SHOT, EACH SHOT DOES DEPOSIT GUNSHOT RESIDUE; HOWEVER, IT IS NOT A QUANTITATIVE AMOUNT, MEANING THAT TYPICALLY WE CANNOT DETERMINE IF A PERSON SHOT THE GUN ONE TIME OR TEN TIMES.
Q RIGHT.
A IT IS NOT -- IT DOES NOT DEPOSIT SUCH AS THAT BECAUSE ONCE IT'S COATED, THE REST OF IT IS NOT GOING TO REMAIN ON THE HAND. IT WILL JUST CONTINUE TO FALL OFF.
Q THE CONCERN YOU HAVE WITH THE LAB IS WHETHER OR NOT THAT STUFF HAS BEEN ABSORBED INTO THE SKIN OR THAT THERE HAS BEEN SO MUCH ACTIVITY WITH THE HAND THAT IT KNOCKS IT OFF BASICALLY; IS THAT RIGHT?
A THOSE ARE FACTORS ON A LIVE PERSON, YES, SIR.
Q THAT'S WHAT I WANT TO TALK ABOUT IS A LIVE PERSON. WHEN IT COMES TO THE GUNSHOT RESIDUE, AS IT

BUILDS ON THE HAND, IT'S GOING TO TAKE A LITTLE BIT MORE ACTIVITY TO KNOCK IT OFF; ISN'T IT?

A NOT NECESSARILY.

Q IS IT GOING TO ABSORB AT THE SAME RATE?

A THAT DEPENDS ON THE PERSON'S ACTIVITIES DURING THAT TIME AS WELL.

Q IN FACT, THE ACTIVITY IS WHY YOU PUT A BAG ON SOMEBODY'S HANDS; ISN'T IT?

A NO, SIR. THE ACTIVITY, TYPICALLY A LIVE PERSON IS NOT BAGGED; HOWEVER, THERE HAVE BEEN SITUATIONS WHERE THEY ARE.

Q BUT THE PURPOSE BEHIND PUTTING BAGS ON SOMEBODY'S HANDS IS TO CUT DOWN ON THE ACTIVITY OF THOSE HANDS; IS THAT RIGHT?

A I BELIEVE THAT THE PERSON WHO PUT THE BAGS ON A LIVE'S PERSON HANDS BELIEVES THAT THAT WILL OCCUR, YES, SIR.

Q I AM NOT TRYING TO PUT ANY WORDS IN YOUR MOUTH. TELL ME, WHEN YOU PUT A BAG ON THE HANDS, DOES THAT NOT CUT DOWN ON THE ACTIVITY OF THE HANDS? DOESN'T IT KEEP YOU FROM WIPING IT OFF? DOESN'T IT KEEP YOU FROM KNOCKING IT OUT? IS IT NOT ALSO GOING TO GO INTO THE BAG AND COME BACK ON THE HAND?

A NOT NECESSARILY. IT COULD BE KNOCKED OFF OF THE HAND INTO THE BAG, BUT YOU CANNOT SAY DEFINITIVELY

THAT IT WOULD BE KNOCKED BACK ONTO THE HAND. IT COULD REMAIN IN THE BAG.

Q SO YOU PUT THESE BAGS ON THE HANDS FOR NO APPARENT REASON WHATSOEVER?

A I DID NOT PUT THE BAGS ON THE HANDS.

Q WHEN YOU RECEIVED THIS TEST, YOU PERFORMED IT; DIDN'T YOU?

A YES, SIR, WE DID THE ANALYSIS.

Q THAT'S YOUR REPORT THERE?

A YES, SIR.

Q HOW MANY PAGES OF A REPORT IS THAT?

A THE REPORT ITSELF IS ACTUALLY TWO PAGES.

Q HOW MANY IS THE FULL REPORT THAT YOU PREPARED? I AM TALKING ABOUT YOUR WORK SHEETS, YOUR COMPUTER ANALYSIS, THE WHOLE THING.

A GOODNESS, 102 TOTAL PAGES.

Q YOU DID 102 TOTAL PAGES OF WORK ON THIS PARTICULAR GUNSHOT ANALYSIS; IS THAT RIGHT?

A NO, SIR. I DID 102 TOTAL PAGES OF ANALYSIS FOR TRACE EVIDENCE, MEANING THE GUN POWDER EXAMINATION AND THE GUNSHOT RESIDUE EXAMINATIONS.

Q AND OF THOSE PAGES HOW MUCH IS STRICTLY THE GUNSHOT RESIDUE TESTING?

A I WOULD NOT KNOW UNLESS I SAT HERE AND COUNTED.

Q BUT THAT'S YOUR REPORT THERE?

A YES, SIR.

MR. STONE: AT THIS TIME UNLESS THERE IS AN OBJECTION FROM THE SOLICITOR, I WOULD LIKE TO MOVE THAT REPORT INTO EVIDENCE.

SOLICITOR BAILEY: NO OBJECTION.

THE COURT: WITHOUT OBJECTION.

Q DO YOU HAVE YOUR REPORT WITH YOU?

A THIS?

Q NO, THE FULL REPORT.

A THE 102 PAGES IS RIGHT HERE.

(DEFENDANT'S EXHIBIT NUMBER 9, S.L.E.D. REPORT, IS RECEIVED INTO EVIDENCE.)

Q I WILL HAND YOU BACK DEFENSE EXHIBIT NUMBER 9 WHERE YOU WILL HAVE THAT TO REFER TO.

A THANK YOU.

Q I THINK THIS HAS ALREADY BEEN MOVED INTO EVIDENCE. IF NOT WE WILL REFER TO IT AS PART OF YOUR EXHIBIT THAT YOU ARE HOLDING IN YOUR HAND. I THINK IT'S ON PAGE 11 OF YOUR REPORT. DO YOU HAVE THAT WITH YOU?

A YES, SIR, I DO.

Q THIS IS THE REPORT FILLED OUT BY AGENT BAKER; IS THAT CORRECT?

A YES, SIR, IT IS.

Q AND AGENT BAKER GAVE YOU THIS REPORT ON WHAT DAY

OR CAN YOU TELL FROM THAT?
A ONE MOMENT AND I CAN TELL YOU WHEN I ACTUALLY RECEIVED THE KIT.
Q SURE.
A THE GUNSHOT RESIDUE KIT FROM JUSTIN MATEEKI, I RECEIVED INTO MY CUSTODY ON THE 5TH OF JANUARY, 1998.
Q ON THE 5TH OF JANUARY OF 1998. IS THAT SOMEWHERE AROUND WHEN AGENT BAKER PREPARED THAT REPORT AND GAVE IT TO YOU OR AT LEAST GOT YOU THE INFORMATION?
A THIS WOULD HAVE BEEN PREPARED THE DAY HE DID THE COLLECTION AND IT WAS FOUND INSIDE THE GUNSHOT RESIDUE KIT FROM WHEN I PULLED IT OUT ON THE 5TH, TOOK IT INTO MY CUSTODY AND TOOK IT OUT AND SAW IT.
Q IT INDICATES ON THIS FORM THAT AGENT BAKER DID NOT KNOW IF MR. MATEEKI WAS RIGHT HANDED OR LEFT HANDED. I AM ASSUMING THAT IS THE REASON HE WAS TESTED ON BOTH HIS RIGHT PALM AND HIS LEFT PALM?
A NO, SIR. EVEN IF WE KNOW WHETHER YOU ARE RIGHT OR LEFT HANDED, THAT DOES NOT NECESSARILY MEAN A WEAPON WAS DISCHARGED WITH ONLY ONE HAND, PLUS WE WANT TO SEE WHAT TYPE OF LEVELS ARE ON BOTH HANDS. THEREFORE WE ALWAYS TEST BOTH RIGHT AND LEFT HAND.
Q YOU ALWAYS TEST THE RIGHT BACK OF THE HANDS AND THE LEFT BACK OF THE HANDS AS WELL, DON'T YOU?

A YES, SIR.
Q NOW, THE FACT THAT HE INDICATED THE SUBJECT HAD NOT WASHED HIS HANDS, WAS THAT IMPORTANT TO YOU?
A YES, SIR, IT IS.
Q AND IT'S IMPORTANT TO YOU BECAUSE OBVIOUSLY IF THE SUSPECT HAD WASHED HIS HANDS, YOU WOULDN'T BE ABLE TO DO THE TEST; WOULD YOU?
A YES, SIR.
Q NOW, AT THE VERY BOTTOM OF THIS, OF COURSE, IT INDICATES THAT HE COLLECTED THE SAMPLE, WHICH MEANS HE ACTUALLY DID THE SWAB AT ABOUT 5:30. IT INDICATES P.M. BUT YOU KNOW THAT IS, IN FACT, A.M.; IS THAT RIGHT?
A YES, SIR.
Q NOW, THAT IS IMPORTANT AS WELL BECAUSE OF THE TIME FRAME THAT YOU WERE TALKING ABOUT EARLIER; IS THAT CORRECT?
A YES, SIR.
Q SO AT THE TIME OF THE RECEIVING THIS FORM FROM AGENT BAKER, DID IT CAUSE YOU ANY CONCERN ABOUT TAKING THIS TEST?
A AS FAR AS DID THE SUBJECT WASH HIS HANDS, NO, IT DID CAUSE ME CONCERN; HOWEVER, WHEN I LOOKED AT THE TIME, I IMMEDIATELY COULD TELL THAT IT WAS VERY CLOSE TO THE SIX-HOUR LIMIT, WHICH DOES NOT CAUSE CONCERN

FOR ME TO RUN THE TEST, HOWEVER IT DOES CAUSE HESITATION AS TO WHAT I WOULD FIND.

Q BUT YOU DID RUN THE TEST AS TO THIS INFORMATION?

A YES, ABSOLUTELY.

Q WAS THERE ANYTHING ON THIS FORM OR IN FACT ANY OF THOSE OTHER FORMS OF THE 100-SOME-ODD PAGES THAT YOU HAVE THERE THAT INDICATED THE SAMPLE WAS TAKEN INCORRECTLY?

A NO, SIR.

Q SO AGENT BAKER SWABBED THE HANDS CORRECTLY AS FAR AS YOU KNOW?

A AS FAR AS I KNOW, YES, SIR.

Q IT'S NOT VERY HARD TO SWAB THE HAND ANY WAY, IS IT?

A NO, SIR.

Q YOU BASICALLY TAKE AN ALCOHOL SWAB AND CLEAN IT UP; IS THAT RIGHT?

A IT'S NITRIC ACID BUT, YES.

Q IS THERE ANY INDICATION IN THOSE RECORDS OR ON THIS SHEET OR ANYTHING THAT INDICATED THE DEFENDANT HAD ANY BLOOD ON HIS HANDS?

A NO, SIR. THE ONLY INFORMATION THAT I GOT WITH THE GUNSHOT RESIDUE KIT WAS THE SHEET THAT YOU SEE ON THE PLACARD AND THERE IS NO INDICATION OF BLOOD OR ANYTHING ON THE HANDS. IN FACT, THAT QUESTION HAS

NOT BEEN MARKED.
Q PAGE 13 IS THE GUNSHOT TESTING THAT YOU DID ON FIRST SERGEANT FRANKIE LINGARD; IS THAT CORRECT?
A YES, SIR, IT IS.
Q AND DID ANYTHING ON THAT FORM CAUSE YOU ANY CONCERN AS TO THE VALIDITY OF THE TESTING?
A NO, SIR.
Q AND I BELIEVE THIS IS PAGE 1 AND 2 OF YOUR REPORT INDICATING AT THE BOTTOM THAT THE SAMPLE SUBMITTED FROM JUSTIN MATEEKI DID NOT INDICATE THE PRESENCE OF GUNSHOT RESIDUE. IS THAT YOUR REPORT?
A YES, SIR, IT IS.
Q AND THAT WAS PREPARED BY YOU?
A YES, SIR, MYSELF AND JOE POWELL.
Q WHEN YOU SAID YOU WENT THROUGH THE CONTROLS, AND I GUESS BY CONTROL, YOU MEAN YOU TEST SOMEBODY'S BACK OF THEIR CALF OR SOMETHING LIKE THAT; IS THAT RIGHT?
A THAT IS ONE PLACE WHERE YOU CAN TAKE A CONTROLLED SWAB FROM, YES, SIR.
Q DO YOU KNOW WHERE YOU TOOK A CONTROLLED SWAB OR WHERE THAT WAS TAKEN FROM?
A I DO NOT KNOW WHERE THIS ONE WAS TAKEN FROM.
Q AND THEN YOU MEASURED THE LEVELS AT THAT POINT AGAINST THE CONTROL; IS THAT CORRECT?
A CORRECT.

Q AND THE CONTROL THAT YOU RECEIVED ON JUSTIN MATEEKI, YOU DON'T KNOW WHERE THAT CAME FROM; DO YOU?

A NO, SIR, I DO NOT.

Q BUT THOSE CONTROL LEVELS GIVE YOU A PRETTY GOOD INDICATION OF WHAT? WHAT DO YOU DO A CONTROL FOR?

A BASICALLY THAT IS TO LET US KNOW WHAT CONTAMINANTS, IF ANY, ARE ON THIS PERSON'S BODY, MEANING PERHAPS IF THEY WORK IN A LEAD SMELTING FACTORY AND THEY ARE REALLY COVERED IN LEAD, THAT COVERING WOULD BE ON ANOTHER PART OF THE BODY, NOT NECESSARILY CLOSE TO THE DISCHARGE OF A FIREARM.

THEREFORE WE TAKE IT FROM A POSITION ON THE BODY THAT WOULD NOT HAVE BEEN IN CLOSE PROXIMITY TO THE DISCHARGE OF A FIREARM, SUCH AS THE BACK OF THE CALF OR THE STOMACH IF THEY HAD A SHIRT ON, SOMETHING LIKE THAT.

Q THAT IS BECAUSE ON JUST ABOUT EVERYBODY'S HANDS, THERE IS GOING TO BE SOME ELEMENTS; IS THAT RIGHT?

A YES, SIR. THESE ELEMENTS THAT WE ARE LOOKING FOR ARE FOUND IN NATURE INDEPENDENTLY AND INDIVIDUALLY. THEREFORE THAT IS WHY WE LOOK FOR ALL THREE OF THE ELEMENTS AND AT A SPECIFIC THRESHOLD LEVEL FOR EACH OF THESE ELEMENTS SO THAT WE CAN KNOW THAT IT IS INDICATIVE OF GUNSHOT RESIDUE AS OPPOSED TO JUST AN ENVIRONMENTAL CONTAMINANT THAT YOU HAVE

FROM YOUR DAILY LIFE.

Q LET ME CALL YOUR ATTENTION TO PAGE 17 OF YOUR REPORT. THIS REPORT IT LOOKS LIKE WAS TAKEN FROM THE RIGHT BACK OF JUSTIN MATEEKI'S HAND; IS THAT CORRECT?

A YES, SIR, IT WAS.

Q THIS IS NOT THE CONTROL. THIS IS THE LEVEL OF CONCENTRATION RESULTS, THE DIFFERENCE BETWEEN THE CONTROL AND WHAT YOU FOUND; IS THAT RIGHT?

A CORRECT.

Q ALL THESE LETTERS ON THE LEFT SIDE, ARE THESE -- WHAT ARE THESE? CAN YOU SEE WHAT I AM TALKING ABOUT? FEEL FREE TO COME DOWN BUT YOU HAVE GOT THE REPORT.

A IF YOU ARE REFERRING TO THE ANALYTE LIST.

Q RIGHT.

A THAT IS ALL THE ELEMENTS THAT ARE BEING EXAMINED FOR AT THAT TIME.

Q AND THOSE ARE BASICALLY THE ELEMENTS THAT COULD POTENTIALLY BE FOUND ON SOMEBODY'S SKIN; IS THAT RIGHT?

A NOT NECESSARILY. THOSE ARE THE ELEMENTS WE ARE LOOKING FOR WHEN WE DO AN ANALYSIS. WE LEAVE THEM IN THERE CONTINUALLY

Q WHAT IS -- IS IT S.E., S.R.? WHAT ARE THOSE?

A DOWN AT THE BOTTOM?

Q YES.

A I BELIEVE THAT WOULD BE SELENIUM AND STRONTIUM.
Q AND THERE ARE LEVELS OF THAT -- THERE WERE LEVELS OF THAT ON MR. MATEEKI'S RIGHT BACK OF HIS HAND; IS THAT CORRECT?
A YES, SIR.
Q THERE WAS LEVELS OF ZINC, I BELIEVE, AS WELL? IS THAT Z.N.? I FORGOT MY TABLE OF ELEMENTS.
A YOU ARE CORRECT THAT Z.N. IS ZINC. AND YES, SIR, THERE IS ZINC ON HIS HANDS.
Q DOES THAT GIVE YOU ANY IDEA ABOUT WHETHER OR NOT HIS HANDS WERE CLEANED OR NOT?
A NOT NECESSARILY. I HAVE DONE NO RESEARCH IN YOUR EVERYDAY ENVIRONMENTAL CONTAMINANTS AS FAR AS WHETHER A HAND IS COMPLETELY CLEANED OR NOT. THEREFORE I WOULD NOT BE ABLE TO TELL YOU. THAT MIGHT BE A QUESTION BETTER POSED TO LIEUTENANT JOE POWELL.
Q I MIGHT ASK LIEUTENANT POWELL THAT. LET ME ASK YOU THIS. YOU DID THE TESTING ON ALL THE PALMS, BOTH PALMS, AND BOTH THE BACK OF THE HANDS OF JUSTIN MATEEKI; DID YOU NOT?
A YES, SIR.
Q YOU CAN TELL US, CAN'T YOU, THAT IN FACT HIS HANDS WERE NOT CLEANED PRIOR TO THE TAKING OF THESE SWABS; CAN'T YOU?

A NO, SIR. THEY ARE NOT CLEAN. IN FACT, IF YOU WILL LOOK AT THE RIGHT PALM REGION.

Q ALL RIGHT. PAGE 16?

A YES, SIR. THE TOP THREE NUMBERS ARE WHAT I AM LOOKING FOR OR LOOKING AT.

Q RIGHT.

A THAT IS WHAT WE USE FOR GUNSHOT RESIDUE. IF YOU NOTICE MY HANDWRITTEN NUMBERS, THAT IS THE NUMBER OR THE QUANTITATIVE AMOUNT AFTER THE CONTROL HAS BEEN SUBTRACTED FOR ENVIRONMENTAL CONTAMINANTS.

THAT IS WHAT IS LEFT ON THE HANDS AFTER THE CONTROL HAS BEEN SUBTRACTED. THOSE THREE NUMBERS INDICATE THAT THESE HANDS ARE NOT CLEAN AND, IN FACT, THERE IS SOMETHING THERE. IT'S NOT MUCH LOWER THAN OUR THRESHOLD AMOUNT FOR GUNSHOT RESIDUE.

Q THERE IS ALSO SOME ZINC THERE, TOO; ISN'T THERE?

A YES, SIR. THERE IS ZINC IN MOST CASES THAT WE RUN.

Q WHAT IS F.E.?

A IRON.

Q YOU HAVE GOT SOME IRON IN THERE AS WELL?

A YES, SIR, I BELIEVE SO.

Q THE BOTTOM LINE IS WHAT THIS SHOWS YOU, AT LEAST FROM PAGE 16 OF YOUR ANALYSIS, IS THAT MR. MATEEKI OR BAYAN ALEKSEY OR WHATEVER HIS NAME WAS DID NOT HAVE

HIS HANDS CLEANED BEFORE THE SWABBING OF THIS; IS THAT RIGHT?

A WHEN WE DO THESE EXAMINATIONS, I AM TYPICALLY LOOKING FOR THE TOP THREE ELEMENTS. ANY OTHER ENVIRONMENTAL CONTAMINANTS AS FAR AS WHAT COMES FROM THE SOAP IF THEY WERE CLEANED, THINGS LIKE THAT, I DO NOT KNOW.

JUDGING FROM THE TOP THREE ELEMENTS THAT I AM LOOKING FOR FOR GUNSHOT RESIDUE ON HIS HANDS, THERE WAS NO INDICATION OF GUNSHOT RESIDUE PER OUR PROTOCOL, MEANING THAT THERE WAS NO LEVEL HIGH ENOUGH FOR ME TO REPORT.

HOWEVER BASED ON THE RIGHT PALM REGION, I FEEL THAT HIS HANDS HAD NOT BEEN WASHED. THERE WERE LEVELS THERE AND HAD IT NOT BEEN SIX HOURS AFTER THE FACT, THERE MAY HAVE BEEN MORE.

Q OBVIOUSLY SOMETHING ELSE I WAS CURIOUS ABOUT, SWABS WHEN THEY ARE SENT TO YOU, IF THEY ARE CONTAMINATED BY BLOOD, YOU DON'T ACCEPT THOSE; DO YOU?

A YES, SIR, WE DO.

Q YOU DO ACCEPT THOSE?

A YES, SIR. THE Q-TIP SWAB, IF IT IS CONTAMINATED BY BLOOD, THE BLOOD WILL NOT NECESSARILY DESTROY THE ELEMENTS THAT WE ARE LOOKING FOR, PROVIDED IT WAS A

FREE-FLOWING BLOOD. THE PART WHICH MAKES --

Q LET ME STOP YOU THERE AND I DON'T MEAN TO INTERRUPT YOU.

SOLICITOR BAILEY: JUDGE, DON'T STOP HERE NOW. WHEN HE ASKS A QUESTION, SHE NEEDS TO ANSWER THEM.

MR. STONE: I UNDERSTAND THAT, YOUR HONOR. I'M ONLY INTERRUPTING HERE TO MAKE SURE I UNDERSTAND WHAT SHE MEANT.

Q FREE FLOWING, WHAT DO YOU MEAN? YOU MEAN FREE FLOWING FROM AN OPEN CUT?

A CORRECT. MEANING IF THE BLOOD IS CONTINUALLY FLOWING AND MOVING OVER THE HANDS, THEN THERE IS A POSSIBILITY OF THE DESTRUCTION OF THE GUNSHOT RESIDUE THAT IS PRESENT, MEANING THAT IT WILL BE TAKEN ALONG WITH THE BLOOD AND THEREBY NOT FOUND ON THE HANDS ONCE WE DO THE COLLECTION OF THE KIT.

HOWEVER, IF THERE IS BLOOD ON THE HANDS AND YOU SWAB OVER THAT BLOOD, THE SWABS SHOULD THEORETICALLY TAKE UP THE BLOOD AND EVERYTHING ELSE THAT IS ON THAT HAND.

Q SO THE FACT THAT HE MIGHT HAVE BLOOD ON HIS HAND DOES NOT EFFECT THE GUNSHOT RESIDUE TEST AT ALL UNLESS IT'S FREE FLOWING?

A IT DOES NOT EFFECT THE SWAB PORTION OF THE

GUNSHOT RESIDUE KIT; HOWEVER, IF THERE IS BLOOD ON THE HANDS AND WE USE THE ALUMINUM STICKY STUB THAT I TALKED ABOUT EARLIER, THAT WILL ACTUALLY MASK THE EFFECT OF THE GUNSHOT RESIDUE BECAUSE ONCE THE BLOOD ACTUALLY COATS THE ENTIRE STUB, WE WOULD NOT BE ABLE TO SEARCH FOR THE GUNSHOT RESIDUE PARTICLES.

Q BUT YOU DIDN'T NOTICE ANY BLOOD ON THE SWABS THAT YOU RECEIVED, DID YOU?

A I MADE NO INDICATION OF BLOOD ON THE SWABS OR THE STUBS.

Q AND YOU WOULD HAVE INDICATED IT IF YOU HAD FOUND IT, WOULDN'T YOU?

A NOT NECESSARILY ON THE SWABS SIMPLY BECAUSE IT'S NOT SOMETHING THAT WILL NECESSARILY DESTROY THE EVIDENCE.

Q YOU USED THE I.C.P. TEST; IS THAT RIGHT?

A YES, SIR.

Q IS THIS A NEW TEST, AN OLD TEST? WHAT KIND OF TEST IS THIS? WHAT DOES I.C.P. STAND FOR?

A I.C.P. STANDS FOR INDUCTED COUPLED PLASMA. THAT INSTRUMENT IS HOOKED WITH A MASS SPECTROMETER WHICH WILL ANALYZE -- BASICALLY THE I.C.P. BREAKS DOWN EVERYTHING INTO AN ELEMENTAL CONCENTRATION AND THE MASS SPEC WILL ACTUALLY -- IT'S THE DETECTOR AND ACTUALLY DETERMINES WHAT EACH THING IS, WHAT EACH

ELEMENT IS THERE.

Q IT SOUNDS PRETTY FANCY. IS IT?

A YES, SIR, IT TAKES SOME GETTING USED TO.

Q A PRETTY SENSITIVE MACHINE, ISN'T IT?

A VERY SENSITIVE, YES, SIR.

Q PRETTY ACCURATE MACHINE, TOO; ISN'T IT?

A YES, SIR.

Q BY THE WAY WHAT WAS THE GUNSHOT RESIDUE TEST RESULTS ON THE HANDS OF GLORYVEE PEREZ?

A THERE WAS NO GUNSHOT RESIDUE COLLECTED FROM MRS. PEREZ.

MR. STONE: I DON'T HAVE ANYTHING ELSE.

SOLICITOR BAILEY: NO REDIRECT, YOUR HONOR.

THE COURT: DO YOU DESIRE THIS WITNESS TO BE EXCUSED NOW?

SOLICITOR BAILEY: YES, SIR.

THE COURT: YOU MAY BE EXCUSED. LADIES AND GENTLEMEN, WE HAVE BEEN HERE ABOUT AN HOUR AND 15 MINUTES. LET'S TAKE A SHORT BREAK AND GIVE YOU AN OPPORTUNITY TO STRETCH JUST A MOMENT.

(THE JURY RETIRES TO THE JURY ROOM.)

THE COURT: I PROPOSE TO START BACK AT 11 O'CLOCK SHARP.

(WHEREUPON THERE WAS A RECESS.)

THE COURT: BRING THE JURY OUT, PLEASE.

(THE JURY RETURNS TO THE COURTROOM.)

THE COURT: ALL PARTIES ARE PRESENT. YOU MAY CALL YOUR WITNESS.

SOLICITOR BAILEY: JOE POWELL.

CLERK: STATE YOUR NAME FOR THE RECORD.

THE WITNESS: JOSEPH DWAYNE POWELL, P-O-W-E-L-L.

COURT REPORTER: SPELL YOUR MIDDLE NAME, PLEASE.

THE WITNESS: D-W-A-Y-N-E.

JOSEPH DWAYNE POWELL, BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY SOLICITOR BAILEY:

Q MR. POWELL, ARE YOU EMPLOYED BY S.L.E.D.?

A YES, SIR, I AM.

Q HOW LONG HAVE YOU WORKED AT S.L.E.D.

A I HAVE BEEN EMPLOYED AT S.L.E.D. APPROXIMATELY 16 AND A HALF YEARS.

Q WHAT IS YOUR EDUCATIONAL BACKGROUND?

A I RECEIVED MY AMERICAN CHEMICAL SOCIETY DEGREE IN CHEMISTRY FROM THE UNIVERSITY OF SOUTHERN MISSISSIPPI. AFTER RECEIVING MY B.S. DEGREE IN CHEMISTRY, I CAME TO THE UNIVERSITY OF SOUTH CAROLINA TO BEGIN ADVANCE WORK ON MY PH.D. IN ANALYTICAL

CHEMISTRY.

AFTER COMPLETING APPROXIMATELY A YEAR AND A HALF OF STUDY, I OPTED TO LEAVE MY STUDIES AND BEGIN TO GO INTO WORKING. I OBTAINED A JOB AT SOUTH CAROLINA LAW ENFORCEMENT DIVISION, BEGAN WORKING IN THAT AREA, IN THE AREA OF BOTH DRUG ANALYSIS AND TRACE EVIDENCE ANALYSIS.

I WENT THROUGH AN EXTENSIVE IN-HOUSE TRAINING PROGRAM IN BOTH AREAS, WAS CERTIFIED, WENT THROUGH ALL THE TESTING PROGRAMS AVAILABLE AND THEN BEGAN TO TAKE ON CASES FOR VARIOUS COUNTIES.

FOR SEVEN YEARS I ANALYZED DRUGS AND TRACE EVIDENCE FOR NUMEROUS COUNTIES AROUND THE STATE. DURING THAT PERIOD OF TIME, I ATTENDED SCHOOLS AROUND THE COUNTRY SPECIALIZING IN THE AREA OF TRACE EVIDENCE ANALYSIS, SPECIFICALLY GUN PRIMER AND GUN POWDER RESIDUE ANALYSIS.

FOR OVER SEVEN YEARS, I WAS THE ONLY PERSON AT THE LABORATORY PERFORMING THIS TEST. OVER MY YEARS I HAVE ATTENDED SPECIALIZED COURSES IN ALL ASPECTS OF TRACE EVIDENCE, ATTENDING SCHOOLS, SEMINARS, SYMPOSIUMS. I HAVE BEEN ASKED TO BE GUEST SPEAKER. I HAVE ALSO BEEN INVOLVED WITH MUCH OF THE METHOD DEVELOPMENT IN MANY YEARS OF TRACE EVIDENCE ANALYSIS.

Q WHAT IS YOUR PRESENT POSITION WITHIN THE TRACE

DEPARTMENT AT S.L.E.D.?
A CURRENTLY MY TITLE IS LIEUTENANT, MEANING I AM A SUPERVISOR OVER THE SECTION. I AM RESPONSIBLE FOR BOTH MANAGING MY PERSONNEL AND ALSO TAKING ON A CASE LOAD AND ANALYZING IT.
Q HOW MANY PEOPLE DO YOU SUPERVISE?
A AT THIS POINT I SUPERVISE FIVE PEOPLE.
Q WHO ARE THEY?
A THEY WOULD BE MY SECRETARY AND MY OTHER ANALYSTS, WHICH WOULD BE JOHN BARRON, KIM BLACK, DOTTIE FULLER; AND I HAVE AN OPENING AT THIS POINT WHICH I AM IN THE PROCESS OF FILLING.
Q SO YOU ARE THE HEAD OF THE TRACE DEPARTMENT AT THIS TIME?
A THAT IS CORRECT.
Q HOW LONG HAVE YOU BEEN THE HEAD OF THE DEPARTMENT?
A APPROXIMATELY THREE YEARS.
Q AND HAVE YOU TESTIFIED IN THE PAST AS AN EXPERT IN THE FIELD OF TRACE EVIDENCE, SPECIFICALLY IN REGARD TO GUN POWDER AND GUNSHOT RESIDUE?
A YES, SIR, I HAVE.
Q ON APPROXIMATELY HOW MANY OCCASIONS?
A I HAVE TESTIFIED IN THE AREA OF GUN PRIMER AND GUN POWDER RESIDUE ANALYSIS APPROXIMATELY 150 TIMES.

I HAVE TESTIFIED OVERALL APPROXIMATELY 550 TIMES.

Q DO YOU KEEP UP WITH THE PUBLICATIONS IN THAT FIELD?

A YES, SIR. I AM VERY MUCH INVOLVED WITH ALL TYPES OF LITERATURE INFORMATION. I AM ATTEND VARIOUS -- RIGHT NOW I AM ATTENDING VARIOUS GROUPS WHERE WE ARE HELPING TO ORGANIZE RESEARCH GROUPS. I AM DOING RESEARCH PRESENTLY AT THE LABORATORY AND HOPEFULLY WILL BE ABLE TO HAVE EVEN MORE RESEARCH IN THE FUTURE.

SOLICITOR BAILEY: YOUR HONOR, I WOULD TENDER MR. POWELL AS AN EXPERT IN THE FIELD OF TRACE EVIDENCE.

MR. STONE: NO OBJECTION.

THE COURT: I FIND HIM SO QUALIFIED.

Q YOU SAID THAT YOU WERE IN TRAINING WITH DOROTHY FULLER WHO JUST TESTIFIED; IS THAT CORRECT?

A THAT IS CORRECT.

Q HAVE YOU TRAINED OTHER PEOPLE WHO HAVE COME ALONG IN THE TRACE DEPARTMENT?

A YES, SIR. I AM CURRENTLY THE ONLY PERSON THAT IS TRAINING THE NEW PERSONNEL THAT COMES INTO MY LABORATORY, AS I AM UNTIL LAST MONTH THE ONLY PERSON WHO IS FULLY QUALIFIED IN ALL ASPECTS OF TRACE.

Q AND DIRECTING YOUR ATTENTION BACK TO THE FIRST

ROW OF SPECTATORS, THE YOUNG MAN HERE SITTING BEHIND THE DEFENSE TABLE, DO YOU RECOGNIZE HIM?

A YES, SIR, THAT WOULD BE JEFF HOLLIFIELD.

Q HOW DO YOU KNOW MR. HOLLIFIELD?

A HE USED TO WORK FOR ME, SIR. HE WAS AN ANALYST IN OUR DEPARTMENT WHO CARRIED A CASE LOAD. HIM AND I ACTUALLY WORKED TOGETHER COMING UP THROUGH S.L.E.D. DOING DRUG ANALYSIS AND TRACE EVIDENCE ANALYSIS.

Q DID HE WORK UNDER YOU WHEN YOU WERE THE HEAD OF THE TRACE EVIDENCE DEPARTMENT?

A ONCE I BECAME SUPERVISOR, YES, SIR, HE WAS WORKING UNDERNEATH ME. WE WORKED TOGETHER FOR MANY YEARS AND I CONSIDER HIM TO BE A FRIEND.

Q HE NO LONGER WORKS AT S.L.E.D. AT THIS TIME?

A NO, SIR. HE HAS DECIDED TO SEEK SOME ADVANCED STUDIES IN THE AREA OF POLARIZED LIGHT MICROSCOPY AND PURSUED THOSE STUDIES.

Q IN THIS PARTICULAR CASE, DID YOU WORK WITH DOROTHY FULLER WHEN SHE DID THE WORK SHE TESTIFIED ABOUT?

A YES, SIR, I DID.

Q FOR THE RECORD WERE YOU PRESENT WHEN MS. FULLER TESTIFIED AND HAVE YOU BEEN PRESENT THROUGHOUT THE ENTIRE TRIAL?

A YES, SIR, I HAVE BEEN PRESENT THROUGHOUT ALL

TESTIMONY.

Q DOES S.L.E.D. ROUTINELY, WHEN THEY DO AN ANALYSIS ON TRACE EVIDENCE OR ANYTHING ELSE FOR THAT MATTER IN THE S.L.E.D. LAB, DO Y'ALL GENERATE A WRITTEN REPORT?

A YES, SIR, WE DO.

SOLICITOR BAILEY: I DON'T THINK MR. STONE ASKED TO INTRODUCE THESE.

MR. STONE: THOSE ARE JUST COPIES OF THE REPORT. THAT'S A BLOWUP OF THE ACTUAL REPORT THAT WAS INTRODUCED. WE CAN RENUMBER THEM IF THAT'S WHAT THE SOLICITOR WOULD LIKE.

SOLICITOR BAILEY: IF YOU DON'T HAVE ANY OBJECTION, I WILL INTRODUCE THESE.

MR. STONE: I DON'T HAVE ANY OBJECTION.

(STATE'S EXHIBITS NUMBER 71 AND 72, BLOWUPS OF TRACE EVIDENCE REPORT, ARE RECEIVED INTO EVIDENCE.)

Q MR. POWELL, I WILL SHOW YOU THIS. IS THIS THE REPORT THAT RESULTED FROM THIS CASE?

A YES, SIR. THIS IS A BLOWN-UP PLACARD OF THE REPORT GENERATED. IT BEARS OUR LABORATORY NUMBER AND ON PAGE 2 IT BEARS MY SIGNATURE.

Q SO THIS IS YOUR SIGNATURE BENEATH MS. FULLER'S SIGNATURE; IS THAT CORRECT?

A YES, SIR, THAT IS CORRECT.
Q SO YOU CO-SIGNED THAT REPORT?
A THAT IS CORRECT.
Q WHAT DOES THAT MEAN WHEN YOU CO-SIGN SOMEBODY'S REPORT?
A CO-SIGNING A REPORT IN THE TRAINING PROCESS MEANS THAT THEY ARE AT A POINT WHERE THEY ARE READY TO START TESTIFYING. IN THIS CASE I WAS TRAINING AGENT FULLER IN THE AREA OF BOTH -- BASICALLY IN THE AREA OF GENERAL DISTANCE DETERMINATION.

SHE HAD ALREADY COMPLETED ALL OF HER QUALIFICATIONS IN THE ANALYSIS OF GUN PRIMER. WE WERE FINISHING UP WITH DISTANCE DETERMINATION. SO BECAUSE OF -- I CO-SIGNED IN CASE THERE WAS AN ISSUE OF HER BEING ABLE TO BE QUALIFIED AS AN EXPERT WITNESS. SO THAT IS A PROCEDURE THAT WE FOLLOW. THERE IS ABOUT THREE MONTHS WORTH OF CASES THAT I CO-SIGNED WITH HER IN THIS REGARD.

Q WAS HER TESTIMONY THAT YOU OBSERVED CONSISTENT WITH THE REPORT THAT IS IN EVIDENCE NOW?
A YES, SIR, IT WAS ABSOLUTELY CONSISTENT WITH THE REPORT THAT HAS BEEN RENDERED.
Q WITHOUT GOING THROUGH ALL OF THIS AGAIN IN THE INTEREST OF TIME, DO YOU CONCUR IN HER TESTIMONY IN HER REPORT?

A FULLY, SIR. SHE ANSWERED IT ABSOLUTELY AS IF I WAS SITTING IN THE CHAIR MYSELF.

Q IF THE SAME QUESTIONS WERE ASKED OF YOU, ARE THERE ANY CHANGES YOU WOULD HAVE MADE OR ANY DIFFERENT ANSWERS?

A NO, SIR, THE ANSWERS WOULD HAVE BEEN THE SAME AS WERE RENDERED BY HER.

Q MR. POWELL, APPROXIMATELY HOW MANY GUNSHOT RESIDUE TESTS HAVE YOU DONE ON THE CLOTHING OF A SUSPECTED SHOOTER?

A I HAVE RUN THE TEST APPROXIMATELY 50 TIMES IN THE PAST. ABOUT FIVE YEARS AGO, I HAD AN INTEREST IN TRYING TO SEE IF I COULD DEVELOP A METHOD TO CAPTURE THE MATERIAL OFF THE GARMENTS OF A SHOOTER.

THERE ARE TIMES WHEN RUNNING THE TEST ON THE HANDS THAT WOULD COME UP AS A NEGATIVE BECAUSE OF FACTORS, SOMEONE WASHING THEIR HAND OR TIME, OTHER FACTORS COME INTO PLAY.

HOWEVER, ON THE GARMENTS A LOT OF THESE FACTORS DO NOT COME INTO PLAY. SO THE INTEREST WAS TRYING TO FIND A WAY TO BE ABLE TO EXTRACT OR TO REMOVE THIS MATERIAL.

I BEGAN TO WORK WITH A PROCEDURE WHERE WE TOOK PARTICLE LIFTS AND RUN THEM OVER THE GARMENT. A PARTICLE LIFT HAS ALSO BEEN KNOWN AS A STICKY TAB AND

OTHER THINGS. IT GOES BY MANY DIFFERENT NAMES. IT'S NOTHING MORE THAN A PIECE OF FLATTENED ALUMINUM WITH A STICKY ADHESIVE ON IT.

THIS ADHESIVE IS USED TO PICK UP ANY PARTICLES THAT MIGHT BE ON THE SURFACE OF THE GARMENT. I HAVE TRIED THIS TEST ON NUMEROUS GARMENTS. I ONLY HAVE HAD TWO CASES WHERE I WAS ACTUALLY ABLE TO FIND ANY RESIDUE, ONE OF WHICH WAS DEALING WITH A PAIR OF GLOVES.

BECAUSE OF THE PROXIMITY TO THE WEAPON AND BECAUSE THEY HAD A TEXTURE WHICH ALLOWED ME -- IT WAS A LEATHER-BANDED TYPE GLOVE. ON THE LEATHER I WAS ABLE TO FIND RESIDUE; HOWEVER, I WAS NOT ABLE TO FIND ANY RESIDUE ON ANY OF THE FABRIC MATERIAL, ONLY ON THE LEATHER PORTION AND ALSO ONLY ON THE AREAS NEXT TO THE GUN. I WASN'T EVEN ABLE TO FOLLOW IT BACK TOWARD THE HEEL OF THE HAND OR AT THE CUFF AREA.

THERE WAS ANOTHER TIME I DID FIND IT ON THE GARMENT BECAUSE THE GUN WAS ACTUALLY TURNED IN SUCH A WAY THAT IT ACTUALLY OVERLOADED THE GARMENT AND COATED IT WITH A MATERIAL.

Q OTHER THAN THAT HAVE YOU DETECTED GUNSHOT RESIDUE FROM THE CLOTHING OF A KNOWN SHOOTER OR SUSPECTED SHOOTER?

A NO, SIR. AFTER TWO TO THREE YEARS OF PERFORMING

THIS TEST, I DECIDED THAT IT WAS NOT A VALID METHOD TO BE ABLE TO BE PERFORMED, DUE TO THE FACT THAT IT WOULD LEND OR BE THOUGHT OF AS BEING AN INDICATION OF A NEGATIVE WHEN IT MAY BE JUST A SAMPLING TECHNIQUE ITSELF. SO WE OPTED NOT TO INCORPORATE IT AS PART OF OUR TESTING PROCEDURES.

Q IN REGARD TO THE TIME FRAME AFTER WHICH A PERSON FIRES A GUN, THE TIME FRAME BETWEEN THAT AND THE TIME THE GUNSHOT RESIDUE IS TAKEN BY THE FORENSIC AGENT, WHAT IS THE S.L.E.D. PROTOCOL ON THAT?

A THE S.L.E.D. PROTOCOL IS ON A LIVING PERSON THAT AFTER SIX HOURS, WE DO NOT PERFORM THIS TEST. OF ALL THE MANY THOUSANDS OF SAMPLES THAT I HAVE RUN OVER THE YEARS, I HAVE CONTINUALLY FOUND THAT EVERY HOUR THAT MOVES AWAY FROM POINT AT WHICH THAT WEAPON WAS DISCHARGED, THE LESS THE MATERIAL IS THERE.

SIX WAS A NUMBER WHICH WE HAVE BANDIED AROUND OVER THE YEARS. AT ONE TIME WE WERE LOOKING AT MAYBE SEVEN OR MAYBE FIVE, BUT I HAVE DONE A CROSS SECTION ACROSS THE COUNTRY LOOKING AT WHAT OTHER LABORATORIES ARE LOOKING AT.

MOST LABORATORIES ARE GOING FOUR, FIVE OR SIX. THERE'S ONE OR TWO WHICH HAVE OPTED TO GO TO SEVEN HOURS. WHEN I ASKED ABOUT THAT, THEY SAID, "WELL, WE THOUGHT ABOUT SIX BUT WE WANTED TO BE EXTREMELY

LIBERAL, AND WE ALLOWED AN EXTRA HOUR ON TOP OF IT."

Q WHAT DOES THE F.B.I. USE?

A MY KNOWLEDGE AT THIS POINT IS THEY USE A SHORTER TIME FRAME THAN WE DO OF FOUR HOURS. THEY ALSO HAVE A MUCH HIGHER THRESHOLD AND DO OTHER ISSUES SOMEWHAT DIFFERENT THAN WE DO ALSO.

Q HAVE YOU CONDUCTED ANY TESTS OR HAVE YOU READ ANY LITERATURE WHERE OTHER PEOPLE IN YOUR FIELD HAVE DONE TESTS WHERE A PERSON WOULD FIRE A GUN AND HAVE NOTHING COME IN CONTACT WITH THEIR HANDS FOR A SPECIFIED PERIOD OF TIME TO SEE HOW LONG THAT GUNSHOT RESIDUE WOULD REMAIN ON THE HANDS?

A YES, SIR. THERE HAS BEEN RESEARCH PERFORMED BY VARIOUS INSTITUTIONS TRYING TO DETERMINE HOW LONG A QUANTIFIABLE VALUE, HOW LONG THIS MATERIAL WOULD STAY.

THEY FOUND IT WAS VERY INDIVIDUAL, DEPENDING ON HOW PROFUSE SOMEONE SWEATS. IT DEPENDS ON OTHER FACTORS TO DETERMINE HOW FAST THIS MATERIAL IS REMOVED.

IT DOES GO AWAY. YOU DO NOT HAVE TO DO ANY ACTIVITY FOR IT TO GO AWAY. AS FAR AS -- THE ONLY CRITERIA IS THAT YOU ARE ALIVE. THE HEARTBEAT, THE MOTION, THERE'S THINGS HAPPENING ON YOUR HANDS ALL THE TIME AND THIS MATERIAL IS DIMINISHED.

SO THERE IS NO FIRM CONCRETE QUANTITATIVE ANSWER, BUT MOST PEOPLE IN THE FIELD HAVE FOUND THAT WITH SMALL CALIBER WEAPONS, TWO TO THREE HOURS IS USUALLY ABOUT THE MOST YOU WILL FIND THE MATERIALS. LARGE CALIBER WEAPONS, .45S, MAYBE UP TO FIVE HOURS. THAT SEEMS TO BE THE NORM THROUGHOUT THE SCIENTIFIC COMMUNITY.

Q ALL RIGHT, SIR. IF I UNDERSTAND WHAT YOU ARE SAYING, THE METABOLISM WOULD INCREASE THE RATE OF ABSORPTION?

A YES, SIR. IF SOMEONE IS SCARED OR EXITED OR EXERCISING VIGOROUSLY, THIS WILL DIMINISH THE MATERIAL MUCH MORE RAPIDLY THAN SOMEONE WHO IS VERY CALM AND SEDATE AND NOT MUCH ACTIVITY.

Q IS BAGGING SOMEBODY'S HANDS GOING TO STOP THAT ABSORPTION?

A IT CAN ALTER SOME FACTORS, SUCH AS RUBBING IT OFF FROM OTHER AREAS; BUT AT THE SAME TIME, IT'S ENCLOSING THE HAND, SO THAT ACTS AS A HEAT OR THERMAL BARRIER. THE HANDS WILL ACTUALLY WARM UP AND DISSOLVE OR EVEN DESTROY THE MATERIAL EVEN FASTER BECAUSE OF PERSPIRATION. SO YOU HAVE OPPOSITE EFFECTS. YOU MAY BE HELPING IN ONE AREA AND HURTING IN ANOTHER.

Q YOU WERE PRESENT IN COURT THROUGHOUT THE THREE

DAYS NOW OF TESTIMONY; IS THAT CORRECT?

A YES, SIR.

Q AND BASED ON WHAT YOU HEARD THAT MR. ALEKSEY WENT THROUGH BETWEEN ROUGHLY 11:30 AND ROUGHLY 5:30 IN THE MORNING OF JANUARY 1ST, 1998, WOULD YOU HAVE EXPECTED TO OBTAIN ANY GUNSHOT RESIDUE?

A NO, SIR, I WOULD NOT HAVE. HE WOULD NOT HAVE HAD TO HAVE GONE THROUGH ANY TYPE OF ACTUAL ACTIVITY. JUST THE TIME FRAME WE ARE TALKING ABOUT IN ITSELF WOULD HAVE GIVEN ME CAUSE TO QUESTION WHETHER WE COULD EVEN ACHIEVE A POSITIVE OR NOT.

Q DOES THE NEGATIVE GUNSHOT RESIDUE TEST AFTER SIX HOURS MEAN THAT HE DIDN'T FIRE THE GUN?

A NO, SIR, IT DOES NOT. EVERY MOMENT THAT PASSES FROM THE TIME THAT WEAPON IS DISCHARGED IS A MOMENT OF TIME THAT WE HAVE LOST. WHEN THE TEST IS ADMINISTERED, IT'S CAPTURING OR COLLECTING WHATEVER IS ON THE HANDS AT THAT MOMENT IN TIME.

WHAT HAPPENS TO IT BEFORE IT'S COLLECTED IS THE PROBLEM. AS THINGS ARE HAPPENING, IT'S BEING LOST. WE ARE LOSING IT. SO THE TEST IS A GREAT TEST, BUT UNFORTUNATELY THE MEANING OF IT IS DEPENDING ON HOW CLOSE IT IS TO THE FIRING OF THE WEAPON.

IF THIS WEAPON HAD BEEN DISCHARGED AND SOMEONE HAD BEEN ABLE TO COLLECT A SAMPLE WITHIN TEN MINUTES

AND IT WAS NEGATIVE, I WOULD HAVE A DIFFERENT POINT OF VIEW THAN I HAVE AFTER SIX HOURS.

Q I WILL ASK YOU NOW ABOUT THE GUNSHOT RESIDUE TEST THAT WAS DONE ON THE DRIVER'S SIDE OF THE MUSTANG.

A YES, SIR.

Q YOU WERE PRESENT WHEN THAT TESTIMONY WAS GIVEN BY MS. FULLER; IS THAT RIGHT?

A THAT IS CORRECT.

Q AND DO YOU HAVE ANY EXPLANATION FOR THE FACT THAT OBVIOUSLY THIS CAR WAS DRIVEN AT A HIGH RATE OF SPEED AFTER THE SHOOTING AND THE FACT THAT GUNSHOT RESIDUE WAS STILL ON THE WINDOW OF THE CAR BUT NOT ANYWHERE ELSE?

A YES, SIR.

Q ALL RIGHT, SIR.

A THE MATERIAL, AS WAS DESCRIBED APPROPRIATELY, IS A POWDERY-LIKE MATERIAL. IT'S VERY FRAGILE AND EASILY REMOVED; HOWEVER, AS IT IS COMING OUT OF THAT WEAPON, IT IS NOT ACTUALLY A POWDER.

IT'S ACTUALLY A MOLTEN LIQUID. IT IS SO HOT BECAUSE OF THE ENERGY IN THE FIRING OF THE BULLET ITSELF, IT IS MOLTEN. THIS MOLTEN MATERIAL IS STICKY. IT WOULD ADHERE AND STICK TO A SURFACE.

SO IF YOU TAKE A WEAPON AND YOU DISCHARGE IT

SUCH THAT THE BARREL OR THE EJECTOR PORT IS CLOSE TO THE OBJECT, VERY CLOSE TO IT, IT WILL -- THOSE PARTICLES WHICH ARE SEMI-MOLTEN WILL STICK TO THE MATERIAL AND WILL NOT COME OFF. THEY ARE VERY STABLE.

YOU WILL FIND THE VERY SAME THING IN A HAND. IF YOUR HAND IS AROUND A WEAPON WHEN IT GOES OFF, AROUND THE EJECTOR PORT, YOU CAN OPEN UP YOUR HANDS AND YOU WILL SEE THE OUTLINE OF THAT EJECTOR PORT.

THE MATERIAL HAS BURNED ITSELF INTO YOUR SKIN AND WILL BE RETAINED UNTIL THE GROWTH PROCESS REMOVES IT. SO IT'S VERY STABLE AND WILL RETAIN FOR A LONG PERIOD OF TIME.

AS YOU MOVE AWAY FROM THE WEAPON, THE MATERIAL COMING OUT CAN COOL VERY RAPIDLY. THEN ONCE IT BECOMES A POWDER, THEN IT'S VERY FRAGILE. IT DOESN'T STICK. IT JUST LAYS ON TOP AND SO CAN BE BLOWN AWAY VERY EASILY.

Q WOULD THAT HAPPEN IN THE NORMAL FIRING OF A WEAPON, JUST THE WAY YOU NORMALLY HOLD YOUR HAND ON THE GRIP AND YOUR FINGER ON THE TRIGGER?

A IF I TOOK THIS WEAPON -- THIS WEAPON IS EMPTY -- IF I TOOK THIS WEAPON -- I'M SORRY ABOUT POINTING IT BACK -- IF I TOOK THIS WEAPON AND I DISCHARGE IT WITH MY HAND BEHIND IT, THE MATERIAL, AS IT IS COMING OUT

OF THIS WEAPON IMMEDIATELY COMES IN CONTACT WITH THE AIR.

YOU MUST REALIZE THAT THE MATERIAL COMING OUT OF HERE IS EXTREMELY HOT AND THE AIR IS EXTREMELY COOL. BECAUSE IT COOLS VERY RAPIDLY AND BY THE TIME IT MAKES IT TO YOUR HAND, IT IS NOTHING MORE THAN A POWDER.

WHAT I DESCRIBING IS THE PRIMER WHICH YOU CAN SEE FROM THE GUN, THE BLUE SMOKE THAT IS COMING OUT. THAT SMOKE WILL JUST LAND ON TOP OF MY HANDS AND BE RETAINED.

HOWEVER IF I FIRE THIS WEAPON AND IF I HAVE GOT IT LIKE HERE (INDICATING) OR NEAR THE BARREL WHEN IT'S DISCHARGED, IF I JUST CUP MY HAND OVER IT AND DISCHARGE IT, THERE WILL BE A BURN YOU WILL FIND ON THE PALM OF MY HAND.

THERE WILL BE AN OUTLINE OF THE ACTUAL EDGE OF THE BARREL WHERE ALL THOSE PARTICLES HAVE COME OUT AND BURNED INTO MY SKIN. THEY WILL BE RETAINED FOR A LONG PERIOD OF TIME, UP TO WEEKS BECAUSE IT TAKES TIME FOR THE SKIN TO HEAL AND REPAIR ITSELF.

IT'S THE SAME PROCESS IF I GRABBED IT AROUND THE EJECTOR PORT (INDICATING). THIS MATERIAL WILL COME OUT AND WILL BURN ITSELF ONTO MY SKIN AND BE RETAINED.

Q MR. POWELL, FINALLY, IS THERE ANY OF THE TESTING THAT Y'ALL DID AT THE TRACE DEPARTMENT IN THE S.L.E.D. LAB THAT WOULD EXCLUDE BAYAN ALEKSEY AS THE MURDERER OF FRANKIE LINGARD?

A NO, SIR. ALL THE TESTING THAT WE DID WAS TRYING TO DETERMINE WHO HAD THE PRESENCE OF THE WEAPON, WHO FIRED THE WEAPON. WE HAVE GOT -- THERE IS SOME INDICATION ON THE SAMPLES THAT WE HAD FROM THE SUBJECT THAT THERE MIGHT BE SOMETHING.

THERE MAY BE SOME PRIMER RESIDUE LEFT AFTER A DIMINISHED TIME. WE CANNOT MAKE THAT CONCLUSION BECAUSE WE HAVE SET MINIMAL STANDARDS SAYING THAT WE MUST REACH A LEVEL BEFORE WE MAKE A CALL.

Q SO IT'S NOT ENOUGH TO MAKE THE CALL?

A IT'S NOT ENOUGH TO MAKE THE CALL, BUT HE IS NOT CLEAN. HE IS -- YOU CANNOT SAY THERE IS NOTHING THERE. THERE IS SOMETHING THERE BUT WHAT IT IS IS JUST NOT ENOUGH TO BE ABLE TO MAKE A CALL. THIS IS VERY CONSISTENT IF SOMEONE HAD FIRED A WEAPON AND THE TIME HAD PAST. THIS IS THE EFFECT THAT I MAY SEE.

Q THE LEVEL YOU FOUND IS CONSISTENT WITH SIX HOURS AFTER FIRING?

A IT COULD VERY WELL BE CONSISTENT WITH IT. IF SOMEONE HAD FIRED A WEAPON, CONTAMINATED THEMSELVES, AFTER SIX HOURS I WOULD EXPECT TO FIND A VERY

DIMINISHED, IF ANY, TYPE OF MATERIAL ON THE HANDS.

Q AND THAT'S WHAT YOU FOUND?

A THAT'S WHAT I FOUND.

Q ANSWER ANY QUESTIONS THE DEFENSE MAY HAVE.

CROSS EXAMINATION

BY MR. STONE:

Q YOU ARE NOT SAYING NOW THAT YOU FOUND A POSITIVE TEST RESULT?

A NO, SIR. NO, SIR, I AM NOT. PLEASE DON'T BE INFERRED BY THAT. WHAT I AM SAYING IS IF YOU HAD FIRED THIS WEAPON AND YOU HAD THIS MATERIAL ON YOUR HANDS, AS TIME PROGRESSES, IT WILL DIMINISH AND GET LESS AND LESS AND LESS.

AT SOME POINT YOU WILL FALL BELOW OUR THRESHOLD. THE THRESHOLD IS A LEVEL WE HAVE CHOSEN. ONCE IT GETS BELOW THIS AMOUNT, WE WILL NOT CALL IT A POSITIVE.

HOWEVER ON THE HANDS, IT WILL CONTINUE TO DIMINISH. WHAT WE FOUND ON HERE WAS MATERIAL WHICH WAS BELOW OUR THRESHOLD, BUT THERE WAS SOME BARIUM, ANTIMONY AND LEAD ON THE HANDS. IT WAS NOT ENOUGH TO CALL IT A POSITIVE, BUT THERE WERE SOME MATERIALS THERE.

Q THERE WERE A LOT OF OTHER MATERIALS THERE, TOO?

A YES, SIR. ALL THE OTHER MATERIALS YOU ARE

REFERRING TO ARE THE MATERIALS THAT I HAVE BEEN DOING A THREE-YEAR STUDY ON. I AM TRYING TO DETERMINE WHAT OTHER ELEMENTS OUT THERE CAN WE LOOK AT TO DETERMINE WHAT IS ENVIRONMENTAL, WHAT CAN WE LOOK IT AS FAR AS OTHER MATERIALS THAT CAN BE FOUND ON THE HANDS.

FOR EXAMPLE, THEY ARE INTRODUCING NEW TYPES OF AMMUNITION. THEY ARE TRYING TO GET AWAY FROM SOME OF THE LEAD BECAUSE OF E.P.A. CONCERNS WITH ENVIRONMENTAL CONTAMINATIONS OF LEAD.

SO THEY ARE PUTTING IN STRONTIUM OR THEY MAY BE PUTTING IN SOME ZINC AND PUTTING IN SOME OTHER COMPONENTS. WHAT I AM DOING IS I HAVE CREATED A TEST WHERE WE LOOK AT OTHER ELEMENTS, OTHER THAN THE THREE PRIMARY ONES OF BARIUM, ANTIMONY AND LEAD.

THOSE ARE DISPLAYED ON THE CHART HERE AS BEING SHOWN. THESE ARE ELEMENTS THAT I HAVE ACTUALLY PUT INTO THE SYSTEM TO LOOK FOR OVER THE LAST THREE YEARS TO DETERMINE WHAT IS OUT THERE, WHAT IS GOING ON.

Q THIS IS YOUR SIGNATURE AT THE BOTTOM OF THIS REPORT? THIS IS STATE'S EXHIBIT 72 THAT ACTUALLY I INTRODUCED.

A YES, SIR.

Q THAT'S YOUR SIGNATURE?

A YES, SIR.

Q YOU CO-SIGNED THAT BECAUSE YOU REVIEWED DOTTIE

FULLER'S WORK; IS THAT CORRECT?
A THAT IS CORRECT.
Q AND YOU SIGNED THIS REPORT BECAUSE YOU FOUND THAT DOTTIE FULLER'S REPORT WAS CORRECT, DID YOU NOT?
A YES, SIR, THAT IS CORRECT.
Q IN REVIEWING HER REPORT, DID YOU ALSO NOT REVIEW HOW THE TESTING WAS DONE TO BEGIN WITH?
A YES, SIR, I REVIEWED ALL ASPECTS OF THE WORK.
Q WHICH INCLUDED HOW IT WAS SWABBED AND HOW IT WAS TAKEN AND VARIOUS OTHER ITEMS LIKE THAT AS WELL?
A I REVIEWED ALL ASPECTS OF AREAS WHICH WE CONTROL, ANY INFORMATION, BOTH PAPERWORK AND ANALYTICAL TECHNIQUES BEING USED.
Q AND YOU FOUND NO PROBLEMS WITH THOSE TESTS, DID YOU?
A NO, SIR.
Q THE BOTTOM HERE, THE RESULT OF THIS EXAMINATION, IS THAT THE QUANTITIES OF METAL DID NOT INDICATE THE PRESENCE OF GUNSHOT RESIDUE. THAT'S WHAT THIS REPORT SAYS; IS THAT CORRECT?
A THAT IS OUR REPORT.
Q THAT'S WHAT YOU SIGNED OFF ON; IS THAT RIGHT?
A THAT IS CORRECT.
Q THIS GUN THAT WAS FIRED, YOU KNOW FOR A FACT

THIS GUN LEAVES GUNSHOT RESIDUE; DO YOU NOT?

A YES, SIR.

Q IN FACT, THIS GUN THAT WAS HELD OUT OF THE CAR LEFT GUNSHOT RESIDUE ON THE OUTSIDE OF THAT CAR; IS THAT CORRECT?

A THAT IS CORRECT, SIR.

Q AND IT HIT THE SAME ATMOSPHERE, HIT THE SAME AIR, IT HIT THE SAME TEMPERATURE OF AIR THAT WAS SURROUNDING BOTH THE PERSON'S HAND THAT FIRED THIS GUN AND WAS SURROUNDING THE CAR ITSELF; IS THAT CORRECT?

A YES, SIR. RELATIVELY SPEAKING THAT IS CORRECT.

Q WELL, IS THERE GOING TO BE DIFFERENT TEMPERATURES FOR RIGHT HERE (INDICATING) AROUND MY HAND THAN THIS RIGHT HERE (INDICATING)?

A YOU ARE ASKING A RELATION IN WHAT TEMPERATURE IS TODAY VERSUS A TEMPERATURE BACK THEN. RELATIVELY SPEAKING THE HOT TEMPERATURES COME OUT OF THAT COMPARED TO THE TEMPERATURES THEY FOUND IN THE CAR THAT NIGHT, RELATIVELY SPEAKING, YES, SIR.

Q AND I AM NOT TRYING TO BACK YOU IN A CORNER THERE BUT ON DECEMBER 31ST WHEN SOMEBODY STUCK THIS GUN OUT OF THE CAR, THE AIR AROUND THIS GUN AND AROUND THE HAND WAS THE SAME AIR THAT WAS AROUND THE WINDOW OF THE CAR; WASN'T IT?

A YES, SIR.

Q THE SAME TEMPERATURE, THE SAME ATMOSPHERIC PRESSURE, THE SAME HUMIDITY, THE SAME EVERYTHING; ISN'T THAT RIGHT?

A THAT IS CORRECT, WITH THE EXCEPTION OF THE PROXIMITY OF THE HAND TO THE MATERIAL BEING EXPELLED, TO THE CAR TO THE PROXIMITY OF WHAT IS BEING EXPELLED.

Q IN FACT, THE HAND WOULD HAVE BEEN CLOSER TO THE GUN; WOULD IT NOT?

A THE HAND WOULD HAVE BEEN HOLDING THE BACK OF THE GUN AS YOU ARE HOLDING IT NOW.

Q RIGHT.

A HOWEVER, THE AREAS THAT WE ARE TALKING ABOUT WOULD HAVE HAD HAD TO BE CLOSER TO THE DOOR THAN THE LOCATION OF THE HAND TO THE EJECTOR PORT OF THE MUZZLE.

Q AGENT FULLER TESTIFIED THAT GUNSHOT RESIDUE LEAVES A GUN AT EVERY SPOT THAT THERE IS A CREVICE; IS THAT CORRECT OR IS THAT INCORRECT?

A YES, SIR. BECAUSE OF THE HIGH PRESSURES THAT ARE BEING GENERATED, ANY PLACE WHERE GASSES CAN BE EXPELLED OUT WILL BE EXPELLED OUT.

Q WHICH INCLUDE THE EJECTOR PORT OR WHATEVER THIS (INDICATING) IS CALLED HERE, RIGHT?

A THAT IS CORRECT.

Q AND WHEN THE EJECTOR PORT IS BACK LIKE THAT, IT'S COMING OUT FROM THIS AREA HERE (INDICATING) AND THIS PART (INDICATING) OF THE HAND, IS IT NOT?

A IT IS COMING OUT, FANNING OUT. IF YOU COME OUT TO THE HAND, IF YOU COME STRAIGHT OUT, IT CAN COME OUT. IN OTHER WORDS, IT FANS OUT AS IT EXPANDS. SO ANYTHING NEAR IT WILL BE CAPTURED.

Q ARE YOU FAMILIAR -- YOU TOLD THE SOLICITOR EARLIER THAT YOU ARE FAMILIAR WITH A GOOD BIT OF PUBLICATIONS IN THIS AREA. ARE YOU FAMILIAR WITH A MAN NAMED SAPERSTEIN?

A YES, SIR.

Q DID I PRONOUNCE THAT CORRECTLY?

A YES, YOU DID.

Q WOULD YOU CONSIDER HIM AN EXPERT IN THIS FIELD?

A HE HAS WRITTEN SEVERAL BOOKS DEALING IN THE AREA WITH FORENSIC ANALYSIS AND TECHNIQUES, AND I USE IT AS PART OF MY COURSE STUDY FOR ANY NEW PERSON COMING IN STUDYING THE FIELD.

Q SO YOU ACTUALLY USE HIS BOOKS TO TEACH YOUR PEOPLE?

A YES. THERE ARE SOME AREAS THAT HE HAS WRITTEN ABOUT WHICH THERE IS NEW TECHNOLOGIES AND BETTER DEVELOPMENT, BUT IT'S A VERY GOOD PRIMER FOR SOMEONE

TO BEGIN TO LEARN THE BASIC FUNDAMENTALS OF VARIOUS TYPES OF ANALYSES.

Q HE SAYS THAT IT'S VERY INTERESTING TO FIND THAT SOME LABS CAN FIND GUNSHOT RESIDUE IN AS MUCH AS 24 HOURS AFTER THE FIRING OF A WEAPON. IS THAT FAIR?

A YES. BECAUSE I HAVE BEEN AWARE -- THERE HAS BEEN SEVERAL LABORATORIES WHICH HAVE MADE A CLAIM OF BEING ABLE TO FIND IT AFTER 24 HOURS. HOWEVER WHEN ASKED THEIR TECHNIQUE AND WHAT THEY ARE LOOKING AT AS FAR AS A PROOF, THEY ARE NOT USING THE SAME CRITERIA THAT WE ARE USING.

FOR EXAMPLE, IF YOU ARE JUST LOOKING FOR BARIUM, THERE'S A LOT OF LABORATORIES THAT LOOK JUST FOR LEAD AND BARIUM. THEY ARE THE ONLY TWO METALS THEY LOOK FOR.

WHEN THEY LOOK FOR THOSE TWO, THESE TWO TEND TO BE FAIRLY COMMON IN THE ENVIRONMENT AND CAN ACTUALLY LEAD YOU TO A FALSE ASSUMPTION THAT THERE IS SOME MATERIAL THERE.

WHAT WE DO IS WE LOOK AT A COMBINATION WITH ANTIMONY WITH IT, WHICH IS THE RAREST. ANTIMONY IS THE MOST RAREST OF THE THREE MATERIALS.

Q RIGHT.

A WE TRY TO LOOK AT IT IN RELATIONSHIP. FOR EXAMPLE, IF I REPORT OUT AN ELEVATED LEAD, I AM

ACTUALLY TELLING YOU IT'S ELEVATED LEAD WITH SOME ANTIMONY IN THERE, NOT JUST LEAD. LEAD BY ITSELF DOES NOT REALLY TELL ME ANYTHING BECAUSE YOU CAN FIND LEAD IN OTHER SOURCES. LEAD WITH ANTIMONY IN IT MEANS SOMETHING ELSE.

Q NOW, HIS BOOK SAYS SIGNIFICANT LEVELS OF BARIUM AND ANTIMONY -- IS IT ANTIMONY?

A YES, SIR.

Q HAVE BEEN FOUND UP TO 24 HOURS LATER?

A UH-HUH. (INDICATING AFFIRMATIVE RESPONSE.)

Q THAT WOULD, OF COURSE, INDICATE A POSITIVE GUNSHOT RESIDUE; WOULD IT NOT?

A THAT WOULD INDICATE A POSITIVE TO THEIR STANDARDS, NOT TO OUR STANDARDS.

Q IN FACT, YOUR STANDARDS ARE PRETTY CONSERVATIVE; AREN'T THEY?

A YES, SIR.

Q SO WHEN YOU SAY THAT A SIX-HOUR LEVEL IS THE CUTOFF, THAT IS A CONSERVATIVE CUTOFF?

A THAT IS A CUTOFF BASED UPON MY TESTING AND TALKING WITH OTHER ANALYSTS IN THE FIELD, AND THE MAJORITY OF US FEEL THIS IS A GOOD NUMBER TO WORK FROM. EVERY LABORATORY WHICH HAS HAD A LONGER WINDOW HAS TO BE LESS EXACT IN THE DIFFERENT ELEMENTS THEY ARE LOOKING AT AND MATCHING IT BACK TOGETHER.

Q NOW, IN THIS CASE YOU TOOK NOT JUST STUBS BUT SWABS AS WELL; IS THAT RIGHT?

A YES, SIR, THAT IS CORRECT.

Q IN THIS CASE -- WELL, LET ME JUST ASK YOU THE GENERAL QUESTION. DID YOU SEE ANYTHING IN THE PREPARATION OF THIS CASE THAT WAS INCORRECT?

A NOT FROM AGENT FULLER'S SIDE OR MY SIDE, NO, SIR. I SAW NO INDICATION OF ANYTHING WHICH WAS HANDLED IMPROPERLY OR PERFORMED OUTSIDE OF THE POLICY THAT WE HAVE SET UP.

Q THE SOLICITOR ASKED YOU IF YOU HAD RUN A NUMBER OF TESTS ON CLOTHING. YOU SAID, I THINK, YOU RAN SOME 50 SOME TESTS ON CLOTHING?

A YES, SIR.

Q YOU HAVE RUN A LOT MORE TESTS ON HANDS, HAVEN'T YOU?

A YES, SIR, THOUSANDS, TEN OF THOUSANDS. I DON'T KNOW HOW MANY I HAVE RUN. I HAVE BEEN RUNNING THEM FOR OVER 16 AND A HALF YEARS. FOR SEVEN YEARS I WAS THE ONLY ONE IN THE STATE THAT WAS DOING THE TEST.

Q AND WHEN YOU SIGN A REPORT, YOU ARE GOING TO SIGN A REPORT THAT IS CORRECT; AREN'T YOU?

A WE ARE GOING TO SIGN A REPORT THAT IS CORRECT TO THE BEST OF OUR KNOWLEDGE AND UNDERSTANDING, YES, SIR.

Q LET ME ASK YOU ONE OTHER QUESTION. THE SOLICITOR REFERRED TO JEFF HOLLIFIELD -- MR. HOLLIFIELD, WOULD YOU STAND UP, PLEASE. DO YOU SEE JEFF OUT THERE IN THE AUDIENCE?

A YES, SIR.

Q THANK YOU, JEFF. YOU WORKED WITH HIM FOR ABOUT TEN YEARS?

A I BELIEVE IT WAS TEN YEARS. I AM NOT SURE THE EXACT TIME. I STARTED AT S.L.E.D. FIRST AND HE CAME ON BOARD A LITTLE BIT AFTER THAT. WE WORKED IN THE DRUG DEPARTMENT. IT WOULD BE ABOUT TEN OR ELEVEN YEARS, YES, SIR.

Q IS MR. HOLLIFIELD QUALIFIED IN GUNSHOT RESIDUE TO YOUR STANDARDS?

A YES, SIR. I ASSISTED JEFF IN THE UNDERSTANDING OF THE TWO TYPES OF TECHNIQUES WE USED TO USE OF DIFFERENT INSTRUMENTS ON GUNSHOT RESIDUE; AND THEN HE WAS ALSO INTRODUCED TO I.C.P.M.S. BEFORE HE LEFT.

Q AND I.C.P.M.S. IS THAT THE TESTING MACHINE THAT WE WERE TALKING ABOUT EARLIER?

A YES, SIR.

Q WHAT IS THE TEST CALLED AGAIN?

A INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER.

Q THIS IS THE MACHINE OR THE TESTING EQUIPMENT THAT YOU USE AT THE STATE LAW ENFORCEMENT DIVISION?