

VOLUME TWO OF TWO

STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

APR 10 2013

APPEAL FROM RICHLAND COUNTY

L. Casey Manning, Circuit Court Judge **S.C. Supreme Court**

THE STATE,

RESPONDENT,

V.

AURELIO VINCENT OTTEY,

APPELLANT

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

Attorney for Appellant

VOLUME TWO
PAGE 501 - 783

HENRY DARGAN MCMASTER
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

MELODY J. BROWN
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

(803) 734-3727

WARREN B. GIESE
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, SC 29202-0192
(803) 576-1800

Attorneys for Respondent

INDEX

INDEX	i
TRIAL TRANSCRIPT	1
TESTIMONY	
WILLIAM GURLEY	
Direct Examination by Ms. Ashton	6
Cross Examination by Mr. Schnee	9
Redirect Examination by Ms. Ashton	10
MELISSA BRIGGS	
Direct Examination by Mr. Newman	11
Cross Examination by Mr. Schnee	14
CHRISTOPHER DUKE	
Direct Examination by Mr. Newman	15
Cross Examination by Ms. Lipson	19
Redirect Examination by Mr. Newman	22
EDWARD MIDDLETON	
Direct Examination by Ms. Campbell	24
Cross Examination by Mr. Schnee	37
Cross Examination by Mr. Schnee (<i>In Camera</i>)	43
Cross Examination by Mr. Schnee	45
Redirect Examination by Ms. Campbell	46
ROBBIE JOHNSON	
Direct Examination by Mr. Newman	48
Cross Examination by Mr. Schnee	51
DAVID MCKENZIE	
Direct Examination by Mr. Newman	54
Cross Examination by Ms. Lipson	60
MICHAEL DELEON	
Direct Examination by Ms. Campbell	63
Cross Examination by Ms. Lipson	81
Redirect Examination by Ms. Campbell	82
Recross Examination by Ms. Lipson	83

DARRLY WILSON	
Direct Examination by Mr. Newman	84
Cross Examination by Ms. Lipson	87
MIGUEL DOZIER	
Direct Examination by Ms. Ashton	90
Cross Examination by Ms. Lipson	96
Redirect Examination by Ms. Ashton	97
HEATHER DOZIER	
Direct Examination by Ms. Ashton	98
Cross Examination by Ms. Lipson	102
Redirect Examination by Ms. Ashton	102
KRISTEN POLIS	
Direct Examination by Ms. Campbell	104
Cross Examination by Mr. Schnee	106
Examination by Ms. Campbell	106
Examination by Mr. Schnee	133
ROBERT OATES	
Direct Examination by Ms. Campbell	139
Cross Examination by Mr. Schnee	155
Redirect Examination by Ms. Campbell	160
ZANE PADGETT	
Direct Examination by Ms. Campbell	160
Cross Examination by Mr. Schnee	167
Redirect Examination by Ms. Campbell	169
STAN RICHARDS	
Direct Examination by Ms. Campbell	170
Cross Examination by Mr. Schnee	188
Redirect Examination by Ms. Campbell	192
ANNA ELSEY	
Direct Examination by Ms. Campbell	193
Cross Examination by Mr. Schnee	205
Redirect Examination by Ms. Campbell	207
TRISHA COLLINS ODOM	
Direct Examination by Ms. Campbell	210
Cross Examination by Mr. Schnee	226
Redirect Examination by Ms. Campbell	230
Recross Examination by Mr. Schnee	231

CHRISTINE BENSON	
Direct Examination by Ms. Campbell.....	232
Cross Examination by Mr. Schnee.....	235
DAVID COLLINS	
Direct Examination by Ms. Campbell.....	236
Cross Examination by Mr. Schnee.....	242
ROLAND HILL	
Direct Examination by Mr. Newman.....	243
KEVIN PRESTON	
Direct Examination by Ms. Campbell.....	246
Cross Examination by Ms. Lipson.....	253
MARK MURRAY	
Direct Examination by Mr. Newman.....	254
Cross Examination by Mr. Schnee.....	263
ARTHUR WILSON	
Direct Examination by Ms. Ashton.....	264
DAVID WALKER	
Direct Examination by Ms. Ashton.....	266
Cross Examination by Mr. Schnee.....	293
ILA SIMMONS	
Direct Examination by Ms. Campbell.....	301
ERIC TYRELL	
Direct Examination by Ms. Ashton.....	305
Cross Examination by Mr. Schnee.....	317
Redirect Examination by Ms. Ashton.....	323
MICHAEL ROBINSON	
Direct Examination by Ms. Ashton.....	324
Cross Examination by Mr. Schnee.....	333
TRACY MCKINNON	
Direct Examination by Ms. Campbell.....	336
Cross Examination by Ms. Lipson.....	342

CLAY NICHOLS

Direct Examination by Ms. Campbell.....	343
Cross Examination by Mr. Schnee.....	355
Redirect Examination by Ms. Campbell.....	360
Recross Examination by Mr. Schnee.....	361

STEVE SILVA

Direct Examination by Ms. Campbell.....	361
Cross Examination by Ms. Lipson.....	368
Redirect Examination by Ms. Campbell.....	369

TIM POSTEMA

Direct Examination by Mr. Newman.....	370
Cross Examination by Ms. Lipson.....	374

ROBERT MARTIN

Direct Examination by Ms. Campbell.....	376
Cross Examination by Ms. Lipson.....	380

AURELIO VINCENT OTTEY

Direct Examination by Ms. Schnee.....	382
Cross Examination by Ms. Campbell.....	385

SCOTT MCDONALD

Direct Examination by Ms. Campbell.....	394
Cross Examination by Mr. Schnee.....	396
Redirect Examination by Ms. Campbell.....	400
Recross Examination by Mr. Schnee.....	425
Further Redirect Examination by Ms. Campbell.....	437
Further Recross Examination by Mr. Schnee.....	440
Further Redirect Examination by Ms. Campbell.....	447

JOHN C. BARRON

Direct Examination by Ms. Campbell.....	453
Cross Examination by Mr. Schnee.....	486
Redirect Examination by Ms. Campbell.....	540

BRANDON JOHNSON

Direct Examination by Ms. Campbell.....	544
Cross Examination by Mr. Schnee.....	549

TENA GOFF

Direct Examination by Ms. Campbell.....	553
Cross Examination by Mr. Schnee.....	556
Redirect Examination by Ms. Campbell.....	558

BRANDON JOHNSON	
Direct Examination by Ms. Campbell.....	564
Cross Examination by Ms. Lipson	590
Redirect Examination by Ms. Campbell	602
JOEY RISH	
Direct Examination by Ms. Campbell.....	603
Cross Examination by Mr. Schnee	605
ROBERT MARTIN	
Direct Examination by Ms. Campbell.....	607
Cross Examination by Ms. Lipson	629
Redirect Examination by Ms. Campbell	640
Recross Examination by Ms. Lipson.....	641
Redirect Examination by Ms. Campbell	644
Recross Examination by Ms. Lipson.....	646
JAMES STANDIN SMITH	
Direct Examination by Ms. Campbell.....	646
Cross Examination by Ms. Lipson	682
Redirect Examination by Ms. Campbell	692
CLOSING ARGUMENT BY MS. CAMPBELL.....	695
CLOSING ARGUMENT BY MS. LIPSON	734
JURY CHARGE.....	748
VERDICT	772
SENTENCING	774
STATE'S EXHIBIT 2 (STATEMENT OF AURELIO VINCENT OTTEY).....	775
INDICTMENT	781
CERTIFICATE OF COUNSEL.....	783

NOTE: STATE'S EXHIBIT 65 (CELL PHONE EXHIBIT) AND STATE'S EXHIBIT 158 (BLOW-UP CELL PHONE EXHIBIT) IS ON FILE WITH THIS COURT.

- 1 the female we're trying to extract the DNA from vaginal
2 cells or this case rectal cells, skin cells from the
3 victim. And the M is the male I attempted to develop
4 the DNA profile from the sperm cells.
- 5 Q Okay. Now, in the male section under the gender
6 classification is all of this an X?
- 7 A That's correct.
- 8 Q You were unable to obtain a Y chromosome?
- 9 A The Y is -- the mixture is very weak and the Y could
10 drop out, that's correct.
- 11 Q Okay. So while you're separation is saying this is
12 male there's actually no Y chromosome which is the male
13 chromosome?
- 14 A Well, there was none detected but it can drop out.
- 15 Q Okay.
- 16 A You have a very, very, weak stain it can happen.
- 17 Q Well, I understand. I'd like to go through that and
18 see how many of Mr. Ottey's are actually missing from
19 them. By my count there are 16 missing alleles
20 compared --
- 21 A Well I, I, was looking at it differently, there's four
22 loci that have both of his alleles and there's six that
23 have at least one of them.
- 24 Q So there are four that have particle and six that has
25 at least one?

1 A At least four.

2 Q Okay.

3 A And that's enough to include what we call inclusion or
4 exclusion so.

5 Q Okay. So you're magic number would be four full
6 matches?

7 A Well, there's is no magic number, it's based upon the
8 experience of the person doing it.

9 Q Okay.

10 A And I hope I --

11 Q What number do you use?

12 A I don't have a number, a specify number. I look at the
13 profile itself and determine how consistent it is with
14 his.

15 Q Okay.

16 A Depends upon the strength of the alleles, the number of
17 alleles etcetera. I do not -- all those alleles in the
18 male fraction are consistent with coming from Mr. Ottey
19 with the exception of one allele at D8 locus which is
20 contributed to the victim.

21 Q However, there are a lot of, there are a lot of, Mr.
22 Ottey's --

23 A That's right. Yeah.

24 Q I didn't --

25 A That's why I didn't say it belonged to Mr. Ottey, I

- 1 said he couldn't be excluded.
- 2 Q Okay.
- 3 A That means that if there had been some alleles there
4 that weren't his then I would have excluded it.
- 5 Q Okay. Now, that was four full and six particle?
- 6 A Correct.
- 7 Q And that's when you say is sufficient enough finding to
8 say Mr. Ottey is included?
- 9 A Well, what I'm try to do is exclude people actually
10 when I have a particle profile and if I can exclude him
11 then I'll make that statement.
- 12 Q Okay. On the charts that you prepared that solicitor
13 showed you you said Mr. Ottey was included, is that
14 correct?
- 15 A He's -- yeah -- we'll, that's another way of saying it
16 if he can't be excluded is he can be included.
- 17 Q Okay. Now, that's --
- 18 A I didn't say he was included I said he could be
19 included.
- 20 Q Could be included, okay.
- 21 A In the oral swab I said he is included.
- 22 Q However, for your purposes four full and six particle
23 is enough to say he is included, is that your
24 testimony?
- 25 A Yes. And taking into the totality with the sexual

1 assault evidence, yes.

2 Q Okay. While I'm not looking at the type of evidence
3 just simply the fact that you've now analyzed this DNA,
4 that's is enough for you to say that is included?

5 A Correct.

6 Q Okay.

7 A A long with the vaginal and oral samples which
8 typically go together.

9 Q All right. I would like to take a look at number 32
10 point two, that would be a broken fingernail?

11 A 32 point two is a fingernail scraping from the right
12 hand of the victim.

13 Q Oh, I'm sorry, that -- that's correct, fingernail
14 scrapings?

15 A Correct.

16 Q Okay. Now, you said Mr. Ottey is included as a
17 possible contributor to that?

18 A Yes.

19 Q Okay. You go through all of it, how many of them fully
20 match how many of them particle match and how many of
21 them do not match?

22 A That's a much weaker sample but there is one, two,
23 four, six, seven alleles including the Y chromosome and
24 they're all consistent with Mr. Ottey so I can't
25 exclude him. I tried to exclude him but I couldn't.

- 1 Q Okay. I would like to go through this to make sure
2 there are -- are those seven full or those just seven
3 particle or full?
- 4 A Well, the alleles are no particle but the -- type is
5 what you're referring to as impartial, right?
- 6 Q Yes, sir.
- 7 A Okay.
- 8 Q How many of them are full and how many of them are
9 particle?
- 10 A I would say there is one where -- one locus where both
11 of his alleles were present.
- 12 Q Only one?
- 13 A Only one. But I can't exclude him.
- 14 Q So for Mr. Ottey you've got one full?
- 15 A One locus with both of his alleles were present, that's
16 what we call full.
- 17 Q It matches all of his --
- 18 A Right, correct.
- 19 Q How many particles?
- 20 A Four and then plus the sex gene.
- 21 Q Okay. I would like you to take a look at Edward
22 Middleton's profile, how much of those match his?
- 23 A Well, there's a 14 at D3 and Mr. Middleton does not
24 have a 14 so he's excluded.
- 25 Q I'm sorry, I'm not asking you if you think there's a

1 piece of his missing. I'm asking you how much of his
2 profile is consistent with 32 point two.

3 A I don't care how much is consistent. All I know is
4 one's inconsistent and so I'm excluding him. Your
5 question is irrelevant.

6 Q It's possible there a multiple contributors to these
7 fingernail scrapings, is that correct?

8 A That's possible.

9 Q And you yourself said sometimes alleles drop off if
10 it's a weak sample it could have dropped off in your
11 analysis?

12 A That's why but I'm not going to say he could be
13 included because there's one missing.

14 Q Okay. Well, you don't have to.

15 Let's start from the beginning on 32 point two
16 comparing it to Mr. Middleton, with the first loci Mr.
17 Middleton is a 14?

18 A Mr. Middleton is a 14.

19 Q 32 point two is 13/15?

20 A Correct. And so is the victim, the victim is 14/15,
21 she is a major contributor so I believe she pretty
22 takes care of the 14/15.

23 Q And as we've established a minor contributor can be
24 massed if it's the same allele, is that correct?

25 A That's correct.

- 1 Q So that would be considered a match to Middleton, that
2 particular allele analysis --
- 3 A Mr. Middleton cannot be excluded if that's what's
4 you're saying if he is indeed a minor contributor to
5 this mixture.
- 6 Q Okay. So based on that that would be a match to all
7 the alleles for Mr. Middleton for that loci being the
8 one -- being the one allele?
- 9 A Well, when you use the word match that's means we're
10 going to say he's there positively, I'm not going to
11 say that and I'm not even saying that about Mr. Ottey.
- 12 Q Mr. Middleton's only allele for that loci is present in
13 that sample?
- 14 A If Mr. Middleton is the minor contributor of that
15 mixture then he could be present at that locus, yes.
- 16 Q Okay. So that would be -- and that's his only one,
17 that's his only allele for that loci?
- 18 A Mr. Middleton is a 14.
- 19 Q Okay. And as we discussed that would be consistent as
20 a full match at that appoint?
- 21 A Right, but I don't believe Mr. Middleton is in that
22 locus.
- 23 Q Right.
- 24 A Because he's a homozygous 14 that means that he's
25 contributed two 14s along with the victim's 14, so

- 1 that's three 14s. So that means that the intensity of
2 that 14 is going to be much greater than the 15 and
3 that doesn't exist in this sample.
- 4 Q Even as a minor contributor?
- 5 A Right, because you got a homozygous.
- 6 Q Okay.
- 7 A Homozygous contributes twice as many, twice the
8 intensity of the allele as does a heterozygous, in
9 other words like the 14/15.
- 10 Q Do you have the charts with you that show the relevant
11 strength of those?
- 12 A Not that sample, no.
- 13 Q Okay. So you can't be sure exactly what that one was,
14 you're going on your memory?
- 15 A I'm pretty sure based upon my chart, I do read it
16 pretty well.
- 17 Q Well, the chart list him as a 14?
- 18 A That's correct.
- 19 Q The chart 32 point two list 14/15?
- 20 A That's irrelevant, the minor contributor is very, very,
21 weak.
- 22 Q The minor contributor is weak and therefore can be
23 matched by the major contributor?
- 24 A Correct.
- 25 Q So the --

1 A But the 14 --

2 THE COURT: Stop. Slow down.

3 MR. SCHNEE: I apologize.

4 THE COURT: Last time I'm going to going say to
5 anyone, give him a chance to answer the question before you
6 go to your next one.

7 MR. SCHNEE: Yes, sir.

8 THE COURT: And give him a chance to explain his
9 answer and this is not argument, this is question and
10 answer.

11 You may continue, sir.

12 BY MR. SCHNEE:

13 A If, if, Mr. Middleton is contributing the 14, that
14 means that he's contributing twice as much 14 as the
15 victim. So that means the 14 would be, would probably
16 be the major contributor and I don't have a 14 as a
17 major contributor, I have a balance between 14 and 15.

18 Q You don't know the exact balance of that, do you?

19 A I don't know the exact balance but I know it's
20 balanced.

21 Q And if Mr. Middleton is a minor contributor you cannot
22 exclude him based on that, just based on that one loci
23 you cannot exclude him, can you?

24 A Based upon the fact that he's a homozygous I probably
25 would include him.

1 Q Do you have --

2 A And I've already excluded him on the other loci so.

3 Q Well, I'm not asking about the others, I'm asking about
4 this one.

5 A Okay.

6 Q And I'm going to go through every single one of them.

7 A Okay.

8 Q As a minor contributor it can be a very minor sample,
9 is that correct?

10 A Correct.

11 Q Therefor he can be included in that unless you have
12 data to show --

13 THE COURT: I'm sorry, haven't you already
14 answered this question.

15 MR. BARRON: I have, sir.

16 THE COURT: How many times?

17 MR. BARRON: About three times.

18 THE COURT: Go to something else.

19 MR. SCHNEE: I don't believe he has.

20 THE COURT: Go to something else, asked and
21 answered, if you don't like the answer that's problematic
22 but he's answered the question, go to another one.

23 BY MR. SCHNEE:

24 Q For loci number two, 32 point two list a 28 and a 33
25 point two, correct?

- 1 A Correct.
- 2 Q Mr. Middleton --
- 3 A The victim -- excuse me, the victim is a 28, 33 point
4 two.
- 5 Q Mr. Middleton is --
- 6 A We have the same situation, Mr. Middleton is a
7 homozygous 28, so again, the contributions would be
8 three times to 28, so it should be a major contributor
9 and it's not.
- 10 Q He's listed as a 28?
- 11 A Correct.
- 12 Q And you don't know the exact quantity of the sample?
- 13 A Correct.
- 14 Q Provided in those fingernail scrapings?
- 15 A No. I could find out for you, come back tomorrow and
16 tell you.
- 17 Q Okay. Now, you go to the third one 32 point two list
18 an eight -- I'm sorry, list a nine and a ten?
- 19 A Correct.
- 20 Q And list an eight and a ten for Mr. Middleton?
- 21 A Mr. Middleton is a 8/10, the victim is a 9/10.
- 22 Q Okay. And as you said some of the alleles can drop
23 off?
- 24 A That's true.
- 25 Q So it's possible that Mr. Middleton can be contributing

- 1 under that loci?
- 2 A True.
- 3 Q Next one over, 32 point two is listed as a ten
- 4 Mr. Middleton is listed as a 10/11?
- 5 A And the victim is a ten.
- 6 Q That could also be particle match for that loci?
- 7 A He could have a ten hidden under there and his 11
- 8 drooped off if that's what you're --
- 9 Q And that's possible?
- 10 A That's possible.
- 11 Q The next one over, there's a minor 14 on the -- for the
- 12 fingernail scraping and there's a major 16/17?
- 13 A Correct, the victim 16/17.
- 14 Q Now, Mr. Middleton is listed as 16?
- 15 A Mr. Middleton is a homozygous 16.
- 16 Q And the 16 is listed as a major contributor?
- 17 A Correct.
- 18 Q Possibly he contributed to that?
- 19 A The -- I doubt it.
- 20 Q It's listed as a major contributor, is it not?
- 21 A I doubt it.
- 22 Q It's listed as a --
- 23 A If we're going to continue this, if we're going to
- 24 continue, this argument then I need to see the
- 25 actual -- with the intensity of its peak in order to

1 answer your question fairly.

2 Q So you didn't bring them?

3 A No, but I can get them tomorrow?

4 MR. SCHNEE: Your Honor, then I would request that

5 --

6 THE COURT: No, continue. Continue, continue.

7 MR. SCHNEE: Your Honor, I have a lot left to go.

8 THE COURT: Continue, Mr. Schnee.

9 BY MR. SCHNEE:

10 Q Going over to -- let's see, D19-S43?

11 A Of the same sample?

12 Q Same sample. Same sample listed as a 12/15 with a 15
13 being minor.

14 A Correct.

15 Q Twelve being major?

16 A Correct.

17 Q Ms -- now, Ms. Wilson is a what?

18 A D19 is that where you're at?

19 Q Yes, sir.

20 A Ms. Wilson is a 12.

21 Q Good. Now, Mr. Middleton is a 12/15?

22 A Correct. That could mass Mr. Middleton in that
23 particular locus, yes.

24 Q Well, in that particular locus the 15 being a minor is
25 a match for Middleton and the 12 being a very strong 12

- 1 matches Mr. Middleton's 12?
- 2 A Correct.
- 3 Q Good. The next one after that 32 point two is 16/17?
- 4 A Correct.
- 5 Q Mr. Middleton is 16/17?
- 6 A Yes, both Mr. Middleton and Ms --
- 7 Q And Ms. Wilson --
- 8 A Wilson are both 16/17.
- 9 Q He can be included in that.
- 10 A He could be.
- 11 Q As a match for that locus for Mr. Middleton?
- 12 A It's not a match, he could be included.
- 13 Q He can be included in it?
- 14 A Right. That's two different terms. When you say match
- 15 it means that you're going to positively identify him
- 16 in that mixture and you cannot do that.
- 17 Q Okay. But you're saying he's completely excluded?
- 18 A Yes, he is excluded.
- 19 Q Well, let's continue, the next one over, the sample for
- 20 the fingernail is listed as a very strong eight and
- 21 nine with a minor ten?
- 22 A Correct.
- 23 Q Mr. Middleton is listed at eight and nine?
- 24 A Yes, Mr. Middleton is eight and nine.
- 25 Q That with be consistent, would it not, with Mr.

1 Middleton's DNA being present?

2 A Then somebody else is a ten is what you're saying, so
3 there's --

4 Q At least three samples, yes, sir.

5 A There's three different contributors with that minor is
6 what you're saying.

7 Q With that minor.

8 A I don't think you know what you're talking about.

9 Q There are three different -- possible there are three
10 samples, one of them has an 18 and that would be --

11 A I don't think you know what you're talking about, I've
12 answered your question.

13 Q Well, I'm asking you, I'm asking you, it's possible
14 there are three samples under the fingernail?

15 A I do think so.

16 Q You don't have the data to support that, do you?

17 A Like I said I can go get the data and bring it back
18 tomorrow.

19 Q Certainly my preference but for the strong eight and
20 nine that is consistent with Mr. Middleton's eight and
21 nine?

22 A I believe the eight and nine came from the victim in
23 this case because it is her fingernail and she's going
24 to contribute the eight and nine. Mr. Middleton if you
25 going to say there's three contributors he is a eight

1 and nine so he could be hidden under that eight and
2 nine.

3 Q He can be part of that eight and nine?

4 A Could be is what you're saying but I don't believe he
5 is based upon the totality of his profile.

6 Q But he can be.

7 A (There was no response.)

8 Q Yes or no --

9 A No.

10 Q He can't be based on that --

11 A On that --

12 THE COURT: I think he answered the question, no.

13 Was your answer no?

14 MR. BARRON: My answer was no to the profile.

15 BY MR. SCHNEE:

16 A If you're talking about a particular locus then he --
17 there's a possibility that if there's three
18 contributors he can be there.

19 Q So if possible he can be there for that locus just
20 wanting -- just trying to clarify this?

21 A If it is three contributors, I don't think there is.

22 Q Okay. I'd like you to take a look at sample number 22.

23 A Okay.

24 Q With looking at that compared to Mr. Middleton, you had
25 a lot of trouble extracting the separation of the

1 female and male for the 22?

2 A Yes, based upon by previous testimony. A lot of the
3 male came out of the female --

4 Q Okay. Now, that was the carpet sample?

5 A Correct.

6 Q Now, on the first locus, 14 and 15 on the sample are
7 the strongest?

8 A Correct.

9 Q Mr. Middleton has a 14?

10 A Mr. Middleton has a 14.

11 Q Okay. The next one over, there's a 28 and a 32,
12 correct?

13 A Correct.

14 Q Mr. Middle has a 28?

15 A Same argument, Mr. Middleton's a homozygous 28. The
16 intensity of the 28 is not there.

17 Q Mr. Middleton has a 28, yes or no.

18 A I do believe I have this data here so.

19 Q I'm sorry.

20 A I said I do have the data on number 22 because that's
21 the one I thought you would be asking the questions
22 about.

23 Q Okay.

24 (Pause)

25 A Okay. Go ahead. What's your question again?

- 1 Q You have the data for that one?
- 2 A I do.
- 3 Q The strength data?
- 4 A I do.
- 5 Q Okay. Well, let's start from back at the beginning,
- 6 how strong is the 14?
- 7 A Fourteen is fairly balanced with the 15.
- 8 Q Fairly balanced?
- 9 A Correct. It's not going to --
- 10 Q Did it --
- 11 A It's not going to be exact in this because it's a
- 12 random process of copying.
- 13 Q Which one's higher?
- 14 A The 14 is slightly higher.
- 15 Q That would be consistent with a minor contributor of a
- 16 14, could be?
- 17 A I'm looking at the overall profile, the overall profile
- 18 indicates it's only a two person mixture. So the 14/15
- 19 is coming from the victim, the 9/16 is coming from the
- 20 second minor, the second minor, contributor.
- 21 Q Okay. You don't have any idea who that would be, you
- 22 don't have any file that matches that?
- 23 A No.
- 24 Q But you said the 14 is stronger than the 15?
- 25 A Correct..

- 1 Q And it's possible there is a third sample there?
- 2 A If there's three people there then he could be the --
- 3 contributing to the 14.
- 4 Q Okay. What about the second loci for 28/32, are those
- 5 equal?
- 6 A Yes, they're balanced.
- 7 Q Okay. The next one over on the carpet sample that's
- 8 9/10?
- 9 A Yes.
- 10 Q Okay. Is the ten balanced with the nine?
- 11 A It is within the percentage to say a single source.
- 12 Q A single source?
- 13 A Right. In other words, there's only one contributor at
- 14 D7.
- 15 Q And you're sure that there's at least more than one
- 16 sample of for the entire profile of the carpet?
- 17 A Because those other loci with more than two alleles.
- 18 Q Okay. How balanced are that -- is that 9 and 10?
- 19 A It's balanced.
- 20 Q Completely balanced?
- 21 A It's within -- there's a certain percentage that
- 22 they're balance -- are within balance would be
- 23 considered a single source.
- 24 Q All right. This next one over has a very strong ten
- 25 and 11?

- 1 A Correct.
- 2 Q Mr. Middleton has a 10 and 11?
- 3 A Yes, Mr. Middleton can be there.
- 4 Q Okay. The next one over, 16/17 for the carpet?
- 5 A Yes.
- 6 Q Mr. Middleton has a 16.
- 7 A Mr. Middleton is not there, definitely.
- 8 Q 16 and 17 are balanced?
- 9 A 16 is less than 17.
- 10 Q Okay.
- 11 A And Mr. Middleton is there the 16 would be much higher
- 12 than the 17.
- 13 Q Okay. What about the next one over it has a seven,
- 14 eight and nine?
- 15 A Uh-huh, correct.
- 16 Q Mr. Middleton has a nine?
- 17 A Mr. Middleton has a nine but the nine contributor has a
- 18 8/9 so he's excluded.
- 19 Q So the minor for 8/9 the major would be a 7/9?
- 20 A The major is a seven.
- 21 Q Okay. But the nine is stronger than the eight?
- 22 A The nine and the eight are -- the nine is a little bit
- 23 stronger than the eight but not strong enough to say
- 24 the nine stands alone.
- 25 Q Okay. Continuing on there's a 13 minor contributor?

- 1 A Yes.
- 2 Q Mr. Middleton is 13?
- 3 A The 11/13 is the non-contributor it's not just a 13,
4 Mr. Middleton is not there.
- 5 Q He's not there?
- 6 A He's not there.
- 7 Q Going to D-1-9-S-4-3 has a 12/13/15, 12 being the
8 strongest?
- 9 A Yes.
- 10 Q Mr. Middleton has a 12/15?
- 11 A The minor contributor is a 13/15, can't be
12 Mr. Middleton he's excluded.
- 13 Q Next one over, 16/17. Mr. Middleton is a 16/17 as
14 well?
- 15 A He could be a minor contributor massed by the victim
16 16/17.
- 17 Q Okay. Next one over, 8/9.
- 18 A Uh-huh.
- 19 Q Mr. Middleton is 8/9?
- 20 A The minor contributor is a 10/11.
- 21 Q Yes, and the major contributor is a an 8/9.
- 22 A That's the victim.
- 23 Q Which can mass a third minor contributor?
- 24 A It's too balanced.
- 25 Q What do you mean it's too balanced?

- 1 A The eight and nine is from a single source, the 10 and
2 11 is from another single source a minor contributor.
- 3 Q There can't be a separate 8/9 that's also a minor
4 source?
- 5 A Not be consistent with the entire profile.
- 6 Q Do what you're saying is the 8/9 there is balanced in
7 terms of strength with some of the other majors in
8 other loci?
- 9 A It's -- the only explanation is that that's the
10 victim's DNA and the minor contributor is a 10/11.
- 11 Q There can't possibly --
- 12 A That's my expert opinion.
- 13 Q There can't possibly be a third contributor?
- 14 A No.
- 15 Q Okay. Going over to the second to last one which would
16 be D-5-8-B-1-8 I believe.
- 17 A D5S.
- 18 Q Or S81, I'm sorry. The letters are small. Very strong
19 12 minor 13?
- 20 A Correct.
- 21 Q Mr. Middleton is a 12?
- 22 A Correct.
- 23 Q He could be a contributor to the 12?
- 24 A No, he has -- the contributor has to have a 13.
- 25 Q It couldn't possibly be massed at all?

- 1 A No, it's a two person mixture that would make a be
2 three person mixture which is not true in this case.
- 3 Q Okay. I would like to turn your attention finally to
4 item number 31.
- 5 A Okay.
- 6 Q 31, that's a sample from the victim's neck?
- 7 A Yes.
- 8 Q Now, I want you to take a look at that entire profile.
9 I want you to take a look at Mr. Middleton's profile,
10 is there anything in Mr. Middleton's profile that does
11 not match 31?
- 12 A Yes.
- 13 Q Where?
- 14 A Well, the easiest one is D16-S-539.
- 15 Q D16?
- 16 A Uh-huh. Second row next to last.
- 17 Q Second row next to last?
- 18 A Correct.
- 19 Q Okay.
- 20 A D16-S-539, see it?
- 21 Q Yes, I do.
- 22 A Okay, major contributor 9/10, minor contributor is
23 11/12.
- 24 Q Okay. There is 9/10, 11/12.
- 25 A Correct.

- 1 Q Mr. Middleton is a 10/11?
- 2 A Correct, Mr. Ottey is 11/12.
- 3 Q I understand that, Mr. Middleton is 10/11 though?
- 4 A Yeah. That's the explanation for the contributors in
- 5 this mixture is the 9/10 from the victim and 10/11 from
- 6 another contributor which is consistent to Mr. Ottey.
- 7 Q You can't eliminate entirely Mr. Middleton as a
- 8 possible contributor to this next sample, can you?
- 9 A To that particular locus, is that what you're talking
- 10 about?
- 11 Q To the entire sample.
- 12 A Yes, I, I, testified that I've eliminated.
- 13 Q You've testified you've eliminated, however, every
- 14 single one of his alleles in every single locus is
- 15 present in 31 which is on the victim's neck, isn't it?
- 16 A They're not in the right portion.
- 17 Q Based on your assumption that there's only two
- 18 profiles?
- 19 A Based upon my scientific ability to read a DNA profile.
- 20 Q Do you have the charts there before you?
- 21 A I do.
- 22 Q You have 31?
- 23 A Pardon me?
- 24 Q You have it for 31?
- 25 A A 31 where?

- 1 Q Item 31.
- 2 A I'm looking at item 31.
- 3 Q Okay. Let's start at the beginning 14, 15 with a small
- 4 -- with a weak 16?
- 5 A Correct.
- 6 Q There are multiple samples that are -- up to three
- 7 Mr. Middleton is a 14?
- 8 A He could be a very minor contributor of that 14.
- 9 Q Okay. So he's got a particle contributor as well?
- 10 A (There was no response.)
- 11 Q Going over to the next one listed at 28, a weak 29 and
- 12 a 33 point two, correct?
- 13 A Correct.
- 14 Q Mr. Middleton is a 28?
- 15 A Mr. Middleton could be a weak contributor to that locus
- 16 if there is three people.
- 17 Q Okay. Next one over list eight, nine and ten?
- 18 A Yes.
- 19 Q Correct?
- 20 A Correct.
- 21 Q Mr. Middleton is an eight and a ten?
- 22 A Correct.
- 23 Q He could be a particle contributor there as well?
- 24 A Mr. Middleton could be a weak contributor to that locus
- 25 as well.

- 1 Q Okay. Next one over is 10 and 11 on the neck?
- 2 A Yes.
- 3 Q Mr. Middleton has a ten and 11?
- 4 A Yes.
- 5 Q He could be a partial contributor to that one?
- 6 A So is Mr. Ottey's.
- 7 Q Okay. But Mr. Middleton is a particle contributor?
- 8 A He could be.
- 9 Q Okay. The next one over 16/17, on the neck?
- 10 A Okay.
- 11 Q Mr. Middleton has a 16.
- 12 A Okay.
- 13 Q It's possible that he is a minor contributor of that as
- 14 well?
- 15 A Yes.
- 16 Q Next one over has a strong seven or weak eight and a
- 17 nine and a strong nine on the neck, right?
- 18 A A strong nine?
- 19 Q Stronger than the eight.
- 20 A Nine is a little bit stronger than the eight.
- 21 Q Okay. It's not in your -- it's listed on your chart as
- 22 parenthesis which would be the weakest?
- 23 A Correct.
- 24 Q Okay. Mr. Middleton is a nine?
- 25 A Mr. Middleton is a nine.

1 Q He could be a particle contributor if it was a weak
2 sample?

3 A Yes.

4 Q Okay. Next one over has a 12 and 13?

5 A Yes.

6 Q And Mr. Middleton has a 13?

7 A Correct.

8 Q And he could be a particle contributor to that?

9 A Correct.

10 Q Next one over has a 9/10, 11/12 on the neck?

11 A Correct.

12 Q Mr. Middleton has a 10/11?

13 A Right. The 11/12 is too balanced.

14 Q He couldn't possibly be a minor contributor to that?

15 A No.

16 Q Even if something fell off or if there was a weak
17 sample on someone else?

18 A I believe that the minor contributor of that locus is a
19 10/11, I mean, excuse me, 11/12.

20 Q It's not possible for it to be 10/11 if there are two
21 minor contributors?

22 A I don't think so.

23 Q Can you be sure?

24 A I don't believe so.

25 Q Can you be sure to a medical certainty?

- 1 A With reasonable scientific certainty it's my opinion
2 that that contributor there at that locus is a 11/12.
- 3 Q Okay. And as we've discussed, alleles can fall off?
- 4 A Yes, they can but these, these, locus -- these alleles
5 are sufficient to indicated that they're not been --
6 there's no fallen off.
- 7 Q Okay. Next one over is a 19, 20, 21 and 22?
- 8 A Correct.
- 9 Q Mr. Middleton has a 20/21?
- 10 A Again the 19/20 are too balanced. The best explanation
11 is that the 19 and 21 go together and match Mr. Ottey.
- 12 Q On your chart you normally put the strongest
13 contributor in bold?
- 14 A Yes.
- 15 Q That would be a 20 and 22 on your chart, would it not?
- 16 A 20 and 22.
- 17 Q Those are the strongest contributors?
- 18 A Correct.
- 19 Q With a minor of 19/21?
- 20 A Right.
- 21 Q Mr. Middleton is a 20/21?
- 22 A The victim is a 20/22 the 19/21 are balanced, therefor
23 it's not my belief or my scientific opinion that the 19
24 and 21 come from the same contributor.
- 25 Q You can't be sure of that?

1 A I am sure.

2 Q You're sure that there's not a third contributor?

3 THE COURT: I think the witness answered the
4 question that he was sure. He's given his answers I do
5 believe on the standard within a reasonable degree of
6 scientific certainty.

7 So you can argue at the end of this case,
8 Mr. Schnee, but please don't argue with the witness.

9 MR. SCHNEE: Yes, sir.

10 BY MR. SCHNEE:

11 Q Next one over, on the neck has a 12/15?

12 A Correct.

13 Q Mr. Middleton has a 12/15?

14 A Yes.

15 Q That's particle match for that locus?

16 A Correct.

17 Q As contributor?

18 A Mr. Middleton could be a minor contributor of that
19 locus.

20 Q 16/17 on the neck, 16/17 for Mr. Middleton?

21 A Yes, if they're both the same and that's all I get then
22 it could be massed.

23 Q Okay. So he could a minor contributor?

24 A He could be.

25 Q Next one over has an eight and a nine?

- 1 A Yes.
- 2 Q Mr. Middleton has a eight and a nine?
- 3 A Yes.
- 4 Q Can be a minor contributor to that one?
- 5 A Yes, both Mr. Middleton and Ms. Wilson are both 8/9.
- 6 Q Okay. Mr. Ottey, however, is a ten?
- 7 A Correct.
- 8 Q Okay. Next one over has a 15/16, 17/19?
- 9 A Yes.
- 10 Q Mr. Middleton is a 15/16?
- 11 A Correct.
- 12 Q He could be a minor contributor to that?
- 13 A He could be, yes.
- 14 Q Next one over has an X, Y it's a male and female
- 15 sample?
- 16 A Yes, showing a weak male contributor.
- 17 Q And obviously Mr. Middleton is a male?
- 18 A Yes.
- 19 Q He could be the contributor for that?
- 20 A Yes, 50 percent of the population can contribute to
- 21 that locus.
- 22 Q Okay. For number 31 the next one has a 12 and a 13?
- 23 A Correct.
- 24 Q Mr. Middleton is a 12?
- 25 A Correct.

- 1 Q Twelve being the strongest sample you obtained?
- 2 A Correct.
- 3 Q Could be a contributor to that one?
- 4 A If there's three contributors?
- 5 Q But he could be?
- 6 A If there's three contributors.
- 7 Q Okay. The next one over, that last one, has a 20, 24,
8 25, 26 on the neck?
- 9 A Yes.
- 10 Q There's a 20/26 for Mr. Middleton?
- 11 A That's way imbalanced. Mr. Middleton is not there.
- 12 Q What's the strongest one?
- 13 A 20/25 are balance that's from the victim and 24/26
14 that's from the second contributor.
- 15 Q Okay.
- 16 A The second contributor is 24/26, it does not match
17 Mr. Middleton.
- 18 Q However, for your analysis much earlier quite a while
19 ago at this point, you indicated that the combination
20 of partials and full matches would be enough to say
21 someone is a possible contributor?
- 22 A If all the alleles are there. In this case it's easy
23 to exclude than someone whose alleles are not there.
- 24 Q Well, in 32 point two, you said Mr. Ottey was a
25 possible contributor he had one full and four partials.

1 A That's because the only, the only, alleles present that
2 weren't the victim's are consistent with Mr. Ottey, so
3 therefore I can't eliminate.

4 Q However, Mr. Ottey did not have all the -- alleles
5 present in 32 point two.

6 A That's true.

7 Q There were alleles of Mr. Ottey that were missing?

8 A That's true.

9 Q And you said he was a possible contributor.

10 A I said I could not eliminate so he could be a
11 contributor.

12 Q He could be a contributor.

13 A Exactly. But I cannot say positively there's no
14 statistical weight to that. All I can say is that the
15 particular profile that is present for the minor
16 contributor is consistent with him and I can't
17 eliminate him as a possible contributor.

18 Q Okay. But that's based on the fact that Mr. Ottey's
19 all his alleles were not there?

20 A It's not based on the fact that all of them weren't
21 there, it's based on the fact that the ones that are
22 not attributed to the victim are -- can be attributable
23 to Mr. Ottey.

24 Q Okay. Now, I would like to go through very briefly
25 what you said for 31, by my count, 13 of those loci

1 have possible contributors of Edward Middleton on them.

2 A Right, but some of the ones left could not be Edward
3 Middleton so therefore I'm excluding him.

4 Q And as you've said multiple times alleles can drop off?

5 A Yes, but that's based upon the fact that there are
6 alleles there sufficient quantity to interpret.

7 Q Okay. Well, for number 22 you've got 13 that matched
8 Mr. Middleton?

9 A No, I'm not going to say they match Mr. Middleton.

10 Q They're consistent with him as a provider of DNA?

11 A If there's a third minor contributor then he could be
12 included in those particular loci. But there's
13 sufficient number of loci to exclude him from the
14 profile. So I'm excluding him from the profile. It
15 doesn't matter about how many he could be included in,
16 if he can be excluded at others then he's excluded from
17 the profile, you have to look at a profile in its
18 totality.

19 Q My question to you is on sample 31 for the neck, 13 out
20 of, out of, 17 loci that you look at -- sorry it's 16,
21 there are 16 in total?

22 A Well, 15 plus six.

23 Q Okay. And 13 of those 16 have Mr. Middleton as a
24 possible contributor, yes or no?

25 A No.

1 Q We just went through it, you're telling me --

2 THE COURT: The answer is no. The answer is no,
3 asked and answered.

4 BY MR. SCHNEE:

5 Q Is there any single allele on any locus given the
6 totality of Mr. Middleton that is not included anywhere
7 on the sample for Ms -- for the neck?

8 A Yes.

9 Q Where?

10 A I think we've covered that, I really --

11 Q I'm not ask asking relative strengths. I'm asking any
12 of his locus -- any of his allele --

13 THE COURT: Members of the jury, go to jury room,
14 don't discuss this case. I'll bring you back out shortly.

15 (The jury retires from the
16 courtroom.)

17 THE COURT: Mr. Schnee, I've been very patient
18 with your arguing with this witness but if you continue to
19 insist on arguing with a witness about his answer -- I can't
20 help it that you don't like his answer, that's why we
21 provide funds fee so you can hire your own expert. But if
22 you argue with this witness one more time you will regret
23 it.

24 Let's take a little short break we'll come back
25 and resume and we're going to finish this tonight, promise

1 you. Be at ease for a few minutes.

2 (Whereupon, a short recess was
3 held.)

4 THE COURT: Now, Mr. Schnee, just don't argue with
5 the witness.

6 MR. SCHNEE: Yes, sir. I will try to be brief for
7 the finish of this.

8 THE COURT: I told the jury we could be here until
9 next year, no.

10 (Laughter)

11 THE COURT: No, they're good. As long as the
12 jury's good I'm good, I'm good. I mean, they're fine. We
13 want to get as much in as we can and I'm not upset at the
14 length of it just that you just can't argue with him, you've
15 got to accept his answers, all right.

16 We need to take up anything before we bring them
17 back in?

18 Now, I know, Ms. Campbell, you had hoped to call
19 another witness this evening.

20 MS. CAMPBELL: We can --

21 THE COURT: We'll do it in the morning.

22 MS. CAMPBELL: We can do it tomorrow.

23 THE COURT: All right. And she's going to be an
24 hour?

25 MS. CAMPBELL: I don't know.

1 MR. BARRON: Huh?

2 (Laughter)

3 THE COURT: Your part will be five minutes Mr.
4 Schnee's will be an hour.

5 (Laughter)

6 THE COURT: That's all right, relax. You know, I
7 did this a long time before I got this job so. I'm not
8 upset with anybody.

9 Y'all ready, bring them in. And they're good, I
10 chatted with them.

11 (The jury returned to the
12 courtroom.)

13 BAILIFF: Your Honor, the jury's present.

14 THE COURT: Welcome back, members of the jury. I
15 stuck my head in the jury room to check on y'all and said
16 sometime trials run this way, not to be impatient, don't
17 hold it against anybody, everybody is just doing their job.
18 So with that in mind I'm going to invite Mr. Schnee to
19 continue with his cross-examination of Office Barron.

20 Mr. Schnee.

21 MR. SCHNEE: Thank you.

22 BY MR. SCHNEE:

23 Q Very briefly I would just like to compare samples from
24 the next to Mr. Ottey.

25 A Okay.

- 1 Q On the first -- on the third column, that would be
2 D-7-S-8-2-0.
- 3 A I just need to get the copy of my chart back out.
- 4 Q Pages --
- 5 A I'm sorry I put it up --
- 6 Q Pages five and six.
- 7 A There it is.
- 8 Q Okay.
- 9 A No.
- 10 Q Now, on the neck, the sample for that one is eight?
- 11 A Oh, okay, all right.
- 12 Q An eight, nine, 10?
- 13 A Sorry, I'm back at 22.
- 14 Q I apologize?
- 15 A That's 31, right?
- 16 Q Yes, sir.
- 17 A All right. Okay.
- 18 Q That's list on the neck as an eight, nine, ten?
- 19 A Yes.
- 20 Q Mr. Ottey is a 10/11?
- 21 A Yes.
- 22 Q All right. So his allele number 11 is messing?
- 23 A Correct. Also there's a minor contributor is an eight
24 which doesn't match Mr. Ottey.
- 25 Q Okay. A-L-E-L-E for allele?

- 1 A Two 1's.
- 2 Q Two 1's, sorry. All right. So in that one there's one
- 3 missing?
- 4 A Right.
- 5 Q On the next one over, the neck is listed as a 10/11?
- 6 A Correct.
- 7 Q Mr. Ottey is listed as a 11/12?
- 8 A Correct.
- 9 Q The 12 is missing?
- 10 A Yes, it is.
- 11 Q The next one is listed as a 16/17 on the neck?
- 12 A Yes.
- 13 Q Mr. Ottey is a 14/17?
- 14 A Yes.
- 15 Q That's another missing allele?
- 16 A Correct.
- 17 Q Skip over two columns to D-1-3-S-31.
- 18 A Yes.
- 19 Q That is listed as a 12/13?
- 20 A Yes.
- 21 Q On the neck?
- 22 A Uh-huh.
- 23 Q With a strong 12?
- 24 A Yes.
- 25 Q Mr. Ottey is an 11/12?

- 1 A Correct.
- 2 Q The 11 is missing?
- 3 A The 11 is missing.
- 4 Q Skipping over three columns this time to D-1-9-S-4-3?
- 5 A Uh-huh.
- 6 Q It is listed on the neck as a 12/15?
- 7 A Yes.
- 8 Q Mr. Ottey is 13/15?
- 9 A Correct.
- 10 Q 13 is missing?
- 11 A 13 is missing.
- 12 Q Going over two more columns to the T-P-O-X?
- 13 A Uh-huh.
- 14 Q Sample on the neck is listed as a 8/9?
- 15 A Correct.
- 16 Q Mr. Ottey is listed as an 8/10?
- 17 A Correct.
- 18 Q That's the missing allele?
- 19 A That's correct.
- 20 Q Continuing on the next column there's a large mixture
- 21 on the neck of 15, 16, 17, 16?
- 22 A Uh-huh.
- 23 Q Mr. Ottey is a 17/18?
- 24 A Correct.
- 25 Q The 18 is missing?

- 1 A Correct.
- 2 Q On the last column, there's also a large sample on the
- 3 neck of 24, 25, 26, correct?
- 4 A Uh-huh.
- 5 Q Mr. Ottey is a 23/24?
- 6 A Correct.
- 7 Q The 23 is missing?
- 8 A It is.
- 9 Q That would be a total of eight alleles that Mr. Ottey
- 10 has that are not present on the neck?
- 11 A Correct. The neck is a minor contributor so you can
- 12 have drop outs.
- 13 Q One final question for you.
- 14 A Uh-huh.
- 15 Q You what date did you test sample number 31?
- 16 A What date?
- 17 Q Yes, sir. When did do you the final analysis for it?
- 18 A August 8th, 2007.
- 19 Q Thank you, sir.
- 20 MR. SCHNEE: No further questions.
- 21 THE COURT: All right. Redirect examination.
- 22 MS. CAMPBELL: Just a couple.
- 23 REDIRECT EXAMINATION
- 24 BY MS. CAMPBELL:
- 25 Q When did you start your analysis on item 31?

- 1 A July 27th, 2007.
- 2 Q And that would be one day after the victim was killed?
- 3 A Uh-huh.
- 4 Q And he asked you about certain items which were item 32
- 5 and he asked you about Mr. Middleton, was Mr. Middleton
- 6 excluded as a contributor of item 32?
- 7 A Yes.
- 8 Q He ask you about item number 31 and Mr. Middleton, is
- 9 he included or excluded?
- 10 A Excluded.
- 11 Q He asked you about item -- number 31 about Ottey's
- 12 missing alleles, didn't he skip many columns where
- 13 there were alleles matched perfectly?
- 14 A He did.
- 15 Q And even in the ones where there's a missing allele at
- 16 least one allele in almost all of them matches?
- 17 A Correct.
- 18 Q He also asked you about item number 22 I believe is
- 19 Mr. Middleton included or excluded?
- 20 A Excluded.
- 21 Q He didn't ask you about the oral swab from the victim's
- 22 month which tested positive for semen and sperm?
- 23 A Yes.
- 24 Q Who's DNA was on the oral swab from that victim?
- 25 A Mr. Ottey.

1 Q And who is the only person consistent with the swab
2 from the vaginal area and the rectum?

3 A Mr. Ottey.

4 Q Not Mr. Middleton. In this case were all of these
5 samples properly packaged and submitted to you?

6 A They were.

7 Q And is your lab accredited?

8 A It is.

9 Q And how long have you been testing DNA?

10 A Since 1999.

11 Q Thank you, sir.

12 MS. CAMPBELL: I don't have anything further.

13 THE COURT: Anything on recross?

14 MR. SCHNEE: No, sir.

15 THE COURT: All right.

16 Now, members of the jury, I thank you for your
17 patience from everybody involved. These are difficult --

18 Oh, you can step down, sir, I'm sorry. I forgot
19 you were up there.

20 (Laughter)

21 THE COURT: We try cases not because they're easy
22 but because they're hard and I appreciate your patience and
23 your attentiveness in this case. Just don't talk about it
24 once again. I hope you have a pleasant and restful evening.
25 And we'll start at 9:30 in the morning and I think as i

1 suggested to you earlier we'll be through with the testimony
2 sometime around noon or so. I plan to send y'all home for
3 the day and argue and charge Friday morning, that's our goal
4 and I think we're going to meet it so. We couldn't meet it
5 without your patience and your understanding and your
6 attention to all this and so thank you all so very much.

7 We have the deputies here, we'll make sure where
8 will get to cars safely and we'll see you in the morning in
9 the jury room at 9:30. Thank you all so very much.

10 (The jury retires from the
11 courtroom.)

12 THE COURT: I know y'all are a little tired
13 tonight so I won't say anything but think about your request
14 for charge and everything else. So we'll go over them
15 tomorrow, we'll have a little charge conference and
16 everything else.

17 I'm assuming we're going to finish and I think
18 that we will. Y'all get a good night's sleep, I'll see
19 y'all at 9:30 in the morning.

20 MS. LIPSON: Thank you.

21 MR. SCHNEE: Thank you, Judge.

22 MS. CAMPBELL: Thank you.

23 THE COURT: All right.

24 (The proceedings were concluded
25 for January 7th, 2009.)

1 MR. SCHNEE: Yes, sir.

2 THE COURT: All right.

3 MS. CAMPBELL: State would call Brandon Johnson.

4 THE COURT: Come around, Mr. Johnson.

5 THEREUPON,

6 BRANDON JOHNSON,

7 after having been duly sworn, testified as follows:

8 THE COURT: Please take a set, sir, tell us your
9 full name and spell your last name for the record.

10 MR. JOHNSON: Brandon Johnson, J-O-H-N-S-O-N.

11 DIRECT EXAMINATION

12 BY MS. CAMPBELL:

13 Q Mr. Johnson, how old are you?

14 A 27.

15 Q You live here in the Columbia area?

16 A Yes, ma'am.

17 Q I want to turn your attention back to August of 2007,
18 did you get arrested and placed in the Alvin S. Glenn
19 Detention Center?

20 A Yes, ma'am.

21 Q And what date were you arrested, do you remember?

22 A I think it was August 2nd.

23 Q August the 2nd, could it have been August the 3rd?

24 A Yes, sir -- yes, ma'am.

25 Q And when you were placed in the Alvin S. Glenn

- 1 Detention Center, did you get housed with somebody?
- 2 A Yes, ma'am.
- 3 Q And who were you housed with?
- 4 A I call him "Old School".
- 5 Q Old School?
- 6 A Yes, ma'am.
- 7 Q And prior to being housed with him, in Alvin S. Glenn
8 Detention Center, did you know him?
- 9 A No, ma'am.
- 10 Q And how many days approximately did you spend with Old
11 School?
- 12 A For like three or four.
- 13 Q Three or four days?
- 14 A As long as it takes to be processed inside Alvin S.
15 Glenn.
- 16 Q Do you remember what dorm y'all were in?
- 17 A The first dorm you get in is Y dorm.
- 18 Q Y dorm?
- 19 A Yes, ma'am.
- 20 Q And when you said y'all were housed together did y'all
21 actually share a cell?
- 22 A Yes, ma'am.
- 23 Q And this was for at least three or four days?
- 24 A Yes, ma'am.
- 25 Q As long as it took for you get processed?

1 A Yes, ma'am.

2 Q And during that period of time did you become kind of
3 friends with Old School?

4 A Yes, ma'am.

5 Q And why did you call him Old School?

6 A Because that's what we called older people,
7 specifically older than me.

8 Q Older than you?

9 A And that I didn't know him by name so, everyone called
10 older people that's incarcerated the nick name "Old
11 School".

12 THE COURT: How old do you have to be to be "Old
13 School", what age?

14 MR. JOHNSON: You will probably be "Old School".

15 (Laughter)

16 THE COURT: I shouldn't, I shouldn't, interfered.
17 Go ahead.

18 (Laughter)

19 BY MS. CAMPBELL:

20 Q Over that period of days did Old School start taking to
21 you about things?

22 A Yes, ma'am.

23 Q And did he tell you some things about his case?

24 A Yes, ma'am.

25 Q We aren't going to go into that now.

- 1 A Yes, ma'am.
- 2 Q And you saw him everyday that y'all were there
3 together?
- 4 A Yes, ma'am.
- 5 Q And so you were able to recognize him?
- 6 A Yes, ma'am.
- 7 Q In October of 2007, did you have a lawyer at that
8 point?
- 9 A Yes, ma'am.
- 10 Q And did you make contact with Captain Smith at the
11 sheriff's department through your lawyer?
- 12 A Yes, ma'am.
- 13 Q And did Captain smith come and interview you one day?
- 14 A Yes, ma'am.
- 15 Q And did he take a statement from you?
- 16 A Yes, ma'am.
- 17 Q And before he took that statement from you, did he show
18 you some photographs?
- 19 A Yes, ma'am.
- 20 Q And I'm going to show you what's been marked as State's
21 Exhibit 78, do you recognize those photographs?
- 22 A Yes, ma'am.
- 23 Q And when he showed you those photographs did he tell
24 you who to pick?
- 25 A No, ma'am.

1 Q And did he influence who you recognized in anyway?

2 A No, ma'am.

3 Q And did you recognized the person that you were, you
4 were, in the dorm with?

5 A Yes, ma'am.

6 Q Old school?

7 A Yes, ma'am.

8 Q And which one was he on this piece of paper?

9 A At the bottom right.

10 Q The bottom right?

11 A Yes, ma'am.

12 Q And when he showed you this piece of paper was there
13 any writing on it?

14 A No, ma'am.

15 Q Not, not -- and whose initials are these under that
16 photograph?

17 A Mine.

18 Q And did you put those initials on that photograph after
19 you recognized this person?

20 A Yes, ma'am. I circled it and put my initials on it.

21 Q Okay. And did you recognized this person as the person
22 that told you about the crime he committed?

23 A Yes, ma'am.

24 Q When y'all were in Y dorm?

25 A Yes, ma'am.

1 Q The first of August?

2 A (The witness nodded head.)

3 Q And no one told you who to pick?

4 A No, ma'am.

5 Q Did he even tell you you had to pick one of them?

6 A No, ma'am.

7 Q Thank you.

8 MS. CAMPBELL: And the Court --

9 THE COURT: I'm sorry.

10 MS. CAMPBELL: Do you want me to do an in court

11 ID?

12 THE COURT: Beg your pardon?

13 MS. CAMPBELL: That's just for -- never mind I'll

14 do that later.

15 THE COURT: Go ahead, Mr. Schnee.

16 CROSS-EXAMINATION

17 BY MR. SCHNEE:

18 Q Morning. Where did this interview take place?

19 A Richland County Sheriff's Department.

20 Q Was it in someone's office?

21 A Yes.

22 Q You were sitting at someone's desk?

23 A Well, yes, yes, sir.

24 Q Okay. Captain Smith was there?

25 A Yes, sir.

- 1 Q Anyone else there?
- 2 A My attorney.
- 3 Q Okay. Anyone else?
- 4 A It's other polices.
- 5 Q Other police officers?
- 6 A Yes, sir.
- 7 Q How many police officers?
- 8 A It wasn't, you know, it was -- I was at precinct so,
- 9 you know.
- 10 Q Oh, okay. I'm talking in the actual room.
- 11 A Oh, oh, no, sir. Well, just Stand Smith and the other,
- 12 the other, guy, I can't think of his name, he was a
- 13 black investigator.
- 14 Q Is he in the courtroom?
- 15 (Pause)
- 16 Q Is it that gentleman sitting over there?
- 17 A Huh-uh.
- 18 Q No?
- 19 A Uh-huh.
- 20 Q Okay. When they came in and asked you if you knew who
- 21 in terms of the photo lineup, were they showing you the
- 22 page when they were talking to you?
- 23 A Say that one more time.
- 24 Q Okay. For this photo lineup when they showed it to
- 25 you, at some point they asked you if you could pick him

1 out of a photo lineup?

2 A Uh-huh.

3 Q And when they were talking to you about the photo
4 lineup before you actually picked anyone, did you see
5 any of these photos before that took place?

6 A No, sir, they just -- they asked me -- when they asked
7 me -- when they first started asking me about it they
8 asked me could I show him, pick him out of a lineup.
9 And then they showed it to me, then I picked him out of
10 a lineup.

11 Q Okay. Were they holding it when they showed it to you
12 at all?

13 A No, I think he handed it to me if I'm not mistaking.

14 Q Okay. And you're 100 percent sure of your
15 identification?

16 A Yes, sir.

17 MR. SCHNEE: Beg the Court's indulgence.

18 THE COURT: Yes, sir.

19 MR. SCHNEE: Your Honor, I have no further
20 questions at this time.

21 THE COURT: All right.

22 MS. CAMPBELL: Nothing further of this witness,
23 Your Honor.

24 THE COURT: Anything further?

25 First of all, the testimony reviles that he was

1 housed in the same cell with the defendant for three or four
2 days. He subsequently, if you don't know how to pick
3 somebody out after living with them for three or four days I
4 don't know what's more of value than that so.

5 So I'm going to allow the identification.

6 MR. SCHNEE: Your Honor, we certainly have no
7 objection to the -- of an in court identification. I would
8 object to the actual photo lineup itself.

9 THE COURT: Basis?

10 MR. SCHNEE: The photos are dissimilar so much
11 that it could be suggestive in a sense of which picture that
12 he picked out.

13 THE COURT: He lived with the guy for three days,
14 let me take a look at it.

15 MR. SCHNEE: All right.

16 THE COURT: We're not talking about somebody that
17 was driving down the street late at night and another car
18 passes or something like that. He lived with the guy for
19 three days, you don't dispute that do you?

20 MR. SCHNEE: No, and we're not going to dispute
21 the in court identification.

22 THE COURT: Your objection is overruled.

23 Anything further?

24 MS. CAMPBELL: No, Your Honor, I just need to get
25 him out of the courtroom so the witnesses are sequestered.

1 eat them all.

2 PROSPECTIVE JUROR: There ain't going to be none
3 left, don't worry.

4 THE COURT: Okay.

5 (Laughter)

6 THE COURT: Welcome back and this case will resume
7 with Ms. Campbell calling her next witness on behalf of the
8 state.

9 MS. CAMPBELL: May it please the court?

10 THE COURT: Yes, ma'am.

11 MS. CAMPBELL: State calls Tina Goff.

12 THEREUPON,

13 TENA GOFF,

14 after having been duly sworn, testified as follows:

15 THE CLERK: Have a seat in the witness box, state
16 your name for the record please.

17 MS. GOFF: Tena Goff.

18 DIRECT EXAMINATION

19 BY MS. CAMPBELL:

20 Q Investigator Goff, where are you employed?

21 A The Richland County Sheriff's Department.

22 Q And what is your job there?

23 A I am the evidence custodian.

24 Q Can you tell this jury what your duties include as
25 evidence custodian?

1 A My jobs are to supervise the daily operations and
2 actives of the evidence room as well as log in
3 evidence, accept it from the individual officer
4 themselves by hand by hand transfer or through the drop
5 box and locker, temporary lockers, storage that we
6 have.

7 Q And do y'all have a protocol that monitors how evidence
8 is submitted to you to make sure that the chain of
9 custody is protected?

10 A Yes.

11 Q And in every case prior to logging any evidence in the
12 evidence room do you make sure that the evidence is
13 packaged property that the chain of custody is
14 documented correctly and things of that nature?

15 A Yes.

16 Q And I want to turn your attention to this case where
17 there were multiple items that were submitted into
18 evidence in this case?

19 A Yes.

20 Q Were all of those pieces of evidence including in your
21 swabs and carpet cuttings, everything from the crime
22 scene, were those all documented and submitted in the
23 correct fashion?

24 A Yes, they were.

25 Q And, in fact, were they all packaged correctly so that

1 they could later be forward to DNA?

2 A Yes.

3 Q Once those items were submitted into evidence were they
4 to be in your custody for the day or so until DNA
5 actually took possession of those?

6 A Yes.

7 Q And that happened in this case?

8 A It did.

9 Q And during the time period that you had these items in
10 your custody including the rape protocol kit all of
11 those different items did anyone alter them or tamper
12 with them in anyway?

13 A No.

14 Q Were they all submitted to DNA packaged properly,
15 individually in the correct manner?

16 A Yes, they were.

17 Q And, in fact, they were sealed when they were turned
18 over to John Barron?

19 A Yes, they were.

20 Q And there is no evidence of any tampering, alteration
21 or contamination in this case?

22 A No.

23 Q Thank you, ma'am.

24 MS. CAMPBELL: I have nothing further.

25 MR. SCHNEE: Please the Court?

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. SCHNEE:

4 Q You briefly mentioned that you collect evidence from
5 people by hand?

6 A Yes.

7 Q And also from the drop box?

8 A Yes.

9 Q The drop box is similar to a mailbox essentially?

10 A It is.

11 Q Okay. It's locked so only a certain number of people
12 can get in there?

13 A Only the people assigned to the evidence room can have
14 access to that box or what's inside.

15 Q Okay. How many people are there?

16 A There are three.

17 Q Yourself and two others?

18 A Yes, sir.

19 Q How often do you check that box?

20 A Without fail every morning, everyday during normal
21 business hours and than, maybe, two or three times
22 later during the day.

23 Q Okay.

24 A If we get time.

25 Q Because sometimes it's faster for police officers to

1 drive by, drop it in and keep going rather than walk
2 inside and hand it to you?

3 A Yes.

4 Q Okay. Now, when you log evidence in you have a case
5 number assigned for it?

6 A The officer provides that case number when they submit
7 the evidence.

8 Q Okay. And then you simply start numbering one and then
9 go all the way straight through.

10 A The computer -- we have a computer program that
11 automatically assigns item numbers to the item that is
12 are submitted.

13 Q Okay. And you fill in a description of what those
14 items are?

15 A According to what the officer has written on the
16 evidence label, yes.

17 Q Okay. So if the officer has a certain numbering system
18 that gets changed once it gets into your custody?

19 A Yes.

20 Q Based on --

21 A Because they have no prior knowledge of how much
22 evidence has already been turned in.

23 Q Okay. And every single item that gets entered through
24 the computer system has a date and time stamp?

25 A Not physically on the package, it does according to the

1 computer as when we enter it into the system, yes.

2 Q Okay. On your property report that you can print out

3 and it has a date and time?

4 A Yes.

5 Q That's for every item that comes in?

6 A Yes.

7 Q Every time it goes out?

8 A Yes.

9 Q And then every time it comes back in?

10 A Yes.

11 Q There's no way to tamper with that.

12 A There is not.

13 MR. SCHNEE: Okay. Beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 MR. SCHNEE: No further questions, thank you.

16 THE COURT: Anything further of this witness?

17 REDIRECT EXAMINATION

18 BY MS. CAMPBELL:

19 Q And all of that was done in this case?

20 A Yes.

21 Q Thank you.

22 MS. CAMPBELL: That's all, Your Honor.

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

24 MS. CAMPBELL: State would call --

25 THE COURT: And we need to clear anything up on

1 Mr. Johnson?

2 MS. CAMPBELL: Yes, Brandon Johnson will be our
3 next witness, Your Honor.

4 THE COURT: Apparently they have a matter.

5 Members of the jury, there's a matter I need to
6 hear and the only way I can do so is in your absence once
7 again, it's a legal matter. Please don't talk about this
8 case, we'll bring you back out shortly, it will take just a
9 few minutes.

10 (The jury retires from the
11 courtroom.)

12 THE COURT: This is regarding Mr. Johnson's
13 statement?

14 MS. LIPSON: No, Your Honor, this would actually
15 be regarding his testimony.

16 THE COURT: Okay.

17 MS. LIPSON: And whether I can get into his
18 pending charges.

19 THE COURT: All right.

20 MS. LIPSON: Your Honor, his pending charges are I
21 believe two ABWIKs against Richland County Sheriff's
22 deputies. I'm not asking for him to admit anything on the
23 stand, obviously, I just wanted to get into the fact that --

24 THE COURT: I'm not going to allow you to get into
25 the fact of the case.

1 MS. LIPSON: Well, I don't want to, but I want to
2 at least put on the record who the alleged victims are
3 because that would should under Rule 608(c) bias, predigest
4 or any motive to --

5 THE COURT: That's fine. Anything else you want?
6 Who the victims are, any objection from the state?

7 MS. CAMPBELL: To the victims coming in?

8 THE COURT: Uh-huh.

9 MS. CAMPBELL: Yes, sir, I don't think it's
10 relevant and I don't think it's admissible.

11 THE COURT: That the victims are police officers?

12 MS. CAMPBELL: (The Ms. Campbell nodded head.)

13 THE COURT: All right. And what's your position
14 of that?

15 MS. LIPSON: I believe that it is admissible if
16 it's --

17 THE COURT: Okay. Site me a rule or a case and
18 both of you site me a rule or a case.

19 MS. CAMPBELL: State versus Gillum which quote
20 State versus Simmons I believe addresses that issue, Your
21 Honor.

22 MS. LIPSON: State versus Sims also states that
23 goes towards 608(c) which shows anything having a legitimate
24 tendency to throw light on the accuracy, truthfulness, and
25 sincerity of a witness may be shown in considered in

1 determining the credit to be accord in this testimony.

2 MS. CAMPBELL: And State versus Sims...

3 THE COURT: Do, y'all have a copy of State versus
4 Sims, let me read it myself.

5 MS. CAMPBELL: Yes, sir. And I'll get you State
6 versus Gillum real quick.

7 THE COURT: All right.

8 MS. CAMPBELL: In Sims, Your Honor, the issue was
9 if anyone was allowed to go into what the pending charges
10 were nor the sentence. We have no problem with that and
11 that was the issue that was decided in Sims and then quoted
12 in Gillum. I tried that case.

13 THE COURT: Did you get a conviction?

14 MS. CAMPBELL: Yes, sir.

15 THE COURT: Oh. Initially Mr. Schnee wanted to go
16 into the facts of the case.

17 MS. CAMPBELL: Yes, sir.

18 THE COURT: If I recall when we started this
19 trial. Now, you want to identify who the victims are,
20 you've change. But anyway I'll read the case myself and
21 make a decision after I read it.

22 MS. LIPSON: Thank you, Your Honor.

23 MS. CAMPBELL: And, Your Honor --

24 THE COURT: Am I right so far?

25 MS. LIPSON: Yes. I just want to be able to

1 identify the witnesses and the possible sentence that he
2 would be facing on the pending charges.

3 MS. CAMPBELL: May I approach?

4 THE COURT: Yes, ma'am.

5 (Whereupon, a bench conference
6 was held off the record.)

7 THE COURT: You point out in Sims for me where it
8 allows you to get what you want.

9 MR. SCHNEE: I believe it's at the end.

10 THE COURT: I can't hear you.

11 MS. LIPSON: On the very last page, the first
12 paragraph.

13 MR. SCHNEE: Fourth paragraph from the end, just
14 before he --

15 THE COURT: Page seven?

16 MS. LIPSON: We have a different one from that
17 one.

18 MR. SCHNEE: The site will be for the actual page
19 site will be on 25.

20 THE COURT: Why don't you show me what you're
21 talking about so I can see it, if you don't mind. What
22 paragraph is it?

23 MR. SCHNEE: On our print out it's the very last
24 page.

25 THE COURT: Right here?

1 MR. SCHNEE: Very last page highlighted.

2 THE COURT: I don't see anything in the case about
3 the indication of victims, help me out. I mean, I see a
4 rule that's cited but I don't see this case doesn't say
5 anything about the defendant should be allowed to identify
6 or specify who the victims were, help me out a little bit.

7 MS. LIPSON: No, Your Honor, it doesn't actually
8 say that but the rule itself says any motive and we would
9 believe that does go to --

10 THE COURT: I disagree. Your request is denied.
11 Anything further?

12 MS. LIPSON: No, sir.

13 THE COURT: Bring the jury in.

14 It goes about -- it talks about the charges not
15 about the victims.

16 (The jury returned to the
17 courtroom.)

18 BAILIFF: Jury's present, Your Honor.

19 THE COURT: Were they coughing?

20 (There was no response.)

21 THE COURT: That's all, right thank you.

22 Who was coughing this time?

23 MR. FOREMAN: They're all sick.

24 THE COURT: You need some water or something.

25 (There was no response.)

1 THE COURT: Well, thank you, for you patience and
2 everything once again.

3 This case will resume Mr. Campbell calling her
4 next witness.

5 MS. CAMPBELL: State calls Brandon Johnson.

6 THE COURT: Come around, Mr. Johnson.

7 MS. CAMPBELL: Sorry, Your Honor, he's
8 sequestered.

9 BAILIFF: Raise your right hand, place your left
10 hand on the Bible.

11 THEREUPON,

12 BRANDON JOHNSON,
13 after having been duly sworn, testified as follows:

14 THE CLERK: Have a seat in the witness box and
15 state your name for the record please.

16 MR. JOHNSON: Brandon Johnson.

17 THE COURT: Speak up for us, Mr. Johnson, will you
18 please.

19 MR. JOHNSON: Brandon Johnson.

20 THE COURT: Thank you, sir.

21 DIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q I think it's actually one of the smaller ones that
24 picks it up. And if you move a little closer too it
25 might help.

- 1 Mr. Johnson, how old are you?
- 2 A 27.
- 3 Q And are you currently employed?
- 4 A Yes, ma'am.
- 5 Q What do you do?
- 6 A Sale clothing at Magnolia Mall at Soul Train Clothing.
- 7 Q You sell clothing?
- 8 A Yes, ma'am.
- 9 Q At which mall?
- 10 A At Magnolia Mall in Florence.
- 11 Q Magnolia Mall in Florence?
- 12 A Yes, ma'am.
- 13 Q And how long have you been doing that?
- 14 A Probable around like two and half years.
- 15 Q You live here in the Columbia area?
- 16 A Yes, ma'am.
- 17 Q And what part of Columbia do you live in?
- 18 A Right off of Clemson Road.
- 19 Q Off Clemson Road in Northeast?
- 20 A Yes, ma'am.
- 21 Q How long have you been living in Columbia?
- 22 A All my life.
- 23 Q So did you go to high school here?
- 24 A Yes, ma'am.
- 25 Q What high school did you go to?

- 1 A Richland Northeast but I graduated from Ridge View.
- 2 Q Graduated from Ridge View?
- 3 A Uh-huh.
- 4 Q And what year did you graduate?
- 5 A In '99.
- 6 Q I want to turn your attention back to August the third
7 of 2007, did you get arrested that day?
- 8 A Yes, ma'am.
- 9 Q And what did you get arrested for that day?
- 10 A Well, I turned myself in.
- 11 Q For what charge, do you know the charge?
- 12 A Yes, assault and battery with intent to kill.
- 13 Q Assault and battery with intent to kill actually two
14 counts of assault and battery?
- 15 A Two.
- 16 Q Right?
- 17 A Yes, ma'am.
- 18 Q And you turned yourself in that day?
- 19 A Yes, ma'am.
- 20 Q And you went to jail that day?
- 21 A Yes, ma'am.
- 22 Q And where was the jail you went to?
- 23 A Alvin S. Glenn Detention Center.
- 24 Q And you know where that's located?
- 25 A Off of Bluff Road.

- 1 Q Once you went to jail on August the third of 2007, did
2 you get put into a dorm?
- 3 A Yes, ma'am.
- 4 Q And what dorm did you go to?
- 5 A Y dorm.
- 6 Q Y dorm?
- 7 A Yes, ma'am.
- 8 Q And when you were in Y dorm who were you housed with?
- 9 A Well, I call him Old School.
- 10 Q You called him Old School?
- 11 A Yes, ma'am.
- 12 Q Had you ever meet that man before that day?
- 13 A No, ma'am.
- 14 Q And why did you call him Old School?
- 15 A Because he was older inmate and that's the nickname we
16 give older inmates.
- 17 Q You said that you were housed together, did y'all
18 actually share a cell?
- 19 A Yes, ma'am.
- 20 Q And how many people were in the cell you were sharing
21 with Old School?
- 22 A Just me and him.
- 23 Q Just you and him?
- 24 A Yes, ma'am.
- 25 Q How many days had you stayed in that dorm, do you know

1 how many?

2 A About between three to four.

3 Q Three to four days?

4 A (The witness nodded head.)

5 Q And then were you placed in another dorm?

6 A Yes, ma'am.

7 Q And is that how long it takes to get processed?

8 A Yes, ma'am.

9 Q While you were in the dorm together did you and Old
10 School talk?

11 A Yes, ma'am.

12 Q And what kind of relationship did you develop with him?

13 A Roommate relationship, you know.

14 Q Y'all spent a lot of time together?

15 A Yes, ma'am. Just taking. Both of us was in there
16 really stressed out over what we had going, the charges
17 they had upon us so.

18 Q You were both stressed?

19 A So we both was really was talking, you know.

20 Q During that period of time did he talk to you about
21 what he was charged with?

22 A Yes, ma'am.

23 Q Did he talk to you about what he had done?

24 A Yes, ma'am.

25 Q And tell this jury how that happened, how did he start

1 talking to you?

2 A Basically I think it started like we was -- really it
3 started off with the war and stuff like that because he
4 was in the military and stuff too. So --

5 Q He'd been in the military before?

6 A Yes, ma'am.

7 Q And he started talking to you about the war?

8 A About places he done been and things he -- stuff he
9 done seen in his job and the work he do. Because see,
10 it just happened, you know what I'm saying, he build --
11 he helped build some jails and stuff and we was in
12 jail. So he was -- we was talking about the blocks and
13 all different type of stuff. He was saying he knew
14 where they had like hollow, hollow, parts in the walls
15 and all this kind of stuff. And then eventually on
16 from talking about other stuff to started get -- we
17 started getting a little personal and stuff too, you
18 know.

19 Q Okay. Did he tell you about -- did you -- did he tell
20 you what he was charged with?

21 A Yes, ma'am.

22 Q What was he charged with?

23 A Murder.

24 Q Did he ever tell you about what happened that made him
25 get charged with murder?

- 1 A Yes, ma'am.
- 2 Q What did he tell you?
- 3 A Basically that the girl that he was involved with was
4 kind of younger than him. And it was kind of like a
5 little, I guess, like she was just too fast for him and
6 he was a little older. And she -- the thing -- he fell
7 I think he probably fell more attached and she was
8 really more attached to the streets type of
9 relationship and he got into details about how he met
10 her.
- 11 Q And that's what I want to talk about.
- 12 A Yes.
- 13 Q Did he tell you how he met her?
- 14 A Yes, ma'am.
- 15 Q How -- what did he tell you about how he met her?
- 16 A He say he meet her at this little club Essence, they
17 have some kind of like strip tease thing going on at
18 Essence and she was one of the dancers. But at first
19 she was one of his friend's girl.
- 20 Q She was -- at first she was his friend's girl?
- 21 A Yeah. But he didn't know it at first though.
- 22 Q Okay.
- 23 A And then some kind of way -- some kind of freak
24 accident the friend had pass.
- 25 Q Uh-huh.

- 1 A But they stayed in contact, the friend and him and the
2 girl. But some kind of way the friend had passed. And
3 he was saying something about he thought it was kind of
4 strange how his friend died and invite nobody to the
5 funeral and all kind of stuff like that. And so that's
6 how him and the girl start conversating that they both
7 trying to figure out what had happened to the friend
8 and his death. So they end up conversating and they
9 end up hooking up once the friend got out the picture.
- 10 Q Okay. And so he said he met her at club called
11 Essence?
- 12 A Yes.
- 13 Q And that eventually through a friend he and she had
14 started having a relationship?
- 15 A Uh-huh. But he was saying he was almost hooked from
16 that night at Essence though because he had got a lap
17 dance or something. So he was, he was, really wanting
18 her since the first day he said he met her.
- 19 Q He wanted her since the first day he met her?
- 20 A But his friend -- just so happen that was one of his
21 friend's girl at the same time.
- 22 Q Okay. What else did he tell you about his relationship
23 with the girl that he killed?
- 24 A He was saying that his daughter was like about 16 or
25 something.

- 1 Q Uh-huh.
- 2 A And they wear like close to same size. So they would
- 3 exchange clothes and his daughter got real attached to
- 4 her too and. You know, he was saying both of them like
- 5 to party a lot, they go from club to club.
- 6 Q When you said both of them like to party a lot who was
- 7 he referring to?
- 8 A I guess him and the victim.
- 9 Q Okay.
- 10 A So --
- 11 Q They like to go to clubs?
- 12 A They like to go to clubs together so they kicked it off
- 13 real well until he went to the gas station where she
- 14 worked and another lover, her other friend or somebody
- 15 was there.
- 16 Q This is what he's telling you?
- 17 A Yeah.
- 18 Q Did you know Shunta Wilson?
- 19 A No, ma'am.
- 20 Q Have you ever meet Shunta Wilson?
- 21 A No, ma'am.
- 22 Q What did he tell you about going to the gas station?
- 23 A She worked at the gas station and she had somebody else
- 24 up there and they seen Old -- they seen him to when he
- 25 came, but the guy asked who is Old School. He said he

1 left before the confrontation got, got, away so. He
2 said that's what really made him find out about her
3 sneaky ways when he went to work -- went to her job and
4 seen another guy up there.

5 Q Let me back up. So he said he went to her job where
6 she worked at a gas station?

7 A Yes.

8 Q And at that point he met another guy?

9 A Yeah -- well, he, he, she was already up there with
10 another guy or something.

11 Q Okay. And that he looked at him and he put it all
12 together and figured out she was --

13 A Yeah.

14 Q I guess you said sneaky?

15 A Yeah. Because the guy asked her who was him -- who he
16 was while he was up there.

17 Q And then he said he just left?

18 A Then he said he just left before a confrontation got
19 away.

20 Q Did he ever mention to you about going to Lowe's one
21 afternoon?

22 A Yes, ma'am. He said he went to Lowe's with this guy he
23 was doing work for at a barber shop or something, he
24 was doing design -- helping him design a barber shop
25 and he said him and the guy was doing the barber shop

1 for was at Lowe's getting some supplies and she pulled
2 up and saw him and said that's when they -- he said
3 they was suppose to hook back up and that's when they
4 got back together and talked and seen each other at
5 Lowe's she must of -- he said she stayed behind the
6 Lowe's.

7 Q Okay. Let me get that, he told you that she had -- she
8 stayed behind the Lowe's?

9 A And, and, just so happened she must of was going home
10 and seen them coming out the Lowe's and pulled over
11 there.

12 THE COURT: Can y'all hear, members of the jury,
13 okay?

14 Just a little bit, little a little bit, louder.

15 MR. JOHNSON: Louder.

16 THE COURT: And slower.

17 BY MS. CAMPBELL:

18 Q Did he say whether or not they were suppose to get
19 together the night it happened?

20 A Yes, ma'am.

21 Q And that's when they met up at a Lowe's that afternoon
22 according to him?

23 A Yes, ma'am.

24 Q That's what he told you?

25 A Yes, ma'am.

- 1 Q Did he tell you about the night of the murder?
- 2 A Yes, ma'am.
- 3 Q What all did he tell you about that?
- 4 A He was saying him and some -- him and his friend went
5 to the NCO Club.
- 6 Q The NCO Club?
- 7 A Yes, ma'am, on Fort Jackson. And she suppose to had
8 been at karaoke doing karaoke or something at a karaoke
9 club doing karaoke. And they left -- they had left one
10 of their cars I don't know if it was his car or his
11 friend car, they left a car on Broad River and then
12 went to the karaoke club because he was saying he had
13 to come back after they left the karaoke club he had to
14 come back to Broad River to drop I don't know if he had
15 to get back to his car --
- 16 Q Let me back up for a second, okay. Who went to the
17 karaoke club and who went to the NCO Club?
- 18 A He went to the NCO and she --
- 19 Q Old School?
- 20 A Old School and she --
- 21 Q And he said -- he's the one telling you this, right?
- 22 A Yes, ma'am.
- 23 Q And he said that she went where?
- 24 A To karaoke to go do karaoke or karaoke club or
25 something.

1 Q Okay. Did he say whether or not he was able -- he got
2 in contact with her that night?

3 A No, he said he was trying to. He said by the time he
4 got on Broad River I know it was real late, I know he
5 was saying it was late. He was saying he was trying to
6 he kept calling and calling her and she wouldn't answer
7 the phone so.

8 Q Did he say where he went -- so he said he went back to
9 Broad River to do what?

10 A To drop, drop, his friend off the a car or he had to
11 get back to his car, I know it had a car -- it was one
12 of their cars on Broad River that they had to get back
13 to.

14 Q Then what did he tell you he did?

15 A Went over. He said it was suppose to been over about 4
16 o'clock in the morning or something because he said he
17 had a key.

18 Q He had a key to what?

19 A Her apartment.

20 Q He said he had a key to her apartment?

21 A Yes, ma'am.

22 Q That's what he told you?

23 A Yes, ma'am.

24 Q And did he say where he went after he dropped his
25 friend off?

- 1 A He said he went back home. He say -- he stayed on
2 Broad River too. He stayed off Broad River right there
3 in the Pines.
- 4 Q In the Pines?
- 5 A Yeah. He said that's where he got to calling her from
6 when he went back home, he got to calling and saying
7 she wasn't answering so he just went over there.
- 8 Q What did he say he did once he went back over there?
- 9 A He ain't really get into too many details about it.
- 10 Q Did he tell you one detail about it?
- 11 A Yes, ma'am.
- 12 Q What did he tell you -- did he tell you what he did?
- 13 A I know he said he had sex with her before it happened.
- 14 Q Before it happened?
- 15 A Yes, ma'am.
- 16 Q And do you know what he meant when he said before it
17 happened he had sex with her?
- 18 A Yes, ma'am. I assume that he was saying -- what, you
19 know, because I knew what he was in for so he was
20 saying before it happened he had sex so --
- 21 Q So he admitted to you that he did it?
- 22 A Yes, ma'am, basically. Because then after that he got
23 to start taking about the time and what should he --
24 think he should plead to, do you think he should -- do
25 you think he will get more than -- do you think he

1 would get more than 15 years because he was saying he
2 couldn't do 15 years this and that, you know, so I took
3 it that's what he was talking, he was saying he
4 couldn't do the time. He was saying he had people down
5 in New York or somewhere if he get a bond he was going
6 to go to New York because he got a lot of people in New
7 York and places like that.

8 Q Okay. Let me back up a little bit about that. After
9 he told you that he had sex with her before he did it,
10 he then started talking to you about time?

11 A Yeah, and then he started talking about the time limits
12 and all that.

13 Q Did he ever talk to you about the detectives he had
14 met?

15 A Yes, ma'am.

16 Q What did he say about the detectives he had met?

17 A He said he had went -- they did him a lineup or
18 something and he was saying the detective -- that the
19 detective had suppose to had been helping out with him
20 because he said that he figured that they knew a little
21 bit and wanted him to just to basically tell to say
22 what happened but he was saying -- but he was saying
23 his boss paid for him a lawyer and all. He got a real
24 good job, he do like light poles and stuff, like he did
25 the Sandhills. He was telling me how they did

1 Sandhills, he real good at what he do. So he was
2 saying his boss would pay for him a lawyer if he
3 innocent but if he guilty he wasn't going to have
4 nothing to do with it, you see what I'm saying. So he
5 would have been out on his own. So basically he was,
6 he was, saying he was just in a situation where he
7 didn't know really which way to go.

8 Q And that's when he came up and he talked to you about
9 the time?

10 A Yes, ma'am.

11 Q And what did he say about that?

12 A He was saying he couldn't do 15 -- no more than 15 or
13 something like that.

14 Q Did he tell you anything about what he might do?

15 A What you mean?

16 Q About a plea?

17 A Oh about a plea. Yeah, he was saying he might plead
18 but that's when he was saying he don't know about
19 pleading because he don't know if he might get more
20 than 15.

21 Q Did he ever talk about the evidence that the police had
22 against him?

23 A Yes.

24 Q What did he say about that?

25 A Something about they seen just had a show of his car,

1 they just had somebody said they seen the same kind of
2 color of his car there. And I think after sex or
3 something that they knew he that he had sex with her or
4 something too.

5 Q Did he comment on whether or not they had enough
6 evidence?

7 A Yes. Well, he said they didn't have too much evidence
8 though. He say he could of -- they had -- the evidence
9 they had really wasn't too much, you see what I'm
10 saying, wasn't too much to really make him plea.

11 Q Did he ever tell you what he would do if he got out on
12 bond?

13 A Yes, ma'am. He was saying -- that's when I was saying
14 he would go to New York because he had a lot of people
15 down in New York his mom, his sister and stuff. And he
16 was saying and he speak a lot of different languages
17 and stuff too. So he was saying it was easy for him to
18 blend anywhere because that's when I was telling you
19 before he was telling me about -- that's when he got
20 into to. He was telling me about all the places he
21 done been and traveled and how easy it is for him to
22 get there and all kind of stuff. Because he was saying
23 because he half Panamanian too. So he was saying he
24 speak a lot of different languages.

25 Q Did he ever tell you he was innocent?

- 1 A No, ma'am.
- 2 Q And, in fact, what did he tell you?
- 3 A Basically he did it.
- 4 Q After you were arrested on the assault and battery with
5 intent to kill you stayed in jail?
- 6 A Yes, ma'am.
- 7 Q Was your bond denied?
- 8 A Yes, ma'am.
- 9 Q And during that time period after the first four or
10 five days you then were moved to a separate dorm?
- 11 A Yes, ma'am.
- 12 Q Did you have any more contact with him?
- 13 A No, ma'am.
- 14 Q During that time period did you have a lawyer?
- 15 A Yes, ma'am.
- 16 Q And what's your lawyer's name?
- 17 A Cameron Littlejohn.
- 18 Q Is he in the courtroom?
- 19 A Yes, ma'am.
- 20 Q Can you point him out for the jury?
- 21 A (Indicating).
- 22 Q What's he wearing?
- 23 A A black or dark blue suite with a blue tie.
- 24 Q With the blue tie over here (indicating)?
- 25 A Yes, ma'am.

1 Q Late that fall did you meet with your lawyer on
2 multiple occasions?

3 A Yes, ma'am.

4 Q And did you relate this information to your lawyer?

5 A Yes, ma'am.

6 Q As a result of that did your lawyer make contact with
7 law enforcement?

8 A Yes, ma'am.

9 Q And ultimately on October 12th of 2007 did Captain
10 Smith come and pick you up from Alvin S. Glenn
11 Detention Center?

12 A Yes, ma'am.

13 Q And did you give him a statement?

14 A Yes, ma'am.

15 Q I'm going to show you what's been marked as State's
16 Exhibit 69, do you recognize that?

17 A Yes, ma'am. Yes, ma'am.

18 Q What is that?

19 A My written statement.

20 Q And is that the statement that you gave to Captain
21 Smith on October the 12th of 2007?

22 A Yes, ma'am.

23 Q And does that statement contain the same information
24 that you just related to this jury.?

25 A Yes, ma'am.

- 1 Q And the information that you had about what happened to
2 Shunta Wilson who told you that information?
- 3 A Old School.
- 4 Q That day did you also get shown a photo lineup by
5 Captain Smith?
- 6 A (The witness nodded head.) Yes, ma'am.
- 7 Q And I show you what's been marked as State's Exhibit
8 Number 78, do you recognize that?
- 9 A Yes, ma'am.
- 10 Q And is this the photo lineup that was shown to you?
- 11 A Yes, ma'am.
- 12 Q And when Captain Smith showed you this photo lineup was
13 there any of this handwriting on it?
- 14 A No, ma'am.
- 15 Q And what if anything did he ask you to do or tell you
16 to do prior to reviewing that photo lineup.
- 17 A Circle and initial and date it.
- 18 Q And who did you recognize when you looked at those six
19 photographs?
- 20 A My roommate.
- 21 Q Old School?
- 22 A Old School.
- 23 Q The person that gave you this information?
- 24 A Yes, ma'am.
- 25 Q About the murder he committed?

1 A Yes, ma'am.

2 Q Did anyone tell you who to pick?

3 A No, ma'am.

4 Q And after you identified this to Captain Smith did he
5 then have you to initial it?

6 A Yes, ma'am.

7 Q And circle it?

8 A Yes, ma'am.

9 MS. CAMPBELL: Your Honor, at this time we offer
10 State's Exhibit 78.

11 MS. LIPSON: Just subjected to our prior
12 objection.

13 THE COURT: All right, that's fine. Your
14 objection is overruled once again.

15 Which number is it?

16 MS. CAMPBELL: 78.

17 THE COURT: 78.

18 (State's Exhibit 78 admitted
19 into evidence.)

20 BY MS. CAMPBELL:

21 Q The statement that I handed you, is that the statement
22 you gave to the police?

23 A Yes, ma'am.

24 Q And prior to or at any time since then has anybody
25 promised you anything to make you give this statement?

- 1 A No, ma'am.
- 2 Q Initially your bond was denied, isn't that true?
- 3 A Yes, ma'am.
- 4 Q And Captain Smith told your lawyer that he would tell a
5 judge that you corroborated about your bond, issue
6 right?
- 7 A Yes, ma'am.
- 8 Q And that happened, is that correct?
- 9 A Yes, ma'am.
- 10 Q And at some point you actually got a surety bond in
11 this case?
- 12 A Well, I'm on house arrest.
- 13 Q You're on house arrest?
- 14 A Yes, ma'am.
- 15 Q And you had to put up a surety bond?
- 16 A Yes, ma'am.
- 17 Q Do you remember how much it was?
- 18 A I think 2500.
- 19 Q 2500?
- 20 A Yes, ma'am.
- 21 Q So the bond itself would have been 25,000?
- 22 A Yes, ma'am.
- 23 Q And I believe Captain Smith would have said how you
24 cooperated to the judge?
- 25 A Yes, ma'am.

- 1 Q And you did that?
- 2 A Yes, ma'am.
- 3 Q Because you had cooperated?
- 4 A Yes, ma'am.
- 5 Q Has anybody ever promised you anything to get you --
- 6 A (The witness shakes head.)
- 7 Q Up here to testify?
- 8 A No, ma'am.
- 9 Q Did anybody promise you anything to get you to give;
- 10 that statement to Captain Smith?
- 11 A No, ma'am.
- 12 Q And, in fact, it was your lawyer that asked him if he
- 13 would tell the judge how you had cooperated about your
- 14 bond reduction?
- 15 A Yes, ma'am.
- 16 Q Currently in our office, the solicitor's office, you
- 17 have pending charges?
- 18 A Yes, ma'am.
- 19 Q And I have on at least one prior occasion met with you
- 20 and your lawyer?
- 21 A Yes, ma'am.
- 22 Q Did I or anyone else in my office ever promise you
- 23 anything to get you to testify here today?
- 24 A No, ma'am.
- 25 Q And, in fact, you have pending in our office two counts

- 1 of assault and battery with intent to kill?
- 2 A Yes, ma'am.
- 3 Q And those carry 20 years each?
- 4 A Yes, sir.
- 5 Q And you also have a PWID marijuana?
- 6 A Yes, ma'am.
- 7 Q Which is zero to five perhaps?
- 8 A Yes, ma'am.
- 9 Q And two counts of simple possession of marijuana third?
- 10 A Yes, ma'am.
- 11 Q Which carry up to a year a piece?
- 12 A (The witness nodded head.)
- 13 Q As well as one resisting arrest charge?
- 14 A Yes, ma'am.
- 15 Q And that carries how much?
- 16 A I ain't really sure.
- 17 Q A year?
- 18 A Yes, ma'am, a area.
- 19 Q So you're facing 40, 50 years?
- 20 A Yes, ma'am.
- 21 Q Has anyone promised you anything?
- 22 A No, ma'am.
- 23 Q Why are you testifying here today, sir?
- 24 A Really this off of behalf that it was wrong and that I
- 25 hope that it will help me in the long run.

- 1 Q You're hoping this will help you?
- 2 A Yes, ma'am.
- 3 Q And has anybody promised you anything to get you to not
- 4 tell the truth?
- 5 A No, ma'am.
- 6 Q So only your truthful testimony you hope might help
- 7 you?
- 8 A Yes, ma'am.
- 9 Q But no one's told you it will?
- 10 A No, ma'am.
- 11 Q And you hope down the road that you might get a
- 12 reduction in charge or reduction in sentence?
- 13 A Yes, ma'am.
- 14 Q Or a judge might consider it?
- 15 A Yes, ma'am.
- 16 Q But no one has told you that will happen?
- 17 A No, ma'am.
- 18 Q Not your lawyer?
- 19 A No, ma'am.
- 20 Q Not me?
- 21 A No, ma'am.
- 22 Q Not Captain Smith?
- 23 A No, ma'am.
- 24 Q Now, you do have a conviction I believe for possession
- 25 of counterfeit goods?

- 1 A Yes, ma'am.
- 2 Q For 2008?
- 3 A Yes, ma'am.
- 4 Q Actually goods with a counterfeit trademark?
- 5 A Trademark.
- 6 Q Since he was moved out of the dorm, the Y dorm, or
7 y'all were both moved out of it I guess, have you had
8 any more conversations with Old School?
- 9 A No, ma'am.
- 10 Q Do you know his real name?
- 11 A No, ma'am.
- 12 Q You had never met Shunta Wilson before?
- 13 A No, ma'am.
- 14 Q And prior to being housed with him at Alvin S. Glenn
15 Detention Center you've never met the defendant?
- 16 A No, ma'am.
- 17 Q The person that you were housed with, the person you
18 know as Old School, the person that told you he killed
19 somebody, do you recognize him here in the courtroom?
- 20 A Yes, ma'am.
- 21 Q And where is he?
- 22 A To my left.
- 23 Q To your left?
- 24 A Yes, ma'am.
- 25 Q Can you point him out for the jury?

1 A (Indicating).

2 Q Do you -- what's he wearing.

3 A A suit with a tie, white shirt, gray tie.

4 MS. CAMPBELL: Your Honor, may the record reflect
5 he's identified the defendant.

6 THE COURT: All right.

7 BY MS. CAMPBELL:

8 Q Did the defendant tell you why he murdered this girl?

9 A No, ma'am. Well, out of what he told me I got my own
10 assumption.

11 Q Did he tell you that he was tired of something?

12 A Yes, ma'am.

13 Q When he told that you he killed this girl he was
14 involved with what did he tell you he was tired of?

15 A Her cheating and all them ways.

16 Q And he never told you somebody else did it?

17 A No, ma'am.

18 Q Thank you. Please answer any questions by the defense.

19 THE COURT: All right, Ms. Lipson, cross examine.

20 MS. LIPSON: Thank you, Your Honor. May it please
21 the Court.

22 THE COURT: Yes, ma'am.

23 CROSS-EXAMINATION

24 BY MS. LIPSON:

25 Q Good morning, Mr. Johnson.

- 1 A Good morning.
- 2 Q So right now you're 27 years old?
- 3 A Yes, ma'am.
- 4 Q And you have two charge of assault and battery with
5 intent of killing.
- 6 A Yes, ma'am.
- 7 Q And that's South Carolina's way of saying attempted
8 murder?
- 9 A Correct.
- 10 Q Okay. And those are 20 years each?
- 11 A Yes, ma'am.
- 12 Q Okay. You have a possession with intent to distribute
13 marijuana?
- 14 A Yes, ma'am.
- 15 Q And that carries up to five years?
- 16 A (The witness nodded head.)
- 17 Q Correct?
- 18 A Yes, ma'am.
- 19 Q Two counts of simple possession of marijuana third?
- 20 A Yes.
- 21 Q Okay. Those will carry one year each -- up to one year
22 each and a resisting arrest that also carry up to one
23 year, correct?
- 24 A (The witness nodded head.)
- 25 Q Okay. If you would get the maximum sentence you would

1 be 75 years when you got out of jail, correct?

2 A Yes, ma'am.

3 Q That's a scary number.

4 (Pause)

5 Q You think that's a scary number?

6 A It could, yes, ma'am. It could be, yes, ma'am.

7 Q And that's why you're here today?

8 A No, ma'am.

9 Q You said earlier that you're here hoping that this will

10 help you out?

11 A Yes, ma'am.

12 Q Correct?

13 A I'm here so that the truth will help me out.

14 Q Right.

15 A Yeah.

16 Q But by helping you out you mean get out of jail before

17 you're 75 years old?

18 A Basically whatever could -- whatever could help me it

19 will be good.

20 Q Because you do not want to be in jail until you are 75

21 years old?

22 A Correct, yeah.

23 Q Okay. Now, you've been through the court system

24 before, correct?

25 A Yes, ma'am.

1 Q Okay. And you understand how plea bargaining works --

2 MS. CAMPBELL: Objection, Your Honor, may we
3 approach?

4 THE COURT: Yes.

5 (Whereupon, a bench conference
6 was held off the record, in the
7 presence of the jury, but out of
8 the hearing of the jury.)

9 BY MS. LIPSON:

10 Q Well, you've -- you have a conviction of the
11 counterfeit good charge, correct?

12 A Yeah.

13 Q And you plead guilty to that charge, correct?

14 A Yes, ma'am.

15 Q And typically the way the plea bargain works is if you
16 plead guilty to something you end up getting a little
17 bit -- some so of benefit of a bargain, correct?

18 A Yes.

19 Q Okay. Now, for the charges before you today -- that
20 you are -- the pending charges that you have, you are
21 being prosecuted by the Fifth Circuit Solicitor's
22 Office, correct?

23 A (There was no response.)

24 Q Or the Richland County Solicitor's Office, the
25 solicitors in this courthouse?

- 1 A Yeah.
- 2 Q They're the ones prosecuting you?
- 3 A (The witness nodded head.) Yeah, yes.
- 4 Q Okay. They're the ones that offer plea deals, correct?
- 5 A I ain't really sure. I really go by listening to my
- 6 lawyer really.
- 7 Q Okay.
- 8 A Yes, ma'am.
- 9 Q But your lawyer explains to you -- you had a lawyer
- 10 with your previous charge that you been convicted of
- 11 the counterfeit trademark?
- 12 A Yes, ma'am.
- 13 Q Okay. And he explained -- he or she explained to you
- 14 at the time how the court system worked?
- 15 A Basically like for instance for what, like?
- 16 Q Just what kind of plea deal you got he, he, or she told
- 17 you that they had spoken with the solicitor about your
- 18 charges?
- 19 A Yeah.
- 20 Q And that they had worked out some sort of plea
- 21 arraignment or plea bargain?
- 22 A (The witness nodded head).
- 23 Q Yes?
- 24 A Yeah.
- 25 Q And then you got in front of a judge, correct?

- 1 A Correct.
- 2 Q And you went through with the judge he went through all
3 your rights?
- 4 A Correct.
- 5 Q That you have. And the judge went over your agreement
6 with you, correct?
- 7 A Correct.
- 8 Q Okay. And you were asked whether you understood
9 everything that went on, correct?
- 10 A Correct.
- 11 Q Okay. And then you plead guilty and then you were
12 sentenced?
- 13 A Yes.
- 14 Q Okay. Now, with the pending charges before -- that you
15 have you would like something a long those lines to be
16 worked out for you?
- 17 A A long what lines?
- 18 Q You would like to get some sort of benefit of a
19 bargain?
- 20 A Yes.
- 21 Q Now, you were arrested on August 2nd, 2007, correct?
- 22 A Yes, ma'am.
- 23 Q Okay. And then you were housed in Y dorm or Yankee
24 dorm with Old School?
- 25 A Yes, ma'am.

- 1 Q You guys were together for about three or four days?
- 2 A Yes, ma'am.
- 3 Q You guys pretty much stuck together or did go kind of
- 4 go your own ways?
- 5 A Well, we really stuck together while we was in the
- 6 room.
- 7 Q Right. So when you're in that room you got a lot of
- 8 time to talk, correct?
- 9 A Correct.
- 10 Q And you pretty much talked about anything, correct?
- 11 A Correct.
- 12 Q Okay. Now, you talked about backgrounds, correct?
- 13 A Correct.
- 14 Q He told you about this military background?
- 15 A Correct.
- 16 Q He told you about his job background?
- 17 A Correct.
- 18 Q Yeah. He told you he was dating a girl named Shunta?
- 19 A Correct.
- 20 Q Okay. And you knew when you got there, you knew that
- 21 he was in for murder, correct?
- 22 A No. Because we -- most of the time it be locked down
- 23 so we -- I ain't really had a chance to see no TV or
- 24 nothing. I knew when he came in he let me know what he
- 25 was really being charged with. And after he let me

- 1 know I had done found out what he was in with then.
- 2 Q Okay. But you knew that he was in for murder, you
- 3 found out that he was in there for murder?
- 4 A Yeah, because he told me.
- 5 Q Now, and he told you that he had a good lawyer or that
- 6 his boss would hire him a good lawyer?
- 7 A Yes, ma'am.
- 8 Q Are you a lawyer?
- 9 A No, ma'am.
- 10 Q And he discussed his charges with you?
- 11 A Yes, ma'am.
- 12 Q He discussed the facts of the case with you?
- 13 A Yes, ma'am.
- 14 Q Now, when y'all were taking about histories and stuff
- 15 like that, he started talking about how he had met
- 16 Shunta, correct?
- 17 A Yes, ma'am.
- 18 Q And that was at the Essence Club first?
- 19 A Yes, ma'am.
- 20 Q And then he remet her through a friend?
- 21 A No. The friend was at Essence Club too.
- 22 Q Okay. So -- he met her at the Essence Club that
- 23 night --
- 24 A And --
- 25 Q And later found out that she was with her?

- 1 A Yes.
- 2 Q Okay. So and then he starts talking about the night of
- 3 the incident, correct?
- 4 A Yes, ma'am.
- 5 Q And you didn't ask him anything about this?
- 6 A No, ma'am.
- 7 Q He just volunteered?
- 8 A Basically.
- 9 Q Okay. Did you voluntary anything about the charges you
- 10 have?
- 11 A No, ma'am.
- 12 Q He just felt comfort with you?
- 13 A Yes, ma'am.
- 14 Q All right.
- 15 A I was taking about -- what I talked to him about life
- 16 and my kids and stuff and that I had a baby on the way
- 17 and everything and stuff too. He knew some things
- 18 about me too.
- 19 Q Okay.
- 20 A But I just ain't get into detail like he did about my ,
- 21 case like he got into detail about his case.
- 22 Q Right. Okay. And he told you he has a daughter as
- 23 well?
- 24 A Yes, ma'am.
- 25 Q And how old was his daughter?

- 1 A I think -- she was a teenager she could be 16 if I
2 ain't mistaking.
- 3 Q Okay. He talked about her a lot?
- 4 A Well, I knew he was saying she was in town while he was
5 incarcerated she was still at his house. And I know he
6 had -- he was saying something about his wife or
7 somebody would had to come get her because she -- they
8 stay in Charlotte if I ain't mistaking they stay in
9 Charlotte.
- 10 Q Okay. Now, going through your statement you said that
11 the day before the incident he saw, he saw, Shunta at
12 Lowe's?
- 13 A Yes.
- 14 Q Or actually Shunta saw him at Lowe's?
- 15 A Uh-huh.
- 16 Q You she was driving by and saw him walking out?
- 17 A Yes, ma'am.
- 18 Q And she pulled over and pulled into the Lowe's and
19 started talking to him?
- 20 A Yes, ma'am.
- 21 Q Okay. And the night of the incident they went to
22 separate clubs?
- 23 A Yes.
- 24 Q But they were suppose to get together after that?
- 25 A Yes, ma'am.

- 1 Q And he told her that -- she wouldn't answer her phone?
- 2 A Yes, ma'am.
- 3 Q And then he said that he went over to her house?
- 4 A Yes, ma'am.
- 5 Q And he had a key to her apartment?
- 6 A Yes, ma'am.
- 7 Q Okay. Now, then he told you that they had sex?
- 8 A Yes, ma'am.
- 9 Q And he didn't actually describe the murder in detail?
- 10 A No, ma'am.
- 11 Q He basically -- you knew he was in there for murder a
- 12 head of time?
- 13 A Yes, ma'am.
- 14 Q Before y'all started talking about the details of the
- 15 case?
- 16 A Yes, ma'am.
- 17 Q So he just said that he did it?
- 18 A Basically. He got into, he got into, it like I told
- 19 you the details he is was saying how like he brought
- 20 her all kind of computer tops, stuff to go with the
- 21 computers, he spent a lot of money on her too.
- 22 Q Right.
- 23 A Not to add -- he was saying he brought her a lot of
- 24 expensive things too.
- 25 Q Right.

1 A Yeah.

2 Q But the actual, the actual, murder the actual
3 strangulation all he said in that regard is I did it?

4 A Basically.

5 Q Okay. Now --

6 A He didn't get in no detail about actually doing it.

7 Q But he got into detail about every else?

8 A Yes, ma'am.

9 Q Did you know when this murder occurred?

10 A No, ma'am.

11 Q Okay. So you didn't know the date this happened?

12 A No, ma'am.

13 Q Okay. And you said that his daughter had grown very
14 attached to her?

15 A Yes, ma'am.

16 Q And he had brought her lots of present and things like
17 that spent a lot of money on her?

18 A Yes, ma'am.

19 Q He has pretty much loved her from first sight?

20 A Yes, ma'am. From that lap dance.

21 Q From that lap dance. All right.

22 MS. LIPSON: Beg the Court's indulgence.

23 THE COURT: Yes, ma'am.

24 MS. LIPSON: Nothing further, thank you.

25 THE COURT: Anything on redirect?

1 MS. CAMPBELL: Just a couple of questions.

2 REDIRECT EXAMINATION

3 BY MS. CAMPBELL:

4 Q She asked you about his boss helping him out, what did
5 he say about his boss might help him out, might not?

6 A If he -- his boss will help him if he innocent but will
7 not help if he was probably found guilty -- if he said
8 he was guilty, if he told the truth about it basically.

9 Q And she asked you about he didn't give you any details
10 about the actual murder itself but he did give you a
11 lot of details about that night?

12 A Yes, ma'am.

13 Q And in addition to that he talked to you in detail
14 about what he should do?

15 A Yes, ma'am.

16 Q Whether he should plead guilty?

17 A Yes, ma'am.

18 Q How much time he could do?

19 A Yes, ma'am.

20 Q He told you all of that?

21 A Yes, ma'am. Because I guess he felt more comfortable
22 talking to me because he knew what I was facing on so
23 he -- I guess he was like saying both of us in here on
24 some serious stuff I may as well talk his head off the
25 whole night, you know.

1 Q Okay. And he said his boss wouldn't help him if he was
2 guilty?

3 A No, ma'am.

4 Q And are you aware of whether or not his boss ever
5 helped him?

6 A No, ma'am.

7 MS. LIPSON: Objection.

8 THE COURT: Sustained.

9 BY MS. CAMPBELL:

10 Q Who did he tell you had killed the girl?

11 A He did.

12 Q Thank you.

13 THE COURT: Anything on recross?

14 MS. LIPSON: No, Your Honor.

15 THE COURT: You may step down, Mr. Johnson.

16 MS. CAMPBELL: Your Honor, the state will call
17 Joey Rish.

18 THEREUPON,

19 JOEY RISH,

20 after having been duly sworn, testified as follows:

21 THE CLERK: Have a seat, state your name for the
22 record.

23 MS. RISH: Joey Rish.

24 DIRECT EXAMINATION

25 BY MS. CAMPBELL:

1 Q Ms. Rish, where are you employed?

2 A Alvin S. Glenn Detention Center, Richland County.

3 THE COURT: I'm sorry, you said Rish, R-I-S-H?

4 MS. RISH: Yes, sir.

5 THE COURT: All right. Thank you, ma'am.

6 BY MS. CAMPBELL:

7 Q What do you do there, ma'am.?

8 A Detention officer records custodian.

9 Q And at my request did you do some research as far as
10 incarceration of a man named Aurelio Vincent Ottey and
11 Brandon Johnson?

12 A Yes, ma'am.

13 Q And did you make any determination about whether or not
14 they ever been housed together?

15 A I did.

16 Q And what dates were they actually housed together at
17 the Alvin S. Glenn Detention Center?

18 A From August 3rd, 2007 until August 8th of 2007.

19 Q And did they actually share a cell?

20 A They did.

21 Q And what dorm were they in?

22 A They were in Y dorm.

23 Q And they were together from August the 3rd until August
24 the --

25 A Eighth.

1 Q Of 2007?

2 A That is correct.

3 Q And at that point they were transferred out to
4 different dorms?

5 A Correct.

6 Q And how many people are in a cell together?

7 A Typically two.

8 Q Two people. In this case were they the two in the same
9 cell?

10 A In this case there were only two in that cell.

11 Q And it was Mr. Ottey and Mr. Johnson?

12 A And Mr. Johnson.

13 Q Brandon Johnson.

14 A Correct.

15 Q Thank you.

16 MR. SCHNEE: Please the Court?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. SCHNEE:

20 Q Good morning.

21 A Good morning.

22 Q Alvin S. Glenn keeps a lot of records of a lot of
23 things, right?

24 A Yes, we do.

25 Q You keep -- you have video cameras in all the dorms?

- 1 A Yes, we do.
- 2 Q They record audio as well?
- 3 A No.
- 4 Q But there is video in all the rooms?
- 5 A There's video but not audio.
- 6 Q And there are phones available to anyone in there in
7 the dorm itself?
- 8 A Sure.
- 9 Q And you record all of the conversations?
- 10 A Yes.
- 11 Q They get recorded off site?
- 12 A Yes.
- 13 Q And all the visits from family members and friends that
14 come in those are recorded as well?
- 15 A They are.
- 16 Q And you weren't asked by the solicitor's office to
17 check into any of those, were you?
- 18 A Not those records, no.
- 19 Q Okay.
- 20 MR. SCHNEE: No further questions.
- 21 THE COURT: Anything further of this witness?
- 22 MR. SCHNEE: No, sir.
- 23 THE COURT: You my step down, Ms. Rish.
- 24 MS. CAMPBELL: State would call Investigator Rob
25 Martin.

1 THEREUPON,

2 ROBERT MARTIN,

3 after having been duly sworn, testified as follows:

4 THE CLERK: After seat in the witness box, state
5 your name for the record.

6 MR. MARTIN: Robert Martin.

7 DIRECT EXAMINATION

8 BY MS. CAMPBELL:

9 Q Investigator Martin, where are you employed?

10 A The Richland County Sheriff's Department.

11 Q What do you do there, sir?

12 A I am a criminal investigator and special victim's unit.

13 Q As a criminal investigator tell this jury what you're
14 job duties include.

15 A Currently I'm assigned to investigate rape, child
16 abuse, sexily crimes against children, child
17 pornography, neglect of children, child deaths, elder
18 abuse, elder neglect, financial shaming of the elderly
19 and I'm also assigned to the criminal homicide
20 investigator.

21 Q I want to turn your attention back to July the 26 of
22 2007, were you notified by Captain Smith of a murder
23 investigation?

24 A I was.

25 Q And where did that take place?

- 1 A It was at [REDACTED] Road Apartment [REDACTED]
2 [REDACTED].
- 3 Q And for the record is that here in Richland County?
- 4 A It is.
- 5 Q Did you go to the scene that day?
- 6 A I did.
- 7 Q And proximately what time was it when you got there, do
8 you recall?
- 9 A It was around 6 o'clock.
- 10 Q When you --
- 11 A In the afternoon --
- 12 Q Was the crime scene unit already there?
- 13 A They were.
- 14 Q As well as -- had EMS already been there?
- 15 A They had.
- 16 Q As well as the fire department?
- 17 A That's correct.
- 18 Q And at that point when you got there was Ms. Wilson's
19 body still present at the scene?
- 20 A It was.
- 21 Q Did you enter the crime scene?
- 22 A I did.
- 23 Q And what was the purpose of your entering the crime
24 scene?
- 25 A As the primary investigator it was kind of to get

1 myself familiar with the scene, noted what was in the
2 scene, speak to the crime scene -- the lab personal. I
3 believe the coroner's office was there as well, just to
4 gather information as to what the scene held.

5 Q Okay. And did you notice there at the scene in the
6 living room that there was a box containing something?

7 A There was. It was like a computer desk piece of
8 furniture.

9 Q Did you also determine what the temperature was in the
10 inside of that apartment that day?

11 A It was hot. I walked in and looked at the thermostat
12 and it said 90 degrees, I made a note of it.

13 Q While there at the scene, did you meet with other
14 investigators and discussed what you had at that point?

15 A Lab personal.

16 Q Sergeant McRoberts, Investigator Jordan?

17 A That's correct. They were on scene. They were, they
18 were, working on call and were first notified by the
19 police.

20 Q And did you also make contact with the lab personal
21 too, including Lieutenant Elsey?

22 A Yes.

23 Q And did she point out to you a -- the victim's car
24 there at the scene?

25 A She didn't point it out. Actually, I had left the

1 scene when the car was noticed but she did find the car
2 out front.

3 Q She did find the car out front?

4 A Uh-huh.

5 Q At that point when you were there responding that
6 evening, when you were there for a while, did y'all
7 have any suspects in the case?

8 A We had people of interest. We started with Edward
9 Middleton he was the first person on the scene and had
10 a relationship with the victim. We just -- was he a
11 suspect? He was a person of interest.

12 Q Okay. He's the one that actually found her body?

13 A That's correct.

14 Q That night, later that night, was contact made with
15 Michael Deleon?

16 A He contacted crime stoppers. And I made contract with
17 him and had him come to the sheriff's department so
18 that he could provide the information he had given to
19 crime stoppers.

20 Q And that day did he bring another young man with him?

21 A He did Darryl --

22 Q Darrly Wilson?

23 A Darryl Wilson.

24 Q Was as not related to victim in this case?

25 A Oh, no.

1 Q And at that point were they ever -- did they give you
2 written statements about what they had observed in the
3 early morning hours of the night before?

4 A They did.

5 Q The next morning, did you meet with other investigators
6 about the case?

7 A I did in the old conference room and I went over the
8 direction of the case.

9 Q The next day on the 27th, were y'all also trying to
10 expedite some DNA testing?

11 A We were. We had learned that there was some evidence
12 that had fluoresce when the labs were processing the
13 scene. So we knew that there was a chance that the DNA
14 evidence would help identify the person that killed
15 Shunta. And we asked them to expedite that, that,
16 process.

17 Q Over that day did you attempt to make contact with
18 known associates and or friends of the victim?

19 A That is true. And some of them were voluntarily coming
20 forward and giving information.

21 Q Did you even make contact with her employer at work?

22 A I did. I spoke to Donna Durbey.

23 Q Did you also make contact with a Monica Wright?

24 A Monica was a neighbor, we did speak to her.

25 Q And without going into what she said to you, did she

1 ever give you information that later become relevant in
2 the investigation?

3 A Yes, she was.

4 Q On July the 28th of 2007 during the course of that
5 day prior to that, did y'all become aware that there
6 was a cell phone the victim used?

7 A Yeah. I had developed from, from, different points
8 what the victim's cell phone was, what Shunta's cell
9 phone number was. The family had mentioned that the
10 phone -- they didn't know where the phone was. We
11 didn't know where the phone was either and use that
12 information I contacted Sprint and asked them if they
13 would under -- circumstance give me the phone record
14 information.

15 Q Okay. But at that point you're trying to get the phone
16 records of the victim?

17 A Correct.

18 Q And the phone itself her cell phone y'all never found
19 it?

20 A No, we did not.

21 Q It wasn't in her apartment?

22 A It was not in her apartment.

23 Q It wasn't in her purse?

24 A Not in her purse, not in her car.

25 Q In fact, you still don't know where it is, do you?

1 A No not know where it is.

2 Q Based on information you developed over the next day or
3 so and information from eye witnesses at the scene did
4 you attempt to get a picture of Aurelio Ottey's car?

5 A I did. Due to information that came up he became
6 identified as a possible suspect in this case. And I
7 was able to locate using a system called Access his
8 address and went to his address and took a photograph
9 of his car.

10 Q And actually you actually made contact with him on July
11 the 30th?

12 A On July 30th, I did.

13 Q You can't talk about what lead you to him but once you
14 made contact with him, did you note that he had parked
15 his car there at the apartment complex?

16 A (There was no response.)

17 Q Let me back up. Where did he live?

18 A He lived at [REDACTED] Brook Pines Apartments.

19 Q And when did you make contact with him.

20 A I first made contact with Mr. Ottey on again the 30th
21 of July at around 3:15.

22 Q And --

23 A In the afternoon.

24 Q Where did y'all make contact?

25 A At his apartment. He was -- I was in the process of

1 attempting -- I was in the process of obtaining a
2 search warrant for him, his person, one we were going
3 to get his DNA. The building that he lived in, his
4 apartment looking for items that we suspected were used
5 in the crime and possible other transfer DNA, other
6 items.

7 And we also were looking for his car. As I was
8 obtaining those warrants Captain Smith was assisting me
9 along with other investigators because we were in the
10 anticipation that as soon as the warrant we were
11 obtained we were going to execute the search warrant.

12 I had been by Mr. Ottey's house on a couple
13 different occasions and the car wasn't there. Captain
14 Smith went by that afternoon, spotted the car, as
15 warrants were being signed. And as I was approaching
16 Ottey was leaving the apartment complex in his car,
17 walking out to his car, actually gotten into his car.
18 And we approached him and asked him if he would come
19 and speak with us.

20 Q Okay. And let me back up, now up to this point, you
21 can't say what either witness said to you, but did
22 y'all take multiple statements in this case?

23 A We took a lot of statements in this case.

24 Q From people that had knowledge that proved to be
25 relevant and people that had knowledge that didn't?

1 A That is correct.

2 Q And at that point, you said that you made contact with
3 him around 3 o'clock on the date of the 30th, you
4 were with Captain Smith I believe?

5 A I was.

6 Q And at that point you approached him and saw him in his
7 vehicle?

8 A We actually watch him walk out and get in this car and
9 he was pulling out of the complex, backing out of a
10 space. And we approached him, walked up to him.

11 Q How was his vehicle parked?

12 A Just a second.

13 (Pause)

14 A It was parked in the lines and he was pulling out of a
15 space. I'm not sure if he backing out or pulling out
16 forward.

17 Q How was his vehicle when you first saw it?

18 A When we took photographs of it or that day?

19 Q Refer to your notes.

20 A I'm sorry. It was backed into a parking space, I did
21 have it here in my notes.

22 Q It was backed into a parking place?

23 A That's correct, backing --

24 Q So the front would have been heading out toward the
25 parking lot side?

- 1 A That's correct.
- 2 Q That day, did he agree to accompany you and talk to you
3 about his whereabouts on the night of the murder?
- 4 A He did.
- 5 Q Was he transported down to headquarters?
- 6 A He was.
- 7 Q As all the other witnesses were?
- 8 A Yes.
- 9 Q And at that point who was with you?
- 10 A Captain Smith was with me and we transported him to our
11 office on Two Notch Road.
- 12 Q And without going into the information that you have,
13 but based on that information, did y'all think it was
14 appropriate to advise him of his right?
- 15 A We did.
- 16 Q And I'm going to show you what's been marked as State's
17 Exhibit Number 1, do you recognize that?
- 18 A This is the advise of rights that was done that day.
- 19 Q And who actually advised him of his rights that day?
- 20 A Captain Smith did.
- 21 Q And did he go through each of his -- what known as his
22 Miranda?
- 23 A He did. He went through all of the bullets.
- 24 Q And did Mr. Ottey acknowledge that he had been read his
25 rights?

- 1 A He did.
- 2 Q By signing?
- 3 A By his signature.
- 4 Q And then down at the bottom of that I believe is the
5 second section is called the waiver of rights?
- 6 A That's correct.
- 7 Q And was that explained to Mr. Ottey?
- 8 A It was.
- 9 Q By Captain Smith?
- 10 A Yes, it was.
- 11 Q And at that point did he acknowledge that he wanted to
12 waive his rights and talk?
- 13 A He did. He also signed that statement as well.
- 14 Q After he had been advised of his rights, did y'all then
15 proceed to talk to him about his whereabouts and his
16 relationship with Shunta Wilson?
- 17 A We did.
- 18 Q And I'm going to show you what's been marked as State's
19 Exhibit Number 2, who actually was present when the
20 statement was taken?
- 21 A Captain Smith and myself.
- 22 Q And at that point did he give y'all a statement about
23 what he said he knew?
- 24 A That is correct.
- 25 Q And that statement I just handed you, it's redacted,

1 that's a copy?

2 A Actually I was going to say there is a section missing
3 as I understand. That is a --

4 Q A copy --

5 A That appears to be a modified copy of the video, I'm
6 sorry.

7 Q Of the statement?

8 A Correct.

9 Q And Captain Smith was actually reducing it to writing?

10 A Yes. Captain Smith is a far better typist than I am.

11 Q After the statement was taken, did Mr. Ottey have an
12 opportunity to review the statement?

13 A He did.

14 Q And make any changes he wanted?

15 A That's correct.

16 Q And did he acknowledge that that was his story?

17 A That is what he stated, he acknowledged it by signing
18 it.

19 Q Okay. And just for the record, during the course of
20 that statement, did he indicate when was the last time
21 he had had any physical contact with the victim?

22 A He did. He stated it was Tuesday night.

23 Q Tuesday night?

24 A Yeah, would have been after 11 o'clock.

25 Q Around 11 o'clock on a Tuesday night?

- 1 A Yes, P.M., that's correct.
- 2 Q And when did this murder take place?
- 3 A We estimate it to be Thursday morning around four A.M.
- 4 Q Four A.M.?
- 5 A 3:30, four.
- 6 Q Did he indicate whether or not when he had seen the
7 victim on Tuesday night whether or not he had sex with
8 her?
- 9 A He indicated that he had sex with her that night.
- 10 Q On Tuesday?
- 11 A On Tuesday.
- 12 Q Did he indicate whether or not he had any -- whether or
13 not he saw the defendant on the night that she was
14 murder?
- 15 A Yeah, he said he did not.
- 16 Q After he had given you the statement, did you also --
17 did he also give you a DNA swab?
- 18 A He did, he consented to a DNA swab.
- 19 Q And that's one of several DNA swabs you got in this
20 case?
- 21 A Yeah, we collected quite a few.
- 22 Q And that's swab once you obtained it, it was packaged
23 properly and submitted for DNA testing?
- 24 A That's correct.
- 25 Q That day, did he deny killing her?

- 1 A He did. He said he didn't even --
- 2 Q In fact, he denied even seeing her on the night she was
3 murdered?
- 4 A Yes. He said he wasn't there. We had a clothing
5 description, he said he wasn't wear that clothing.
- 6 Q What was the clothing description you were asking him
7 about?
- 8 A The orange and white shirt that was observed by
9 Mr. Deleon.
- 10 Q Deleon?
- 11 A Deleon. I'm sorry, Deleon.
- 12 Q And, in fact, did he give you a description of clothing
13 he was wearing that night?
- 14 A Yeah. He gave us a different description and said he
15 was wearing darker clothes, I could read it from the
16 statement exactly what he said.
- 17 Q Okay. Captain Smith will publish the statement.
- 18 A Okay. But --
- 19 Q So at that point, did y'all have the video from the NCO
20 Club?
- 21 A At that point, no.
- 22 Q And at that point y'all didn't have the DNA results?
- 23 A No.
- 24 Q But in his statements specifically did you ask about
25 possible DNA that would be found on her neck?

- 1 A We did.
- 2 Q You didn't know the results of that at that point
- 3 though?
- 4 A We knew that there was from a preliminary test that
- 5 there was -- it was referenced to us through the lab
- 6 that there was DNA there.
- 7 Q DNA there.
- 8 A So asking -- we asked him if there was a chance of his
- 9 DNA would be found on her neck.
- 10 Q What did he tell us.
- 11 A That's when he told us that he had sex with her the
- 12 time before, Tuesday.
- 13 Q Tuesday, two days before?
- 14 A (The witness nodded head.)
- 15 Q At that point after you got his DNA swab, was he let
- 16 go?
- 17 A We also photographed his body and then he was released.
- 18 Q And did y'all process his car that day?
- 19 A We --
- 20 Q Or was that later?
- 21 A The car was taken with a search warrant.
- 22 Q That day?
- 23 A That day and brought to -- we have a storage area for
- 24 processing vehicles. It was not processed, I don't
- 25 believe it was processed that day. We didn't grab the

1 keys when we grabbed the car. Instead of forcing the
2 door open I then contacted him and got the keys from
3 him off his job site and then took them back and they
4 had the car processed.

5 Q Did y'all make any attempts to monitor his movements
6 after you spoke to him that day?

7 A Did we make any attempts?

8 (There was no response.)

9 Q This would be on the 30th, he was not arrested until
10 the third?

11 A Right.

12 Q His car specifically?

13 (Pause)

14 A Not sure I understand what you're asking me, did we --

15 Q Did you put anything on his car so you could see where
16 he went?

17 A We did.

18 Q What did he do?

19 A We had --

20 MS. LIPSON: Objection.

21 THE COURT: Basis.

22 MS. LIPSON: Relevance.

23 THE COURT: They put something on his car to see
24 where he went and your --

25 MS. LIPSON: We're --

1 THE COURT: Objecting.

2 MS. LIPSON: Objecting under relevance, yes.

3 THE COURT: You can approach if you'd like, I will
4 be happy to hear you.

5 MS. LIPSON: Thank you.

6 (Whereupon, a bench conference
7 was held off the record, in the
8 presence of the jury, but out of
9 the hearing of the jury.)

10 BY MS. CAMPBELL:

11 Q That day did a David McKenzie make contact with y'all?

12 A The day he was --

13 Q You can't go into what he said to you. After you spoke
14 to Mr. Ottey did David McKenzie make contact with you?

15 A Yes.

16 Q Okay. And did y'all take a statement from him?

17 A We did.

18 Q And again you just can't go into the content of these
19 statements, okay.

20 A Okay.

21 Q 7/31/2007, that's when you actually made contact with
22 Mr. Ottey about his car?

23 A Correct, correct. I made contact to get the keys to
24 his car. I went to his job site in Lexington and
25 picked the keys up from him personally.

- 1 Q Did y'all make any attempts to try to identify the
2 person he indicated that was with him at the Lowe's?
- 3 A We did. He gave a phone number, he didn't know him by
4 name, he called him Zoe but using the phone --
- 5 Q You can't go into the content of what he said to you
6 but did y'all make contact with him?
- 7 A With Mr. Roland?
- 8 Q Uh-huh.
- 9 A Yes, we did.
- 10 Q Okay. Did y'all also collect various buccal swabs from
11 some David McKenzie, Mark Murry and other people?
- 12 A That is correct.
- 13 Q On the 30 -- on August 2nd, excuse me, did make an
14 attempt or contact Sprint in an attempt to have
15 Shunta's phone located?
- 16 A I did. It was fixed with a GPS option. We contacted
17 Sprint, they asked for a search warrant, we obtained
18 that search warrant. They said that they would ping,
19 ping, locate that phone or attempt to locate that
20 phone. They were unable to do so and the reason they
21 said is that the phone was -- that it failed which
22 meant that the phone had not powered up or was not
23 powered.
- 24 Q And that was on August the 2nd?
- 25 A That's correct.

- 1 Q Did you also make contact with a Shameko Putman?
- 2 A I did.
- 3 Q And she was actually someone that was with the victim
- 4 prior to her death?
- 5 A That's correct. At one of the nightclubs they were
- 6 together.
- 7 Q And you got also got a DNA swab from her?
- 8 A That's correct.
- 9 Q On August the second. Did Investigator Preston review
- 10 a video tape that he had received from the NCO Club?
- 11 A He did.
- 12 Q Did that become significant?
- 13 A It was very significant.
- 14 Q And why is that so?
- 15 A It showed Vincent Ottey wearing the orange and white
- 16 striped shirt that was described by Michael Deleo --
- 17 Deleon.
- 18 Q And are you aware that during the course of the next
- 19 day a search warrant was actually done at Mr. Ottey's
- 20 apartment as well as a search of his car?
- 21 A That is correct.
- 22 Q You didn't actually do it though?
- 23 A I drafted it and I got them signed but I did not
- 24 execute them.
- 25 Q Was the orange and white shirt that you seen in the

1 video at the NCO Club ever recovered?

2 A No, it was not. What made it significant is that Ottey
3 told us he was wearing a completely different set of
4 clothes.

5 Q On the morning of August the 3rd of 2007, was there an
6 arrest warrant signed for Aurelio Vincent Ottey?

7 A That is correct.

8 Q And did you actually go and arrest Mr. Ottey?

9 A We did. We get with Lexington, the Town of Lexington
10 so there were no jurisdictional problems and enlisted
11 their help from what was entered into ICIC the national
12 computer so it made it valid in other areas. With
13 their we went over and arrested Vin at the job site.

14 Q And when you say at the job site, where is that
15 located?

16 A It's in the Town of Lexington at First Baptist Church.

17 Q And that was the First Baptist Church that was being
18 built at the time?

19 A That's correct.

20 Q Once he was placed under arrest on August the 3rd, who
21 transported him to be processed?

22 A I did and Kevin Preston.

23 Q Kevin Preston?

24 A That's correct.

25 Q Once y'all were in the car together, did Mr. Ottey ask

1 you any questions?

2 A He did. He asked me how much time he was going to get
3 or he was facing.

4 Q Was that the extent of what he asked you?

5 A That was the only thing that he asked.

6 Q And I believe during the course of this investigation
7 you also made contact with Edward Middleton and he was
8 cooperative?

9 A He was.

10 Q And he actually give you a DNA sample as well?

11 A That's correct.

12 Q I'm going to show you this weekly time sheet. During
13 the course of your investigation, did you contact her
14 work?

15 A I did.

16 Q And were you able to get information about the last day
17 she was alive?

18 A I did. I --

19 Q -- 25th?

20 A I obtained a -- this time card, time sheet.

21 Q And that's marked as State's Exhibit 74, does that time
22 sheet reflect what hours she worked on July the 25th
23 of 2007?

24 A That is, correct.

25 MS. CAMPBELL: Your Honor, at this time we'd offer

1 State's Exhibit 74 into evidence.

2 MS. LIPSON: Without objection.

3 THE COURT: All right. That's on the 26 or --

4 MS. CAMPBELL: 25.

5 THE COURT: 25.

6 MS. CAMPBELL: The evening of the 25th.

7 (State's 74 admitted into
8 evidence.)

9 BY MS. CAMPBELL:

10 Q Does it show what hours she worked on the 25th?

11 A On Wednesday the 25th, she had a shift from two in
12 the afternoon starting at 2:18 that went till her meal
13 brake at 3 o'clock in the afternoon. She returned from
14 her meal break at 3:30 and signed out that afternoon or
15 that evening at 10:27 P.M.

16 Q 10:27 P.M?

17 A That's correct.

18 MS. CAMPBELL: Beg the Court's indulgence.

19 THE COURT: Yes, ma'am.

20 BY MS. CAMPBELL:

21 Q During the course of your investigation you became
22 aware that y'all got telephone records I believe a
23 search warrant record or telephone records from Shunta
24 Wilson?

25 A That is correct.

1 Q And during the course of your investigation you became
2 aware that several phone calls had gone back and forth
3 between the victim, Shunta Wilson?

4 A And Vincent Ottey, yes (indicating).

5 Q Thank you, sir. I don't have anything else.

6 THE COURT: Ms. Lipson.

7 MS. LIPSON: Thank you, Your Honor, may it please
8 the Court.

9 CROSS-EXAMINATION

10 BY MS. LIPSON:

11 Q Good morning, Investigator Martin.

12 A Good morning.

13 Q You were the lead investigator on this case, correct?

14 A That is correct.

15 Q Explain to me what a lead investigator does please.

16 A Lead investigator has the kind of overall
17 responsibility for the case; tasking other parts of the
18 investigation into completing different tasks,
19 evaluating the information that's brought in from other
20 parts of this the investigation and then working with
21 the solicitor's office to determine -- once, once, the
22 case is finalized determining what charges apply and
23 don't apply.

24 Q And when you task other people for example investigator
25 Preston which may or may not -- or any other

- 1 investigator once you task them, they then go and do
2 what you ask them to do, correct?
- 3 A Yes.
- 4 Q Ideally?
- 5 A Yes.
- 6 Q And then they submit a report?
- 7 A They either submit a report and come back and tell me
8 their findings of whatever depends on what the task was
9 for what may be generated. They usually keep a follow
10 up of what their portion of this investigation is.
- 11 Q And you keep track of all their followups?
- 12 A Compile them all, that's correct.
- 13 Q And do you follow -- follow up on their followups sort
14 of speak?
- 15 A Depending on what that piece evidence -- what that
16 piece of the pie or the piece of the puzzle gives us
17 depends on how much attention that piece is given,
18 other things are continuously being brought up in that
19 case or moving intensively moving forward trying to
20 identify the killer.
- 21 Q Right.
- 22 A And come to an arrest.
- 23 Q Okay. Now, this murder took place the early morning
24 hours of July 26th, correct?
- 25 A July 26 early morning hours, that's correct.

1 Q And information on this case was released to the media,
2 correct?

3 A There was a release to the community was in -- was
4 concerned because they had a young woman, mother,
5 single mother killed in her apartment, left naked with
6 the door smashed in an apartment complex. People in
7 the area were concerned, so yeah there were -- there
8 was a media release prepared and I believe -- I don't
9 remember, I would have to look at the notes to see what
10 was posted but I have a copy of it in my file
11 somewhere.

12 Q And this media release was sent to -- well, first, this
13 was released to the media pretty much immediately after
14 the murder?

15 A I believe the initial findings of the case -- actually
16 without looking at it and I can't recall exactly what
17 the meat of it was. The release was put out by our
18 PIO.

19 Q Public information officer?

20 A That is correct.

21 Q Okay.

22 A Mr. Count, he compiled it and then gets -- I believe he
23 goes to the sheriff's and they determine what's going
24 to be released and who's going to be released to. I
25 really don't have much say in that.

1 Q When was it released?

2 A I'd have to see it. There's a copy of it and I don't
3 have it in my notes.

4 Q There was a release before Mr. Ottey was arrested,
5 correct?

6 A It was -- I believe it was a general release, police
7 officers looking for person who or any information I
8 believe for someone involved in this crime.

9 Q Okay. And --

10 A I believe.

11 Q When this gets released to the media this gets released
12 to the state newspaper?

13 A Again I don't -- it could have, yes. Do I release it
14 to the state newspaper, no. It's given to the PIO
15 which is public information officer and then him and
16 the sheriff's make that determination as to who it's
17 released to. I don't -- really I'm not part of that
18 decision.

19 Q Typical custom though it goes to the newspaper?

20 A You're asking me -- again I don't work with the PIO or
21 who they associate with. So is that customer, I don't
22 know, I can't --

23 Q Okay --

24 A Actually say who they release it to.

25 Q Okay. Basically there's information released to the

1 media as a whole, correct?

2 A All the time --

3 Q To local --

4 A All the time, every time?

5 Q No, but in -- generally for big cases such as this one?

6 A Something was prepared and it was released. Again, I
7 don't -- I know it was published to the media. I don't
8 know what media, I don't know who it was released to at
9 this point, you're asking me something that I can't, I
10 can't, answer without looking at the document.

11 Q Okay. Fair enough. Now, we'll get into your
12 investigation a little bit. Edward Middleton was first
13 on the scene, Correct.

14 A He was.

15 Q And you considered him a person of interest because he
16 was first on the scene, correct?

17 A He reported it and he had a relationship with the
18 victim.

19 Q Okay.

20 A Due to the nature of this crime, I mean, it was
21 violent, first person strangulation seems just as
22 possibly passionate.

23 Q And do you have his phone number?

24 A Do I have Mr. Middleton's phone number?

25 Q Yes.

- 1 A I don't know that I have it laying in front of me, I
2 believe it's in the file.
- 3 Q Does the number 319-0878 ring a bell?
- 4 A I've heard it during testimony, I believe they said
5 that's the number that's Mr. Middleton.
- 6 Q Now, you guys got the DNA on July 27th, 2008 --
7 sorry, 2007 DNA from the scene?
- 8 A We got it how?
- 9 Q Y'all retrieved it through CSI or through the coroner
10 or?
- 11 A Okay. They started gathering evidence the day the body
12 was located.
- 13 Q Okay.
- 14 A In the apartment. So they were gathering and compiling
15 evidence including DNA and other things at that time.
- 16 Q Okay.
- 17 A So that's, that's, when they started the process of
18 gathering DNA.
- 19 Q And then you expedited it on July 27th, correct?
- 20 A Did we expedite it on July 27? I don't recall that in
21 my notes, I will have to look and see when we had the
22 meeting.
- 23 Q But you testified during direct that you expedited it
24 on July 27th.
- 25 A (There was no response).

- 1 Q When y'all had a meeting and started tasking some stuff
2 out.
- 3 A I believe we -- that, that, let's see. We had a
4 meeting, started tasking things out and going over the
5 evidence that was found on the body.
- 6 Q Uh-huh.
- 7 A That was recovered from the scene, I believe it was we
8 asked them to expedite the finding of that DNA.
- 9 Q Okay. Now, you testified that you got pictures of Mr.
10 Ottey's vehicle, correct?
- 11 A I did.
- 12 Q And that's the White Chrysler Concord?
- 13 A That's correct.
- 14 Q And you actually got in contact with Mr. Ottey,
15 correct?
- 16 A On I don't believe I spoke to Mr. Ottey until we
17 interviewed him on the 30th.
- 18 Q Okay. So you were not present when they executed the
19 search warrant of his vehicle, correct?
- 20 A When they towed his vehicle?
- 21 Q First, were you present when they towed his vehicle --
- 22 A The search --
- 23 Q First and then?
- 24 A Right. They expedited the search warrant at the house.
- 25 Q Uh-huh.

1 A I'm sorry, they served the search warrants at the house
2 and on the car. We didn't use the one for his DNA
3 because he gave us his DNA.

4 Q Right.

5 A The car was towed in whole to the area was they
6 processed the vehicles where it's an enclosed structure
7 where they process those kinds of vehicles and look for
8 stuff.

9 Q Okay.

10 A Was I present for the actual search warrant I believe I
11 was present for parts of the actual search warrant when
12 I went inside the car. I was asked what we were
13 looking for specifically in the body of the search
14 warrant. Did I stay for the duration of it, I don't
15 believe so.

16 Q Okay. And when you got in contact with Mr. Ottey he
17 volunteered to go down to Richland County with you,
18 didn't he?

19 A He did.

20 Q To the sheriff's department?

21 A Yes, he was.

22 Q And he consented to the DNA swab, correct?

23 A He did.

24 Q And he consented to have pictures taken of his person
25 and his fingerprints?

1 A He did.

2 Q And at that time you told him that he was a suspect in
3 the murder?

4 A We did.

5 Q And at that time he was free to go?

6 A He was.

7 Q And you took him back to his apartment?

8 A That's correct.

9 Q And he actually signed over the keys to his car at one
10 point, correct?

11 A A day late. We went to -- and again that was just to
12 prevent any unforeseen damage happening to the car
13 getting into it.

14 Q Right.

15 A When the car was towed and dropped off the keys went
16 with it because he was with us.

17 Q Okay.

18 A And just communications, we went back to get the car
19 and it makes it much easier to open it with the keys.

20 Q Okay. And during the entire investigation you, you
21 along with Investigator Preston, Investigator Smith you
22 all collected DNA samples from people that were
23 possibly involved in this case?

24 A We did.

25 Q Can anybody just collect DNA samples, do you have to be

1 certified of some sort, would I be able to just collect
2 a DNA sample from somebody?

3 A Would you be able to?

4 Q Uh-huh.

5 A There's a change of custody issue and how to submit it
6 into evidence. July.

7 Q Uh-huh.

8 A The training on it was provided by the lab and as far
9 as training simple process it's what they call a buccal
10 swab as testified buccal cells are in the mouth. It is
11 a wooden q-tip on one end, it's the cotton sealed in a
12 plastic -- sealed paper container.

13 Q Uh-huh.

14 A There's a box that goes with it. The box is labeled,
15 date and time I believe the case number is put on it
16 and who the sample is taken from, what type of sample
17 it is buccal swab, oral I think there's other places
18 you can take a swab, paper is opened up not touching
19 the q-tip end, handed to the person who you want to get
20 DNA from, they hold it by the wooden stick. And all it
21 is is brushing your teeth up and down, 15 seconds,
22 usually like to let it go 30 or more. Brushing up and
23 down the cells are collected -- wet tip is put into the
24 box, it's got a whole on one side so it's not going to
25 dry and you seal it up and then it's submitted into

1 evidence.

2 Q Okay. But you've been certified to be able to do that
3 or trained is probably the proper term?

4 A Shown the proper procedure.

5 Q Shown the proper procedure. How much times have you
6 done that?

7 A DNA swab?

8 Q Yeah.

9 A I've never kept track. I would say probable 15 to 20
10 or more would be a safe number. Like I said, I just
11 don't keep statistics.

12 Q That's fine.

13 A I couldn't tell you how many tickets I wrote either.

14 Q Fair enough. Regarding Edward Middleton, did y'all
15 subpoena his cell phone records?

16 A Did we subpoena Edward Middleton's cell phone records?

17 Q Yes.

18 A No.

19 Q Did you serve a search warrant of his vehicle?

20 A No.

21 Q And he consented to giving you DNA?

22 A He did.

23 Q And that was on August 13th?

24 A Give me a second.

25 Q Okay.

1 A That is correct.

2 MS. LIPSON: Nothing further, thank you.

3 THE COURT: Anything on redirect?

4 MS. CAMPBELL: Just a couple of questions, Your
5 Honor.

6 REDIRECT EXAMINATION

7 BY MS. CAMPBELL:

8 Q She asked you about the release of information, let me
9 show you those two documents that are dated I believe
10 July the 27th.

11 A Okay.

12 Q And is it important for you as an agency to release
13 information about possible crimes to protect the
14 public?

15 A It is, and again in this case the public was nervous,
16 wanting to know what was going on in their
17 neighborhood, it was concern about a murder killing and
18 strangling, leaving a woman naked in her apartment.

19 Q And that's the extent of the details in that release,
20 is that correct?

21 A Give me just a second, I -- a re-familiarization.

22 (Pause)

23 A That is correct, that's just, just, a be ware and if
24 anyone has any information.

25 Q And in that same release don't y'all all sort of ask

1 for help from the public if they have any information?

2 A We do. The public -- the community is usually a good
3 source of information. They know, observe, see, hear
4 things that is not always heard by law enforcement so.

5 Q And is that --

6 A So we did reach out to the public on a regular basis
7 anybody that watches the news or anything constantly
8 looking out, crime stoppers itself is setup to reach
9 out to the public and obviously to get help.

10 Q And that was done in this case?

11 A It was.

12 Q As it is in all most every case?

13 A In major cases and even so cases you wouldn't consider
14 so major.

15 Q Thank you, sir.

16 MS. LIPSON: Very briefly.

17 RECROSS-EXAMINATION

18 BY MS. LIPSON:

19 Q That press release was released in an e-mail format?

20 A This press release is what was released to WIS -- what
21 WIS presented and what the state presented.

22 Q Okay. So it went to at least the state and to WIS?

23 A The state has it posted on the 27th which was pulled
24 off their website and WIS also has it on the 27th and
25 came from their website.

1 Q So their website and the television station or --

2 A This is from their website.

3 Q Okay.

4 MS. LIPSON: Nothing further.

5 THE COURT: You may step, down, sir.

6 Members of the jury, I'm going to give you a short

7 break and try to make an assessment where we are in this

8 trial, okay. I'll bring you back out shortly.

9 (The jury retires from the

10 courtroom.)

11 THE COURT: How many more witnesses, Ms. Campbell?

12 MS. CAMPBELL: Two.

13 THE COURT: Long or short?

14 MS. CAMPBELL: One longer and one short.

15 THE COURT: Who's the long one?

16 MS. CAMPBELL: Captain --

17 THE COURT: All right. Let's take a short break.

18 We're going to finish this before we eat, I don't care how

19 long it takes. And when we finish that we'll talk to your

20 client we'll put everything on the record. You don't have

21 to tell me what you're going to do but I know what you're

22 going to do, is that fair enough?

23 MR. SCHNEE: Probably so.

24 MS. LIPSON: Probably.

25 THE COURT: Okay, well that's good. Well, we'll

1 do all of that stuff. We'll try to get everything in and
2 then we'll brake and we'll do all of that stuff and then
3 we'll eat, have a charge conference and all of that, okay.

4 MS. LIPSON: Okay.

5 MR. SCHNEE: Thank you, Your Honor.

6 (Whereupon, a short recess was
7 held.)

8 THE COURT: Is everybody ready?

9 MS. CAMPBELL: Yes, sir. Judge, you asked
10 yesterday for request to request for charge.

11 THE COURT: Oh, yeah, yeah.

12 MS. CAMPBELL: And I think all of these are in
13 your charge.

14 THE COURT: Okay.

15 MS. CAMPBELL: It's just --

16 THE COURT: It's just that at some point this
17 afternoon we're going to sit down, I'm going to go through
18 all of them with you all.

19 MS. CAMPBELL: That's fine. This is just some
20 malice stuff but it may already be in your charge.

21 THE COURT: All right.

22 MR. SCHNEE: We also have our request to charge,
23 Your Honor.

24 THE COURT: Okay, all right.

25 MS. CAMPBELL: And as far your reasonable doubt

1 twice.

2 THE CLERK: Okay.

3 REDIRECT EXAMINATION

4 BY MS. CAMPBELL:

5 Q Investigator Preston, I just have a couple of questions
6 on August the 3rd of 2007, did you and Investigator
7 Martin obtain an arrest warrant for the defendant?

8 A Yes, ma'am.

9 Q And did you accompany Investigator Martin when making
10 the arrest of the defendant?

11 A Yes, ma'am.

12 Q And how did that take place that day?

13 A We all got together went to Lexington County and got
14 with officers from the City of Lexington and went over
15 to First Baptist Church and that's where we made the
16 arrest.

17 Q Okay. And you arrested Mr. Ottey?

18 A Yes, ma'am.

19 Q Do you see him in the courtroom?

20 A Yes, ma'am.

21 Q Can you identify him?

22 A Yes, ma'am.

23 Q Where is he?

24 A Over to my left blue jacket, white shirt with strips.

25 Q Between his lawyers?

1 A Yes, ma'am.

2 MS. CAMPBELL: Your Honor, may the record reflect
3 he's identified the defendant.

4 BY MS. CAMPBELL:

5 Q Once he was placed under arrest what actually
6 transported him back to Richland County to be
7 processed?

8 A Myself and Investigator Martin.

9 Q And when I say processed that would be at Alvin S.
10 Glenn Detention Center?

11 A Yes, ma'am.

12 Q And at that point during the ride back from when he had
13 been arrested in Lexington did he ask you any
14 questions?

15 A Yes, ma'am.

16 Q And what question did he ask you and Investigator
17 Martin.

18 MS. LIPSON: I would renew my prior objection.

19 THE COURT: All right.

20 You may answer that question.

21 BY MS. CAMPBELL:

22 A How much time was he going to get.

23 Q And was that the only question he asked you that day?

24 A Yes, ma'am.

25 Q Thank you, sir.

1 THE COURT: Anything on cross?

2 MS. LIPSON: Just briefly. Beg the court's
3 indulgence.

4 RECROSS-EXAMINATION

5 BY MS. LIPSON:

6 Q When Mr. Ottey was arrested was he combative?

7 A No, ma'am.

8 Q He was actually extremely cooperative, correct?

9 A Yes, ma'am.

10 Q Thank you, nothing further.

11 THE COURT: All right. You may step down, Officer
12 Preston.

13 All right. Call your next witness.

14 MS. CAMPBELL: Thank you, Your Honor. State would
15 call Captain Stan Smith.

16 THEREUPON,

17 JAMES STANDIN SMITH,

18 after having been duly sworn, testified as follows:

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

21 MR. SMITH: James Standin Smith, S-T-A-N-D-I-N,
22 middle name.

23 DIRECT EXAMINATION

24 BY MS. CAMPBELL:

25 Q Captain Smith, where are you employed?

1 A Richland County Sheriff's Department.

2 Q What do you do there, sir?

3 A I'm in the criminal investigative division. I hold the
4 rank of captain, I'm over the major -- predominately
5 over -- handle the major crimes, homicides and armed
6 robberies supervise those.

7 Q So you basically are a supervisor over all the
8 homicides, major crimes?

9 A Yes, ma'am.

10 Q Is that correct. So you've reviewed pretty much all of
11 the homicide?

12 A I do.

13 Q And take an active roll in many of them?

14 A I do take an active roll in many of them, yes, ma'am.

15 Q I want to turn your attention to July the 27th of
16 2007 or actually the day before that the 26, did you
17 become aware that a murder had been committed in your
18 jurisdiction?

19 A I did. I'm always notified whether I respond to the
20 scene or not, that's sort of a standing protocol that
21 we have.

22 We all are issued Nextel phones. Usually I'm
23 notified by phone if I'm not available to respond --
24 and I was notified that day and actually then assigned
25 Investigator Rob Martin as the lead detective on this

1 case and assigned Kevin Preston as his second.

2 Q That next morning on July the 27th of 2007 did you
3 meet with some of the investigators involved in the
4 case?

5 A Yes. We always at the first available opportunity we
6 try to have a meeting so every one can get on the same
7 page. When I say every one not just the investigator
8 assigned the case but the forensics investigator,
9 that's extremely important. So we all can understand
10 what the crime scene produced and know the direction --
11 with the investigation.

12 Q And at that point did you become aware that that crime
13 scene unit had collected some swabs as well as that
14 point the autopsy had been done, correct?

15 A Yes.

16 Q And did you make a request of your DNA department to
17 expedite some DNA analyst?

18 A Yes. We -- our -- we have an in house DNA lab which we
19 have the luxury of having. We do not rely on SLED,
20 there accredited. We know that in an emergency
21 situation they can, they can, bump everything else and
22 we can get the DNA results back rather quickly.

23 Q However, it does take several days?

24 A Yes. It takes several days no matter what you do.

25 Q As it did in this case?

- 1 A Yes.
- 2 Q Let later that day did you and Lieutenant McDonald
3 proceed to Hackney Trucking Company.
- 4 A We did.
- 5 Q And where is that located?
- 6 A It's over on Watling Road in West Columbia.
- 7 Q Now, is that near the airport?
- 8 A Sort of.
- 9 Q And what were you going there for?
- 10 A The individual that had actually found Shunta was a
11 male accountant, boyfriend, if you will. And, of
12 course, we wanted to check his alibi out and confirm
13 that. That's one of the first things that you want to
14 do in a case like especially when it appears it was an
15 acquaintance crime. It was a closeup type crime, it
16 was a strangulation and in those types of crimes more
17 times than not it is going to be somebody the victim
18 knows.
- 19 Q And in that case, did you make contact with
20 Mr. Postema?
- 21 A Yes.
- 22 Q And was he able to give you information about
23 Mr. Middleton's whereabouts that night before or two
24 nights before?
- 25 A Yes, he was able to give specify information regarding

1 a route that Mr. Middleton ran for his company that
2 took him into the upstate that provided a rock solid
3 alibi for Mr. Middleton with regard to him possibly
4 committing this crime.

5 Q Later that day did you also make contact with the
6 victim's employer -- employment to try to get
7 information?

8 A Yes.

9 Q And that would be the Ross store on Two Notch?

10 A Yes.

11 Q And on Saturday July the 28th did Investigator
12 Martin, you can't say what he said, but did he give you
13 some sufficient information?

14 A Yes. He developed some very sufficient information on
15 that day and he called me and informed me of it.

16 Q Did he also give you cell some information about some
17 phone records?

18 A Yes. We learned that the records had been obtained by
19 that time or at least an analysis of the victim's phone
20 had shown a series of calls from one particular phone
21 number on the night proceeding her murder. Based on
22 the number of calls and the time frame of those calls
23 they were deemed to be pretty, pretty, important.

24 Q The last of those calls I believe was at 2:46 A.M?

25 A Yes, ma'am. And that was extremely important because

1 that was less than an hour or so before we had the
2 witness description of the door being kicked in between
3 that 3:30 and four o'clock time frame. So we felt like
4 that call as it was linked to the others was someone
5 earnestly attempting to get in touch with her that
6 night or communicate with her.

7 Q And at that point, did y'all determine an approximate
8 time of death?

9 A Between -- closer to four probably between that 3:30
10 and four o'clock time frame. Again based on as you
11 heard Dr. Nickles's testimony it's a lot of times based
12 on the human factor, what people hear and what people
13 see. In this case we were fortunate to have several
14 ear witnesses that heard noise, banging, door being
15 kicked in as well as at least two eyewitnesses that saw
16 an individual leaving the scene that night.

17 Q And at that point on Saturday when you get this
18 information about the cell phone records, did you also
19 have you -- had you already interviewed Mr. Deleon?

20 A Correct.

21 Q And did he give you two crucial bits of information?

22 A Yes, sir. Investigator Martin had conducted that
23 interview and, of course, the clothing description of a
24 black male that was seen would turn out to be extremely
25 important in this case an orange and white stripped

1 shirt which was relatively unusual. A lot of times we
2 get a description light colored clothing but this was
3 an orange and white striped shirt which is pretty
4 important. And in conjunction with that description
5 was a description of a car at the scene leaving the
6 scene which was a sporty type or white vehicle with a
7 rounded trunk which also became extremely important.

8 Q Were you able to identify the -- to get the identify of
9 the person who was making those series of phone calls
10 that last one being at 2:46?

11 A Yes.

12 Q And who was that person?

13 A Aurelio Vincent Ottey.

14 Q Had he made any contact with you at that point as of
15 Saturday July the 28th?

16 A He had not.

17 Q And, in fact, y'all developed him through cell phone
18 records and eyewitness information?

19 A That's correct.

20 Q Based on his identity were you then able to get
21 information about his vehicle?

22 A Yes. We were able to run some routine records
23 checking. And Investigator Martin was able to identify
24 his residence which was in the Broad River Road area.
25 Martin went to that location, found his car, it was a

1 white vehicle with a rounded truck. So I felt like
2 that was relatively significant at that time. Martin
3 was able to photographed the vehicle and I think those
4 photographs were shown to the eyewitness and the
5 description was consistent.

6 Q And that would be the Concord?

7 A Chrysler Concord, yes, ma'am.

8 Q Moving onto that Monday July the 30th of 2007, were
9 search warrants prepared for Ottey's residence, his car
10 and his person?

11 A They were.

12 Q And you were looking to search his car?

13 A We were interested in both the car and the residence
14 based on not the fact that the victim's cell phone was
15 missing which is something tangible to look for but the
16 orange and white shirt and, of course, any clothing
17 that may had blood on it of that nature and possibly
18 blood in the car.

19 Q Did you also do a search warrant to obtain what's
20 called a buccal swab or a --

21 A We did --

22 Q DNA sample. And you just mentioned that the cell phone
23 was missing?

24 A Yes.

25 Q Has it ever been recovered in this case?

- 1 A It never has.
- 2 Q By Monday July the 30th of 2007, had Vincent Ottey
3 made any contact with your department?
- 4 A He had not.
- 5 Q And you were aware at that point that news releases had
6 been made asking for help?
- 7 A Yes. And the significant thing about that is other
8 folks had made contact with us that had acquaintances
9 that knew Ms. Shunta Wilson.
- 10 Q At approximately 2:30 that afternoon, did you proceed
11 to the Book Pines Apartment?
- 12 A Yes.
- 13 Q Is it also sometimes referred to as The Pines?
- 14 A I believe so. I'm always known them as Brook Pines.
- 15 Q And at that point did you observe the Concord vehicle
16 that y'all had identified over the weekend?
- 17 A Yes. When went in that day to the apartment complex
18 the vehicle was, was, in a parking place. I was with
19 Investigator Martin at that point. I had driven out
20 there myself and spotted the vehicle. I called Martin
21 in and he had been in the process of preparing search
22 warrants. He gathered a team that responded. I then
23 got into Martin's vehicle, I recall pretty clearly and
24 we approached Mr. Ottey as he began to pull out.
- 25 Q Okay.

1 A Identified ourselves. He indicated that he would
2 cooperate. Was proceeded to talk to him about this
3 incident. He backed his car into a place at that point
4 and left with myself and Investigator Martin. We left
5 the team behind to then execute the search warrants.

6 Q So he backed his car into a space?

7 A Yes, sir.

8 Q And that's how he choose to park it?

9 A That is correct.

10 Q And you are aware with all of -- and you're the
11 supervisor so you're kind of over all the case?

12 A Yes, ma'am.

13 Q And in this case State's Exhibit Number 57 is actually
14 the victim's car?

15 A Yes, ma'am. There had been some eyewitness testimony
16 or statements that the victim's car had been
17 irregularly --

18 MS. LIPSON: Objection. May we Approach.

19 THE COURT: Sure.

20 (Whereupon, a bench conference
21 was held off the record, in the
22 presence of the jury, but out of
23 the hearing of the jury.)

24 BY MS. CAMPBELL:

25 Q I'm sorry, go ahead.

1 A We had learned that the victim's car had been
2 irregularly parked at some point in time that night.
3 And then later on by the time she was found the car was
4 backed into a place. It's pretty sufficient at this
5 point based on the common practice of --

6 MS. LIPSON: Objection.

7 THE COURT: Just, just, say what you saw and don't
8 render an opinion about --

9 MR. SMITH: Yes, sir.

10 THE COURT: Sustained for that reason.

11 MS. LIPSON: Thank you.

12 BY MS. CAMPBELL:

13 Q You mentioned that after observed him back his car into
14 that parking place he got out and he accompanied you
15 down to the sheriff's department?

16 A Yes.

17 Q And at that point did you inform him of what you wanted
18 to talk to him about?

19 A Yes.

20 Q Once you got to the sheriff's department -- who
21 actually transported him?

22 A Myself and Investigator Martin transported him.

23 Q Now, at this point is he a suspect in the case?

24 A Yes, he was.

25 Q And did you advise him of any rights prior to talking

1 to him about the incident?

2 A We did.

3 Q About the incident?

4 A We did.

5 Q And I show you what's been marked as State's Exhibit
6 Number 1, do you recognize that?

7 A Yes.

8 Q What is that, sir?

9 A It's a standard advise of rights form that we use that
10 has the standard Miranda Warnings with the waiver on
11 the same form.

12 Q And is that, in fact, what you advised him of that day?

13 A Yes.

14 MS. CAMPBELL: Your Honor, at this time we'd offer
15 State's Exhibit 1 into evidence.

16 MS. LIPSON: Without objection.

17 THE COURT: All right, without objection.

18 (State's Exhibit 1 admitted into
19 evidence.)

20 BY MS. CAMPBELL:

21 Q Just briefly tell the jury how you all advised him of
22 his rights and how you did it.

23 A There's a place on it for his name, place where we
24 conducted the interview, the sheriff's department the
25 officers involved, myself and Investigator Martin, the

1 date and the time. And then there's a little square
2 here (indicating) beside, beside, each Miranda Warning
3 to make sure you don't miss one, you tick them off or
4 check them off. We advised him before we asked him any
5 questions that he needed to understand his rights. He
6 had the right to remain silent and anything that he
7 said could be used against him in court. He had the
8 right to talk to a lawyer for advise before we asked
9 him any questions, and he could have a lawyer with him
10 during any questioning. And if he could not afford a
11 lawyer one would be appointed for him before any
12 questioning if he wished. And if he decided to answer
13 questions now without a lawyer present he had the right
14 to stop answering at any time and he also had the right
15 to stop answering at any time until he talked to a
16 lawyer. And there's was a place for him to sign
17 indicating that that's true and that he understood his
18 rights, a place for you to witness, which we did. At
19 the bottom portion there's a waiver, which just says
20 I've read this statement of rights, I understand what
21 my right are, I'll willing to talk and answer
22 questions, I understand and know what I'm doing. No
23 promises have been made to me and no presser or
24 coercion of any kind have been used against me. The
25 same deal, you got a check off place, a place for him

1 to sign and a place for it to be witnessed.

2 Q And at any time did you promise him anything to make
3 him talk?

4 A No, ma'am.

5 Q At any time did you threaten him in anyway?

6 A No, ma'am.

7 Q Did you try to coerce him to make him talk?

8 A No, ma'am.

9 Q Did he talk to you freely and voluntarily?

10 A He did.

11 Q At anytime did he ask for his lawyer or tell you he
12 didn't want to talk to you?

13 A No, ma'am.

14 Q Once you advised him of his rights, did he then relate
15 information to you about his whereabouts on the night
16 she was murdered?

17 A He did.

18 Q And were you able to reduce that to writing?

19 A Yes, ma'am, I actually typed it. I have his written
20 statement. The person taking the statement actually
21 types it but, of course, the individual is what he or
22 she is saying, we did that in this case.

23 Q And I'm going to show you State's Exhibit Number 2
24 which is a redacted version of that statement?

25 A Yes, ma'am.

1 Q And the information that's in that statement, was that
2 the information that he related to you?

3 A It is --

4 Q Was told to you.

5 A It is.

6 Q And once he had given the statement, did he have an
7 opportunity to review it?

8 A Yes. It was read back to him and he was offered the
9 chance to read it if he chose to.

10 Q And that's the information he wanted to relate to you
11 on Monday July the 30th?

12 A Yes, ma'am. That was a question answered type
13 statement, so each answer is a direct response to a
14 question.

15 MS. CAMPBELL: Your Honor, at this time we'd offer
16 State's Exhibit 2.

17 MS. LIPSON: I renew my prior objection.

18 THE COURT: All right.

19 MS. CAMPBELL: Your Honor, if you would --

20 THE COURT: The redaction?

21 MS. LIPSON: Yes.

22 (State's Exhibit 2 admitted into
23 evidence.)

24 BY MS. CAMPBELL:

25 Q Captain Smith, can you please publish that to the jury,

1 the information that he gave you that night that's not
2 been redacted?

3 A This statement was made on the 30th of July, 2007 at
4 1820 hours is at 6:20 P.M. in the presence of
5 Investigator Martin and myself and Captain Stan Smith
6 at the Richland County Sheriff's Department. There's a
7 section at the top of it begins the reiteration of the
8 advise of rights and after that's covered it's the
9 basic question answer.

10 Question: Vincent, did you come to RCSD, that's
11 Richland County Sheriff's Department, today of your own
12 free will and accord?

13 Answer: Was, Yes, sir.

14 Question: Were you advised of your rights before
15 we started talking specifically about the murder of
16 Shunta Wilson?

17 His answer was, Yes.

18 Question: Where were you Wednesday night slash
19 Thursday morning the of -- this week pass which would
20 be the 25th, 26?

21 Answer: I had gone to the NCO Club at Fort
22 Jackson with my friend Mark Murray. Mark lives across
23 from the Burger King and Cracker Barrel on Bush River
24 Road. I met him at Waffle House on Broad River Road
25 whether he left his car. We left the NCO Club and

1 dropped him back off at the Waffle House around two
2 A.M. I then went home to my apartment to Brook Pines.

3 Question: Can anyone verify the time you got him?

4 Answer: My 16 year old daughter, Melissa, was
5 there but she was asleep on the fold out couch.

6 Question: How did you meet Shunta and what was
7 the nature of your relationship?

8 Answer: I first met her out to the Essence Club
9 back in April. We had a sexual relationship. Sometime
10 when I worked at the Sandhills putting up electrical
11 poles I would take her to lunch because she worked near
12 by at Ross's. We would only have sex after 11 P.M. at
13 night either at my apartment or at her apartment. We
14 stop being able to do that when my daughter moved in
15 with me on Father's day.

16 Question: When was the last time you spoke to
17 Shunta.

18 It was, it was, after 11 P.M. that Wednesday
19 night. She said something about going to the Sunset
20 Club, we had that conversation right after I picked up
21 Mark from the Waffle House. I did try to call her at
22 least four or five more times after that but only got
23 her voice mail. I was trying to hook up with her to
24 have sex.

25 Question: When was the last time you saw her?

1 I was making a trip to Lowe's with the guy I was
2 doing some work for named Row. I have, I have, him
3 down in my phone as Tall Zoe but I don't know the real
4 name, he's very tall. His number is, (803)586-8193.
5 We ran into Shunta when she was driving out of her
6 apartments. I told her I would be back later. I came
7 back to her apartment around nine P.M. or ten P.M. We
8 had sex that night. I left around 11:30 P.M. because I
9 was home by midnight.

10 Question: How did you find out she was murdered?

11 Answer: Mark called me Friday and told me about
12 it, saying he heard it from somebody at the barber
13 shop. I don't know what barber shop he goes to.

14 Question: Did you learn of anything about the
15 cause and manner of her death?

16 I went online and saw it on WLTX. I learned she
17 was strangled and found out in her apartment -- and
18 found in her apartment by a boyfriend, he then called
19 for help.

20 Question: What were you wearing that Wednesday
21 night?

22 Faded black jeans with the face of Two Pac on
23 them, a golf style shirt with blue, green and white
24 stripes on it. I had a pair of Nikes with matching
25 green on the side, the soles are black. I had on a

1 black tank top under my shirt. I took my golf shirt
2 off after leaving the club.

3 Question: What if I told you she had mail DNA on
4 her neck and it might be your?

5 Answer: We had sex on Tuesday, she liked rough
6 sex. I will touch her neck, grab her neck and kiss her
7 neck during sex. She also liked to be slapped on the
8 ass during sex.

9 Question: Did she ever liked to be choked during
10 sex?

11 Answer: No.

12 Question: When was the last time you either drove
13 her car or simply seated in the driver's seat?

14 Answer: That Tuesday night I sat in her car when
15 we were about to go get something to eat but we wound
16 up not going any whether. She got called to go pick up
17 her daughter or something.

18 Question: Did you have to adjust the seats when
19 you drove the car -- her car?

20 Answer: No. We were about the same height
21 without her wearing the heels she was a little shorter
22 than me. I last drove it on the weekend.

23 Question: Did you drive Shunta -- did you drive
24 to Shunta's apartment at all Thursday morning?

25 Answer: No.

1 Did you kill Shunta?

2 Answer: No.

3 Did you fight with Shunta that night?

4 No, I didn't see her that night.

5 Question: Were you driving your white Chrysler
6 Concord that night?

7 Answer: Yes.

8 What is your cell phone number?

9 (803)381-7699.

10 Did you work Thursday morning?

11 Yes, sir. I picked up the Mexicans who I
12 translate for with the bosses. I picked them up at
13 seven A.M. or 7:30 A.M. I know I was at the job by
14 eight A.M. We were working on the church in Lexington.
15 I work for Beller's Staffing, they put me with
16 different companies.

17 Question: You previously worked on Fort Jackson?

18 Answer: Years ago I did probably '99 or 2000.

19 Were you in the Military?

20 Yes, I was in the Marine Core for four years, the
21 Army for four years and the National Guard for six
22 years.

23 Question: Do you know how the bedroom door of
24 Shunta's apartment got broken where the knob was pushed
25 through the sheetrock?

1 His answer was, No.

2 Question: Do you know of any other men that
3 Shunta had a relationship with.

4 All I know was a guy named Roy I had his Georgia
5 number in my phone because we were -- we talked one
6 day. His number was, (404)534-7426. I went to see her
7 one day when she was working at the Hess. He was there
8 at the same time I was there. We wound up taking. We
9 found out we were both having a relationship with her.
10 We were laughing about it. I put his number in my
11 phone because he asked me to call him later.

12 Question: Did Shunta talk to you about having any
13 problems with anybody?

14 Answer: No. She would tell me that kind of thing
15 -- she, she, would tell me that kind of thing. She
16 could handle whatever because she was tough cookie.

17 Question: Do you have anything to offer that we
18 haven't asked you about specifically?

19 And his answer was, No, sir.

20 Q When in that statement was the last time he said he saw
21 Shunta Wilson?

22 A On the Tuesday before the murder.

23 Q And approximately what time of day he said he saw her
24 that Tuesday?

25 A He said he left approximately 11:30 had gotten there I

1 believe close the ten.

2 Q At the time you were taking this statement, did you
3 have the actual DNA results yet?

4 A No, ma'am.

5 Q And when you were asking him specifically about
6 possible DNA on her neck and on the gearshift was that
7 based on what you thought might develop?

8 A We had some preliminary results that there may be some
9 possible DNA.

10 Q But you didn't know what's DNA or what the DNA would
11 show?

12 A No, ma'am.

13 Q But he explained readily what -- why his DNA would be
14 in those places?

15 A Yes. And we also knew that that was the matter --
16 manner of death.

17 Q He mentioned the name of Mark Murray as a result of
18 this, did your investigators make contact with Mr.
19 Murray?

20 A They did.

21 Q And ultimately was Mr. Murray brought back in and shown
22 a video?

23 A Yes.

24 Q From where?

25 A It was a video that we obtained from the NCO Club the

1 lit hallway area to the bathroom.

2 Q And what's the time period of that video?

3 A Just before one A.M. I believe the time stamp yesterday
4 was around 12:54 A.M.

5 Q The clothing description that he gave you, what
6 clothing were you -- what night were you asking about
7 what he was wearing?

8 A I was asking about the night of the NCO Club which
9 would be the night proceeding the morning murder.

10 Q So that with be the evening of the 25th and the early
11 morning hours of the 26th?

12 A That's correct.

13 Q And what did he tell you he was wearing?

14 A Dark jeans, a shirt with some blue and green in it.

15 Q Did you ever recover the orange and white shirt?

16 A No, ma'am.

17 Q Did you ever recover the cell phone from --

18 A No, ma'am --

19 Q Shunta Wilson? After taking his statement was a copy
20 provided to him?

21 A It was.

22 Q I want to move your attention to July 31st of 2007, did
23 y'all have another meeting?

24 A We did.

25 Q And at that point did you become aware of some more

1 cell phone records?

2 A Yes.

3 Q Or additional information?

4 A Yes.

5 Q And was that sufficient?

6 A Yes. Lieutenant McDonald had been involved with the
7 analysis from the phone records and that was
8 sufficient.

9 Q One thing I forgot, he also mentioned that he had seen
10 Shunta or something on that Tuesday at the Lowe's, did
11 y'all follow up and attempted to contact the person he
12 said was with him?

13 A Yes. Investigator Martin made contact with that
14 individual.

15 Q That day on the 31st, based on the information that
16 had been given to you and also Mark Murray later
17 confirmed it about the NCO Club, did y'all make any
18 attempts to get the video at that point?

19 A Yes. I, I, had a contact their named Roland Hill that
20 I had dealt with on other cases and I contacted Roland
21 and asked him if he could assist.

22 Q And the next day on August the 1st, did Mr. Hill call
23 and say that the NCO Club video was ready?

24 A He did.

25 Q And who actually reviewed that video?

1 A Investigator Kevin Preston went and retrieved it and
2 actually was able to review it at length on the second
3 I believe.

4 Q Okay. Moving also to the second, did you get any
5 preliminary DNA results from the DNA department?

6 A Yes, I did.

7 Q And were those results significant to your
8 investigator?

9 A They were extremely significant.

10 Q And at this point who's your main suspect?

11 A At this point it's Aurelio Vincent Ottey.

12 Q And the information you got from the DNA department?

13 A Yes, ma'am.

14 Q How was that significant?

15 A Because Ottey's DNA hit on the victim's vaginal swab,
16 anal swab, oral swab and he could not be eliminated
17 from the fingernail scrapings.

18 Q And later that afternoon I believe on the second, after
19 getting that information about the DNA, did you also
20 get information from Investigator Preston as to what he
21 observed on the NCO video?

22 A I did, that was the next significant development,
23 Preston was able to view that video from the NCO Club
24 and was able to pinpoint Mr. Ottey and Mr. Murray on
25 the, on the, video. And Ottey was truly wearing the

1 orange and white stripped shirt.

2 Q And at that point did -- that afternoon, late that
3 afternoon on the second did y'all obtain a murder
4 warrant?

5 A We did.

6 Q The next day on August the third, did you assist in the
7 arrest of Vincent Ottey or Aurelio Vincent Ottey?

8 A I did.

9 Q Did you also make contact with Mr. Steve Silva?

10 A We did, yes, ma'am. At the Lexington Baptist Church we
11 have made contact with Mr. Silva.

12 Q I'm going want to turn your attention to October 1st of
13 2007, were you contacted by an attorney here in town
14 Cam Littlejohn having a client about information in
15 this case?

16 A I was.

17 Q And did you make contact with him, Mr. Littlejohn, at
18 that point?

19 A I did.

20 Q Did y'all make arraignments arrangements to interview
21 Brandon Johnson?

22 A Yes, ma'am. We, we, scheduled an appointment for
23 Friday October the 12th at my office at the sheriff's
24 department and actually picked up Brandon Johnson
25 earlier that morning and meet Mr. Littlejohn at my

- 1 office.
- 2 Q Okay. So his lawyer was present when he talked to you?
- 3 A Yes.
- 4 Q And did he give you information about this case?
- 5 A He did.
- 6 Q And I show you what's been marked as State's Exhibit
- 7 69, do you recognize that?
- 8 A Yes, ma'am. That's a statement of Brandon Johnson, he
- 9 testified to earlier.
- 10 Q And that's a statement of October 12th?
- 11 A Yes, ma'am.
- 12 Q And that's the information related in court today?
- 13 A It is.
- 14 Q Okay. Did you also show him a lineup during the course
- 15 of taking that statement?
- 16 A I did.
- 17 Q And I'll show you State's Exhibit Number 78, is that
- 18 the lineup you showed?
- 19 A It is.
- 20 Q And when you showed him that lineup, did you suggest or
- 21 tell him who to pick?
- 22 A No, ma'am.
- 23 Q And when he reviewed those six photographs, did he
- 24 identify anyone?
- 25 A Yes, ma'am. He only knew the individual that had

1 talked to him by nickname, so based on that --

2 Q What was that nickname?

3 A It was old school. And we needed an identification to
4 make sure that we were talking about the same person.

5 Q And who did he identified?

6 A He identified Ottey.

7 Q And is that the same person as the defendant in this
8 case?

9 A Yes, ma'am?

10 Q Did you promise him anything to get him to talk to you?

11 A No, ma'am.

12 Q And did his lawyer indicated that he wanted some help?

13 A The only thing that Mr. Littlejohn had asked for was he
14 had no bond at that time, there weren't any request
15 regarding his charges it was just that he be allowed to
16 get a bond and I, I, went along with that.

17 Q And did you actually appear at a bond hearing and tell
18 the judge that the sheriff's department -- that he was
19 cooperative with the sheriff's department?

20 A Either I appeared or I relayed that message, I can't
21 recall.

22 Q But as far any promises to the pending charges?

23 A None whatsoever.

24 Q Any disposition?

25 A None whatsoever.

1 Q Any reduction in charge?

2 A None whatsoever.

3 Q How old was the victim in this case?

4 A She was in her 20's, early 20's.

5 Q And how old was the defendant?

6 A He was I believe 41 or 42 at the time of this incident,
7 he's I believe 43 now.

8 Q During the course of your investigation did you become
9 aware that she had a child?

10 A Yes.

11 Q Did you ever determine where the child was the night of
12 this --

13 A The child was with her family that night.

14 Q And there's been some question about publication in the
15 news and what was released to the -- through the press?

16 A Yes, ma'am.

17 Q You've had an opportunity -- well, you've
18 actually taken -- you took Brandon Johnson's statement,
19 is that correct.

20 A Yes.

21 Q And you have reviewed or were aware of what was
22 released to the press?

23 A Yes.

24 Q And you interviewed -- you call them jail house
25 informants before?

- 1 A It's pretty common, yes, ma'am.
- 2 Q And is it important to you as far as reviewing and
3 looking at the truthfulness to look at details where
4 they may have come from?
- 5 A Yes, ma'am. It's ease for someone to regurgitate
6 details they've seen in the media, for instance. So
7 you want to get details that nobody else would know to
8 substantiate the statement.
- 9 Q And the that time period they were together, that was
10 right after -- several days after his arrest?
- 11 A Yes.
- 12 Q And they've had no further contact?
- 13 A That's correct.
- 14 Q And at that point you hadn't produced -- your office
15 hadn't produced to our office or anyone else any of the
16 paperwork in this case?
- 17 A No, ma'am.
- 18 Q So the only thing that would have been out there would
19 have been any new releases, is that correct?
- 20 A Some preliminary news releases, yes.
- 21 Q And in looking at Mr. Brandon's statement and the news
22 releases, what sufficient to you?
- 23 A The only thing that -- which was in the news release
24 was that the victim died of strangulation in her
25 apartment basically is all it really says.

1 However, Mr. Johnson was able to provide details
2 such as, you know, how, how, the -- this victim and
3 Aurelio Ottey actually met, the matter of the phone
4 calls in an attempt to reach that night, things of that
5 nature that never was released.

6 He was able to go into specify detail able what
7 Ottey told him about that night and how he basically
8 had feelings for her and was upset. All of that sort
9 of corroborated the facts of the case as we knew them
10 at the time.

11 Q And those details would have come from whom?

12 A It come from Aurelio Vincent Ottey.

13 Q The phone records in this case, you were aware of those
14 phone records?

15 A Yes.

16 Q And again, was the victim's phone ever recovered?

17 A It wasn't.

18 Q Did you ever -- were y'all able to ever recover any
19 information able text messaging that may have been done
20 in this case?

21 A We were not.

22 Q The phone records and the cell towers specifically, how
23 can that aid you in the criminal investigation as far
24 as where the person with the phone is?

25 A More and more we're seeing it in these crimes, people

1 on their phones all the time. When the phones are
2 activated they can actually hit off the tower. And
3 we've learned and gotten better at it tracking these
4 phones, putting in proximity to a tower when powered up
5 and the phones are interacting with one another.

6 Before, before, these type incident occur often times
7 that information becomes extremely significant as it
8 did in case.

9 Q And in this case, the phone records indicate there are
10 three basic areas of significant?

11 A Yes.

12 Q Mr. Ottey's phone was first seen at the NCO Club that
13 evening?

14 A Yes.

15 Q And then what area does his phone travel to?

16 A There's actually four area of sufficient.

17 Q Okay, I'm sorry.

18 A The NCO Club, the area in and around Shunta Wilson's
19 apartment, the Broad River, Bush River Road area which
20 is where Mr. Ottey resided and then downtown Lexington
21 which is where Mr. Ottey worked.

22 Q The next morning, both the victim's and the defendant's
23 phone hit in the same area?

24 A Yes.

25 Q And where was that?

1 A Downtown Lexington.

2 Q And who was the only person in this case working there?

3 A Aurelio Vincent Ottey.

4 Q And who it was the only person in this case with ties
5 to the Broad River Road area?

6 A Aurelio Vincent Ottey.

7 Q And who was the only person -- who was the only person
8 tied to the NCO Club, the victim's apartment, Broad
9 River Road and Lexington, downtown Lexington?

10 A Aurelio Vincent Ottey.

11 Q And Edward Middleton, where does he live?

12 A He lives in Northeast Columbia out off Trenum
13 Extension.

14 Q There were no sufficient scratches on the defendant
15 when y'all photographed him on the 30th?

16 A That's correct.

17 Q Is that unusual in a case involving an assault?

18 A No. And as the jury heard from Dr. Nickle's testimony
19 she sustained some pretty, pretty, hard head wounds,
20 head type blows, which could have easily rendered her
21 incapable of defending herself in that regard --

22 MS. LIPSON: This calls for speculation,
23 objection.

24 THE COURT: All right. What was the question, he
25 was describing the wounds, and what's your objection?

1 MS. LIPSON: I'm objecting that this isn't
2 evidence, this isn't for Captain Smith to say, he's
3 speculating as to her wounds.

4 THE COURT: I'm missing your point I do believe.
5 Come on up..

6 (Whereupon, a bench conference
7 was held off the record, in the
8 presence of the jury, but out of
9 the hearing of the jury.)

10 THE COURT: Sustained. Just tell him to stay away
11 from that.

12 MS. CAMPBELL: Okay.

13 BY MS. CAMPBELL:

14 Q Let me rephrase that question, did the victim sustain
15 significant injuries?

16 A Yes.

17 Q In this case are you aware that the front door was
18 broken in?

19 A It was.

20 Q And that her purse was dumped?

21 A Yes.

22 Q Cell phone was missing.

23 A Yes.

24 Q You earlier characterized this crime I believe as
25 personal in nature?

1 A Yes, ma'am. Any time there's a physical altercation
2 like that, in other words, absence of a firearm or
3 something like that it's more personal.

4 Q In your experience as an investigator is it unusual for
5 someone to try to, to, stage a crime scene?

6 A Not at all.

7 Q Explain that for the jury.

8 A If you were involved in a situation and things got out
9 of control, whatever happened and you wound up doing
10 this terrible thing then killing someone in the
11 aftermath of it you may try to -- and we've seen some
12 of this before in a number of investigations you may
13 try to throw the suspension off of the fact that an
14 acquaintance may have committed this by making it
15 appear that it was a random attack, a burglary gone bad
16 or something of that nature. We're seen that in other
17 cases and that easily could explain that.

18 Q You collected DNA swabs from many men and women in this
19 case?

20 A Yes.

21 Q Were some of those people that come forward?

22 A Several of them had come forward basically before we
23 developed the suspect in this case which was based on
24 the acquaintance situation we felt like this was
25 somebody that she knew. We did swab everybody

1 basically that we interviewed.

2 Q Okay. And other than Mark Murray, did all those people
3 come forward and cooperate with you?

4 A Yes.

5 Q And Mr. Murray actually once you contacted him
6 cooperated?

7 A He was cooperative, yes.

8 Q You looked at many people including Mr. Middleton?

9 A We did.

10 Q And were you able to eliminate anyone but Mr. Ottey?

11 A That's correct.

12 Q The DNA evidence in this case, you're aware that there
13 was some blood swabs, I mean, blood droplets near her
14 head?

15 A Yes.

16 Q And the DNA in those was that significant?

17 A It was.

18 Q And how was that, sir?

19 A It was significant because Mr. Ottey's DNA could not be
20 eliminated from a mixture from the blood swabs by her
21 head, blood swabs obviously caused by the injuries that
22 were sustained at the time Ms. Wilson was murdered, so
23 that became extremely significant.

24 Q And in this case, y'all interviewed a lot of people?

25 A We did.

1 Q And who is the only person in this case that didn't
2 tell you the truth?

3 A Aurelio Vincent Ottey.

4 Q Thank you, sir.

5 THE COURT: Ms. Lipson.

6 MS. LIPSON: May it please the Court?

7 CROSS-EXAMINATION

8 BY MS. LIPSON:

9 Q Good afternoon, Captain Smith.

10 A Good afternoon, Lipson.

11 Q How you doing today?

12 A Find.

13 Q Good.

14 A Thank you.

15 Q All right. You are basically the head of the criminal
16 investigations division?

17 A No, I have two bosses.

18 Q Okay. But not the under mind anybody but you're above
19 investigator Martin, correct?

20 A I'm, yes, ma'am.

21 Q Okay. You're his supervisor, okay. Now, you were --

22 A For the purposes of this case, yes, ma'am.

23 Q Yes, for this case.

24 A Yes.

25 Q For purposes of this case, there were several

1 investigators that worked on this case, correct?

2 A Yes.

3 Q And that would include investigator Rob Martin,

4 correct?

5 A Yes.

6 Q Investigator William McRoberts?

7 A Yes. He was one of the initial responders.

8 Q Uh-huh. Investigator Tony Jordan.

9 A Yes.

10 Q Investigator Kevin Preston?

11 A Yes.

12 Q Investigator Scott McDonald?

13 A Yes.

14 Q Investigator Mariea Uturea?

15 A She possibly had some victim interaction, I don't

16 recall but I don't dispute you.

17 Q And Investigator Lancy Weeks?

18 A Yes, she did.

19 Q Actually Captain Lancy Weeks. And being supervisor you

20 follow up on everything that they do, correct?

21 A I attempt to.

22 Q You attempt to. And you go through all of their

23 reports?

24 A Or someone does, yes. I'm not saying that I personally

25 have gone through every report.

1 Q Okay. For the big ones though you typically do
2 through?

3 A I know the gist of them. I don't know that I
4 personally have gone through them with a fine tooth
5 comb but I know the gist of the way the investigation
6 is proceeding.

7 Q Uh-huh.

8 A And I can't testify that I've read every final report
9 but I know the gist of the reports.

10 Q Uh-huh.

11 A I know the course the case took that kind of thing.

12 Q So you don't know if leads were followed up on or not?

13 A I know the significant leads were followed up on.

14 Q You don't know what could be minor, what could be major
15 until things are followed up on, correct?

16 A Well, I learned early on in my career especially
17 working murders you follow the evidence trail. Uh-huh.

18 Q Uh-huh.

19 A And that's what we did in this case. We followed the
20 evidence trail and took -- went where it took us.

21 Q Okay. Now, getting into your investigation you meet
22 with Edward Middleton's supervisor, correct?

23 A Yes.

24 Q Okay. And at that time you were provided
25 Mr. Middleton's cell phone number, correct?

- 1 A Yes.
- 2 Q And what is that number?
- 3 A 319-0878.
- 4 Q Okay. And during your investigation you found that
- 5 Mr. Middleton had completed his route?
- 6 A Yes.
- 7 Q For work. And then you started to follow up on what he
- 8 did after coming back from work?
- 9 A Initial we did, yes.
- 10 Q Okay. And you originally went to a Hess station that
- 11 he may have gone to, correct?
- 12 A We did.
- 13 Q And through your investigation you found out he had not
- 14 been there?
- 15 A We weren't sure exactly which one he went to, we went
- 16 to one, I think we were going to go back to another one
- 17 that was nearby and the case took a different course.
- 18 Q So you didn't follow up on that?
- 19 A We didn't need to.
- 20 Q Okay. You never pulled Mr. Middleton's cell phone
- 21 records, did you?
- 22 A No, ma'am.
- 23 Q You never pulled his cell phone tower records, did you?
- 24 A No, ma'am.
- 25 Q You did not issue a search warrant for his vehicle,

- 1 correct?
- 2 A That was not necessary.
- 3 Q You did not issue a search warrant for his house,
- 4 correct?
- 5 A That's correct.
- 6 Q Now, Mr. Ottey was cooperative with you, correct?
- 7 A He was.
- 8 Q He come in and he voluntarily gave you a statement?
- 9 A He did.
- 10 Q Okay. Let's talk about when he gave that statement.
- 11 He was taken back to Richland County headquarters?
- 12 A He was.
- 13 Q And where was the statement actually taken in
- 14 headquarter?
- 15 A You mean what office?
- 16 Q Yes.
- 17 A In my office.
- 18 Q Your office is pretty small, correct?
- 19 A You've been there.
- 20 Q It's --
- 21 A 10 by 12, I guess.
- 22 Q And you were present in that office?
- 23 A I was.
- 24 Q And Investigator Martin was present?
- 25 A He was.

1 Q Investigator Preston was walking in and out?

2 A May have been.

3 Q Okay. Do you video your statements and --

4 A No, ma'am --

5 Q Interrogations? Okay. And you gave him that advise of

6 rights at 1545 hours, correct?

7 A Yes, ma'am.

8 Q Okay. And that makes that 3:45 P.M?

9 A Yes.

10 Q And what time was the statement taken?

11 A The statement was initiated at 6:20.

12 Q 1620 or 6:20?

13 A 1820 which is 6:20.

14 Q 1820, okay. So his rights were actually given to him

15 well before -- I'm sorry --

16 A Yes, ma'am, that was --

17 Q You were giving --

18 A That was a good bit of interview that took place before

19 the final product, there was a good bit of interview

20 that took place regarding this --

21 Q So --

22 A We just don't sit down and start typing, in other

23 words.

24 Q So you actually did not memorialize everything that Mr.

25 Ottey told that you that day?

- 1 A The final version is the gist of what he told us that
2 day, yes, ma'am.
- 3 Q But y'all actually spoke for several hours?
- 4 A We spoke a couple of hours, yes, ma'am. That's,
5 that's, common in an interview.
- 6 Q Uh-huh. Now, back to Brandon Johnson -- well,
7 actually, let me back up. News reports.
- 8 A Yes, ma'am.
- 9 Q You personally saw the news release that was sent out,
10 correct?
- 11 A I've seen a couple of them, yes, ma'am.
- 12 Q Was one e-mailed to you?
- 13 A I don't know about it being e-mailed to me, I think we
14 reviewed some that were online.
- 15 Q Okay.
- 16 A WIS and the state.
- 17 Q Okay. So those news released they were released to the
18 state newspaper, correct?
- 19 A We do a general release to all the news outlets.
- 20 Q So that encompass the state newspaper?
- 21 A Yes.
- 22 Q WIS?
- 23 A Yes.
- 24 Q WACH?
- 25 A Yes.

1 Q WLTX.

2 A Yes.

3 Q News -- I'm sorry, radio stations like Clear Channel?

4 A I think so, I'm not sure.

5 Q Okay. And now, when news stations broadcast stories
6 it's typical for them to not only air them on the TV
7 where someone's watching but people can go online and
8 see them, correct?

9 A That is typical now, yes, ma'am.

10 Q Okay. And the press release in this case said that
11 Ms. Wilson had been strangled, correct?

12 A Yes.

13 Q Now, going through Brandon Johnson's statement he gave
14 no actual murders -- details about the murder, correct?

15 A He gave details about the sequences of events that
16 occurred that night leading up to the murder to include
17 the fact that Aurelio Vincent Ottey said he did it. He
18 didn't specifically outline apparently to Brandon, you
19 know, something like I put my hands around her neck and
20 squeezed, nothing like that, no, ma'am.

21 Q All basically that Brandon Johnson told you -- there
22 were events that lead up to it?

23 A Yes.

24 Q Okay.

25 A And he described motive and him trying to contact her,

1 how he met her, what happened that night, the clubs
2 that they were both at respectively.

3 Q Right.

4 A And the motive that lead to his state of mind and he
5 just basically said he did it.

6 Q And I did it and that was it?

7 A That was ample, yes, ma'am.

8 Q That was Ottey's full confession?

9 A To Brandon Johnson, yes, ma'am.

10 Q Okay. Now, in regards to this case, you've finished up
11 all -- well, you did all your follow up regarding any
12 other person of interest in this case, it was finished
13 by July 31st, correct?

14 A I'm not sure I understand your question.

15 Q Okay.

16 A You mean the -- you mean, when we arrested Ottey?

17 Q You arrested Ottey on August 3rd. Looking at your
18 investigation and your investigative report after
19 July 31st, did you investigate anybody else for this
20 murder?

21 A By the second I believe is the turn around date is when
22 we had the DNA results back, we had the description of
23 Ottey and the video which was showed that he had lied
24 to us in his statement, we had the description of the
25 car, we had the telephone records all of that evidence

1 is -- and Ottey was our man at that point and the
2 answer would be no, that was after the second.

3 Q But as of July 31st, you did not do anything regarding
4 anybody else as a possible suspect?

5 A I can't answer that I don't, I don't, know who -- we,
6 we, got onto Ottey from that day we interviewed him. I
7 don't know what if anybody else the detectives were
8 looking at between that day and the 31st, I can't
9 answer that. I know that the second was a significant
10 date with regard to probable cause to charge Ottey.

11 Q Okay.

12 MS. LIPSON: Beg the Court's indulgence.

13 THE COURT: All right, yes, ma'am.

14 BY MS. LIPSON:

15 Q Now, when Mr. Ottey was arrested he was actually quite
16 cooperative, correct?

17 A Yeah, he complied with our commands. Yes, ma'am, he
18 was cooperative.

19 Q And when y'all got back to the station his main concern
20 was his daughter, correct?

21 A I can't comment on what his main concern, obviously the
22 man was being charged with murder, I would think that
23 would be pretty, you know, pretty high on the list. I
24 think he made some statements about daughter, yes,
25 ma'am.

1 Q And, when --

2 A We made provisions to have his daughter transferred to
3 a neighbor and we took care of that. I faxed Captain
4 Weeks for that expressed purpose.

5 Q Okay. And -- but through Captain Weeks and you he
6 voiced his concern for his daughter and got his
7 daughter placed in appropriate care, correct?

8 A Yes.

9 Q Because he had full custody and control of his daughter
10 at that time?

11 A Well, obviously and we had a law enforcement obligation
12 to that as well. But he was only the care giver here
13 in the Columbia area.

14 Q Right. And he actually gave you a hundred dollars
15 straight out of his pocket to give to her to get her
16 taken care of?

17 A I believe that's right, yes, ma'am.

18 Q Nothing further.

19 THE COURT: All right. Anything on redirect?

20 MS. CAMPBELL: Yes, sir.

21 REDIRECT EXAMINATION

22 BY MS. CAMPBELL:

23 Q And the person that you contacted was her mother who
24 lived in North Carolina?

25 A He actually wanted her -- her mother was some distance

- 1 away as I recall and he actually wanted a neighbor who
2 she had gone close with to watch her pending the
3 arrival of the mother.
- 4 Q Until the mother from North Carolina?
- 5 A Right.
- 6 Q And Charlotte, North Carolina?
- 7 A That could be correct.
- 8 Q And did Brandon Johnson have information about where
9 the mother lived?
- 10 A Yes, I believe Brandon indicated in his statement that
11 he had the -- baby's mother and father.
- 12 Q She asked you about how after July the 31st or I
13 believe you said August second y'all didn't continue to
14 look at anyone else or collect any evidence on anyone
15 else, in fact, didn't you collect multiple DNA swabs in
16 order to make sure you had the right person after
17 August the second?
- 18 A Yes. That's why my answer was I was unsure what the
19 other detectives were doing. I -- investigator Martin
20 actually got Edward Middleton's on August the 13th.
21 Investigator Preston got Mark Murray on August the 6th,
22 Investigator Preston got Calvin Hall on August the 3rd
23 and Investigator Martin got Shameko Putman on August
24 the 2nd.
- 25 Q And she also asked you about the continuity of the

1 search warrants for Edward Middleton, were you able to
2 eliminate Edward Middleton as the person who possibly
3 did this crime based on the time frame?

4 A Yes.

5 Q She asked you if Mr. Ottey was cooperative?

6 A Yes.

7 Q And she then asked if you videotaped his statement?

8 A She did ask me.

9 Q And y'all didn't do that in this case?

10 A No, ma'am.

11 Q However, he had an opportunity to review it?

12 A Yes.

13 Q And he memorized it by, that's his signature?

14 A Yes.

15 Q He was cooperative but did he tell you the truth?

16 A No, ma'am.

17 Q Thank you.

18 MS. LIPSON: Nothing further.

19 THE COURT: All right. You may step down, Captain
20 Smith.

21 MR. SMITH: Thank you.

22 THE COURT: Anything further from the state?

23 MS. CAMPBELL: Your Honor, may we approach?

24 (Whereupon, a bench conference
25 was held off the record, in the

1 Now, how our system works the state has the burden
2 of proof. We will first hear arguments -- an argument from
3 Ms. Campbell on behalf of the state followed by Ms. Lipson
4 on behalf of the defendant, Mr. Ottey. And after they then
5 I will tell you the law that applies. So I invite your keen
6 and close attention to the closing arguments on behalf of
7 the State of South Carolina as well as the defendant Mr.
8 Ottey..

9 Ms. Campbell.

10 MS. CAMPBELL: May it please the Court.

11 THE COURT: Yes, ma'am.

12 MS. CAMPBELL: Good morning. The first thing I
13 want to do on behalf of the State of South Carolina, on
14 behalf of the family of Shunta Wilson is to thank you for
15 your service in this case. I know when you showed up Monday
16 you may not have anticipated that you would have had to sit
17 on a case involving the nature of these allegations as you
18 have probably come to understand over the last several days.
19 However, it is very important to the State of South
20 Carolina, to the family of Ms. Wilson and to the defendant
21 in this case that you be here and participate in our system
22 because without you we can't function. On behalf of the
23 state the other lawyers in our office and the family we
24 thank you.

25 Now, you have heard all of the evidence that you

1 can consider in this case. You must base your testimony on
2 the evidence, the physical evidence that's been entered that
3 you will have back in the jury room and the sworn testimony
4 that you have heard over the last several days that's what
5 you must base your verdict upon.

6 Now, I'm going to talk a little bit about the law
7 and then I'm going to talk about the facts. If I misquote
8 the law in anyway and say anything different than what Judge
9 Manning tells you after you hear from both of us, you take
10 the law as he gives you, it's not intentional. And in that
11 same fashion, ladies and gentleman, if either side
12 mischaracterizes the facts you remember because your job
13 each of you individually and ultimately collectively when
14 you go back there is to determine what happened on the night
15 of July the 26th of 2007.

16 The roles in this court room are very well defined
17 the production is to bring fourth all admissible, relevant
18 evidence, the defense to defend the client, the judge is to
19 make rulings on admissibility of certain evidence and
20 ultimately to advise you of what the law is. But your role,
21 ladies and gentlemen, is by far the most important because
22 you must determine who murdered Shunta Wilson. And I
23 submit, no one is going to get up here before you and say
24 that this wasn't a murder.

25 Base the findings on the evidence, it's not on

1 questions by attorneys, it's not a fishing expedition
2 speculation, induewindo, conjecture, you must base your
3 verdict on the facts. If someone answers a question and the
4 answer is no that is the evidence before you. The judge
5 will explain that to you and that's very important.

6 Now, I also want to take this opportunity to
7 apologize if over the last several days I have done anything
8 to offend anyone, Mr. Newman, Ms. Ashton in presenting the
9 evidence and a lot of this evidence was just -- I don't know
10 any other way to describe it but ugly. We do not mean to
11 offend anyone, however, as you have come to learn over the
12 last several days it important for you to understand the
13 nature of the injures in this case, the violence that Shunta
14 Wilson experienced just prior and at the time of her death,
15 the humiliation as she gasped as she died. But that all
16 goes to an element of this offense murder, malice and that
17 is why that evidence is before you.

18 Now, you have also heard over the last several
19 days about some search warrants and different things, the
20 state has called all the relevant witnesses in this case.
21 We can't call witness after witness even though there were
22 many more police officers at the scene just to say the same
23 thing over and over again, that's cumulative evidence. At
24 the same time you've also heard from a number of witnesses
25 that DNA swabs were taken from. Because the police and in

1 this job, ladies and gentlemen, they not only did their job
2 they made sure they did it right. They got swabs from
3 anyone who saw Shunta that night at the club, they got swabs
4 from Mark Murray who was with the defendant, they got swabs
5 from people who just knew her. They got swabs from Edward
6 Middleton some of those people didn't testify because they
7 didn't have any relevant evidence as to what happened that
8 night. It's a narrow period of time from the evening of
9 July 25th until the week after. So that's why those swabs
10 were taken to make sure that they weren't involved as the
11 police should do. But that is why you may not have heard
12 from every police officers that participated in this
13 investigation, from every single person who a swab was taken
14 from.

15 Now, the burden of proof and the State of South
16 Carolina in the United States of America is on the state to
17 prove this defendant guilty beyond a reasonable doubt. Is
18 the highest level of proof we have in this nation and it is
19 the level that the state should be held to. And, ladies and
20 gentlemen, I submit perhaps in this case more that any other
21 that is a burden the state welcomes as it should. In this
22 case, in this courtroom, I submit that the evidence is not
23 just beyond a reasonable doubt is beyond almost any doubt.

24 But let me talk to you about what our burden is.
25 The courts in South Carolina have come up with some

1 definitions and the judge will tell you and, perhaps, the
2 easiest definition to think is what is a reasonable doubt?
3 A reasonable doubt is the type of doubt that causes someone
4 to hesitate to act, that is the simplest definition. But
5 our courts had gone a little further in defining what is
6 reasonable doubt to aid a jury such as yourself. What is
7 reasonable doubt? The judge will tell you proof beyond a
8 reasonable doubt is proof that leaves you firmly convinced
9 of the defendant's guilt, firmly convinced of the
10 defendant's guilt. There are very few things in this world
11 that we know with absolute certainty and in criminal cases
12 the law does not require proof that overcomes every possible
13 doubt. If based on your consideration of the evidence you
14 were firmly convinced that the defendant is guilty of the
15 crime charged you must find him guilty. If on the other
16 hand you think there's a real possibility, a real
17 possibility that he is not guilty then you must give him the
18 benefit of doubt and find him not guilty.

19 The law recognizes that crimes especially violent
20 crimes, especially personal crimes may not have -- happen in
21 the middle of a parking lot at Lowe's but they happen in
22 houses behind doors in secrete to some extent. So the law
23 recognizes that there are very few things in this world that
24 we know with absolute certainty and that's not the -- we
25 just must convince you each of you individually and then

1 back there collectively that this defendant committed the
2 crime with which he is charged and with which he has been
3 indicted by the grand jury here in Richland County. That's
4 the definition, listen to the judge, he'll tell you what it
5 is.

6 Now, one indictment that you have to consider is
7 the crime of murder. And in our code of laws the definition
8 of murder is -- actually simple, murder may be defined as
9 the willful and feloniously killing of a human being by
10 human being with malice aforethought, that malice being
11 either expressed or implied.

12 And I want to talk a little bit with you about
13 what the requirements and what those terms mean, very simply
14 the killing of another human being with malice aforethought
15 either expressed or implied.

16 Now, in every case and here in other states and
17 they have different levels of murder, in our state that's
18 not true.

19 In every case we must show criminal intent. What
20 is that? Criminal intent, the state is not required to
21 prove motive. Although the presence or absence of motive
22 may be considered in determining whether there was any
23 criminal intent to a murder. And what does that mean?
24 Listen carefully to what the judge's charge. To prove
25 murder we don't that Vincent Ottey plained they for weeks

1 ahead of time, plotted it out and executed a scheme. We
2 don't have to prove any of that, we don't even have to prove
3 a motive that he had for doing this, although I submit in
4 this case, the motive is obvious. It's the oldest one in
5 the book, jealousy. If he wasn't going to have her nobody
6 was. And I submit we have proved motive but we don't have
7 to. Listen to the judge, he won't tell you that we have to
8 prove premeditation, he won't tell you we have to prove
9 motive. He'll tell you motive may be considered if it's
10 there but it's just another factor.

11 What does the term malice mean? The killing --
12 the unlawful killing of a person with malice. Malice
13 indicates a formed purpose and design to do a wrongful act
14 under circumstances that exclude any right to do it. What
15 does that mean? Malice is a term of art that apart
16 wickedness and excludes a just cause or excuse, there's no
17 self defense in this case, there's no just cause or excuse.
18 It is something that springs from wickedness, from
19 depravity, from a depraved spirit, from a spirit bent on
20 mischief and for not having a regard for social obligation,
21 the obligation which rests upon mankind. What does that
22 language mean? Malice -- the word malicious. Was this was
23 a malicious killing? I submit, ladies and gentlemen, it
24 doesn't get more much malicious than this. It wasn't that
25 someone during a robbery had a gun go off accidentally and

1 that would be murder. It wasn't that somebody was shooting
2 trying to protect their home and accidentally hit another
3 too person this murder was up close and personal. It
4 doesn't get anymore malicious than this.

5 Now, you heard that there are two ways malice may
6 be expressed. It can be expressed or inferred and the judge
7 will charge you that malice is said to be expressed where
8 there's a manifested a violent delivery intentionally
9 unlawfully to take away the life of another human being.
10 And I submit, ladies and gentlemen, putting your hands
11 around someone's neck and choking the life out of them is a
12 deliberate intention unlawfully to take away the life of
13 another human being. It didn't take five seconds, it didn't
14 take ten seconds, this happened over a period of time with
15 such force as the pathologist testified that the back of her
16 larynx was injured, crushing force.

17 Malice is implied when one intentionally
18 deliberately does unlawful acts which he or she knows to be
19 wrong and in violation to his duty to another, where no
20 excuse or legal provocation appears and when in
21 circumstances attending the killing show an abandon heart, a
22 malignant heart fatally bent on mischief. And, ladies and
23 gentlemen, if this case isn't a malignant heart fatally bent
24 on mischief then what is?

25 The judge will also charge you that expressed

1 malice is where a person -- that can be expressed malice is
2 a person by word of mouth expressed hatred or ill will for
3 another where the state proves beyond a reasonable doubt the
4 defendant was making preparation before the event, malice
5 may arise even though there is no express or direct
6 evidence of the intent to kill. In this case, ladies and
7 gentlemen, manner of death alone is expressed malice of his
8 intent.

9 Malice may be implied or inferred, if it's proved
10 beyond a reasonable a reasonable doubt there's a willful
11 deliverance an intentional doing of an unlawful act, without
12 just case or excuse. And no one is going to get up here I
13 submit and argue that chocking someone to death isn't a
14 willful intent and it's unlawful.

15 Further the judge will even instruct you that if
16 such conduct results directly in the death of another be it
17 intentional or not and if such conduct is so culpable or
18 inexcusable, so aggravated and grossly reckless as to show
19 the act of intentional disregard for the consequences of
20 human life. Thus to note, a malignant spirit, the void of
21 social duty and fatally bent on mischief an indication of
22 malice may arise. That alone I submit in this case there's
23 no dispute it was intentional, the nature of her wounds
24 alone.

25 Now, malice aforethought. What is aforethought

1 mean? The judge will instruct you malice may -- must have
2 been conceived in the mind of the defendant prior to her
3 taking her final breath to the fact producing the fatal
4 result. However, the law does not require that malice must
5 exist for any appreciable length of time before the
6 commission of the act. If malice is present in the mind of
7 the one doing the killing any length of time before the act
8 then its presence will be sufficient to render the killing
9 of murder. Sometime it's said that if he has malice in his
10 heart at the time of the fatal blow in this case the seconds
11 or minutes it took to kill her then it is murder.

12 Now, the judge will also tell you in every case
13 and in this case there are two types of evidence you can
14 consider, there is what we call direct evidence and
15 circumstantial evidence. What is direct evidence? The
16 judge will instruct you typically is eyewitness evidence,
17 evidence that was perceived by a person through their senses
18 taste, smell, touch hear, sight that's direct evidence,
19 typically eyewitness evidence.

20 What is the direct evidence in this case? You had
21 from several witnesses that night that were in or around
22 that apartment complex over on Fire Lane Drive. Mr. Deleon,
23 Darrly Wilson, the Doziers, Ms. Johnson what they saw and
24 heard that night, the orange and white shirt, the black male
25 hanging out in front of the apartment complex, the banging,

1 that's all direct evidence.

2 But you can also and in most cases there is
3 circumstantial evidence more and more now. What is an
4 example of circumstantial evidence, DNA and in courts more
5 and more it's becoming a valuable tool, phone records, a
6 valuable tool.

7 The judge will charge you there are two types of
8 evidence which are generally presented during a trial direct
9 evidence and circumstantial evidence. Direct evidence is
10 the testimony of a person who asserts or claims they had
11 actual knowledge of a fact such as an eyewitness.

12 Circumstantial evidence is proof of a chain of
13 facts and circumstances indicating the existence of a fact.
14 In this case and the rape kit, the DNA who does that? It if
15 identifies the person who had sex with her. In this case
16 within a time period.

17 The law makes absolutely no distinction between
18 the weight or value given to either direct or circumstantial
19 evidence, nor is a gaiter degree of certainty required to
20 circumstantial evidence than of direct evidence. You should
21 weigh all the evidence in the case. After weighing all of
22 the evidence if you are not convinced of the guilt of the
23 defendant beyond a reasonable doubt you must find him not
24 guilty, if on the other hand, you're convinced of the
25 defendant's guilt beyond a reasonable doubt then you should

1 find him find or must find him guilty.

2 Listen to the judge's charge. In this case it is
3 very important because you don't just have a single or two
4 or three eyewitnesses that saw things like that. But what
5 is important is what they see is direct evidence or hear is
6 totally and completely corroborated by the circumstantial
7 evidence, of the DNA, the phone records all of that
8 information. The judge will tell you you take all the
9 evidence in the case and consider it when determining what
10 you're verdict should be.

11 Now, you have heard from different witnesses and
12 you have heard they're certain people we've gone through
13 their background and qualified them as experts in certain
14 areas such as DNA forensic pathology, crime scene
15 investigation many, many, experts in this case. And the
16 judge will tell you normally a person couldn't come before
17 you and rend an opinion in a case, such as me, I'm not an
18 expert I couldn't get on the stand and rend an opinion about
19 anything. But when a person has certain training that is
20 sufficient then they can be qualified as an expert and then
21 they are able to give you an opinion. Important in this
22 case is the DNA evidence. Also important in this case is
23 the telephone records, that's all expert testimony that you
24 can consider. The judge will tell you judge the credibility
25 of an expert in the same way you do anyone else. But you've

1 heard all of the expert testimony that you can consider.

2 One final thing about the law that I'm going to
3 talk to you a little bit about is credibility because in
4 this case -- it boils down to who you believe. And
5 credibility and believability is another word for it. What
6 are the tools that you can use as a jury in determining the
7 believability of anyone? The judge will tell you, you can
8 believe one against many, many against one, you can believe
9 part of a witness's testimony, all of it none of it, it is
10 totally up to you.

11 However, when judging credibility these are
12 certain factors as well as, ladies and gentleman, I submit
13 your common sense but you can take into consideration the
14 demeanor or manner of testimony, were they forthright,
15 hesitant, whether the witness had a reason to be bias or
16 prejudice, did they have a dog in the fight so to say? Did
17 they have a grudge against Mr. Ottey? Did they ever know
18 who Mr. Ottey was? Whether a witness's testimony was
19 contradicted on the one hand or supported and corroborated
20 on the other hand.

21 Now, in this case there will be a couple of
22 witnesses that come before you Mr. Johnson had pending
23 charges and it's very important that you consider that.
24 What was he promised, what happens to he charges? He was
25 very upfront, he hopes it will help him, that's when you

1 look at the details of his knowledge, what he was able to
2 know. And in their opening argue they said well he just got
3 it all of the news but, ladies and gentleman, the details he
4 had weren't in the news that makes him creditable. Look at
5 those factors bias, prejudice in determining credibility.

6 Now, in every case as we prepare for trial we try
7 to anticipate what the defense will be, is it an
8 identification issue, we got the wrong guy? Is it a drug
9 deal gone bad, really not a murder, that type of thing. And
10 as I listened to Mr. Schnee in his opening statement on
11 Tuesday I believe it was, it became what I thought clear
12 what the defense was. Because first he said my client is
13 innocent, he did not kill her. Yes, he had sex with her
14 that night and again you remember this. But remember the
15 opening argument. And at that point we're going oh, okay,
16 the DNA evidence, he had sex with her that night but the
17 real killer was someone who left DNA on the neck swab
18 because it couldn't be his client because at that point he
19 wanted to you believe the DNA. Then he said well, I mean,
20 in this case it's just circumstantial evidence, they're
21 aren't any eyewitnesses so therefore you can't convict him
22 just based on that. And then he said well, the jail house
23 confession I know you're going to hear one but it's not
24 really a confession just don't believe it because it's not
25 really a confession, just don't believe it. And then he

1 said and yeah he did give a statement to the police and Mr.
2 Ottey lied to them he admitted with the statement and then
3 he lied in the statement over and over but who knows how Mr.
4 Ottey would react. People react in different ways. He
5 never mentioned the cell phone records and basically he said
6 that the one swab, the DNA you're suppose to believe was the
7 key to the case. But over the last four days as I listened
8 to the cross-examination it changed. It was almost as if
9 they couldn't resit because it's the most classic defense
10 known in a murder involving a man and a woman who were
11 involved to whatever extent that there can be. Trash the
12 victim, bring up every ugly then in her life, divert the
13 jury's attention from the facts, from his actions and make
14 them hate her. Just attack the phone records and the
15 interpretation which show clearly where the defendant and
16 the victim's phone traveled side by side that next morning,
17 attack the DNA which in your opening you admitted helped you
18 but, perhaps, were wrong. And even talk about how they
19 didn't auto tape the statement that they admitted he lied
20 in, attack the victim, attack the experts, attack the
21 police. This case is the same old defense, it's no
22 different, it's an attempt to confuse things to divert the
23 overwhelming evidence that point to only one person and
24 bring up other names, anybody. Try to make the DNA say what
25 it doesn't say, try to make the phone records not point to

1 him. You know there's was an old joke about a lawyer and a
2 preacher were walking down the street this of law school.
3 And as they're walking down the street they're on the
4 sidewalk and it rained the night before and there was a big
5 puddle right next to it and some mud that you can see
6 clearly to the bottom of the puddle. And when you looked
7 down the preacher looked down and he told the lawyer he
8 said look, There's a silver dollar that you could see
9 clearly. And the lawyer picked up a stick and he stirred up
10 the water and the silt and the mud clouded it over, you
11 couldn't see it. And he looked at the preacher and he said
12 what silver dollar?

13 Ladies and gentlemen, I want to take this
14 opportunity to talk about the facts, the cold hard facts
15 that point only to one conclusion in this case, to the guilt
16 of a man who was enraged by the fact that his 24 year old
17 girlfriend was cheating on him. And if he wasn't going to
18 have her then no one was. It is the oldest motive in the
19 book.

20 Who did you hear from as far as witnesses? You
21 heard from the first officers on the scene, what did they
22 tell you? Columbia Fire Department, they came in. What's
23 significant? They did their job, they checked for a pulse,
24 guess where you check for a pulse? The DNA swab on her neck
25 could include Mr. Ottey if there is more than one

1 contributor. How many people checked her pulse?

2 You heard from John Barron, is it more likely to
3 leave skin cells or fluids and fluid is blood in this case.

4 The second EMS person came in, what did she do?
5 She checked for a pulse, she tried to move her head. Her
6 neck was so stiff it wouldn't move. She was in rigger which
7 is significant later when we talk about the pathologist and
8 the time period it takes for that to happen.

9 You heard from Officer Duke and what Corporal Duke
10 -- it should be Duke, sorry. And what's significant about
11 what he tells you? He gets there and by the way, this
12 person they keep pointing the finger at, Mr. Middleton, who
13 called the police? If he's trying to cover up his crime why
14 not leave her there the longer she stays there the less
15 possible there's any evidence, to be blunt, the more her
16 body was simply erase any evidence. If he's the one that
17 killed her and I submit he couldn't because of the timeline
18 then why is he there at the scene cooperating with the
19 police? Corporal Duke told you was distraught. The fire
20 fighters told he was getting them in, he wanted to help and,
21 ladies and gentlemen, I submit I beg you judge his
22 credibility, you saw him. And he's the one that's suppose
23 to kill her? Not only does it not make sense in this case
24 it's simply not possible. You saw all the crime scene
25 investigators come in, they did their job, they collected

1 evidence, they processed it, their photographs before you,
2 they're hundreds more that aren't before you, every relevant
3 piece of evidence in this case they collected it, they did
4 their job. They swabbed blood on the carpet which was
5 significant later, all these people Mr -- Investigator
6 Richards went to the autopsy, fingernail scrapings, they all
7 did their job, noted the injuries on her and I'll get back to
8 that. Collected all the fingerprints they could and they're
9 going to tell you you can't convict because his fingerprint
10 wasn't in there, by his own admission he'd been there Tuesday
11 night. I submit if we found his fingerprint that was usable
12 he'd say well, what does that mean, he'd been there Tuesday
13 night?

14 They did their job, this is the real world, this
15 isn't a TV program. You heard about all the fingerprints
16 and look at the chart hundreds weren't -- well, not
17 hundreds, dozens weren't useable, that's the reality and of
18 the unknown prints I believe one was on her bedroom door and
19 three were in the backseat passenger side of a car. Why did
20 we bring this evidence? Because we bring forth all evidence
21 for you to consider. We don't make it up, we present what's
22 there.

23 That's who you've heard from, they collected the
24 evidence and, ladies and gentlemen, as you recall on the
25 27th they requested the DNA to be expedited.

1 Now, you also heard from a number of what we call
2 lay witnesses, from Mr. Middleton, again judge his
3 credibility. What does he have to gain or loose? He got up
4 here and he testified he called the police, he corroborated
5 with the police, he volunteered his DNA.

6 David McKenzie, somebody she was with that night
7 the person that last saw her driving her car. He
8 volunteered his DNA too. He told you the time period and
9 what's important about that is it's around three A.M., you
10 remember the testimony. I'm not going to repeat it all and
11 I don't want to say any of it wrong. You remember what you
12 heard from these witnesses.

13 Michael Deleon and Darrly Wilson and why are they
14 important in this case? They don't know Vincent Ottey, they
15 don't know Shunta Wilson other than Mr. Deleon had seen her
16 before in the parking lot. They are what we call unbiased,
17 untainted have no dog in this fight and who do they see,
18 Mr. Deleon paid more attention than Mr. Wilson but both of
19 them see a man in front of the apartment and it's weird,
20 they both notice it, it's three something in the morning.
21 They gone to McDonald's around three A.M., you remember the
22 time. And they him get in a the car drive around and come
23 back in, I submit, he's trying to figure out what to do at
24 that point.

25 What's he wearing? Darrly remembered had thought

1 the shirt had white in it. He was right. Michael
2 remembered it was orange and white shirt which becomes
3 sufficient. These people don't have a grudge, they don't
4 know this man. What makes them credible, they don't get up
5 here and try to say yeah it's him. He's across the parking
6 lot in the dark. They tell you what they did see, they
7 described a car of the two cars, credibility. The orange
8 and white shirt and the white car which ultimately I think
9 it was described as having a rounded trunk. And at that
10 point the police have never heard his name. They don't have
11 any videotapes where they're trying to frame him with an
12 orange and white shirt. That statement is taken on the
13 evening of July the 26, credibility.

14 Then you heard from Robbie Johnson about how light
15 -- went outside sometime after -- she didn't know the exact
16 time she said two or three hours, I don't want to misquote.
17 She goes out and sees Ms. Wilson's car was just running,
18 doesn't see anyone else. Who does that corroborate? These
19 two (indicating).

20 And who about the Doizers, Miguel Dozier. They
21 live in an apartment downstairs. Heather Doizer, she wakes
22 him up, remember because she hears this banging noise that
23 upsets her, it wakes her up from a sleep. It's up above and
24 behind, just where it happens that Ms. Wilson's apartment
25 is. There's no other disturbance that night except for that

1 one that I think they said lasted about five or ten minutes
2 in Ms. Wilson -- in the direction of Ms. Wilson's apartment.
3 And that's what makes them creditable, they aren't trying to
4 say it was Ms. Wilson's apartment. They tell you what they
5 know. He hears an actual scream and the banging and it last
6 five to ten minutes. She tells you what she hears, what
7 direction it was coming from. And what's important about
8 that because when Ms. Doizer, Heather Doizer looks at her
9 clock, what time does she say it is? She said it was three
10 something, she's not sure and that's credible. She
11 remembers looking at her clock and it was three something,
12 after three in the morning. Does that corroborate
13 Mr. Deleon, Mr. Wilson, Ms. Johnson? Does all of that
14 corroborate David McKenzie?

15 You also heard from other lay witnesses
16 specifically a friend of Mr. Ottey and why is he
17 significant? Again time periods. As he testified and it's
18 corroborated by the telephone records he and the defendant
19 meet up on Broad River Road which is near where the
20 defendant lives at the Book Pines Apartment. They hang out
21 there for a while, they talk for a while. At some point he
22 says and I'm not sure and I don't remember if he says while
23 he's there or later on, the defendant gets out of the car
24 and is making a call or taking a call and then he gets back
25 in and he shows him Shunta's number. They then go to the

1 NCO Club and low and behold what records actually indicate
2 he's at the NCO Club when the video is pulled from that
3 night? It shows both Mr. Murray and the defendant and what
4 significant about that, ladies and gentlemen, and you'll
5 have the video, I'm not going to show you again. But on
6 that video it's very clear what Vincent Ottey is wearing.
7 Mark Murray even identified him even though Kevin Preston
8 has already recognized him. The orange and white shirt,
9 that's what he was wearing when he was with Mr. Murray that
10 night. As Mr. Murray testified until around three in the
11 morning sometime after two when the NCO Club -- remember
12 because he drove him back one -- which ever one had the car
13 to the Waffle House so that the other one could get in the
14 car and drive home.

15 So we know from approximately 10:30 until
16 approximately three in the morning where this man was who
17 happened to be wearing an orange a white shirt, happened to
18 be driving a white car with a rounded trunk just like the
19 information the police received.

20 Who you hear from, Mr. Wilson. Mr. Wilson was
21 very limited in his testimony. His daughter had a red cell
22 phone that's never been recovered. What the phone number
23 was which is 479-4025 and that he had brought it for her, it
24 was under his name on his line.

25 You heard from Mr. Postema, and what was the

1 purpose of putting him up? Because the police did their job
2 because they investigated there's been inferences that they
3 didn't do their job, they quite investigating. The first
4 person they looked at was Edward Middleton. The first
5 person they eliminated was Edward Middleton not because of
6 what he necessarily said but because of what they could
7 proved. Because very slimly, ladies and gentlemen, he
8 couldn't do his route that night as you've heard from
9 Mr. Postema and be back here before 4:15 to 4:30 in the
10 morning not in Richland but in Lexington County at the
11 Hackney facility over near the airport and that's at 4:15,
12 4:30.

13 The defense may get up here and try to argue that
14 the banging and everything doesn't mean anything. Clearly
15 that night someone was banging on her door breaking it in.
16 You think if she just was alive she would react, wouldn't
17 call the police? The only disturbance that night was
18 between about 3:30 and four in which someone and it was some
19 banging smashed in a door and caused someone to scream.
20 Does it make any sense?

21 You also heard about the cell phone records and I
22 don't want to belabor that, you hear from the AT&T guy, the
23 Sprint guy and before Lieutenant McDonald got up there and
24 talked to you about anything we put in that evidence, they
25 clearly, both of them put every phone tower in relation to

1 the areas where we know the defendant went that night.
2 Every phone call totally and completely corroborates the
3 defendant's movement. Ms. Wilson's movement that night.
4 You heard from Lieutenant Scott McDonald, they had a problem
5 with him because he did a circle that was a mile and a half
6 that was representative to you. We already put the raw data
7 in, this was so you could understand the relationship as to
8 where the phones initially were a part hitting on different
9 things and then in the next morning were both in Lexington
10 hitting on the cell tower that happened to be the one that
11 was hit if you're working at the Lexington Baptist Church.

12 Very significant and what do the phone results
13 tell you? And this is just some of it, they track the
14 phones, Mr. Ottey's phone tracks from Broad River area to
15 the NCO to Fire Lane back to the broad river area to
16 Lexington Baptist Church over that 12 hour period -- not
17 quite 12.

18 What do you see about Shunta's phone? She's in
19 the two notch area which is Shakespeare which is where the
20 club was to the Broad River area the next morning, to the
21 Lexington Baptist Church. Her last phone call where her
22 phone registers on any cell tower and you've got the records
23 was at 9:39 A.M., it hits a cell tower in Lexington. Does
24 it goes dead, is it turned off, whatever.

25 Calls prior to there 12 on 7/25 were multiple

1 calls between Middleton and Wilson and this is his number
2 319-0871. Mr. Middleton talked to her, there's no dispute
3 about that. He had phone calls earlier in the night but
4 then the time period around and when she's killed you have
5 one that day at two P.M. between Wilson and Ottey and then
6 that night from 11:41 P.M. to 2:46 A.M. there are six calls
7 from Ottey to Shunta's phone. The longest one is 30 seconds
8 at least five of those went directly to voice mail. And was
9 the other one was she on the phone, did she answer and hang
10 up the 30 second one? You've got the records, you look at
11 them.

12 Calls after the murder. There are two call on
13 7/26 from Mr. Ottey's cell to Ms. Wilson's cell. And I look
14 at that those and I'm like why would he call, he's got her
15 phone. Well, it was dead. He's still trying to erase voice
16 mail. You heard that you can actually get it from another
17 phone or is he just trying to cover his tracks the best he
18 can. He's already staged the scene so does he want to think
19 oh well, maybe, I should call her and act like, you know, I
20 think she's still alive.

21 Why does he take her phone? The multiple calls
22 and that one call where he got through in 30 seconds, did he
23 threaten her? Did he tell her he was going to kill her if
24 she didn't answer? Why was it important because whoever
25 killed her it was important to them to get that cell phone,

1 they took it and they used it or tried to access the voice
2 mail, look at the records, they're trying to access voice
3 mail on her phone. Does he think it's something that they
4 can't get through records? We can get the cell phone towers
5 we can get the other stuff, we can't get the text messages,
6 we can't get that, does he know that? Does he know that you
7 can track someone through cell towers? He's not thinking
8 that through. He's trying to cover his tracks or he's
9 trying to erase messages. Multiple calls from Middleton to
10 Shunta the next day goes directly to voice mail, never hits.
11 What's he trying to do is he trying to get the person that
12 took the phone to pick up? Is he desperate to find out who
13 killed Shunta?

14 They're going to say, you know, why would
15 Mr. Middleton call? Did he want to hear her voice? Did he
16 want the person possibly to answer to help the police?

17 Then the defense brought up something about
18 they're hours between the calls. Ladies and gentlemen, the
19 only time these cell phone records record is when you use
20 the phone, when you're sleeping they're no calls when you
21 aren't using the phone there are no records. The timeline
22 of the phones is significant for us, they may try to argue
23 that because there's two or three hours between those calls
24 you can't consider them? All we know is at 2:46 Ottey's
25 calling Ms. Wilson and the next morning the only place those

1 two phones hit off of happen to be the same places that he
2 is, not that Mr. Middleton not that anyone else.

3 The only person in this case with ties to the NCO
4 Club to Fire Lane Road, to Broad River Road and to Lexington
5 Baptist Church is Vincent Ottey. And this just isn't from
6 his phone, ladies and gentlemen, it's hers too. And we know
7 whatever killed her that night dumped her pocketbook which
8 happens to have DNA on the outside of it that's consistent
9 with him and took the phone.

10 Edward Middleton, he's eliminated by the DNA, he's
11 eliminated by the timeline and he's eliminated by his work
12 schedule. He's the one that called the police, he's the one
13 that's distraught and he's the one that gives a statement
14 and comes forth. The killer?

15 And you also heard from other witnesses about the
16 DNA. And what did the DNA show? The one swab they didn't
17 say a word about, the oral swab. And what's significant
18 about that? The oral swab is the one that is actually the
19 most fragile piece of evidence in this case because the oral
20 swab in a live person and this is assuming they don't drink
21 anything or eat anything can only keep sperm which is the
22 DNA and I don't mean to be crude in someone's month for six
23 hours or less. I believe investigator Barron said one point
24 two hours or -- you remember, common sense. And it's not
25 pleasant to talk about it, I'm sorry. Common sense though,

1 it is the most fragile piece of evidence in this case. And
2 who and who alone in this entire world does it belong to?
3 Vincent Ottey. Who also just happens to be consistent with
4 the sperm or the semen from the vaginal swab with the sperm
5 and the semen in the anal swab. He made sure --

6 What else is significant, you heard testimony,
7 you've got pictures droplets of blood, there was blood
8 coming out of her month, again not to be crude, at that
9 point there are droplets that fall right next to her head.
10 Why is that significant? Because they didn't happen the
11 blood after she had just sex with someone. That means she's
12 dead. And who's DNA is consistent with the mixture found in
13 those drops of blood that goosed the last seconds of life
14 from her body? Who cannot be eliminated? Vincent Ottey.

15 Fingernail scrapings, one of them had only her
16 DNA, the other one and I you don't if it's right or left
17 it's on the chart, Vincent Ottey cannot be eliminated as the
18 male contributor.

19 The outside of the pocketbook you'll have the
20 chart, Vincent Ottey.

21 The only place in this entire apartment where they
22 ever find Edward Middleton's DNA is on the cigar that's on
23 the floor in the kitchen. I submit that may be significant.
24 Did he see the cigar, did that enrage him, did that send him
25 over the edge? It's on the floor in the kitchen and it

1 happens to be Edward Middleton's. Which he's the one that
2 told you he smoked cigars.

3 The carpet sample, the semen unidentified
4 Mr. Barron told you, it could have been there from that the
5 previous tenant, it gets in the carpet and over a period of
6 time if it gets old then it's harder to separate remember
7 how the wall of the actual sperm breaks down because that's
8 where the DNA is and I'm sorry, I know this is crude, that's
9 significant.

10 Remember the question, Well, when did you start
11 testing this like it sat around in a locker for months. He
12 started testing it the day after it was collected, which
13 means none of the other samples and these were old. The
14 only sample that had problems separating because of a brake
15 down in the wall because of the age of the actual stain was
16 the one in the living room on the carpet.

17 And finally the neck swab, as he told you the
18 multiple contributors even if a person touches another
19 person's neck even with force you may or may not leave DNA.

20 If other people come in behind you and touch that
21 same area they may or may not leave DNA such as checking for
22 pulse. If she's been out earlier and someone sweat or
23 saliva, someone talking actually spits on her they're going
24 to leave DNA.

25 You heard from Investigator Barron it's important

1 because body fluids, blood saliva, body fluids, I want go
2 into those, they are more likely to leave DNA.

3 And what's significant though? On July the 30th
4 and I will get back to this one, when he's confronted with
5 the fact that they know they have DNA but remember the
6 police don't know what the DNA says on that neck. But they
7 have DNA on the neck that's been confirmed. But the test
8 haven't come back, there's no preliminary match to anything.
9 When asked, what if your DNA is on her neck? He comes up
10 with a great answer, Oh, we had sex the night before. Some
11 28 hours before between 11 and 12 and by the way it was
12 kinky. She likes to be slapped on the ass, couldn't resist
13 that one, could he?

14 Next swab eliminates Vincent Ottey if there's a
15 single contributor to the victim. But what's interesting is
16 if it's multiple contributors say when other people did
17 touch it, say somebody's asking about something on her neck
18 that night, his is included because I believe and you
19 remember nine out of those 14 or 15 alleles match him.

20 As the testimony went on and the defense was
21 questioning Investigator Barron who's been doing DNA longer
22 than anyone in this courtroom I think has been practicing
23 law he's the expert, he told you his opinions, he had a good
24 basis for them and no matter how hard they asked the
25 question over and over and over as the judge will tell you

1 wishful thinking doesn't make it true, that's the evidence.

2 You also heard from Investigator Martin, Preston
3 Smith and Ira Simmons they did the GSR kit out of an
4 abundance of caution. And that's one thing about this case,
5 the police jumped through every hoop they should. They did
6 their homework, they got their evidence.

7 Tracy McKinnon the toxicologist, what insufficient
8 about what he told you? That was the blood alcohol,
9 remember? She was at point 014 which is one sixth of what
10 the legal limit is in the state point 08. In other words
11 she would have to go up six times by that percentage.

12 Was it consistent with someone who had one drink
13 around two and that time? Period. Just as the DNA would
14 stay in someone's mouth for longer than six hours if they're
15 dead the blood alcohol remains the same. So even if it's
16 taken in an autopsy the next morning it will reflect what
17 her level of alcohol was at that time, at the time of death
18 not at the time of the autopsy.

19 Some significant timelines which are the murder
20 occurs between three and four A.M. the banging was heard by
21 all of these witnesses, on the 27th police officers
22 request that the DNA be expedited. Between the 27th and the
23 30th they interview witness after witness. And remember the
24 testimony, there are lots of people coming forward wanting
25 to give could information in this case. They get the cell

1 phone records, at that point it's really important because
2 they find out that Ottey's been calling her right up until
3 2: 46. He's the last person that tried to call her before
4 her death which is significant and that he happens to drive
5 a car which happens to have the white -- they later
6 interview Mark Murray who happens to confirm the clothing
7 description. They then go; they get a search warrant for
8 his DNA and they going get up here and say he consisted to
9 DNA, yeah he consented. He had a reason he just said he had
10 sex with her the day before. He knew they had a search
11 warrant. They searched his how and searched his car. And
12 what's sufficient in the search? They found other shirts,
13 striped shirts, they don't found the orange and white shirt
14 that we know he owns and that he has because you can see him
15 in it on the video. His good friend Mark Murray points him
16 out for you. Why is the shirt gone? That's obvious, the
17 same reason the cell phone's gone.

18 On 8/2 they get the preliminary DNA result and
19 that's the first time they actually get to see the NCO
20 video. On 8/3 when they arrest Mr. Ottey, what's the only
21 question he wants to know from the police officers? How
22 much time am I facing or how much time am I going to get?
23 Between 8/3 and 8/9 he's in -- with his roommate Brandon
24 Johnson. That's why we brought the investigator from the
25 jail up here to tell you that they were actually rooming

1 together and he confirmed that because that's part of what
2 you do when you have a statement from a person in this jail
3 with someone. You corroborate the information they give you
4 and I'll get back to that.

5 The statement by Brandon Johnson is given 10/12 of
6 '07.

7 In the defendant's statement and these are just a
8 few points and you'll have it back there the parts of it
9 that are relevant to this case. He is interviewed, the
10 defense asked him Well, how long did you interview him, you
11 advised him and you didn't take the statement down for like
12 two hours. Yeah, because they get background information
13 and they let him tell his story, they confront him with
14 evidence and see what he wants to say. That taking time,
15 ladies and gentlemen. They gave him the opportunity to say
16 whatever he wanted to and he had lots to say. And what did
17 he say? He's very specific and you read the statement, what
18 were you wearing that night? Oh, I remember. I was wearing
19 a blue, green and white shirt with black jeans. Why is he
20 lying, ladies and gentlemen? Because he better lie because
21 he doesn't know what may have seen him out there and he sure
22 knows he doesn't want to say he was in an orange and white
23 shirt when asked about the DNA on the neck. Oh yeah, we had
24 sex 29 hours earlier. But it's not just enough to say that,
25 look at his statement because that's the common theme in

1 this trial, trash this victim. Yeah, she likes it rough,
2 she's a tough cookie. He's still angry after he's choked
3 the life out of her because he was obsessed with this 24
4 year old girl. Every opportunity he has to talk bad about
5 Shunta Wilson his obsession who by the way was close with
6 his daughter, if she was so bad as she is been betrayed and
7 he took her around his 15 year old daughter. Every time he
8 can't -- read the statement, asked about being DNA in the
9 car, got in car on Tuesday. There defense is well, this
10 couldn't be Vincent Ottey because when they photographed him
11 there's no significant scratches. Ladies and gentlemen, I
12 submit that is significant because Vincent Ottey made sure
13 she didn't scratch him. He smashed her in the top of the
14 head to the point there was blood underneath the skin over
15 her skull. He smashed her to the point and you've got
16 photographs and you've heard the testimony, where there is
17 so much bruising underneath the skin you can't see the
18 bruises yet because they're contemporaneous or so close in
19 time of death that the bruises haven't even had time to
20 develop. She's got an eye that has a hemorrhage in it
21 beyond the petechiae eye which is what shows up when you're
22 strangled maliciously. And her left yeah is obviously
23 bruised and swollen. The force to her throat is -- let me
24 skip, her arms consistent with been having been pinned down
25 while he forces her, did he threaten her, tell her you do

1 this or you're dead? No scratches is the defense? I submit
2 he made sure she didn't resist.

3 Brandon Johnson, what did he tell you? He gave a
4 statement to the police and in this case, ladies and
5 gentlemen, you've heard about a lot of statements, a lot of
6 reports and everything. In crime cases the defense has a
7 right to confront as he should each and every witness that
8 comes before him and in doing that you've heard about
9 reports from experts, the pathologist reports, DNA reports,
10 you've heard about statements that were given by the
11 witnesses and none of those were admissible, that's why they
12 weren't before you. Because in this state, in this country
13 the defendant has a right to confront each and every witness
14 so that you can judge their credibility. You haven't seen
15 any depositions or heard any audio tapes because that's not
16 admissible, that's not why you don't have Brandon Johnson's
17 statement. Only admissions by the defendant are admissible,
18 that's the law. That's why you have to hear in person from
19 the pathologist rather than him just give a deposition,
20 that's in criminal cases.

21 Brandon Johnson gave a statement just as he did
22 back on October 12th. And what did he say? There's going
23 to get up here and argue because he don't use the words
24 strangle that then therefore he didn't confess to him.
25 Because Brandon Johnson remember that he just said did it,

1 he didn't go into that he strangled her. He was perfectly
2 up front. If Brandon Johnson is going to frame Vincent
3 Ottey and you heard what was actually put out in the news
4 which was in their opening statement, if he's going to say,
5 yeah, he confessed to me when he really didn't, why doesn't
6 he use the language that was in the news or the information
7 that was in the news? That's what makes him credible. He
8 just said he did it. He said he had sex with her right
9 before he did it. That happens to be true. But he doesn't
10 get up here and manufacture evidence and he didn't hear any
11 of this on the news. What did Brandon Johnson tell you?
12 And this is just some of it, you remember. The mother's in
13 North Carolina I think he said Charlotte, I don't know why i
14 have Riley written up here. Oh, another thing, Vincent
15 Ottey one -- she worked at the Essence Club. Remember from
16 Mark Murray, Mark Murray says, yeah, she did work at the
17 Essence Club, she was a wateriest or a bartender. She
18 wasn't a dancer. Ottey, she did a strip tease for him. I
19 feel in love. He still -- he's been arrested he still can't
20 help but trash her.

21 And, ladies and gentlemen, I submit when he's
22 interviewed on July the 30th and this girl he's been
23 involved with quote unquote and all he can talk about is how
24 she likes kinky sex and she's a tough cookie. She's a
25 street girl, talks about his military history, at Lowe's he

1 saw her that day, remember that's in his statement, it
2 corroborates what he told the police on July the 30th and
3 then he tells Brandon Johnson sometime after August the
4 third. He had sex before he killed her, it was around four
5 A.M. brought her lots of stuff. I guess he thought he owned
6 her. Karaoke, the victim went to karaoke. He went to the
7 NCO Club that night, that wasn't in the news. He rode with
8 a friend from Broad River Road, that wasn't in the news. He
9 lived at the Pines, that wasn't in the news. His daughter
10 and the victim were close, that wasn't in the news. He saw
11 some guy at the gas station, remember the scenario about how
12 he left before anything happened and he realized she was
13 cheating on him, that wasn't in the news. The victim had an
14 apartment behind Lowe's, both liked to party. But what's
15 interesting and what he says beyond that, he starts talking
16 about his options, what he can do with his case, he wants
17 advise. Police don't have any evidence, he might plead only
18 do ten years. Boss might help him if he thought he was
19 innocent.

20 Brandon Johnson and yes you should examine his
21 testimony closely because he does have pending charges.
22 Captain Smith went on record and told the judge he had
23 helped or he had been forth coming and truthful and he got a
24 bond as a result of that. There had been no promises.
25 Yeah, he hopes it will help him. But one thing that won't

1 help him is untruthful testimony.

2 The defendant counted on the fact that no one
3 would care about Shunta Wilson. He just said enough bad
4 things what jury wouldn't think that she deserved to die?
5 He counted on the fact that if he just distended himself
6 from the scene, made it look like a break in and a rape and
7 a robbery, if he took the cell phone which was the only
8 thing he could think of at the time would link him to her,
9 if he would just lay low, not come forward the police would
10 never put it together, he had her cell phone that was the
11 only thing they were going to need. He counted on the fact
12 that the police wouldn't do their job and that even if he
13 was ever charged he counted on the fact that he just came to
14 court and brought up unpleasant things about her, tried to
15 confuse the jury that he wouldn't be convicted. After all
16 he thought she deserved it.

17 On July 26th, 42 year old Vincent Ottey went over
18 to Shunta Wilson's apartment and he went in. And we don't
19 have to prove the exact order or what happened but you can
20 make reasonable inferences. And the judge will tell you
21 that.

22 He was obsessed. He was intensive. He had called
23 her six times. She was suppose the be there giving him sex
24 that night, how dare she. He went there. He went inside.
25 Did she see the cigar? Did he think about somebody else

1 that might be involved with her? And he had enough. And he
2 had sex with her every which way possible. And then he took
3 his hands and he put them around her throat and he squeezed
4 for 30 for 45 seconds, for a minute, for two minutes. Long
5 enough so that the force visibly injured the larynx in her
6 throat even the back. He choked her until literally not
7 only did her last breath expire while he had his hands on
8 her throat but the blood started dripping out of her mouth
9 rolling onto the rug mixing with his DNA. And then he got
10 up and went downstairs. And remember Deleon's testimony he
11 came down and went back. He staged it, broke open the door,
12 dumped her pocketbook, took the cell phone and he left. And
13 he thought he got away with it.

14 Ladies and gentlemen, please let him know he did
15 not. All we ask is that you hold him responsible for what
16 he did, for the choices he made and for the woman he
17 murdered. Thank you.

18 THE COURT: Ms. Lipson.

19 MS. CAMPBELL: Thank you, Your Honor.

20 MS. LIPSON: May it please the Court.

21 THE COURT: Yes, ma'am.

22 MS. LIPSON: Thank you.

23 45 seconds.

24 (Pause)

25 (Ms. Lipson holding a football.)

1 MS. LIPSON: 30 to 45 seconds that's how long that
2 Clay Nichols said that the persons who strangled Ms. Shunta
3 Wilson had his hands around her neck. Now, I just left my
4 skin cells and my DNA on that football right there
5 (indicating). The person who strangled Ms. Shunta Wilson
6 left his skin cells and his DNA on her neck and that person
7 was not Vincent Ottey.

8 What happened on the early morning hours of
9 July 26th, 2007? Well, the night before on July 25th,
10 Shunta Wilson she went over to Sunset Club to sing karaoke.
11 And you heard Mark Murray and Vincent Ottey they went over
12 to the NCO Club. On their way there Mr. Ottey got a call
13 from Shunta Wilson. She called him and they spoke for a few
14 moments. They made arrangements to see each other later
15 that evening.

16 Now, Shunta left the Sunset Club at about 3
17 o'clock, you also heard from Mark Murray that he and Vincent
18 Ottey left the NCO Club at about 3 o'clock. They then drove
19 back over to broad River Road and gave Mr -- got Mr. Murray
20 back to his car. Vincent then called Ms. Wilson trying to
21 make sure that they were still on. Called a few time she
22 didn't answer her phone, he went over there. He went in and
23 he spoke with her and they had consensual sex. When they
24 finished having sex Mr. Ottey left and when Vincent Ottey
25 left Shunta Wilson she was still alive.

1 Y'all are 12 individuals you guys have to come to
2 one verdict today. Whatever you decide must be unanimous
3 but every single one of you matter, every single one of your
4 opinions count. And the only person that you have to answer
5 to is yourself. Do not feel that you need to answer to a
6 group, do not subscribe to group thing. Do not compromise
7 your morales and do not compromise your beliefs today.

8 As you heard the state has the burden of proof.
9 They welcome that burden, they don't have a choice in the
10 matter, they have that burden. And they must prove that
11 Vincent Ottey killed Shunta Wilson beyond a reasonable
12 doubt. You cannot just think he did this. If you think he
13 did it you got to -- you've got to say that he's not guilty.
14 You have to be firmly convinced that he killed her.

15 I'm going to talk about the state's case a little
16 bit. First of all, Vincent Ottey lied to the police on
17 July 31st. He absolutely did, we admit that. The thing
18 is, he had been called in or -- the police had actually come
19 to his home and to his car and they asked him if they would
20 speak with them. He said, yes. They then told him that he
21 was a suspect in the murder of Shunta Wilson. The murder of
22 one of his -- the murder of his friend Shunta Wilson. He
23 got scared. There is absolutely no normal reaction to being
24 told that you are being suspected of murder. We don't know
25 how anyone of us would react if that happened. He had gone

1 over there that night that she -- that she was killed, he
2 had sex with her. But he got scared and he said that he'd
3 been there the night before because he didn't want to be
4 considered that last person with her because then that makes
5 him even more suspicious. Was it stupid? Absolutely,
6 absolutely, stupidity does not equal guilt though. He then
7 consented to give his DNA, they had a search warrant. Yes,
8 they had a search warrant. He did not have to consent. He
9 could have made them execute the warrant but he did not, he
10 volunteered and he gave up his DNA. He also gave up his
11 fingerprints and he also striped down to his underwear and
12 let them take pictures of his entire body.

13

14 Now, he has motive to lie, absolutely. We're not
15 saying he lied about absolutely everything, no. He did tell
16 the truth about certain things. He roomed with Mr. Ottey
17 for a few days. He and Mr. Ottey becomes friends,
18 associates, acquaintances whatever you would call your cell
19 mate. They started talking, they went into each others
20 backgrounds Mr. Ottey felt I suppose a connection with
21 Mr. Johnson. He told him about his military background, he
22 told him about his child, he told him about his family. He
23 told him about his job and then he started talking about
24 Shunta Wilson, absolutely. He talked about their history.
25 He discussed that it was a pearly sexually relationship with

1 Ms. Wilson, that's all it was. And he also told Mr. Johnson
2 that he knew that she was seeing other people, he didn't
3 care. He had told Mr. Smith, Captain Smith that he had met
4 one these guys, they exchanged numbers, he thought it was
5 amusing, it didn't matter. But that is what Mr. Ottey told
6 Mr. Johnson. He then also told him, I went over that night
7 and we had sex, I had a key to her apartment but then that's
8 where this stops. And this is where it becomes awfully
9 convince for Mr. Johnson. This confession, this miraculous
10 confession that Mr. Ottey made. I did it. Big deal, that's
11 not a confession. Mr. Johnson set a head of time that he
12 knew that Mr. Ottey was in jail for murdering and strangling
13 a woman. The news reports, you heard the news report. You
14 heard the press release, they were looking for someone for
15 the murder of strangulation of a woman. They then shoot
16 this press release July 26th. Brandon Johnson was not
17 arrested until August 3rd. He knew, he knew, that Mr.
18 Ottey was in on strangling a woman. He doesn't know
19 anything else of any relevance. He doesn't know anything
20 about a broken down door. He doesn't know anything about a
21 purse being gone through. He doesn't know about
22 Ms. Wilson's missing clothes. He doesn't know about her
23 missing cell phone.

24 No one knows what time Ms. Wilson died. These
25 area witnesses they heard some banging sometime in the 3

1 o'clock hour. No one -- or Michael Deleon and Darrly Wilson
2 they do not know that time -- or what apartment the banging
3 came from. They were down in the parking lot, they couldn't
4 see. They don't know whether a door is broken down, they
5 don't know if the banging is coming from inside, from
6 outside, they don't know.

7 The Doizers, they heard banging. Mr. Miguel
8 Doizer he heard a scream. Now, the state is saying two
9 different things, they're saying Ottey broke down the door
10 and beat her and raped her basically and then killed her,
11 there's one.

12 Then they're also saying well, he came in, they
13 had sex, whatever and then he beats the door down and sets
14 up this whole crime scene.

15 Mr. Doizer he heard a scream. You can't scream if
16 you're dead. And if someone is banging the door down and
17 you are alive you will scream, that is exactly what
18 Ms. Campbell just said.

19 Now, Ms. Campbell she told this joke about the
20 preacher and the lawyer and the mudding the waters, that
21 offenses to the law profession as a whole. Not only that
22 Ms. Campbell is a lawyer she could be stirring it up too.
23 We don't know. But that's your job to decide.

24 The state made a big deal out of these phone
25 records. So I want you to go back and you can look at them,

1 you can see them, these charts are going to come back there,
2 the records are going to come back there.

3 Now, one of the intersections that Lieutenant
4 McDonald says that the phones are both in the same segment,
5 the time period is over two hours apart. Shunta Wilson's
6 phone at 5:08 hits a tower at Bush River and Dixie Avenue
7 and then at 5:09 hits Stone Mark Lane.

8 Mr. Ottey's bounces off of 1430 Saint Andrews Road
9 at 7:33 in the morning, this says nothing. This does not
10 say that the phones were in the same place at the same time,
11 it says absolutely nothing. And keep in mind when you see
12 Lieutenant McDonald's charts, his aren't accurate. The AT&T
13 record person put up these colored charts and he explained
14 exactly how the cell towers work and the coverage area of
15 all of them. There's no -- it's not pretty, it's not
16 everything is in perfect thirds, a perfect 120 degree angle
17 each way. There were parts where people -- where colors
18 overlapped and there was a green inside the blue, there's
19 all this different stuff. And these cell phone tower ranges
20 are not a mile and a half around perfect.

21 Then they move on to the phone records that then
22 tie, tie, the two phones to Lexington at 8:45 and 9:39
23 Ms. Wilson's cell phone bounces off a tower at -- off Sunset
24 Boulevard, 5612 Sunset Boulevard. Mr. Ottey's bounces off
25 Porch Drive at 10:13 and 12:36, again, so what, it means

1 nothing. They do not place the cell phones at the same
2 place at the same time! But look at the cell phone records,
3 look at them closely. Look at them as closely as
4 Ms. Campbell wants you to look at them. I want you to look
5 at them closely too. Look for the number 803-319-0878, that
6 is Edward Middleton's cell phone.

7 Now, he -- he's the one who discovered Ms.
8 Wilson's body. He knows nothing about a cell phone being
9 missing. He was not told that by the police --

10 MS. CAMPBELL: Objection, Your Honor, that's not
11 within the testimony.

12 THE COURT: Overruled, let her finished.
13 Go ahead.

14 MS. LIPSON: Thank you.

15 Check his phone records. After he discovered her
16 body he calls her phone the night of the 26th, the morning
17 of the 27th and the evening of the 28th, if the phone is
18 missing, if you're looking for a phone, what do you do? You
19 call from another phone to see if it rings, to see if you
20 can hear it, to see if you can find it. Mr. Ottey was
21 having a causal sexual relationship with Ms. Wilson, we know
22 that. Now, who would not have been happy with that?
23 Mr. Middleton her boyfriend of four years. And we head
24 testimony about some other guys that Ms. Wilson was dating.
25 We're not trying to drag her through the mud, this is a

1 tragedy, we're never saying anything along the lines that
2 she deserved to die because that's just reprehensible. But
3 what we're saying is exactly what Ms. Campbell said, motive
4 is old as time, if I can't have her nobody will. How about
5 the boyfriend, Edward Middleton, who has a history of
6 violence, he's got an armed robbery and assault and battery
7 of a high and aggravated nature that he served ten years in
8 prison for. He might be a little angry that she's seeing
9 Mr. Ottey. Mr. Middleton went to work that night, there's
10 absolutely no doubt about that. But he travels and he used
11 a cell phone when he works. He called in his last stop at
12 Pageland. We don't know what he did when he -- we don't
13 know when he got back to Columbia, we don't know what he did
14 when he got back to Columbia and why? Because the sheriff's
15 department never followed up. They never tied up their
16 loose ends. Once Mr. Ottey became their main suspect that
17 was it. They weren't really focusing on anything else,
18 everything else went by the waist side.

19 As you heard the sheriff's department conducted
20 the investigation. The murder happened July 26, 2007. The
21 main portion of their investigation was completed
22 July 31st, 2007. They did not follow up on basically
23 anything else that did not involve Vincent Ottey after that
24 date.

25 You hear from David McKenzie that when Shunta was

1 at the karaoke there was some random guy just sitting there
2 drooling over her, he was kind of weird looking. Nobody
3 followed up on that, no body tried to see what happened with
4 him. We don't know, did he follow her home? We don't know.

5 And you heard that other investigators worked on
6 this case, Investigator McRoberts, Investigator Jordan,
7 Investigator Grutiora and Caption Weeks. Now, Ms. Campbell
8 said she doesn't call everybody because then it's redundant,
9 it's all cumulative because it's just not worth it. Not
10 every single officer did the exact same thing while
11 investigating, that would be ridiculous, that would be --
12 there would be no point for six or seven investigators to
13 all be doing the same exact thing. Everyone spoke to
14 different people, everyone chased down different leads, we
15 don't know what those were not -- the state did not call
16 them to testify.

17 Now, Investigator Martin's job as lead
18 investigator is to follow up on all the leads. And as the
19 other investigators do their follow ups he follow up on the
20 followed ups and he just determines what's relevant. He
21 doesn't follow the minor leads if he does not deem them
22 relevant.

23 Captain Smith his job is basically to make sure
24 the investigation was going in the right direction. But you
25 heard him when he testified, he didn't go over the reports

1 with a fine tooth comb. He does not know what was relevant,
2 he does not know what leads could have amounted to
3 something. Once they had Aurelio Ottey in their sights that
4 was it. But I'll tell you one thing they missed an
5 opportunity to find Shunta Wilson's cell phone and missing
6 clothing. Captain Smith and Investigator Martin never fully
7 investigated Edward Middleton. They started to and then
8 once they determined that Vincent Ottey seemed to be a
9 credible suspect everything else fell by the waist side.
10 They didn't -- we know that Mr. Middleton traveled for his
11 job, we know that he going called in his last for
12 Pageland -- or his last stop was at Pageland. We don't know
13 where he actually called it in from. He travels from work
14 and once he is done and he returns his truck he is free to
15 go, if he finishes early he's free to go. And because we
16 don't -- we never got his cell phone records, we never got
17 his cell tower records, we don't know where he was or what
18 he did.

19 We also know that they never search Edward
20 Middleton's car, they never searched his home.

21 Moving onto to the DNA. The cigar butt. There
22 was a cigar butt on the -- Black and Mild cigar butt on the
23 floor of Ms. Wilson's kitchen. Edward Middleton smokes
24 those. And he said that Shunta does not like for him to
25 smoke. But there's a cigar butt on the floor of the

1 kitchen. And that one, that was testified by Dr. Barron.
2 We don't know when it was tested but that one did come back
3 to Edward Middleton.

4 Ms. Wilson's fingernail scrapings. Mr. Ottey was
5 named as a possible partial contributor, obviously they had
6 just had consensual sex. The reason it was consensual,
7 there's no signs of trauma to her vagina or her anal region,
8 there were no signs of trauma as noted by Clay Nichols.

9 Skin cells do not get under somebody's nails
10 strictly from scratching them. It can come, it can come,
11 from any type of touching, yeah.

12 Ms. Campbell made a point about Mr. Ottey not
13 having any scratches on him because he had held her down and
14 all of that. Mr. Ottey works construction, I work at a desk
15 and I have scratches all over me. The fact that he works
16 outside and he does all kinds of building and construction
17 and every -- then he allegedly kills Ms. Wilson and yet he
18 has no marks on him, that's astounding. And also
19 Mr. Vincent Ottey said that Ms. Wilson was a tough cookie,
20 that's not an insult. That means that was a -- she's a
21 fighter and she was going to fight back. They said that she
22 did. They said that she struggled and she showed a lot of
23 defensive wounds. She was a tough cookie, that is not an
24 insult. But she did not scratch Mr. Ottey. She did not
25 cause any wounds to Mr. Ottey. He was a possible partial

1 contributor under one of her fingernails. Any type of
2 touching of another would contribute to getting possible
3 skins cells under your nails.

4 Most important here was the DNA swabs from
5 Ms. Wilson's neck. The person who strangled her would have
6 left his DNA on her neck.

7 Dr. Barron's report number 31, neck swab from
8 victim specifically said Ottey is eliminated. But then Dr.
9 Barron decided -- he argued with Mr. Schnee and we talked
10 about this neck swab for quite a while, y'all remembered it,
11 it was entertaining and yet it was tedious. Every single
12 one of the alleles from Mr. Middleton's DNA profile no
13 matter the concentration appeared on the swab that came from
14 Ms. Wilson's name. But then Dr. Barron's explanation for
15 the problems with Vincent Ottey's profile and why that
16 didn't show up is eight of the 15 loci had DNA sample of
17 drop off just conveniently just happened, eight, eight out
18 of 15 fell off. But the most important question is the last
19 question one that Mark Schnee asked Dr. Barron, when did you
20 finish your final analysis of the neck swab that come from
21 Ms. Wilson, August 8th, 2007 was when he finished the
22 complete, final analysis of the neck swab. Why is this
23 significant? You heard from Investigator Martin and Captain
24 Smith, they collected Edward Middleton's DNA August 13th,
25 2007, five days after the final analysis was done. Dr.

1 Barron never, never, compared those two samples and he
2 refused to admit that he made a mistake.

3 The person who killed Shunta Wilson had his hands
4 around her neck for 30 to 45 seconds he left the DNA sample,
5 he left skin cells and that person was not Vincent Ottey and
6 because of that you must find him not guilty.

7 THE COURT: Now, members of the jury -- y'all need
8 to take a short break to refresh yourselves before I give
9 you my charge, it's going to be about 15, 20 minutes?
10 Anybody need a little break, are y'all fine?

11 (Jurors nodded head.)

12 THE COURT: Y'all sure?

13 (Jurors nodded head.)

14 THE COURT: Somebody, do you need a break? If you
15 do I'll give you about ten minutes, anybody need about ten
16 minutes?

17 (Jurors shakes head.)

18 THE COURT: I don't think anybody wants -- does
19 anybody need a break?

20 (There was no response.)

21 THE COURT: Okay.

22 JUROR: No, no.

23 THE COURT: Just sit down then.

24 (Laughter)

25 MS. LIPSON: Your Honor, may we approach briefly?

1 THE COURT: Sure.

2 (Whereupon, a bench conference
3 was held off the record, in the
4 presence of the jury, but out of
5 the hearing of the jury.)

6 THE COURT: Somebody wants a break, I'm going to
7 give y'all about ten minutes, just don't talk about this
8 case. You've heard arguments about an hour and 40 minutes,
9 it's that's kind of at the end so, just don't talk about the
10 case. Take a little break, we'll bring you back in about
11 ten minutes and I'll tell what you the charge is, okay.
12 Thank you.

13 (The jury retires from the
14 courtroom.)

15 THE COURT: It's all right. My experience has
16 being after about an hour and a half somebody needs to go to
17 the bathroom so.

18 MS. LIPSON: Thank you, Your Honor.

19 THE COURT: We'll take about ten minutes.

20 (Whereupon, a short recess was
21 held.)

22 THE COURT: All right. Mr. Bowin, bring the jury
23 in.

24 (The jury returned to the
25 courtroom.)

1 BAILIFF: Your Honor, juror's all present, Your
2 Honor.

3 THE COURT: All right, welcome back.

4 Now, Mr. Foreman, members of the jury, the State
5 of South Carolina charges the defendant Aurelio Vincent
6 Ottey with the offense of murder. Now, I read the
7 indictment to you, I will repeat it briefly for you. The
8 indictment reads that Aurelio Vincent Ottey did in Richland
9 County on or about July 26, 2007 feloniously, willfully and
10 with malice aforethought kill one Shunta M. Wilson by means
11 of strangulation and that the said victim died as a
12 proximate result there of.

13 It's your, members of the jury, to determine
14 whether or not Mr. Ottey be guilty or not.

15 Now, to this indictment, the defendant, has pled
16 or entered a plea of not guilty which places upon the state
17 of proving the defendant's -- the defendant guilty.

18 A person charged with committing a criminal
19 offense in South Carolina is never required to prove himself
20 innocent. I charge you that is a vital and important rule
21 of the law of evidence that the defendant in a criminal
22 trial no matter how great or serious may be the offense with
23 which he is charged must always be presumed innocent until
24 his guilt has been proven beyond a reasonable doubt.

25 Now, members of the jury, this presumption of

1 innocence remains with the defendant at all times from the
2 moment of his appearances in this court, throughout the
3 trial and until you the jury has upon the testimony and
4 evidence presented reached a verdict of guilty beyond a
5 reasonable doubt. For it is the solemn duty of the jury if
6 not clearly convinced of his guilt beyond a reasonable doubt
7 to the contrary to acquit the defendant.

8 So the burden of proof is upon the state to
9 establish by evidence to your satisfaction the guilt beyond
10 a reasonable doubt of this defendant here on trial for the
11 crime of murder.

12 Now, what is a reasonable doubt? A reasonable
13 doubt is the kind of doubt that would cause a reasonable
14 person to hesitate to act. If you have such a doubt as to
15 the guilt of the defendant then he would be entitled to a
16 verdict of not guilty.

17 Reasonable doubt may arise from evidence which is
18 in the case or from the absence or lack of evidence in the
19 case. You alone must make the determination of whether or
20 not reasonable doubt exist as to the guilt of the defendant
21 Mr. Ottey.

22 The state as the burden of proving the defendant
23 guilty beyond a reasonable doubt. Some of you may have
24 served as jurors in civil cases whether you were told that
25 it is only necessary to prove that a fact is more likely

1 true than not true. In criminal cases the state's proof
2 must be more powerful than that, it must be beyond a
3 reasonable doubt. Proof beyond a reasonable doubt is proof
4 that leaves you firmly convinced of the defendant's guilty.

5 There are very few things in this world that we
6 know with absolute certainty and in criminal cases the law
7 does not require proof that overcomes every possible doubt.
8 If based on your consideration of the evidence you are
9 firmly convinced that the defendant is guilty of the crime
10 charged you must find him guilty. If on the other hand you
11 think there is a real possibility that he is not guilty you
12 must find him not guilty.

13 A criminal defendant is presumed to be innocent
14 until his guilt is proved beyond a reasonable doubt.

15 A verdict of guilty can be based upon
16 circumstantial evidence as safely as upon direct evidence,
17 provided the circumstantial evidence relied upon to prove
18 guilt measures up to these requirements of the law that I
19 just stated to you.

20 There are two types of evidence that are generally
21 presented during a trial, direct evidence and circumstantial
22 evidence.

23 Direct evidence is the testimony of a person who
24 asserts or claims to have actual knowledge of a fact such as
25 an eyewitness.

1 Circumstantial evidence is proof of a chain of
2 facts and circumstances indicating the existence of a fact.
3 The law makes absolutely no distinction between the weight
4 or value to be given either direct or circumstantial
5 evidence. Nor is a greater degree of certainty required of
6 circumstantial evidence than of direct evidence. You should
7 weigh all of the evidence in the case. After weighting all
8 of the evidence if you are not convinced of the guilt of the
9 defendant beyond a reasonable doubt you must find the
10 defendant not guilty.

11 Now, Mr. Foreman and members of the jury, under
12 the constitution and laws of State of South Carolina, you
13 are the finders of facts in this case. I do have not have a
14 right to pass upon the facts or even to express any opinion
15 I might have as to them, nor may I intimate in anyway what I
16 may think about the guilt or innocence of the defendant.

17 You're also the judges, the sole judges, of the
18 credibility, the believability of the witnesses who have
19 testified in this case and passing upon their creditability
20 you may take into consideration many things such as; the
21 demeanor or manner of testifying, whether the witness had a
22 reason to be bias or prejudice; where a witness's testimony
23 was contradicted on the one hand or supported and
24 corroborated on the other hand. You certainly do not
25 determine this credibility or believability by counting the

1 number of witnesses for either side.

2 You may believe a small portion of a witness's
3 testimony and disregard the larger or vice-versa. You may
4 believe one witness against many or many against one.

5 You have heard the testimony of a witness -- and
6 several witnesses actually, who have special knowledge,
7 skill, experience training or education in a particular
8 profession or occupation who have given this opinion or
9 their opinions as an expert or experts as to matters in
10 which they are skilled. In determining the weight be given
11 such opinion you should consider the qualification and
12 credibility of the experts and the reasons given for his or
13 their testimony or opinion. You're not bound by such
14 opinion, give it the weight if any you deem it is entitled.
15 All of these things you will consider bearing the mine that
16 you should give the defendant the benefit of a reason
17 reasonable doubt, of every reasonable doubt.

18 Now, members of the jury, by the same constitution
19 and law which makes you the finders of the fact and the
20 evidence I've just discussed with you, I am the judge made
21 the sole and only instructor of the law. You must accept as
22 correct the law which I charge and apply it to the evidence
23 as you find it and reach your verdict.

24 And finally I charge you in this regard that you
25 or for that matter I should not be concerned about what the

1 law ought to be but rather what I you the law to be.

2 Now, this is a case of murder, members of the
3 jury, and one aspect or element is what we refer to is
4 criminal intent.

5 Now the state is not required to prove motive
6 although the presence or the absence of this evidence of
7 motive may be considered and in determining whether there
8 was criminal intent to commit murder.

9 Now, let me define murder for you. What is murder
10 by definition? Murder may be defined as the willful
11 felonious killing of a human being by a human being with
12 malice aforethought. That malice may be either expressed or
13 implied.

14 Now, these are the elements of the crime of
15 murder, section 63-10 of the South Carolina code defines
16 murder as the killing of any person with malice aforethought
17 either express or implied. In order to convict a person of
18 murder the state must not only prove the killing of the
19 victim by the defendant it must prove criminal intent and
20 that the killing was done with malice aforethought thought.
21 All of these facts must be proved beyond a reasonable doubt.
22 In other words, there's must be a combination of a previous
23 evil intent and an infliction of an injure calculated and
24 intended to produce death.

25 Members of the jury, malice indicate a formed

1 purpose and design to do a wrongful act under circumstances
2 that exclude any legal right to do it. Malice is a term of
3 act that imparts wickedness from depravity from a depraved
4 spirit, from a spirit bent on mischief at the time and from
5 not then having a regard for the social obligations or the
6 obligations which rest upon mankind.

7 The word express and implied do not mean two
8 different kinds of malice, rather the term signify the way
9 in which malice may be proved.

10 Expressed malice is where a person by word of
11 mouth express hatred or ill will for another. Or where the
12 state proves beyond a reasonable doubt that the defendant
13 was making preparations before the event to accomplish the
14 event. The jury may also conclude by deductive reasons that
15 is you must or you can, of course, the jury may also
16 conclude by deductive reasoning that under certain
17 circumstances malice may arise even though there is no
18 express or direct evidence of an intent to kill.

19 Malice may be implied or interfered if it is
20 proved beyond a reasonable doubt that there was a willful,
21 deliberate and intentional doing of an unlawful act without
22 just case or excuse. The proof of the act, however, is
23 merely a piece of evidence from which the inference or
24 implication of malice may arise. In other words, the
25 inference would be simply an evidentiary fact to be taken

1 into consideration by you the jury along with other evidence
2 in the case. And you may give it such weight as you
3 determine it should receive.

4 Members of the jury, if facts are proved beyond a
5 reasonable doubt sufficient to raise an inference of malice
6 to your satisfaction, this inference would simply be an
7 evidentiary fact to be taken into consideration by you the
8 jury along with other evidence in the case and you may give
9 it such weight as you find it should receive. You as jurors
10 are free to accept or reject this permissive inference
11 depending on your view of the facts. In other words, if
12 such conduct results directly in the death of another and if
13 such conduct was so culpable and inexcusable so aggravated
14 and grossly reckless as to show an act of intentional
15 disregard of the consequences of human life thus denoting a
16 malignant spirit a your heart devoted of social duty and
17 fatally bent on mischief an implication of malice may arise.

18 Further, there must be malice aforethought, which
19 means that the malice must have been conceived in the mind
20 of the defendant prior to the fact producing the fatal
21 result. However, the law does not require that the malice
22 must exist for any appreciable length of time before the
23 commission of the act.

24 Malice is a word suggested wickedness, hatred and
25 a determination to do what one knows to be wrong without

1 just cause or excuse or legal provocation. Malice may not
2 be in the mind of the one doing the killing any particular
3 length of time before the act of killing in order to render
4 the killing murder. It is present in the mind of the one
5 doing the killing -- if it is present in the mind of the one
6 doing the killing any length of time before the act then its
7 presence will be sufficient to render the killing murder.

8 Malice is said to be expressed where there is
9 manifested a violent deliberate intention unlawfully to take
10 away the life of another human being.

11 Malice is implied where one intentionally and
12 deliberately does an unlawful which he or she then knows to
13 be wrong and in violation of its duty to another and whether
14 no excuse or legal provocation appears and when the
15 circumstances attending a killing show an abandon heart, a
16 malignant heart fatally bent upon mischief.

17 Members of the jury, in this case the defendant
18 Vincent Ottey has offered no in his behalf. This is his
19 probative and it is not a circumstance that you can take
20 into your consideration or even allow to enter into your
21 discussion in your jury room. Under the constitution of
22 South Carolina and under the United States constitution he
23 has a right to remain silent. The burden of proof is upon
24 the State of South Carolina to establish his guilt to your
25 satisfaction as jurors by legal evidence beyond a reasonable

1 doubt.

2 The Fifth Amendment of the United States
3 Constitution in Article one section 12 of the South Carolina
4 Constitution provide that no person shall be compelled in
5 any criminal case to be a witness against him. Furthermore
6 the 1976 South Carolina code in session 19-11-80 provides
7 that no person shall be required to answer any questions
8 tending to incriminate himself, therefore, the defendant may
9 invoke the protection of the federal or state constitutions
10 in session 19-11-80 by refusing to answer questions the
11 answers to which may tend to incriminate him. The fact that
12 a person who invokes or taken the fifth amendment in section
13 19-11-80 raises no presumption as to his guilt or innocence.

14 The fact that a defendant in a trial of a criminal
15 case did not testify in his own behalf is not a factor to be
16 considered by you in anyway in your deliberations and in
17 your consideration of the question or the guilt or the
18 innocence of the accused, it must not be considered by you
19 in any manner whatsoever against the defendant or mitigate
20 against him in any respect whatsoever.

21 A defendant has a constitutional right to remain
22 silent and the assertion of such a constitutional right
23 cannot and must not be considered by you in your
24 deliberation. Under your oath then you are to reach no
--25 inference and draw no conclusion whatsoever from the fact

1 that a defendant in this case did not testify.

2 The fact that a defendant did not testify should
3 not even be discussed in the jury room. The burden of proof
4 as I've stated to you is upon the state, it is not, it is
5 not, upon the accuse the prove his innocence the burden of
6 proof remains upon the state to prove guilty beyond a
7 reasonable doubt. The fact that a defendant exercises his
8 constitutional right to remain silent is not a factor to be
9 considered by you in determining the guilt or innocence of
10 the defendant.

11 Now, members of the jury, I further charge you
12 that there was admitted into the record of this case
13 evidence of an alleged prior record of a witness or
14 witnesses. This evidence was admitted for a limited
15 purpose. The evidence have admitted and may be considered
16 by you the jury if you conclude it true only for the purpose
17 of evaluated the credibility or the believability of that
18 witness. You may give to this evidence such weight as
19 you -- you may give to this evidence such weight and such
20 value if any to which you find it is entitled on the sole
21 issue of a credibility or the believability of the testimony
22 offered by that witness himself or herself.

23 Now, members of the jury, whatever your verdict in
24 this case it must be unanimous, in other words, all 12 of
25 you must agree. Now I'm going send back in jury room with

1 you what I hold in my hand it is a verdict form and it
2 states the State of South Carolina County of Richland County
3 in the court of general sessions, the State of South
4 Carolina versus Aurelio Vincent Ottey, the defendant,
5 verdict form it says murder. And, Mr. Foreman, members of
6 the jury, once you've consider the facts of this case as
7 you've heard it, once you're consider the law that I've
8 given to you that applies to the facts in this case you will
9 reach a decision one way or the other.

10 Now, I've written to possible verdicts and the
11 verdicts are guilty or not guilty and you should take no
12 special note which one I listed first, I couldn't list both
13 of them at the same time. So the verdict form reads, we the
14 jury by unanimous consent find the defendant guilty or not
15 guilty. You will check either guilty or not guilty, Mr.
16 Foreman, you sign your name above the line that says
17 foreperson, you'll date this verdict form and that should
18 conclude your services on this particular case.

19 Now, I've got to send you back into the jury room
20 and caution you one final time not to discuss this case.
21 The time to begin your deliberations will be when the
22 bailiffs they will collect all of the evidence that's been
23 introduced in this case, they will submit it to you in the
24 jury room along with this verdict form, that will be your
25 signal to begin your deliberations. Until that time, when

1 you go back to the jury room please don't talk about this
2 case. Once again the time to do so is when you receive all
3 of the evidence and this verdict form that's your signal to
4 begin your deliberations, okay. So go to the jury room and
5 it's possible I may have to bring you back out here, we'll
6 see. But once you receive the evidence along with the
7 verdict form then you may begin your deliberations. Thank
8 you all so very much.

9 (The jury retires from the
10 courtroom.)

11 THE COURT: All right. Any acceptations or
12 additions from the state?

13 MS. CAMPBELL: Nothing.

14 THE COURT: Yes, sir, Mr. Schnee?

15 MR. SCHNEE: I would simply --

16 THE COURT: You got to renew your request for the
17 charge I failed to give, that was the one on --

18 MR. SCHNEE: Yes.

19 THE COURT: Regarding the witness Mr. Johnson.

20 MR. SCHNEE: Mr. Johnson and his pending charges.

21 THE COURT: All right.

22 MR. SCHNEE: On the same grounds as I've stated
23 previously.

24 THE COURT: Okay. Anything further?

25 MR. SCHNEE: No, sir.

1 Invite them to come back in.

2 (The jury returned to the
3 courtroom.)

4 BAILIFF: The jury's present, Your Honor.

5 THE COURT: All right, thank you, sir.

6 Mr. Foreman.

7 (There was no response.)

8 THE COURT: Mr. Foreman.

9 MR. FOREMAN: Yes, sir.

10 THE COURT: I got three notes from you. Let me
11 see if I can just chat with y'all a little bit and see if I
12 can narrow some of this down. The first note I remember
13 getting was -- well, let me start with this one, laptop to
14 watch cell phone exhibit number 65, y'all all want to watch
15 that? Y'all want to put it up watch it on the screen, is
16 that correct?

17 MR. FOREMAN: The phone --

18 THE COURT: All right. I understand, I
19 understand.

20 And then the second note is copy of Brandon
21 Johnson's testimony. Now, y'all want to listen to all of
22 Brandon Johnson's testimony, part of his testimony, the
23 direct, the whole thing or what, do you know? Is there a
24 certain part you want to listen to, have you figured it out?

25 JUROR: There are a certain few people that needed

1 to hear it.

2 THE COURT: Need to hear the whole thing.

3 So and how long is it, is it like 20 minutes or
4 something like that?

5 COURT REPORTER: There about.

6 THE COURT: There about. Okay.

7 And the third one was we request transcripts from
8 Sprint technicians. I can't give you a transcript, either
9 you can listen to the testimony or -- that's the only way
10 you can do it.

11 And how long is that Crystal? Have you found it
12 yet?

13 COURT REPORTER: Yes.

14 THE COURT: And where were their names again?

15 BRAD RAWLINSON: Michael Robinson and Eric Tyrell.

16 THE COURT: Mr. Tyrell and Mr. Robinson I think.

17 Is -- that's, that's, the testimony y'all want to listen to
18 in its entirety?

19 MR. FOREMAN: I think they wanted one of them.

20 THE COURT: All right. Now, which one, do you
21 know?

22 JUROR: The engineer.

23 THE COURT: And which one was that one? Who was
24 the engineer?

25 MR. FOREMAN: That was the second one.

1 MS. ASHTON: Mr. Robinson.

2 THE COURT: Mr. Robinson. So we need to find Mr.
3 Robinson's testimony.

4 And y'all want to hear all of Mr. Johnson's
5 testimony, is that correct?

6 MR. FOREMAN: (Mr. Foreman nodded head.)

7 THE COURT: Now, which one do y'all want to do
8 first? Okay, Mr. Johnson's testimony I think we have that
9 about ready. Then we can listen to Mr. Robinson's
10 testimony's and then we give you the laptop so you can watch
11 it back in the jury room, I think.

12

13 MR. FOREMAN: Yeah.

14 THE COURT: Is that okay with everybody,
15 Mr. Campbell?

16 MS. CAMPBELL: Yes, sir.

17 THE COURT: You want to do it that way?

18 MS. LIPSON: Yes, sir.

19 THE COURT: So you've got Mr. Johnson's testimony
20 keyed up?

21 COURT REPORTER: Yes, sir.

22 THE COURT: Now, y'all ready to do this, y'all
23 need a break or anybody need --

24 MR. FOREMAN: We're ready.

25 THE COURT: Okay. Any acceptations or additions

1 so far?

2 MS. ASHTON: No, Your Honor.

3 THE COURT: Okay, roll it.

4 (Whereupon the tape is played of
5 Brandon Johnson's testimony for
6 the jury.)

7 THE COURT: Now, y'all would like to hear the
8 Sprint engineer, is that correct?

9 MR. FOREMAN: Yeah.

10 THE COURT: All right. Could you find it,
11 Crystal, do know which one?

12 COURT REPORTER: Yes, sir.

13 THE COURT: And where is the disk, is it back in
14 chambers? I meant the jury room?

15 MR. FOREMAN: Yes, sir.

16 THE COURT: Can one of the bailiffs go get it?

17 Do you know how to use it? Let's see how smart
18 y'all are this morning, let me see if you can find it. It's
19 a little disk and it's got number 65 on it.

20 Are y'all ready?

21 MR. FOREMAN: Yes.

22 THE COURT: All right. Go ahead.

23 (Whereupon the tape is played of
24 Mr. Robinson's testimony for the
25 jury.)

1 MR. FOREMAN: That's good.

2 THE COURT: Y'all, sure?

3 (Juror nodded head.)

4 THE COURT: Now, let me ask you this, do you want
5 me to set up this exhibit number 65 in here on the big
6 screen or do you want to take it back there in the jury
7 room?

8 (Several jurors answered, Take
9 it back there.)

10 THE COURT: All right. Now, do y'all know how to
11 work the computer? Who does?

12 (Laughter)

13 (Juror answered I do.)

14 THE COURT: All right. Well, let's get the
15 computer and take it back there. Let's set it up first.

16 (Pause)

17 THE COURT: It's already inside? All right.
18 Y'all go back for a few minutes don't and wait until we give
19 you the word to restart your deliberations, okay.

20 (The jury retires from the
21 courtroom.)

22 THE COURT: All right. Any acceptations or
23 additions anybody have?

24 (There was no response.)

25 MR. SCHNEE: No.

1 THE COURT: Tell them they can resume
2 deliberations, if they have any trouble with the computer
3 let us know and we'll stop it and -- all right. I guess
4 we'll be at ease.

5 (Whereupon, a recess was held.)

6 THE COURT: All right. I received this note it
7 says, Request, it says date in parentheses, what date did
8 Brandon Johnson contact his attorney to offer information
9 about the defendant? That almost needs to be answered in
10 two parts, y'all think about it. He contacted Cam
11 Littlejohn and Cam Littlejohn in turn contacted the captain,
12 is that it?

13 MS. CAMPBELL: Contacted law enforcement, yes.

14 THE COURT: Yeah. I think a date was testified to
15 as to --

16 MS. CAMPBELL: (Ms. Campbell shakes her head.)

17 THE COURT: It was not? I don't know.

18 MS. CAMPBELL: The only testimony in the record is
19 what we just heard. I believe that Captain Smith said that
20 his lawyer his lawyer, his lawyer, contacted Captain Smith
21 on the first of October.

22 Was that correct?

23 MR. SMITH: It was in October, I don't remember
24 the exact date. It's in my follow up, I may have testified
25 in my follow up.

1 THE COURT: Maybe, it was Cam, maybe, it was Cam
2 that mentioned what date.

3 MR. SCHNEE: No.

4 THE COURT: But that's, that's not in evidence.

5 MR. SCHNEE: I know that Captain Smith testified
6 at the very end of trial something about beginning of
7 October I don't know if it was an exact date and then got
8 into --

9 MS. CAMPBELL: I want to say it was October 1st or
10 October 2nd or something like that. And then he made
11 arrangements to go and pick him up and interview him 12 days
12 later. But there's no information in the record as to what
13 date he contacted Cam.

14 MR. SCHNEE: That, that's correct.

15 THE COURT: Well, bring them out, let me tell them
16 that and see if they need anything else. So the idea is --

17 MS. CAMPBELL: Is -- he was --

18 THE COURT: Well, hold on. I'm going to bring
19 them out and say, as far as we can determine it was sometime
20 in October. There's no specify date mentioned, you got to
21 rely on the testimony of Mr. Johnson. He didn't give a
22 date.

23 MS. CAMPBELL: He didn't give a date. He was --
24 he obviously contacted his lawyer prior to the first of
25 October because his lawyer then contacts law enforcement I

1 believe around the first of October.

2 THE COURT: All right.

3 MS. CAMPBELL: And then it was set for 12 days
4 later.

5 MR. SMITH: We don't know what date he contacted
6 his lawyer.

7 MS. CAMPBELL: We don't know what date he
8 contacted his lawyer.

9 THE COURT: All right. So the answer is --

10 MS. CAMPBELL: But it would have been --

11 THE COURT: There's no information, there's
12 nothing in the record indicates what date Mr. Johnson
13 contacted Cam Littlejohn.

14 MS. CAMPBELL: However, we know Mr. Littlejohn
15 contacted law enforcement around the first of October.

16 THE COURT: Okay. Is that good enough for
17 everybody?

18 (There was no response.)

19 THE COURT: Well, double check everything, I don't
20 care.

21 MS. LIPSON: I know the discovery says he was
22 contact October 1st but I don't actually recall that ever
23 being testified.

24 MS. CAMPBELL: That was not testified to.

25 THE COURT: Okay.

1 MR. SCHNEE: Yeah, the October --

2 THE COURT: Okay, okay.

3 MS. LIPSON: Okay.

4 THE COURT: So we don't know what time Mr. Johnson
5 what time contacted Cam Littlejohn, his lawyer, but we know
6 that Cam Littlejohn contacted the Sheriff's Defendant on
7 October 1st?

8 MR. SCHNEE: Correct.

9 THE COURT: Bring them out, I'll tell them in
10 front of everybody. And we all agree to that?

11 MS. LIPSON: Yes, Your Honor.

12 MR. SCHNEE: Correct.

13 MS. CAMPBELL: Yes, sir.

14 THE COURT: Like I said once earlier, these trials
15 are hard, they're not easy. And that's why people try to do
16 their best.

17 (The jury returned to the
18 courtroom.)

19 BAILIFF: Jury's present.

20 THE COURT: Thank you.

21 First of all, did y'all have full and complete use
22 of the laptop that y'all wanted and needed?

23 JUROR: (The witness nodded head.)

24 THE COURT: All right. Then I had this note that
25 said jury request date. What date did Brandon Johnson

1 contact his attorney to offer information about the
2 defendant?

3 Now, I've talked to both sides. There's no date
4 in the record. Mr. Johnson didn't testify as to what date
5 he contacted Cam Littlejohn his lawyer but we all agree that
6 Mr. Littlejohn contacted the sheriff's department on or
7 about October the first. I think we all agree with that,
8 that's the best information we had. So Mr. Johnson didn't
9 testify so there's nothing in evidence as to what date he
10 contacted his lawyer. We do know that his lawyer contacted
11 the sheriff's department on or about October the 1st of
12 2007, is that correct?

13 MS. LIPSON: Yes.

14 THE COURT: That's the information we have.

15 PROSPECTIVE JUROR: And that was the first of
16 October?

17 THE COURT: As far -- everybody agrees that it was
18 on or about October the 1.

19 MS. CAMPBELL: As far as what's in evidence, yes,
20 sir.

21 THE COURT: As far as what's in evidence?

22 MS. LIPSON: Yes, sir.

23 MR. SCHNEE: Yes.

24 THE COURT: So that's all we know. That's what
25 y'all got to rely on and work upon, okay.

1 All right. Go back to the jury room but don't
2 resume deliberation until I have Mr. Bowin to tell you to.

3 (The jury retires from the
4 courtroom.)

5 THE COURT: Are there any acceptations or
6 additions for that little exchange?

7 MR. SCHNEE: No, Your Honor.

8 MS. CAMPBELL: Nothing.

9 THE COURT: All right. I guess with CSI, Miami
10 and all that the jury's a little --

11 Tell the jury they can resume their deliberation.

12 BAILIFF: All right.

13 (Whereupon, there was a recess.)

14 THE COURT: I understand, ladies and gentleman, we
15 have a verdict. Are we all ready to receive it?

16 MR. SCHNEE: Yes, Your Honor.

17 THE COURT: All right. Very well, bring the jury
18 in.

19 (The jury returned to the
20 courtroom.)

21 BAILIFF: Jury's all present, Your Honor.

22 THE COURT: Thank you, sir.

23 Welcome back, Mr. Foreman.

24 Ms. Tull, you may proceed.

25 THE CLERK: Mr. Foreman, I understand the jury's

1 reached a verdict?

2 MR. FOREMAN: Yes, Your Honor, we have.

3 THE CLERK: Please hand it to the bailiff.

4 THE COURT: All right. You may publish it.

5 THE CLERK: The State of South Carolina versus
6 Aurelio Vincent Ottey, Indictment 2007-GS-40-07359, for
7 murder, we the jury by unanimous consent find the defendant
8 guilty, signed by the foreperson Scott Beaulieu number --
9 juror number 13 on January 9th, 2009.

10 THE COURT: Anything further from this jury on
11 behalf of the state?

12 MS. CAMPBELL: Not from the state, Your Honor.

13 MR. SCHNEE: I'd request that you poll the jury,
14 Your Honor.

15 THE COURT: All right. Now, the defense has
16 requested you be poled. Ms. Tull will ask you two
17 questions.

18 You can go ahead, Ms. Tull.

19 THE CLERK: I'm going to ask you these two
20 questions. When I call your number please answer yes or no
21 to both questions.

22 Jury number 13, was this your verdict?

23 JUROR: Yes.

24 THE CLERK: Is this still your verdict?

25 JUROR: Yes.

1 partly on the evidence and the testimony of I believe it's
2 Sargeant McDaniels the police office who was considered an
3 expert in phone records McDonald, I'm sorry.

4 THE COURT: Go ahead, take your time.

5 MR. SCHNEE: Based on, on, the inaccurate
6 information that he had decided to introduce the cell phone
7 tower records obviously based on what the jury had
8 requested. State had an opportunity to bring in an engineer
9 and had an engineer and could have asked specify questions
10 about towers and about distances and about rages and they
11 choose not. I believe the jury's considering that
12 information without any real expertise in the background, I
13 believe it's overly prejudicial and I would in part base my
14 motion for a mistrial on that.

15 THE COURT: My response is your argument goes to
16 the weight and not the admissibility of the evidence. It
17 wasn't just one I think witness or one piece of evidence. I
18 think it was an accumulative effect of all the evidence that
19 was presented that the jury considered in reaching their
20 decision.

21 So my decision remains the same on all prior
22 motions made that is respectfully denied as well as your
23 latest motion. So with that in mind bring Mr. Ottey around
24 and I will be happy to impose sentencing at this time.

25 (Mr. Ottey was brought around.)

1 did a fantastic job helping out with that. He signed out
2 the money to make sure she would have a bus ticket if
3 necessary, turned out that I believe a family member came
4 down, that's his personality, Your Honor. I would ask you
5 to take that into consideration and also consider a sentence
6 that would give him a release date that at least have
7 something to look forward to.

8 THE COURT: All right. Thank you, Mr. Schnee.

9 Anything you would like to tell me, Mr. Ottey?

10 (There was no response.)

11 THE COURT: Well, very well then. First of all, I
12 don't have many observations to make in a time like this.
13 This is a horrible crime, not suggest that Mr. Ottey is a
14 horrible person. I was little boy growing up my mother made
15 me go to church a lot, I've learned that Judas was once a
16 disciple and Lucifer was an angle.

17 So on Indictment Number 2007-7359, State versus
18 Aurelio Vincent Ottey, sentence of the court that you,
19 Vincent Aurelio Ottey be committed to the South Carolina
20 Department of Corrections for a period of life. Good luck
21 to you, Mr. Ottey.

22 This conclude all of these proceedings. Thank you
23 all so very much. Good luck to everyone.

24 MS. CAMPBELL: Thank you, Your Honor.

25 MR. SCHNEE: Thank you, Your Honor.

Statement of

Aurelio Vincent Ottey

Made at

Columbia, South Carolina, this 30 day of July, 2007, at 1820 hours, in the presence of Investigator R. E. Martin and Captain J. S. Smith of the Richland County Sheriff's Department.

I, Aurelio Vincent Ottey, understand that I have the right to remain silent. Anything I say can be used against me in court. I have the right to talk to a lawyer for advice before you ask me any questions, and to have a lawyer with me during any questioning. If I cannot afford a lawyer, one will be appointed for me before any questioning, if I wish. If I decide to answer questions now, without a lawyer present, I still have the right to stop answering at any time. I also have the right to stop answering at any time until I talk to a lawyer.

Do make the following statement:

Q: = Inv. R. E. Martin, Captain J.S. Smith

A: = Aurelio Vincent Ottey

Q: Vincent, did you come to RCSD today of your own free will and accord?

A: Yes sir.

Q: Were you advised of your rights before we started talking, specifically about the murder of Shunta Wilson?

A: Yes.

Q: Where were you Wednesday night/Thursday morning this week past (25th to 26th)?

A: I had gone to the NCO Club at Ft. Jackson with my friend Mark Murray. Mark lives across from the Burger King and Cracker Barrel on Bush River Rd. I met him at the

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: [Signature]

Signed: A. V. Ottey

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 30 day of July, 2007.

Sworn to and subscribed before me

This 2 day of July, 2007

Signed: A. V. Ottey

Notary Public for South Carolina

My commission expires 2-15-10

Waffle House on Broad River Rd. where he left his car. We left the NCO Club and dropped him off back at the Waffle House around 2:00AM. I then went home to my apartment at Brook Pines.

Q: Can anyone verify what time you got home?

A: My sixteen-year-old daughter Marissa was there but she was asleep on the fold out couch.

Q: How did you meet Shunta, and what was the nature of your relationship?

A: I first met her out to the Essence Club back in April. We had a sexual relationship. Sometimes when I worked at the Sandhills putting up the electrical poles I would take her lunch because she worked nearby at Ross'. We would only have sex after 11:00 PM at night, either at my apartment or at her apartment. We stopped being able to do that when my daughter moved in with me on Father's Day.

Q: When was the last time you spoke to Shunta?

A: It was after 11:00 PM that Wednesday night. She said something about going to the Sunset Club. We had that conversation right after I picked up Mark from the Waffle House. I did try to call her at least four or five more times after that but only got her voice mail. I was trying to hook up with her to have sex.

Q: When was the last time you saw her?

A: I was making a trip to Lowes with a guy I was doing some work for named "Roe". I have him down in phone as "Tall Zoe", but I don't know his real name. He is very tall. His number is 803-586-8193. We ran into Shunta as she was driving out of her apartments. I told her I would be back later. I came back to her apartment around 9:00 PM of 10:00 PM. We had sex that night. I left around 11:30 PM because I was home by midnight.

Q: How did you find out she was murdered?

A: Mark called me Friday and told me about it, saying he had heard it from somebody at the barbershop. I don't know what barbershop he goes to.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: [Signature]

Signed: A. V. [Signature]

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 30 day of July, 2007.

Sworn to and subscribed before me
This 30 day of July, 2007

Signed: A. V. [Signature]

Notary Public for South Carolina
My commission expires 2-5-10

Q: Did you learn of anything about the cause and manner of her death?

A: I went online and saw it on WLTX. I learned that she was strangled and was found in her apartment by a boyfriend. He then had called for help.

Q: What were you wearing that Wednesday night?

A: Faded black jeans with the face of Tupac on them, a golf style shirt with blue, green, and white stripes on it. I had on a pair of Nikes with matching green on the side. The soles are black. I had on a black tank top under my shirt. I took my golf shirt off after leaving the club.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: [Signature]

Signed: A. V. [Signature]

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 30 day of July, 2007.

Sworn to and subscribed before me
This 30 day of July, 2007

Signed: A. V. [Signature]

[Signature]
Notary Public for South Carolina
My commission expires 2-15-10

Q: What if I told you she had male DNA on her neck, and it might be yours?

A: We had sex on Tuesday. She liked rough sex. I would touch her neck, grab her neck, and kiss her neck during sex. She also liked to be slapped on the ass during sex.

Q: Did she ever like to be choked during sex?

A: No.

Q: When was the last time you either drove her car, or was simply seated in the driver-seat?

A: That Tuesday night I sat in her car when we were about to go get something to eat, but we wound up not going anywhere. She got called to go pick up her daughter, or something.

Q: Did you have to adjust the seat when you drove her car?

A: No, we were about the same height. Without her wearing the heels she was a little shorter than me. I last drove it on the weekend.

Q: Did you drive to Shunta's apartment at all Thursday AM?

A: No.

Q: Did you kill Shunta?

A: No.

Q: Did you fight with Shunta that night?

A: No, I didn't see her that night.

Q: Were you driving your white Chrysler Concorde that night?

A: Yes.

Q: What is your cell phone number?

A: 803-381-7699.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: [Signature]

Signed: A. V. [Signature]

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 30 day of July, 2007.

Sworn to and subscribed before me
This 30 day of July, 2007

Signed: A. V. [Signature]

Notary Public for South Carolina
My commission expires _____

Q: Did you work Thursday morning?

A: Yes sir. I picked up the Mexicans who I translate for with the bosses. I picked them up at 7:00 AM or 7:30 AM. I know I was at the job by 8:00 AM. We were working on a church in Lexington. I work for Belcher Staffing, but they put me with different companies.

Q: You previously worked on Ft. Jackson?

A: Years ago I did, probably 99 or 2000.

Q: You were in the military?

A: Yes, I was in the Marine Corps for four years, the Army for four years, and the National Guard for six years.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

Witness: Re [Signature]

Signed: A. V. [Signature]

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 30 day of July, 2007.

Sworn to and subscribed before me
This 30 day of July, 2007

Signed: A. V. [Signature]

[Signature]
Notary Public for South Carolina
My commission expires 2-15-10.

Q: Do you know how the bedroom door in Shunta's apartment got broken, where the knob was pushed through the sheetrock?

A: No.

Q: Do you know of any other men who Shunta had a relationship with?

A: All I know is a guy named Roy. I had his Georgia number in my phone because we talked one day. His number was 404-534-7426. I went to see her one day where she was working at the Hess. He was there at the same time I was there. We wound up talking. We found out we were both having a relationship with her. We were laughing about it. I put his number in my phone because he asked me to call him later.

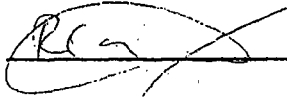
Q: Did Shunta talk to you about having any problems with anybody?

A: No, she would tell me that kind of thing. She could handle whatever because she was a tough cookie.

Q: Do you have anything else to offer that we haven't asked you about specifically?

A: No sir.

I have made the foregoing statement freely and voluntarily without fear, threat, promise or reward or hope of reward of any kind.

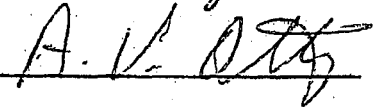
Witness: 

Signed: 

Witness: _____

This is to certify that I have read or have read to me the foregoing statement consisting of 6 pages and a true copy has been given to me this 30 day of July, 2007.

Sworn to and subscribed before me
This 30 day of July, 2007

Signed: 

Notary Public for South Carolina
My commission expires 2-15-20

WITNESSES

(S) R. Martin - RCSD

ARREST WARRANT NUMBER

I-916996

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date:

NOV 14 2007

VERDICT

"GUILTY"

Foreperson of Petit Jury

Date:

1-09-09

DOCKET NO. 2007-GS-40-07359

The State of South Carolina

County of Richland

COURT OF GENERAL SESSIONS

NOVEMBER TERM 2007

42

THE STATE

vs.

AURELIO VINCENT OTTEY

Indictment for

MURDER

SC Code: 16-3-10

CDR Code: 0116

Class FEL/EXM(V)

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

hereby appear in my own proper person and plea guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on NOVEMBER 14, 2007, the Grand Jurors of Richland County present upon their oath:

MURDER

That AURELIO VINCENT OTTEY did in Richland County on or about July 26, 2007, feloniously, willfully and with malice aforethought, kill one Shunta M. Wilson by means of strangulation and that the said victim died as a proximate result thereof. All in violation of SC Code of Laws § 16-3-10.

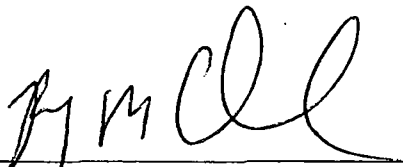
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Warren B. Giese
Warren B. Giese, SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

August 23rd, 2010



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT