

Volume I of II

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Cherokee County

Frank R. Addy, Circuit Court Judge

RECEIVED

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S.C. Supreme Court

JEREMY RICHARD PHILLIPS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

Appellate Case No. 2012-212165

APPENDIX

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1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF CHEROKEE) IN THE COURT OF GENERAL SESSIONS
 3
 4 The State,)
 5 vs.) TRANSCRIPT OF RECORD
 6 Jeremy Richard Phillips,) 2007-GS-11-301;302
 7 Defendant.) December 3, 5 - 7, 2007
 8) Gaffney, South Carolina
 9
 10 B E F O R E:
 11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
 12
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Motion

1 (Proceedings December 3, 2007)

2 MR. WEATHERFORD: Your Honor, based on my subpoena, I
3 have located some D. S. S. records, and they're in this
4 clerk's file here. And she tells me I need a court order
5 to get copies.

6 THE COURT: They're in the clerk's file or they're in
7 the department's file?

8 MR. WEATHERFORD: This is in the clerk's file.

9 THE COURT: What is that, a sealed record?

10 THE CLERK: It's D. S. S. It's confidential.

11 THE COURT: It is a case. This is your file.

12 THE CLERK: It's my file.

13 THE COURT: Yeah. Well, I thought you were looking
14 for the Department of Social Services' files.

15 MR. WEATHERFORD: Well, I was. And they came and
16 brought their file and ended up that's what I really --

17 THE COURT: Well, no. You can't, you can't have them.
18 You'll have to show me. I think there is a statute that
19 prohibits disclosure of that material.

20 If you want something out of that file you're going to
21 have to make a motion and show why it's relevant, and I'll
22 have to review the file and see if it's relevant and if it
23 should be released.

24 Now, if D. S. S. doesn't object to it, you can get it
25 out of their file. But you can't, you can't get something

Motion

1 out of a sealed file that's sealed by statute unless you
2 can show there's something in there that's relevant to the
3 case. And then I'll have to review it and see if there is.

4 MR. WEATHERFORD: Well, that's what I'm doing. I'm
5 making a motion to get copies of that file.

6 THE COURT: Well, you can't just make a motion to get
7 a copy of the file.

8 MR. WEATHERFORD: Well, I filed a subpoena, and they
9 objected to it and this is --

10 THE COURT: Well, you don't subpoena the clerk's file.
11 It's a court record, but it's closed or sealed pursuant to
12 a statute, I'm assuming.

13 What is it that you are looking for in the file?

14 MR. WEATHERFORD: Well, in there where she admits to
15 drug use.

16 THE COURT: How do you know that's in here?

17 MR. WEATHERFORD: Well, they showed it to me.

18 THE COURT: Who did?

19 MR. WEATHERFORD: The D. S. S.

20 THE COURT: Well, I thought they were opposed to
21 giving you a copy of the file.

22 MR. WEATHERFORD: Of their file. But they didn't have
23 any objection to the clerk's file.

24 THE COURT: Well, I'll review the file and see if
25 there's anything relevant. What relevant material do you

Motion

1 think is in here? I'll be --

2 MR. WEATHERFORD: Trying to show habit of drugs.

3 THE COURT: Okay. I'll review it.

4 What else?

5 MR. WEATHERFORD: And there may be another one on
6 Nakia Gossett that I've issued a subpoena for. But they
7 say all the records were sent to Oconee County, I mean,
8 Horry County. But the clerk may have a file on it. I'll
9 have to go down there. I don't know.

10 THE COURT: All right.

11 MR. WEATHERFORD: Is it in the index even if it is
12 closed? I can check and see.

13 THE CLERK: That's the only case she had here.

14 THE COURT: The only case is which, the one I have?

15 THE CLERK: Yes, sir.

16 THE COURT: All right. What other motions do we have?

17 MR. MORIN: On this case that's all we have, Your
18 Honor.

19 THE COURT: Okay.

20 END OF PROCEEDINGS DECEMBER 3, 2007

21

22

23

24

25

Jury qualification

1 (Proceedings December 5, 2007)

2 THE COURT: Good morning, ladies and gentlemen of the
3 jury panel.

4 We are ready to begin with jury selection in the first
5 case that's going to require some of your participation.
6 And the title of that case is the State vs. Jeremy Richard
7 Phillips.

8 Mr. Phillips has been accused by the state through the
9 solicitor of having committed two separate and distinct
10 offenses, although they are alleged to have arisen out of
11 one particular event or course of events which the state
12 alleges occurred back on August the 30th of 2006.

13 The state charges Mr. Phillips in two separate
14 indictments with the crimes of arson in the first degree
15 and murder occurring on that date. And by way of these
16 indictments the state alleges that the defendant, Jeremy
17 Richard Phillips, did here in Cherokee County on that date
18 wilfully and maliciously cause an explosion or set fire to
19 or burn or cause to be burned a building or a structure
20 which resulted in damage to the building or structure, and
21 causing the death of a person, that person alleged to be
22 Juan Roman.

23 They also allege in the second indictment the crime of
24 murder alleging that the defendant, Jeremy Richard
25 Phillips, did in Cherokee County on August the 30th of 2006

Jury qualification

1 wilfully and with malice aforethought kill one Juan Roman
2 by beating him and setting fire to him at his residence and
3 that he died as a proximate result of those acts committed
4 by the defendant.

5 Now, as to those indictments and as to the charges
6 contained therein and allegations made against the
7 defendant he has entered a plea of not guilty. And that
8 plea of not guilty therefore places upon the state the
9 burden of proving the allegations that they have set forth
10 in each of these indictments, the burden of proving each of
11 the essential elements that make up the crimes of murder
12 and of arson in the first degree; and therefore the burden
13 is upon the state to establish the defendant's guilt to the
14 satisfaction of 12 jurors beyond a reasonable doubt before
15 any such verdict could be returned.

16 So we are going to be selecting 13 of you. There will
17 be 12 primary jurors and one additional juror that will
18 serve as an alternate. And by way of your participation
19 you're simply going to be called upon to listen to the
20 testimony and to consider any other evidence received
21 during the trial of the case.

22 At the trial's conclusion you'll be called upon to
23 carefully consider all of that evidence. From that
24 evidence you will decide the facts, that is you'll
25 determine what, if anything, you believe occurred back on

Jury qualification

1 August the 30th of 2006 as it relates to these charges.
2 And then once you decide the facts you'll apply the law
3 that I will provide you, and you will determine whether or
4 not the defendant's guilt has been proven beyond a
5 reasonable doubt.

6 If his guilt has been proven beyond a reasonable doubt
7 as to one or both of these charges, then your verdict would
8 be guilty; and if the state has failed to prove the
9 defendant guilty beyond a reasonable doubt as to one or
10 both of these charges, then your verdict would be not
11 guilty.

12 Now, before we begin with your jury selection I've got
13 some questions that I'm going to ask you. The purpose of
14 these questions is to determine whether or not there is
15 some reason why any one of you jurors should not be
16 selected to participate in the trial of this particular
17 case. These questions are designed to determine whether or
18 not you have a bias or a prejudice or some reason why you
19 could not be fair and impartial if selected as a juror.

20 So during the course of this process you'll need to
21 respond to those questions if they apply to you. And by
22 the time we conclude I'll need to know if you have any
23 reason whatsoever why you think you could not be fair and
24 impartial if called upon to serve as a juror in the case.

25 Now, first of all, as I told you, the defendant, that

Jury qualification

1 is the person who is accused of having committed these
2 offenses, is Jeremy Richard Phillips.

3 Mr. Phillips, if you will, stand and face the jury
4 panel, please, sir.

5 (Whereupon, the defendant stood.)

6 THE COURT: That's Mr. Phillips. He is the person
7 charged with these crimes.

8 All right. Be seated.

9 Seated with Mr. Phillips is Chip Weatherford, his
10 lawyer, who will be assisting him in the trial of this
11 case.

12 As I told you, the person who is alleged to have been
13 the victim of each of these offenses is Juan Roman.

14 Are any of Mr. Roman's family members present?

15 MR. MORIN: They're not in the courtroom at this time,
16 Your Honor.

17 THE COURT: Where are they?

18 MR. MORIN: I believe they're sitting outside.

19 THE COURT: Well, let's ask one of more of those to
20 come in so that the jury can determine whether or not they
21 happen to know Mr. Roman or some member of his family.

22 (Pause.)

23 THE COURT: All right. Solicitor, now, if you will,
24 identify each of those individuals, and tell me what
25 connection they are with Mr. Roman.

Jury qualification

1 MR. MORIN: I will have to wait for the interpreter,
2 Your Honor.

3 (Pause.)

4 THE COURT: I really just want to know who they are.

5 MR. MORIN: These are his brothers Raphael Roman and
6 Francesco Roman.

7 THE COURT: All right. If you will, please stand so
8 the jury can see who you are.

9 (Whereupon, the victim's relatives stood.)

10 THE COURT: All right. These are brothers of Mr.
11 Roman, Juan Roman.

12 Thank you. You may be seated.

13 The only reason I ask them to stand is so you might
14 know -- you might not know Mr. Roman but you might know him
15 if you know who some of his relatives were. These are two
16 of his brothers.

17 Presenting the case on behalf of the state is Michael
18 Morin who is the assistant solicitor or one of the
19 assistant solicitors in the 7th Judicial Circuit.

20 Now, I'm going to recite a list of potential
21 witnesses. All of these witnesses may not be called during
22 the trial of this case, but they are potentially witnesses
23 and perhaps they all will. I don't know at the moment.
24 But I'm going to list -- recite for you a list of all of
25 the potential witnesses.

Jury qualification

1 The reason I'm identifying all of these people for you
2 is because I need to know if any juror is connected in any
3 way with any person who is being identified. That includes
4 the lawyers; that includes the defendant; that includes the
5 deceased; that includes the potential witnesses.

6 So if you have a connection by blood, by marriage, by
7 business association, professional association, a social
8 connection, friendship, live in the neighborhood and you
9 met them in some way, I need for you to let me know that.

10 These are the following potential witnesses: Tracy
11 Fowler, Ronnie Painter, Mark Vandeburg, Mike Fowlkes, Tim
12 Clark, Joye Guyton, Tim Hill and Jimmy Henson.

13 Now, each of those persons are employed with the
14 Cherokee County Sheriff's Department.

15 We also have E. D. "Spike" McCraw, Larry Chapman,
16 Frank Conrad, Illa Simmons, Janice Bryson, Manuel Ortuno,
17 Lilly Gallman and Joseph Powell with the South Carolina
18 State Law Enforcement Division, often referred to as SLED.

19 We also have Jimmy Lamb with the Boucher Plain --
20 excuse me -- Goucher-White Plains Fire Department.

21 And the following individuals are not identified as
22 being associated with any particular agency, but they
23 include Nakia Gossett, Jesse Willis, Hazel Willis, Shannon
24 Powell, Eric Powell, Beverly Mimms, Cindy Gallman, Penny
25 Turner, Alisha Alcala, Melissa Parsons, Alberto Rodrigues,

Jury qualification

1 Damon Duncan, Tiffany Fox, Timothy Moss, Charles Scruggs,
2 Margaret Lewis, Charles -- we've already got Charles
3 Scruggs.

4 All right. The following persons are professional
5 witnesses, meaning they will be testifying based upon their
6 professional employment.

7 They include Mary Watts who is a dentist, Robert Brown
8 who is a dentist, Janice Ross who is a medical doctor, Joel
9 Sexton who is a medical doctor.

10 We also have Barbara Means who is employed at Upstate
11 Carolina Medical Center, Josh Bright and Chip Ballard
12 employed by Cherokee County Emergency Medical Services, and
13 an individual by the name of Keith Phillips.

14 Now, does any juror have any connection or know any
15 person who has been identified for your benefit this
16 morning? If so, please stand.

17 All right. I have a number standing. What I'll do --
18 is everybody standing that needs to respond to the
19 question?

20 I'm going to start on the front row, and I'll work
21 across each row and go back. And so if you'll please give
22 me your name, your juror number, and then tell me how the
23 question relates to you, that is what person you are
24 connected with or know.

25 JUROR NO. 33: Brian Green, Juror 33. I believe I

Jury qualification

1 went to school with some of the officers maybe.

2 THE COURT: Some of the sheriff's deputies?

3 JUROR NO. 33: Yes, sir.

4 THE COURT: All right. We have Fowler, Painter,
5 Vandeburg, Fowlkes, Clark, Guyton, Hill and Henson.

6 JUROR NO. 33: I believe it is Painter.

7 THE COURT: Okay. And you went to high school?

8 JUROR NO. 33: Yes, sir.

9 THE COURT: Is there anything about that connection
10 that would affect your judgment in any way in this case?

11 JUROR NO. 33: We weren't really close, so I don't
12 think it will.

13 THE COURT: So it would have no bearing upon your
14 decision?

15 JUROR NO. 33: I don't think so.

16 THE COURT: Well, are you fairly certain that that's
17 true or are you just guessing at it?

18 JUROR NO. 33: I'm certain.

19 THE COURT: Okay. Thank you. You may be seated.
20 Yes, ma'am.

21 JUROR NO. 53: Stephanie Martin, No. 53. I used to
22 date Tim Clark.

23 THE COURT: You used to date Tim Clark?

24 JUROR NO. 53: I also grew up with him.

25 THE COURT: Okay.

Jury qualification

1 JUROR NO. 53: And I know Timothy Moss, I believe.

2 THE COURT: You know Timmy Moss?

3 JUROR NO. 53: Uh-huh.

4 THE COURT: How do you know Mr. Moss?

5 JUROR NO. 53: He is a distant friend. I mean, I went
6 to school with him.

7 THE COURT: Okay. And is there anything --

8 JUROR NO. 53: And Jimmy Henson also. I'm sorry.

9 THE COURT: Jimmy Henson with the sheriff's
10 department?

11 JUROR NO. 53: He's a very close friend with my
12 family.

13 THE COURT: Okay. And is there anything about those
14 connections that would have any impact upon your decision
15 in the case?

16 JUROR NO. 53: I hate to say yes, but I might be more
17 likely to have more faith in Henson than I would maybe
18 something that somebody else said.

19 THE COURT: So, in other words, just because you know
20 Mr. Henson you might believe what he says, notwithstanding
21 the fact that there's other competent and --

22 JUROR NO. 53: Yes, sir. I am just being honest. I'm
23 just being honest with you.

24 THE COURT: Well, I certainly hope that you would.
25 That's why we are all here. We're here to find the truth

Jury qualification

1 and to be honest. Naturally that would be the case, I
2 hope. I recommend that for everybody. So you think it
3 might have an impact upon your decision.

4 JUROR NO. 53: Yes, sir. I have a lot of faith in
5 him.

6 THE COURT: All right. Well, we'll excuse you from
7 service in the case. But don't leave yet.

8 All right. Anybody else on that row? Yes, sir.

9 JUROR NO. 61: I'm Travis Mullinax, 61. And I know
10 Ronnie Painter and I know a Timmy Moss too.

11 THE COURT: All right. And is there anything about
12 those connections that would affect your judgment in the
13 case?

14 JUROR NO. 61: No.

15 THE COURT: All right. Thank you. You may be seated.

16 All right. Let's start on the next row.

17 Yes, sir.

18 JUROR NO. 108: Terry Wyatt, 108. I know Cindy
19 Gallman.

20 THE COURT: You know Cindy Gallman?

21 JUROR NO. 108: Yes, sir.

22 THE COURT: All right. And how do you know her?

23 JUROR NO. 108: I knowed her about all of my life
24 through school, through church.

25 THE COURT: All right. And is there anything about

Jury qualification

1 that fact that would affect your judgment in this case?

2 JUROR NO. 108: I also know the defendant's grandma,
3 grandpa, his mama, his step-daddy.

4 THE COURT: All right. Anybody else you know?

5 JUROR NO. 108: No, sir.

6 THE COURT: All right. Would any of those facts or
7 any of those connections cause you to be unable to be fair
8 and impartial in this case if you were selected?

9 JUROR NO. 108: I don't feel like I could be fair.

10 THE COURT: You don't feel like you could be fair?

11 JUROR NO. 108: No, sir.

12 THE COURT: Okay.

13 JUROR NO. 108: I know.

14 THE COURT: That's fine. We will excuse you from
15 service in this case if you can't be fair.

16 I mean, as I stated before, we want to be certain that
17 everybody can be fair and impartial if you're going to
18 serve in the case.

19 All right. Thank you. You may be seated.

20 Next.

21 JUROR NO. 110: Robert Callahan, 110.

22 THE COURT: All right, sir.

23 JUROR NO. 110: And my brother-in-law is at the
24 prosecution table right there.

25 THE COURT: And Mr. Phillips is your brother-in-law?

Jury qualification

1 (The juror was referring to Investigator Phillips with
2 the solicitor's office.)

3 JUROR NO. 110: Yeah.

4 THE COURT: Okay. And would that have any bearing
5 upon your decision in the case?

6 JUROR NO. 110: No, sir.

7 THE COURT: All right. You may be seated.

8 Yes, sir.

9 JUROR NO. 104: Juror 104, Jeffery McKinney. And
10 there's two people that you mentioned that I know. One of
11 them I don't actually know, this Cindy Gallman. If she's a
12 school teacher, I know the name just through one of my best
13 friends that talked about her a lot.

14 THE COURT: All right. Let me find out.

15 Who is Ms. Gallman, Solicitor?

16 MR. MORIN: She's not a school teacher, Judge.

17 THE COURT: She's not?

18 JUROR NO. 104: Okay. That must be someone different.

19 MR. WEATHERFORD: Your Honor, my client says she is.

20 THE COURT: Well, where is Ms. Gallman? Is she here?

21 MR. MORIN: She's not here, Judge.

22 THE COURT: And where does she reside and what is her
23 connection with the case?

24 MR. MORIN: She lives at [REDACTED], Your
25 Honor.

Jury qualification

1 THE COURT: And Oakstone Road?

2 MR. MORIN: Is in Cowpens.

3 THE COURT: Is in Cowpens.

4 MR. MORIN: Yes, sir.

5 THE COURT: Is that the one you think you know?

6 JUROR NO. 104: Well, like I said, if she walked -- if
7 three ladies walked in the room I may not be able to pick
8 her out. I've just, I have heard her name mentioned by one
9 of my friends.

10 THE COURT: All right.

11 JUROR NO. 104: So I just wanted to be honest with you
12 and tell you I have heard the name. As far as her, I
13 really don't think that would have, you know, any influence
14 on me.

15 THE COURT: So you just -- you just think you know who
16 she is, but you don't have any connection with her.

17 JUROR NO. 104: I don't. My wife knows her, I
18 believe. And, like I said, one of my best friends who I
19 think -- I mean, it wouldn't affect my judgment on the case
20 in any way at all.

21 THE COURT: It wouldn't have any bearing on your
22 decision?

23 JUROR NO. 104: No, sir.

24 THE COURT: Okay. And who else do you know?

25 JUROR NO. 104: Mary Watts. She used to be my

Jury qualification

1 dentist -- I would say -- I really can't guess -- maybe
2 five or six years ago. But, I mean, I don't think it would
3 have any influence on me. I just would be honest with you.

4 THE COURT: Okay. All right. Thank you. You may be
5 seated.

6 MR. WEATHERFORD: Your Honor, was that Juror 104?

7 THE COURT: 104, Mr. McKinney, yes.

8 Let's go to the next row.

9 JUROR NO. 13: Yes, sir. Juror No. 13. I know
10 Mr. Fowlkes, Mike Fowlkes, through church.

11 THE COURT: And would that fact have any bearing upon
12 your decision in this case if you were selected?

13 JUROR NO. 13: No, sir.

14 THE COURT: All right. Thank you. Be seated.

15 All right. Next row. Yes, ma'am.

16 JUROR NO. 89: Juror No. 89. I know Mike Fowlkes. I
17 know Ronnie Painter. And if it is Cindy Gallman who is a
18 school teacher, I'm acquainted with her but I don't know
19 her well.

20 THE COURT: All right. Would any of those connections
21 or any knowledge of those individuals have any impact upon
22 your decision in this case if you were selected?

23 JUROR NO. 89: No, sir.

24 THE COURT: Thank you. You may be seated.

25 Yes, sir.

Jury qualification

1 JUROR NO. 21: Tim Humphries, Juror No. 41. I know
2 Jimmy Henson and also I know Tim Clark. I went to school
3 with him. And Tim Moss, I'm not sure, but I went to school
4 also with a Tim Moss.

5 THE COURT: All right. Would any of those facts have
6 any bearing upon your decision in this case?

7 JUROR NO. 21: No, sir.

8 THE COURT: All right. Thank you. You may be seated.
9 Next row. Yes, sir.

10 JUROR NO. 80: Juror No. 80, Terry Sexton. Several of
11 the police officers, Painter, Tim Hill and Vandeburg. I
12 know them personally and also through business associates.

13 THE COURT: Would that have any bearing upon your
14 decision in this case if you were called upon to serve as a
15 juror?

16 JUROR NO. 80: No, sir.

17 THE COURT: Thank you. Be seated.
18 Yes, ma'am.

19 JUROR NO. 76: Haley Roberts, Juror No. 76. Attorney
20 Chip Weatherford is my neighbor and a friend of the family
21 and my attorney.

22 THE COURT: Would that have any bearing upon your
23 decision in this case?

24 JUROR NO. 76: No, sir.

25 THE COURT: Thank you. Be seated.

Jury qualification

1 Yes, sir.

2 JUROR NO. 25: I am Juror No. 25, Rick Dizbon. I am
3 an acquaintance with a Charles Scruggs. I know Cindy
4 Gallman who is a teacher, and also Jimmy Lamb.

5 THE COURT: And would any of those facts have any
6 bearing upon your decision in this case?

7 JUROR NO. 76: No, Your Honor.

8 THE COURT: Thank you. You may be seated.

9 Yes, ma'am.

10 JUROR NO. 59: My name is Heather Mullinax, Juror No.
11 59. I know Tim Clark and Jimmy Henson through my mother
12 had a --

13 THE COURT: I'm sorry. Could you repeat that for me,
14 please?

15 JUROR NO. 59: I know Jimmy Henson and Tim Clark.
16 They're -- my mother's employed by the town of Blacksburg.

17 THE COURT: Okay. Any others?

18 JUROR NO. 59: No.

19 THE COURT: Would either of those connections have any
20 bearing upon your decision?

21 JUROR NO. 59: No, sir.

22 THE COURT: All right. Thank you. You may be seated.

23 MR. WEATHERFORD: Your Honor, I didn't catch her
24 number.

25 THE COURT: Fifty-nine.

Jury qualification

1 All right. Now, as I told you, in this case the
2 defendant has been accused by the prosecutor of having
3 committed the crimes of murder and arson in the first
4 degree. They allege that occurred on August the 30th of
5 2006. And it is alleged to have occurred at what location,
6 Solicitor?

7 MR. MORIN: [REDACTED] in Cherokee. That's
8 near Cowpens.

9 THE COURT: And it is alleged to have occurred at [REDACTED]
10 [REDACTED] in Cherokee County, but in or near the town
11 of Cowpens.

12 Is there any member of the jury panel who believes you
13 have heard something, seen something or read something
14 about this case from any person or any source? Anyone
15 think you have any knowledge of the facts that relate to
16 the case? Have you heard about it, seen anything in the
17 media about it, or heard any discussions about it from any
18 individuals? If so, please stand.

19 All right. I have got two. If you will, give me your
20 number again, please, sir.

21 JUROR NO. 41: Tim Humphries, No. 41. I remember
22 reading about it in the Gaffney Ledger.

23 THE COURT: About how long ago?

24 JUROR NO. 41: Seems like it was a year or so ago.

25 THE COURT: All right. Is there anything? Do you

Jury qualification

1 recall what you read? Don't tell me, just yes or no.

2 JUROR NO. 41: Yes.. I remember reading about it.

3 THE COURT: Is there anything about what you read that
4 would affect your ability to be fair in this case?

5 JUROR NO. 41: No, sir.

6 THE COURT: Okay. Thank you. You may be seated.
7 Front row, yes, sir.

8 JUROR NO. 61: Sixty-one, Travis Mullinax. I read
9 about it probably about two or three weeks ago in the
10 Gaffney Ledger.

11 THE COURT: And do you recall what you read?

12 JUROR NO. 61: Yeah. It was the headline in the
13 Gaffney Ledger.

14 THE COURT: Do you recall what you read?

15 JUROR NO. 61: Yeah, I remember what I read.

16 THE COURT: Just the headline or did you read an
17 article?

18 JUROR NO. 61: It was just a -- said, you know, how
19 many cases were coming up in court this week or whatever,
20 and that was the main one.

21 THE COURT: Okay. Is there anything about what you
22 read that would affect your ability to be fair in this
23 case?

24 JUROR NO. 61: No.

25 THE COURT: Okay. Thank you. Be seated.

Jury qualification

1 Yes, sir.

2 JUROR NO. 108: I read about it. And I'm from that
3 neighborhood. That's where I grew up. And my mom still
4 lives there.

5 THE COURT: All right. And tell me your number again,
6 please, sir.

7 JUROR NO. 108: 108.

8 THE COURT: All right. And is there anything about
9 what you have heard, seen or read that would affect your
10 ability to be fair in this case?

11 JUROR NO. 108: I believe it would, sir.

12 THE COURT: All right. We will excuse 108. I'm
13 sorry. You've already been excused, haven't you?

14 JUROR NO. 108: Yes, sir.

15 THE COURT: All right. Thank you.

16 Yes, sir.

17 JUROR NO. 80: Juror No. 80, Terry Sexton. Just
18 reading through the local media based on what I read, I've
19 already reached a decision.

20 THE COURT: All right. So you have an opinion about
21 this case that couldn't be altered by the evidence? In
22 other words, you don't know. You haven't heard, seen any
23 evidence in the case, but you've already reached a
24 conclusion as to how it ought to come out?

25 JUROR NO. 80: If what I read in the paper was true.

Jury qualification

1 THE COURT: Okay. Well, what if it's not? Do you see
2 what I mean?

3 JUROR NO. 80: Yes, sir.

4 THE COURT: Sometimes you might be on the street
5 somewhere and you hear somebody talking about a case or
6 talking about an event, and you think, well, what about
7 that. And then you find out later it's not even so.

8 What I'm saying is any decision that any jury panel
9 reaches in a given case, this one or any case, has to be
10 based upon the testimony and the evidence presented during
11 the trial.

12 In other words, you can't be influenced by somebody
13 outside on the street who may or may not know anything
14 about it but is talking about it.

15 And so what jurors have to do in order to serve, you
16 have to be able to say, well, I'm not going to allow that
17 outside stuff that I don't even know whether it's true or
18 not to influence my decision, I'm going to base the
19 decision upon what I see and hear in court during the
20 trial.

21 Now, some people can do that, some people can't do
22 that. And I'm just trying to find out who can and who
23 can't. If you can, that's wonderful. If you can't, that's
24 fine too.

25 JUROR NO. 80: I don't think I can.

Jury qualification

1 THE COURT: Okay. That's Juror No. 80. He'll be
2 excused from service in the case.

3 All right. Anybody else recall having seen, heard or
4 read anything about the case?

5 (No response.)

6 THE COURT: All right. Now, I told you what the
7 charges are and I've told you a little bit about the case.

8 Now, what I told you obviously is not an exhaustive
9 discussion of the facts in this case. That will come out
10 during the trial. But you understand what the case is
11 about and who the pertinent people are that are involved.

12 I need to know if based upon the nature of the case,
13 what you've heard up until this point and the circumstances
14 of this particular case, if there's any reason why any
15 juror could not be fair and impartial if you were called
16 upon to serve as a juror. If so, please stand.

17 All right. Yes, sir. You are Juror No. 33.

18 JUROR NO. 33: Thirty-three.

19 THE COURT: All right.

20 JUROR NO. 33: The fact that it's a murder case
21 actually poses a hard problem for me to deal with.

22 THE COURT: That's all I need to know. You've got a
23 reason you think just based on the facts of what the charge
24 is that you might not be able to be fair and impartial?

25 JUROR NO. 33: Yes, sir.

Jury qualification

1 THE COURT: Okay. We'll excuse you from service in
2 the case.

3 That's Juror 33.

4 Anyone else?

5 (No response.)

6 THE COURT: Has any member of the jury panel already
7 made up your mind, formed an opinion, expressed an opinion
8 or decided what you think the outcome of this case ought to
9 be based upon what you've heard up until this point or
10 based upon any consideration whatsoever? I just need to
11 know if any juror has already decided what you think the
12 outcome of this case ought to be. If so, please stand.

13 (No response.)

14 THE COURT: Any juror know of any reason whatsoever
15 why you think you could not be fair and impartial if called
16 upon to serve? If so, please stand.

17 (No response.)

18 THE COURT: Any other questions requested by the
19 state?

20 MR. MORIN: Nothing from the state, Your Honor.

21 MR. WEATHERFORD: Would Your Honor inquire if any
22 member of the jury panel is related by blood or marriage or
23 close personal friends with any law enforcement officers?

24 THE COURT: All right. Is there any member of the
25 jury panel who is connected by blood or marriage to any law

Jury qualification

1 enforcement officer, whether it be a deputy sheriff, a city
2 or town law enforcement officer, a corrections officer, a
3 detention facility or jail employee, state law enforcement
4 division, federal bureau of investigation, military police,
5 any type of law enforcement officer? If so, please stand.

6 JUROR NO. 53: I have a question.

7 THE COURT: Yes, ma'am.

8 JUROR NO. 53: What if they're retired? Does that
9 matter?

10 THE COURT: I can't hear you. Ma'am?

11 JUROR NO. 53: What if they're retired?

12 THE COURT: Let's go ahead and give me that
13 information too. If you are connected to a law enforcement
14 officer who has since retired but was a law enforcement
15 officer, tell me that too.

16 Okay. All right. I'll start with you, ma'am, if
17 you'll give me your number, please, again.

18 JUROR NO. 53: Juror 53. Curtis Motts was my
19 grandfather.

20 THE COURT: Okay. And I think you've already been
21 excused. You have.

22 JUROR NO. 53: Well, and Ken --

23 THE COURT: Ma'am?

24 JUROR NO. 53: Kenneth Motts was my grandfather.

25 THE COURT: Okay. Thank you.

Jury qualification

1 Mr. McKinney.

2 JUROR NO. 104: 104, Jeffery McKinney. I have, I
3 mean, this is kind of distant. I have a third cousin that
4 is, you know, a Cherokee County officer. His name is Danny
5 Swofford. And his brother-in-law is also an officer, but
6 I'm not sure of his name, sir.

7 THE COURT: Okay. Thank you. Be seated.

8 Yes, sir.

9 JUROR NO. 110: 110, Robert Callahan.

10 THE COURT: All right. How the question relate to
11 you? Oh, Mr. Phillips. Okay. Thank you. Be seated.

12 JUROR NO. 110: Yeah.

13 THE COURT: Thank you. Be seated.

14 Yes, sir.

15 JUROR NO. 108: 108. I have.

16 THE COURT: All right. You've already been excused --
17 you've already been excused.

18 All right. Next.

19 JUROR NO. 41: Forty-one, Tim Humphries. I have a
20 cousin, first cousin, Brian Blackwood, that works with the
21 Gaffney police department. And also I'm distant akin to
22 Curtis Marks.

23 THE COURT: Okay. Thank you. Be seated.

24 Yes, sir.

25 JUROR NO. 107: 107, Steven Large. I have two

Jury qualification

1 cousins. One is a state trooper and works for Virginia and
2 the other one is a city police officer in Lexington, North
3 Carolina.

4 THE COURT: Okay. Thank you. Be seated.

5 Yes, ma'am.

6 JUROR NO. 167: Juror No. 16, Cynthia Camp. Officer
7 P. J. Manning is my cousin, and also related to Jimmy Brown
8 who is a corrections officer somewhere.

9 THE COURT: Somewhere?

10 JUROR NO. 167: In the lower part of the state. I'm
11 not really sure where.

12 THE COURT: Okay. All right. Thank you. You may be
13 seated.

14 Yes, sir.

15 JUROR NO. 83: Juror 83, Charles Strain. I have a
16 niece that works for the solicitor's office.

17 THE COURT: Her name is what?

18 JUROR NO. 83: Amy White.

19 THE COURT: All right. Thank you. Be seated.

20 MR. WEATHERFORD: Your Honor, I missed his number.

21 THE COURT: Eighty-three.

22 JUROR NO. 83: Eighty-three.

23 JUROR NO. 59: Fifty-nine, Heather Mullinax. My
24 cousin's first cousin works for the sheriff's department --
25 Rodney Bright.

Jury qualification

1 THE COURT: All right. Thank you. Be seated.

2 Anyone else?

3 (No response.)

4 THE COURT: Any other questions requested?

5 MR. WEATHERFORD: No.

6 THE COURT: All right. Ladies and gentlemen, we're
7 ready to begin with jury selection.

8 Now, the way that's accomplished is that each of your
9 names are typed on a slip of paper. They're in the little
10 vial. They're in the jury drum. They've been drawn out.
11 They will be drawn out randomly and individually.

12 When your name is called you're going to be asked to
13 come down. If you'll just come down in the middle aisle or
14 if you need to come around, you can come that way. But I
15 need for you to stand right here in front of Ms. McBee,
16 your clerk, and look towards the back of the room where
17 your fellow jurors are seated.

18 Each side has an opportunity to have you seated for
19 service in the case or to have you excused from service in
20 the case. If either side asks that you be excused from
21 serving, you can simply go back and have a seat where you
22 are now. If both agree to have you seated, then you'll
23 have a seat over here in the jury box to my left and to
24 your right.

25 So please come forward as your name is called and

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1 you'll be instructed if you are to be seated for service in
2 the case or excused from service in the case.

3 MR. WEATHERFORD: Five and ten, Your Honor?

4 THE COURT: Yes, sir.

5 (Whereupon, a jury was impanelled.)

6 THE COURT: All right. Those jurors who were
7 selected, I'll ask you to please go with a bailiff to a
8 jury room, and I'll bring you back shortly to begin with
9 the trial.

10 (The following takes place outside the presence of the
11 jury.)

12 THE COURT: Are there any matters that need to be
13 addressed regarding jury selection by the state?

14 MR. MORIN: No, sir.

15 THE COURT: By the defense?

16 MR. WEATHERFORD: No, sir.

17 (Whereupon, the remaining members of the jury venire
18 were excused.)

19 THE COURT: All right. Any motions or other matters
20 to address before we begin?

21 MR. WEATHERFORD: Yes, sir, I have a few.

22 I think the last one I filed was a motion to sequester
23 the witnesses, and I believe the state has consented to
24 that.

25 THE COURT: Is that true?

Motions

1 MR. MORIN: Yes, sir.

2 THE COURT: All right. Motion to sequester is granted
3 with consent.

4 MR. WEATHERFORD: All right. The next one is a motion
5 in limine with regard to showing photographs of a body that
6 was burned beyond recognition, which I submit to the Court
7 is -- that any probative value it might have is
8 substantially outweighed by the danger of any unfair
9 prejudice. And it would be cumulative to other evidence.

10 I can't imagine why other than prejudice any such
11 photograph would be relevant. They have other means of
12 identifying the body. You can't even identify the body
13 from the photographs.

14 I just object on the grounds that it's prejudicial,
15 highly prejudicial, and cumulative to others. I mean, it's
16 not even cumulative. You can't tell anything except it's a
17 -- people say it's a burned-up body.

18 THE COURT: Well, let me ask you this. If there's no
19 probative value to it because you can't tell what it is,
20 how can there be any prejudice if it's admitted if you
21 don't know what it is?

22 MR. WEATHERFORD: Well, they're going to testify
23 that's what it is.

24 THE COURT: Okay. Well, if you can't tell what it is
25 in the picture, how could the picture itself be prejudicial

Motions

1 in any way?

2 MR. WEATHERFORD: Well, I think it's highly
3 prejudicial to show a body that's burned beyond crisp.

4 THE COURT: You said you can't look at the picture and
5 tell if it's a body or any other --

6 MR. WEATHERFORD: They identify it as the body.
7 That's the purpose for introducing it. They've identified
8 it to me as the body. And I just can't see what probative
9 value that would have in whether or not that's Juan Roman.

10 THE COURT: All right. Let me hear from the
11 solicitor.

12 MR. MORIN: Your Honor, there are two pictures. First
13 of all, there's 11 pictures that we've agreed to. There
14 are two pictures that were disputed. Those two pictures,
15 there is human remains in the photograph. They're not
16 readily apparent.

17 I don't know that they're overly prejudicial. As he
18 stated, it's hard to tell what it is from looking at the
19 photograph. The purpose of doing it is going to be for one
20 of the witnesses to explain how, how they came about the
21 body. And that would be the case. There were two
22 pictures. I'm going to hand up the two pictures to which I
23 refer.

24 THE COURT: All right. And I'm looking at the
25 photographs. Tell me what it's supposed to be.

Motions

1 MR. MORIN: Those are two photographs of the trailer
2 after it was burned. And what happened was, is the --

3 THE COURT: The white, the white large, object which
4 looks like some kind of cloth to me, that's not cloth,
5 that's actually metal?

6 MR. MORIN: That's the metal roof that they had to
7 peel back during the fighting of the fire, Your Honor, or
8 shortly thereafter.

9 THE COURT: All right.

10 MR. MORIN: And then after that they came upon human
11 remains, is a better way to describe it, I think, than a
12 body. And these pictures depict, and what we propose they
13 do is the fireman that found them or his group that found
14 them, to explain how they came about them and what, what
15 condition they were in.

16 What we were going to do is he's going to testify as
17 to what they had to do and how they came across those
18 remains. I don't believe either one of those pictures are
19 overly prejudicial. They do, they are probative in the
20 sense they explain how he came about it and what he found
21 when he got there and when they concluded fighting the
22 fire.

23 THE COURT: Well, I'm trying to figure out how these
24 photographs are going to help him explain that because they
25 don't -- maybe y'all see something, or since you know what

Motions

1 it is, and it has been explained to you by a person who saw
2 it in the first person. I, I can't tell anything from the
3 photographs.

4 I mean, so they wouldn't help me unless something was
5 explained. But I'm trying to determine. I think the
6 defense's position is that there's no probative value,
7 they're gory, they're gruesome. Is that --

8 MR. WEATHERFORD: Yes, sir.

9 THE COURT: So I'm trying to figure out the probative
10 value. I'm also trying to figure out what's gory or
11 gruesome about them since I don't think you can look at it
12 and tell anything from it so far as human remains are
13 concerned. Where are they? I need for you to just show
14 me. Where are the human remains?

15 MR. MORIN: Do you want me to step up as I point?

16 THE COURT: I see ashes and things. Maybe that can be
17 a stick, a newspaper, anything.

18 (Bench conference held off the record.)

19 THE COURT: All right. Well, for the time being I'll
20 have to, I'll just have to hear what the witness testifies
21 to and determine whether or not these appear to be
22 necessary in order to prove any element of the offense,
23 whether they're necessary and beneficial to the state's
24 case or whether or not the prejudicial effect outweighs any
25 probative value. So, anyway, before they're introduced

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1 we'll address it. All right.

2 MR. WEATHERFORD: Your Honor, my last motion is a
3 motion for a continuance based on two reasons. Number one
4 is the discovery is not, was not completed when I filed the
5 motion. Some has been completed since then, but/and the
6 second one is the continuance based on the fact that the
7 defendant had insufficient notice to prepare for trial.
8 They kinda go together.

9 Your Honor, I filed, just for the record, I attached
10 some exhibits to my motion. The first is the Exhibit A, is
11 the initial request for discovery which was filed
12 September the 26th of 2006 and served on the solicitor's
13 office. And, Your Honor, of course Rule 5 and Brady. Rule
14 5 gives them 30 days to comply.

15 Then Exhibit B is an order for bond. And at that bond
16 hearing we have talked about discovery. And there's a
17 paragraph in that order filed February the 2nd of 2007, and
18 it was ordered that discovery issues remaining after 30
19 days would be revisited with regard to the defendant's
20 bond.

21 Then on Exhibit C, a motion for bond and speedy trial
22 and motion for discovery, it was in that motion I stated
23 that no discovery had been provided since the January order
24 regarding the 30 days.

25 THE COURT: February order. Are you talking about

Motions

1 Exhibit B? You said February 2nd.

2 MR. WEATHERFORD: Right. That's correct.

3 THE COURT: Speedy trial was filed when?

4 MR. WEATHERFORD: Well, the order was signed
5 January the 24th. That's what I was referring to in my
6 Exhibit C. It was actually filed February the 2nd.

7 THE COURT: 2nd.

8 MR. WEATHERFORD: I'm still trying to get discovery.

9 THE COURT: Well, when did the speedy trial motion get
10 filed?

11 MR. WEATHERFORD: Well, we filed them simultaneously.

12 THE COURT: Simultaneous with what?

13 MR. WEATHERFORD: At the same time I filed for
14 discovery, another motion for discovery.

15 THE COURT: What was the date of it?

16 MR. WEATHERFORD: April the 10th, and it was filed
17 April the 11th.

18 THE COURT: All right.

19 MR. WEATHERFORD: All right. Then on July the 17th I
20 filed another motion to compel discovery and at that
21 time --

22 THE COURT: When was that, July the 17th?

23 MR. WEATHERFORD: July the 17th of this year. And at
24 that time I had received the autopsy, and so I was asking
25 for items indicating that the pathologist had at the time

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1 when he did the autopsy, which was done within two days of
2 the date of death, and he mentioned dental records and
3 dental x-rays which I only got this past Monday.

4 I asked for additional phone records. They had issued
5 a subpoena for phone records for a specific period of time.
6 And they, as far as I know, arbitrarily chose to end those
7 records on September the 7th.

8 And I've asked for, for the state to provide, since
9 they were able to get the records up to a particular date
10 they wanted, provide me with additional records with regard
11 to whether or not any phone calls were made on that phone
12 after that particular date, and of course they have not
13 been provided.

14 Then on November the 21st, which, for the record, was
15 the day before Thanksgiving this year, the solicitor at
16 1:15 faxed me a docket indicating this case, Jeremy
17 Phillips, was the first on the trial roster for the week of
18 December the 3rd.

19 For the record also, I had taken that entire week off
20 and was not in the office that week. And so I didn't get
21 the notice of the actual being the first case on the docket
22 until Monday, seven days from this Monday.

23 But the real problem is if I had known about that
24 Friday before I took that week of vacation, which I didn't
25 go anywhere, I just stayed around here working on things, I

Motions

1 could have spent the entire week working on this case and
2 getting ready for it.

3 And so, and then after I got this notice I have spent
4 at least 80 percent of my time trying to get discovery that
5 they haven't produced up until this point in time.

6 Now, Exhibit F is a letter I wrote after I got the
7 notice of trial for records that I still requested. Now,
8 the hospital records and the E. M. S. records, I have
9 subpoenaed; dental records, I have gotten to see them this
10 Monday and taken them to my dentist, and he's told me his
11 opinion about those.

12 I did get the toxicology reports. The autopsy
13 mentions a history of alcohol abuse. I've asked for where
14 the pathologist got that history. I haven't received any
15 information.

16 I have received criminal records of any proposed
17 witness. I have subpoenaed D. S. S. records, and I think
18 you have some of that that you're going to rule on at a
19 later time or at the time the witnesses are called.

20 THE COURT: Now, understand I don't have the D. S. S.
21 records.

22 MR. WEATHERFORD: You have got the clerk's.

23 THE COURT: I have the clerk of court's file on two
24 cases.

25 MR. WEATHERFORD: All right. And that was one of the

Motions

1 things I was looking for.

2 Number eight, I've already talked about that, the
3 phone records.

4 The booking sheets and property sheets, I have
5 recently gotten them.

6 Number ten, the identification of the caller for 9-1-1
7 on August 29th, I still don't know for sure who that is.

8 THE COURT: I don't have what you're referring to.

9 Now, I've got a motion for a continuance. I don't
10 have the exhibits, so I don't know what list you're reading
11 from.

12 MR. WEATHERFORD: Well, it should be in the file. But
13 I'll give you my copy of them.

14 THE COURT: I don't have the file.

15 MR. WEATHERFORD: That was Exhibit F, number ten, I'm
16 talking about.

17 THE COURT: All right. I have Exhibit F with the list
18 of ten.

19 MR. WEATHERFORD: Twelve.

20 THE COURT: Twelve items that you had requested of Mr.
21 Morin.

22 MR. WEATHERFORD: Yes, sir.

23 THE COURT: Okay.

24 MR. WEATHERFORD: And number 11, I've asked for the
25 social security number of the deceased that was listed on

Motions

1 autopsy to be run through the national law enforcement
2 system to see if it's a valid social security number, to
3 see if there's criminal records or history of the deceased
4 or -- and I've had no response whatsoever to that.

5 And then number 12, any letters that might have been
6 written by my client, I've been provided with some
7 illegible copies of something, and I don't know what they
8 are. And I have asked for legible copies, but I haven't
9 received any of that.

10 And finally, Your Honor, the last page of that motion
11 or the last page of that exhibit, Exhibit G, I have asked
12 that -- I understand there's some statements made in the
13 jail and that some, or some of these people that I've
14 listed on Exhibit G may have some information about
15 inculpatory, exculpatory statements by one of the
16 codefendants.

17 Since I was only notified of the trial on such short
18 notice, and, as Your Honor knows, my only authority is to
19 subpoena records to the court. But what I was asking the
20 solicitor is to provide me with either which ones of these
21 individuals were in the Cherokee County Jail, which ones
22 were in the South Carolina Department of Corrections, and
23 if they had been released, at least their last known
24 address. I haven't gotten any response whatsoever to that.

25 And some of these witnesses may or may not. I haven't

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1 had time to talk to any of them because I don't even know
2 where they are. But that goes along with the motion for
3 the continuance and discovery, because one or more of those
4 may be critical witnesses. I don't know because of the
5 shortness of time that I've had to do this.

6 THE COURT: Okay. Well, you were retained to
7 represent Mr. Phillips when?

8 MR. WEATHERFORD: A long time ago.

9 THE COURT: Well, I know. When was it?

10 MR. WEATHERFORD: September the 25th of '06.

11 THE COURT: So you've been representing him since
12 September the 25th of '06.

13 MR. WEATHERFORD: Yes, sir.

14 THE COURT: And he was indicted in March of 2007. But
15 he was arrested back in September of 2006.

16 MR. WEATHERFORD: Yes, sir.

17 THE COURT: And you were retained shortly thereafter.

18 MR. WEATHERFORD: Yes, sir.

19 THE COURT: All right. Mr. Morin.

20 MR. MORIN: Your Honor, with regard to the list he has
21 given you, the only item on there that I will agree he's
22 entitled to, that at the time he filed it he did not have
23 the dental x-rays.

24 Since then on Monday those x-rays, the originals, were
25 brought to his expert's office and were looked at by him.

Motions

1 And they go strictly to the identity of the victim.

2 With regard to all of the other issues that he's got
3 on that list, it would be my position that all of that
4 information is available to him. And what my duty is under
5 the Rule 5 letter is to provide him the documentation and
6 the exculpatory and inculpatory information I have on this
7 case. Most, if not all of the rest, of what he's
8 requesting are things that are available to him. And he's
9 gotten quite a few of them since he filed that motion.

10 And as regard -- in regard to his issue about having
11 lack of notice, when he filed his notice for a speedy
12 trial -- I believe it was in April -- we initially told him
13 we wanted to try it in August. However, there were items
14 at SLED that hadn't been returned and those sort of things.
15 So we pushed it back.

16 But I continued to communicate with him that we
17 intended to dispose of this case this year. And my
18 obligation is to publish a docket within ten days of the
19 date of trial, which now, which I published before
20 Thanksgiving because I wouldn't have been able to make the
21 ten days if I'd waited because the court wouldn't, the
22 clerk's office, the courthouse would have been closed until
23 last Monday. So he's past the ten days in addition to
24 that.

25 So as far as his notice, he's known that this case has

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1 been going on. We've had ongoing talks. We've been to the
2 sheriff's office. We've looked at evidence. I don't know
3 that he's prejudicial, I mean, prejudiced on anything.

4 As far as the letters his client wrote, I have copies,
5 and I made those copies. He has. I know some of them
6 are -- they're difficult to read because the ones I have,
7 but, now, once again, those are letters that his client has
8 written which I had, so I turned them over to him, which I
9 don't even believe are in any way relevant or admissible in
10 this case.

11 So the only real issue that I see that was there was
12 the x-rays which we've resolved unless his expert in some
13 way disputes that and he needs more time to study on that
14 one issue.

15 MR. WEATHERFORD: Your Honor, the problem I always
16 have with the solicitor's office in the discovery is that
17 they don't have a problem with showing me what they've got.

18 But the problem comes in when their duty to exercise
19 due diligence for anything that's in their possession,
20 custody, control, anything within the possession, custody
21 or control of the prosecution, the existence of which is
22 known or by the exercise of due diligence may have become
23 known, they have an obligation to, to provide that to me.
24 And that's what I submit to the Court that they have failed
25 to do.

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1 Just showing me what they've got in their file, I
2 submit, does not comply with Rule 5. And that's why I've
3 written and asked, and specifically asked, for certain
4 things that I submit to the Court are within their control
5 that could be provided to me within a reasonable time
6 before trial so I would have time to prepare a defense
7 rather than say, well, you can subpoena that. And of
8 course Your Honor knows I can only subpoena a person or a
9 thing for trial. It gives me no right to prior observation
10 or study on anything I subpoena or any person I subpoena
11 and I think it puts me at an unfair advantage.

12 And I think I've been kind of trial-by-ambush here
13 because the solicitor has failed to exercise due diligence
14 to get the things I've requested that may be beneficial or
15 exculpatory for the defendant. That's just my position.

16 THE COURT: Well, in the exercise of due diligence the
17 solicitor is not obligated to do a defendant's lawyer's
18 work for him.

19 I mean, they do have to exercise due diligence in
20 complying with the rules and providing information they're
21 obligated to provide. But, at the same time, the defense
22 counsel has the same obligation to exercise due diligence
23 in the representation of clients. So everybody has to
24 exercise due diligence.

25 The issue is what they're required to provide you

Motions

1 under the rules. And I've got the list. And I see
2 hospital records of the deceased from August the 29th of
3 2006.

4 Well, hospital records. You know, the hospital is not
5 an agent of the state. The state has no more obligation or
6 ability to obtain those records than the defense would.
7 They simply have to subpoena those and receive them, just
8 as the defense can do.

9 Now, if the state has the hospital records and they
10 want to make you copies of them, they can do that if they
11 want to be helpful. You know, you pay for the copies and
12 they give them to you. But I don't think they're under an
13 obligation to go get them to give to you. I mean, you can
14 get them as easily as they can.

15 The E. M. S. records, the same situation. I mean, the
16 emergency medical services is not an agent or an agency
17 under the care and control of the solicitor's office. They
18 have to go get those records just like any defense can get
19 them.

20 The dental records, including x-rays of the deceased,
21 I understand were in the care, custody and control of an
22 expert employed by the state. And so those were not
23 available presumably to the defense, although I assume they
24 could have been subpoenaed. But you tell me they weren't.
25 Nevertheless, they're in the control of the prosecution

Motions

1 agent. So the dental records, as I understand it, have
2 been previously provided.

3 MR. WEATHERFORD: On Monday, two days ago.

4 THE COURT: Listen to me carefully. You didn't have
5 any dental records before Monday?

6 MR. WEATHERFORD: I had some written records shortly
7 before that.

8 THE COURT: All right. Well, let's take one at a
9 time.

10 MR. WEATHERFORD: All right.

11 THE COURT: Dental records. I'm not including x-rays.
12 That's a different record. Dental records you had. They
13 disclosed.

14 MR. WEATHERFORD: Yes, sir, shortly before. I think
15 it was Monday or --

16 THE COURT: Well, when did you disclose it, Solicitor?

17 MR. MORIN: I believe it was last Thursday that we
18 faxed over copies of those.

19 THE COURT: All right. And then the x-rays were
20 provided or copies of the x-rays were provided on Monday of
21 this week.

22 MR. MORIN: The originals were delivered to his expert
23 here in Gaffney.

24 THE COURT: Okay. And so your expert has had those
25 x-rays.

Motions

1 MR. WEATHERFORD: He just looked at them on Monday.

2 THE COURT: All right. Well, I mean, you know, I
3 don't know if an expert in need of those x-rays needs to
4 look at them six months, three months, one week, one day,
5 five minutes. Don't know.

6 What does your expert say? Is he at an disadvantage?
7 He's not been able -- he can't decipher anything he needs
8 to decipher from having looked at them since Monday?

9 MR. WEATHERFORD: Well, at this point I don't know
10 exactly. He's looked at them, and I know what he told me.

11 In fact, one of the deputies had possession of them
12 and brought them to him. I didn't try to conceal what he
13 said. He said, he told me he thought they were the same
14 thing.

15 THE COURT: Well, all right. Well, anyway, the x-rays
16 have been provided.

17 MR. WEATHERFORD: But I was running around doing that
18 when I should have been getting ready for trial.

19 THE COURT: The toxicological analysis of the
20 deceased. What's that?

21 MR. WEATHERFORD: I got that recently. I don't have
22 any --

23 THE COURT: All right. So that's been provided.

24 MR. MORIN: Yes, sir.

25 THE COURT: All right. History of alcohol abuse of

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1 the deceased as mentioned in the autopsy. Do you have any
2 such evidence, Solicitor?

3 MR. MORIN: No, sir. I don't have anything other than
4 what Doctors Ross and Sexton put in their report.

5 THE COURT: Okay.

6 MR. WEATHERFORD: Your Honor, my point is he didn't
7 call and ask them where did you get this information. And
8 that's his witness.

9 THE COURT: Why can't you call and ask them where they
10 got that information? You've got the same rights as the
11 solicitor does unless it's in their control.

12 MR. WEATHERFORD: No, Your Honor. They have the power
13 of search warrants. I don't. So I can only get stuff in
14 court. I can only have it brought in court today.

15 THE COURT: They didn't get -- was there a search
16 warrant served in this case?

17 MR. WEATHERFORD: The search for the phone records is
18 one of the main things.

19 THE COURT: Well, we're going to have to take these.
20 You have got them listed one through 12. I want to take
21 one at a time. I don't want to mix them up.

22 MR. WEATHERFORD: All right.

23 THE COURT: All right. The history of alcohol abuse
24 and criminal record and the toxicological analysis of the
25 deceased. That's what I'm talking about.

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1 The state apparently got that information from the
2 autopsy report from a witness. Well, if it's a witness in
3 a case, you know who it is, you've a right to talk to those
4 witnesses just like they do.

5 If they refuse to talk to you and they're under the
6 control of the state, then you can discuss it with me and
7 I'll see about providing that information. But, you know,
8 if you don't talk to the witness and know whether or not
9 they're going to provide you that information, then that's
10 your due diligence.

11 The criminal record of the deceased and any witnesses,
12 you said you received those.

13 MR. WEATHERFORD: I've got the witnesses, nothing
14 about the deceased.

15 THE COURT: All right. Well, do we have any criminal
16 record of the deceased that would be relevant to anything?

17 MR. MORIN: No, sir.

18 MR. WEATHERFORD: Well, then, Your Honor, how do they
19 know if they haven't checked his social security number?

20 MR. MORIN: Unless I'm skipping ahead.

21 THE COURT: Do you have --

22 MR. MORIN: Didn't I give you -- that was one of the
23 people that I gave you when I gave you those rap sheets.

24 THE COURT: Well, do either of you know if there is a
25 criminal record of the deceased that has been run?

Motions

1 MR. MORIN: I thought that was the one that he was
2 given, Your Honor. I gave him a copy of all of the
3 witnesses.

4 Now, as far as the deceased's rap sheet, I thought he
5 had one, but I can run another one. But I think by my -- I
6 think under the rules I'm required to give them that when
7 or before they testify.

8 THE COURT: Well, the deceased ain't going to testify.

9 MR. MORIN: That's right, Your Honor.

10 THE COURT: You can count on that.

11 MR. MORIN: That's right.

12 THE COURT: So, well, it might be relevant to the
13 defense. Do you have one?

14 MR. MORIN: Yes, sir. I don't have one here in this
15 file, Your Honor.

16 THE COURT: Provide it to him.

17 MR. MORIN: Yes, sir.

18 THE COURT: Now, we have got the Department of Social
19 Services' records. Does the state have those records?

20 MR. MORIN: No, sir.

21 THE COURT: All right. The state doesn't have those
22 records, Mr. Weatherford. They can't turn those over to
23 you.

24 MR. WEATHERFORD: Well, we have whittled that down to
25 the clerk's files.

Motions

1 THE COURT: I've got the clerk's file.

2 MR. WEATHERFORD: You've got that.

3 THE COURT: I've got the clerk's file.

4 MR. WEATHERFORD: You're going to rule on that.

5 THE COURT: Well, I reviewed the clerk's file.

6 There's basically nothing in the file but notices of a
7 hearing, certificates of service and notice of that
8 hearing. And there's a complaint that's been filed and
9 there's an order signed by a judge. There is no
10 evidentiary material in these, in these files.

11 Number eight, the phone records of the deceased after
12 September the 7th.

13 Now, I understand that the state through a search
14 warrant obtained certain records from what phone company?

15 MR. MORIN: I believe it's Singular, Your Honor.

16 THE COURT: Singular Wireless?

17 MR. MORIN: Yes, sir. And we provided him with copies
18 of all of the records.

19 THE COURT: So you served them with a search warrant
20 and you've got copies of certain records that you were
21 interested in and you've made copies of those and provided
22 those to the defense?

23 MR. MORIN: Yes, sir.

24 THE COURT: Do you have any records of the phone
25 company after September the 7th of 2006?

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1 MR. MORIN: No, sir.

2 THE COURT: All right. Mr. Weatherford, they can't
3 turn those over to you. Singular is not an agent or an
4 agency of the state. They don't have those records. If
5 you want them, you'll have to get them.

6 MR. WEATHERFORD: I just simply asked them to provide
7 me the records the same way they got the ones that they
8 showed me.

9 I couldn't get them until here today. I don't think
10 that's fair to limit me to subpoenaing everything today
11 when the discovery, the purpose of discovery, is to allow
12 the defendant sufficient time to provide a defense. And if
13 it's in their custody or control, if they can issue a
14 search warrant, which I can't do, and they did, and they
15 put an arbitrary stop line there, I'm just -- all I simply
16 asked was get the same documents and to ask for, to pass
17 that.

18 THE COURT: Well, I understand. But the state is
19 building their case. They're getting information they
20 think they need in order to prove something.

21 They're not obligated to get information that you need
22 or that might help you. If they have it, they have to
23 provide it. If they're going out searching for it and they
24 have to get a search warrant or a subpoena or a court
25 order, they don't have to get additional things for you.

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1 That's your obligation.

2 You can get a court order to get those records. I
3 mean, you can ask for a court order to get those records.
4 There could have been done in the last, what, year and a
5 half?

6 If the state doesn't have them, they can't provide
7 them. But there is a method by which they can be obtained,
8 and I think you know what that method is.

9 Booking sheets and property sheets of Mr. Phillips.

10 MR. WEATHERFORD: I've got those.

11 THE COURT: Jesse Willis and Nakia Gossett. You have
12 those.

13 9-1-1 records from August the 29th. I don't know what
14 that means.

15 MR. MORIN: 9-1-1 records, I believe, is what it is.

16 THE COURT: Yeah. I know. But 9-1-1 records indicate
17 the caller was Carol. Identify Carol's name and address.

18 Do you know who that is?

19 MR. MORIN: No, sir. That's information we provided
20 them in discovery. That's all we know about that.

21 THE COURT: Okay. He doesn't have that information
22 and it's not under his control.

23 Eleven is a statement of Beverly Mimms which indicates
24 that the deceased told her someone had taken his phone and
25 social security card.

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1 The autopsy lists social security number. And you
2 wanted that run through the N. C. I. C.

3 MR. WEATHERFORD: Whatever they do.

4 THE COURT: Did you?

5 MR. MORIN: I haven't done that, Your Honor. I can.

6 THE COURT: Well, I assume. Well, what social
7 security number did you use in order to run his criminal
8 history?

9 MR. WEATHERFORD: They didn't.

10 THE COURT: You said you did.

11 MR. MORIN: Well, I don't have it here, but I was
12 going to provide it to him. I don't know which one because
13 I thought I had provided him that.

14 THE COURT: Let's have a look at that. I mean, do
15 y'all both need a continuance to get this case ready?

16 MR. MORIN: No, sir.

17 THE COURT: Okay. And number 12 is any letters or
18 notes written by Mr. Phillips. And those have been -- you
19 have the original notes or you have copies of the notes?

20 MR. MORIN: We have the originals. I have some copies
21 I've provided them. We have the originals as well.

22 THE COURT: All right. Well, did you tell him that
23 you couldn't read them?

24 MR. WEATHERFORD: I called him up and told him I could
25 not read them.

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1 THE COURT: He says he told you he couldn't read them.

2 So can he look at the originals?

3 MR. MORIN: Well, but they're his letters that he
4 wrote and I gave him --

5 THE COURT: Well, he might not have kept copies of
6 them. I mean, I assume -- I mean, you're not going to
7 introduce anything he's got. You've got yours.

8 MR. MORIN: Right.

9 THE COURT: He'd like to see yours if you plan on
10 using them for anything.

11 MR. MORIN: Okay.

12 MR. WEATHERFORD: Well, Your Honor, I asked the whole
13 thing, and I asked for this several days ago. And now he's
14 sitting there telling me he's got them, and he still hasn't
15 given them to me. I don't think it's fair to me to provide
16 it to me in the trial.

17 THE COURT: Well, it might not be fair if it's
18 something that's relevant, probative, necessary and going
19 to be used. But if it's something that's worthless, it
20 wouldn't make any difference.

21 MR. WEATHERFORD: And I've got no way --

22 THE COURT: Well, we're getting ready to find out.
23 All right. Anything else?

24 MR. WEATHERFORD: Just those prisoners.

25 THE COURT: That's on a different list?

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1 MR. WEATHERFORD: Well, that's the Exhibit G.

2 THE COURT: Oh, excuse me. Okay. And there's a
3 letter, Exhibit G, indicating the defense wants to know
4 where these people are.

5 Now, Mr. Weatherford, do you understand these people
6 aren't under the custody and control of the solicitor's
7 office? They're in the Department of Corrections. And the
8 solicitor doesn't have any more control over them than you
9 would have as far as where they are.

10 In fact, the Department of Corrections has a web site.
11 Anybody in the world that has a computer can go to it and
12 find out who is in jail and any information you want to
13 know about it. If they've been released, I assume the
14 probation office or the department of parole and probation
15 would know that if they have a location, if they have an
16 address.

17 Solicitor, do you have any addresses for any of these
18 individuals, or do you know where these people are, or are
19 they potential witnesses for the state, or do you know
20 anything about them?

21 MR. MORIN: They're not potential witnesses for the
22 state.

23 The ones -- I went on the web sites that you referred
24 to, both the South Carolina Department of Corrections, as
25 well as the sheriff's office web site, and let him know

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1 where the ones that -- and did that work for him and let
2 him know about those.

3 In addition, there's one named, who is Kelly Roberts,
4 and I informed him immediately when I got that because I
5 know where Mr. Roberts is. He's in a murder trial of his
6 own in Augusta, Georgia, this week. And I called him
7 immediately upon receipt of that and let him know that.

8 So the only names on there -- if they're in the
9 Department of Corrections or they're in the jail, I let him
10 know. And I let him know where Mr. Roberts was.

11 The other ones, I don't know where they. They've
12 gotten out, and I don't have any addresses on them.

13 THE COURT: Well, are you aware of any information
14 that any of these individuals might have that would relate
15 to this case, have any probative value to the case or have
16 any probative value to any defense or assistance that it
17 might be to the defendant?

18 MR. MORIN: I don't know what he intends to do with
19 those witnesses, Your Honor.

20 THE COURT: I understand you don't know what he's
21 going to do with them. I'm just saying do you know of
22 anything, any information any of these people might have
23 that would have any bearing upon this case.

24 MR. MORIN: No, sir, I don't.

25 THE COURT: Okay. All right. Anything further?

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1 MR. WEATHERFORD: No, sir.

2 THE COURT: All right. We'll have the -- I want you
3 to get those, the deceased's criminal history sheet and the
4 letters that were copied that are illegible, and provide
5 those to Mr. Weatherford. Let him look at it before I
6 decide whether or not there's been any failure to comply
7 with discovery, and if there has, if there's been any
8 prejudice to the defense.

9 All right. We'll take 15 minutes.

10 (Whereupon, a recess was taken.)

11 THE COURT: All right. Any other matters we need to
12 address regarding the defendant's motions?

13 MR. WEATHERFORD: Your Honor, he's handed me this
14 stuff. I haven't finished looking at it yet.

15 THE COURT: You're talking about the letters? Okay.

16 MR. WEATHERFORD: Yes, sir.

17 THE COURT: Okay. Look at them.

18 MR. MORIN: We turned them over to him. We don't need
19 them. We told him that if he wrote them, he could have
20 them. If he knows where they came from, he can have them,
21 which is not only -- he's got what we've got.

22 THE COURT: He's got the originals?

23 MR. MORIN: He can have them. We don't need them.
24 They're either purported to be written by his client, so
25 his client can have them. They're not relevant to our

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1 case --

2 THE COURT: Okay.

3 MR. MORIN: -- or anything. So we weren't even going
4 to make any references to them. He's got them.

5 THE COURT: Okay.

6 MR. MORIN: As far as the rap sheet of the defendant,
7 we have given that to him and --

8 THE COURT: The deceased.

9 MR. MORIN: The deceased. And it includes the social
10 security number, separate social security number, he asked
11 that we run. And they're on that decedent's rap sheet.
12 And he's got a copy of it.

13 THE COURT: Okay.

14 MR. WEATHERFORD: And if he's telling me that if my
15 client testifies they're not going to use these letters to
16 impeach him, I'll just put them in an envelope and look at
17 this, and we will be --

18 MR. MORIN: I'm not even going to have them. He's got
19 them.

20 MR. WEATHERFORD: All right.

21 THE COURT: Okay.

22 (Pause.)

23 MR. WEATHERFORD: All right. Your Honor, I have had a
24 chance to view that. I don't see in there anything that
25 will be helpful to the defendant.

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1 THE COURT: All right. Anything else?

2 MR. MORIN: The state is ready.

3 THE COURT: All right. Well, at least with respect to
4 the x-rays, it does appear that there has been some
5 untimely response to discovery requests, but there has been
6 established no prejudice resulting from any untimeliness.
7 And therefore the defendant's motion to continue the case
8 is denied.

9 Any other matters we need to address before the jury
10 is brought in?

11 MR. WEATHERFORD: No, sir.

12 Could I speak with the solicitor one second?

13 THE COURT: Yes.

14 (Pause.)

15 MR. WEATHERFORD: All right.

16 THE COURT: Okay. Bring the jury in.

17 Ask Ms. Hall to take the foreperson's seat --
18 Ms. Hall.

19 (The following takes place in the presence of the
20 jury.)

21 THE COURT: All right. Ladies and gentlemen, we are
22 ready to begin with the trial of the case for which you
23 were selected.

24 And, Ms. Hall, I'm going to ask you to serve as the
25 foreperson. As the foreperson you'll have three duties

1 that none of the other jurors will have.

2 One is for you to act as the spokesperson. So if
3 something needs to be brought to my attention, you or a
4 fellow juror has some difficulty or problem or question,
5 you let the bailiff know. He'll let me know, and I will
6 address it.

7 You're going to also be asked to preside over the jury
8 deliberations in the jury room when the time comes. That
9 is after the case has been presented and all of the
10 evidence has been received and I've instructed you on the
11 law that's applicable. When you go back to begin
12 deliberations you'll preside over that process in the jury
13 room simply to ensure that those deliberations are carried
14 out in some orderly fashion.

15 And, thirdly, you'll be asked to write the decisions
16 of the jury, whatever those decisions are. You'll do that
17 on a verdict form that I'll provide you at the end of the
18 trial on which you will indicate the jury's unanimous
19 decisions.

20 Now, the foreperson has those duties that I've just
21 indicated. That doesn't mean that she's any more important
22 than any of you other jurors, because the verdict or the
23 decision of the jury is the unanimous consensus opinion of
24 all 12 jurors. And so all of you are going to have an
25 equal say and an equal vote in what the ultimate decisions

1 in this case will be.

2 Someone simply has to be delegated those
3 responsibilities that I have just indicated, and I have
4 delegated those to Ms. Hall in appointing her as the
5 foreperson. But all of you jurors are equally important so
6 far as the ultimate decisions in the case are concerned,
7 because, as I've stated, the verdicts have to be unanimous.
8 All of you must be in agreement.

9 Now, Ms. Scruggs, you've been selected as an alternate
10 juror. And the function of an alternate is to take the
11 place of one of the original 12 if during the trial for
12 some reason one of these original 12 is unable to continue
13 to serve as a juror.

14 If that occurs, then you take that person's place.
15 You become the 12th juror in that event. And if that does
16 occur, then you would participate also in the jury
17 deliberations.

18 If however when the time comes for jury deliberations
19 the original 12 are able to do that, then your service
20 would end. You couldn't participate any further because
21 the decision of a jury is that of 12. No more than 12 are
22 permitted to engage in that deliberation process.

23 But it is important that you pay just as careful
24 attention as we ask of all of the jurors in the case
25 because it does occur from time to time for one reason or

Jury sworn

1 another one of these original 12 may be unable to continue.

2 In that event you become the 12th.

3 So we do appreciate your participation as an alternate
4 juror just as we appreciate the participation of all of you
5 jurors who have been selected for the purpose of deciding
6 the verdicts in this particular case.

7 You may swear the panel.

8 (Whereupon, the jury was duly sworn.)

9 THE COURT: Ladies and gentlemen, as you know, you've
10 been selected to decide the verdicts in the case of the
11 State vs. Jeremy Richard Phillips.

12 As I told you, he's been accused by the prosecutor
13 with having committed two criminal offenses on August the
14 30th of 2006. And by way of these documents called
15 indictments the state has set forth a charge. Those
16 charges are murder and arson in the first degree.

17 The indictments are not evidence in the case. They're
18 not proof of anything. They're simply the allegations, the
19 charge, that the state has brought against this defendant.

20 The indictments will be in the jury room at the time
21 that you go back to begin deliberations, because it's on
22 the back of each of those indictments, Madam Forelady, that
23 you will be asked to write the jury's decision as to that
24 particular charge.

25 But other than serving as the verdict forms in this

1 case, they serve no purpose so far as you jurors are
2 concerned. They're not proof of anything. They don't
3 establish anything. The state has made those allegations.
4 And because the state has brought this case, the state has
5 the burden of proving the defendant's guilt to your
6 satisfaction beyond a reasonable doubt.

7 Every person and any person who is accused of a crime
8 is always under the law presumed to be innocent of that
9 charge. And it doesn't matter how serious the charge might
10 be. Every person accused of a crime is presumed to be
11 innocent.

12 That presumption of innocence remains with any
13 defendant, as it does with this defendant, from the time
14 that he is placed under arrest and throughout the course of
15 the criminal process and even throughout the course of the
16 trial in the case.

17 That presumption of innocence will be with
18 Mr. Phillips even as you go back to begin your
19 deliberations at this trial's conclusion. And that
20 presumption of innocence will be with him in that jury
21 room, and it will be with him forever, unless you 12 jurors
22 determine that he's no longer entitled to that presumption
23 of innocence.

24 That is after you've carefully considered all the
25 evidence in the case and from that evidence you've decided

1 the facts, and after deciding those facts you apply the law
2 that I will have provided you, if you 12 jurors unanimously
3 determine that his guilt has been proven beyond a
4 reasonable doubt, then he would no longer be entitled to
5 that presumption of innocence. But it's only if, unless
6 and until you 12 jurors are satisfied of his guilt beyond a
7 reasonable doubt that the presumption of innocence would no
8 longer be applicable.

9 Now, the way the trial will proceed is that in a
10 moment the lawyers are going to address you in what are
11 called opening statements.

12 There are two occasions where lawyers can address the
13 jury, and that is at the beginning of the trial before any
14 evidence has been introduced. And then they are permitted
15 to address you again after all of the evidence in the case
16 has been received.

17 Keep in mind however that the lawyers' statements are
18 not evidence. The lawyers aren't witnesses to anything.
19 They're not going to be telling you anything they know
20 about this case of their own personal knowledge. They're
21 not going to testify from the witness stand under oath and
22 be subjected to direct and cross-examination as each of the
23 witnesses will be. And so what they tell you is not
24 evidence in this case upon which you can base any decision.

25 You should listen to what they have to say because

1 those statements do serve a purpose, even though they're
2 not to be considered as evidence.

3 The opening statements allow the lawyers an
4 opportunity to discuss with you the evidence that you will
5 see and hear during the trial of the case simply to give
6 you a basic understanding as to what the case is about so
7 that you will have some context in which to place the
8 evidence that we will be receiving shortly thereafter.

9 After those opening statements are concluded we will
10 begin with the reception of evidence. As I told you, the
11 state has the burden of proof. The state has the burden of
12 proving a defendant's guilt beyond a reasonable doubt. And
13 so the state will go forward first in its presentation of
14 evidence.

15 After the state has concluded with its presentation a
16 defendant has the same opportunity to testify or to present
17 other witnesses or other evidence, but a defendant is not
18 obligated to do so because a defendant doesn't have to
19 prove that he's not guilty because in many cases that might
20 not even be possible. But he is afforded an opportunity to
21 present evidence and to testify if he wishes to do so.

22 After all of the evidence has been received the
23 lawyers will again address you in what are called final
24 summations or final arguments. Again, those statements
25 aren't evidence, but it does permit the lawyers an

1 opportunity to discuss with you the evidence that you've
2 seen and heard during the trial. And through that
3 discussion each may try to persuade you or to convince you
4 that that evidence does or does not support a particular
5 decision in the case.

6 After that has been accomplished I will then instruct
7 you fully on the law as it relates to the crimes of murder
8 and arson in the first degree and other general laws
9 applicable in every criminal case, after which you'll be
10 asked to go back and begin your deliberations. And through
11 that process you are just going to be called upon through
12 the exercise of good judgment and common sense
13 conscientiously applied to the testimony and evidence in
14 the case to decide the facts.

15 After you decide those facts you'll apply the law that
16 I will have provided you, and you will determine whether or
17 not the defendant has been proven guilty beyond a
18 reasonable doubt as to some charge. And if he has, then
19 your verdict is guilty. If he has not, then your verdict
20 is not guilty.

21 So all we ask for you to do is to pay careful
22 attention throughout the course of the trial. Give every
23 witness the same degree of attention as they testify,
24 because there might be some conflicts in testimony. You've
25 got to resolve any conflicts. You've got to decide the

Opening statements

1 facts in the case. And in order to do that you'll likely
2 be called upon to evaluate the credibility and the
3 believability of witnesses that will have testified.

4 So give each witness the same degree of attention as
5 they testify so that you'll be in a position to be able to
6 fairly assess a witness' credibility when you go back to
7 deliberate.

8 And of course it's important to keep an open mind and
9 not to begin making up your minds or formulating your
10 opinions as to what you think the ultimate decisions ought
11 to be until all of the evidence has been received, until I
12 have instructed you on the law and until you have been
13 asked to begin your deliberations in this case. That is
14 the process that is designed for you 12 jurors to arrive at
15 a just decision in the case.

16 So I do want to thank you in advance for your
17 participation, as well as for your careful attention.
18 Please give the lawyers your attention now as they give you
19 their opening statements.

20 MR. MORIN: On August 30th of 2006 Juan Roman died in
21 a single-wide trailer on Oakstone Road here in Cherokee
22 County near Cowpens.

23 There was a fire at his house. And this case is about
24 how he came to be in the trailer while it was on fire, how
25 the fire got set if it got set, and who is responsible for

Opening statements

1 the fire. That's what the case is about. Juan Roman, a
2 33-year-old Hispanic male, died in a single-wide trailer.

3 I intend to present evidence to show that Jeremy
4 Phillips set that fire, that he set that fire and that he
5 knew or should have known it was going to result in Mr.
6 Roman's death.

7 That's what the case is about, a single-wide trailer
8 on August 30 of last year, burning and killing Juan Roman.

9 I don't have much more to say about it right now. I
10 will talk to you at the end after you have seen the
11 evidence and heard from the witnesses.

12 I appreciate your attention that you will give to this
13 case. Thank you.

14 THE COURT: Mr. Weatherford.

15 MR. WEATHERFORD: May it please the Court.

16 Ladies and gentlemen, this is a -- other than a case
17 where the state is asking for the death penalty, this is
18 the most serious kind of case, a criminal case, that any
19 jury can sit on. And I think it's fair to say that the
20 rest of Jeremy Phillips' life is in your hands or will be
21 when this case is over with.

22 And I think the jury in any criminal case, especially
23 one that's this serious, has got by far the hardest job in
24 the courtroom. In addition to making the ultimate decision
25 in the case, you come into court, and you don't know

Opening statements

1 anything about courtroom procedures or anything about
2 what's going on, most of you.

3 All of us in here, everybody else in here, kind of
4 knows what our job is, and, you know, we don't, we know
5 what's going on, and you don't. You have to come into
6 court and you have to operate under a set of rules,
7 guidelines and laws that are completely different than the
8 way you operate in your everyday life and in your everyday
9 business.

10 The judge has already told you a lot of the rules that
11 you have to go by, and they are a lot different than the
12 rules that you go by every day.

13 The first thing the judge told you was that every
14 defendant comes into court presumed to be not guilty.
15 Well, that just seems contrary to human nature when you see
16 a defendant sitting over there at that table, prosecutors,
17 all of these police officers and everything sitting over
18 here pointing the finger over there at him.

19 And it's human nature, I submit to you, for a person
20 who doesn't know anything about the case and who sits down
21 on a jury, it's hard not to think, well, what's he doing
22 sitting over there if he's not guilty. But you, you can't
23 think like that.

24 The judge has already told you you must presume that
25 he's innocent even if that's contrary to the way you

Opening statements

1 normally would operate or think. In fact, everything the
2 judge tells you -- he is the sole and complete judge of the
3 law.

4 And the oath that you just took says that you are
5 going to listen to him, you are going to apply the
6 principles he gave to you even if you disagree with them,
7 even if you think they're wrong. These are the principles
8 that you must apply to the evidence in order to do your
9 duty and to give the defendant a fair trial, even though
10 it's contrary to your normal everyday brain work or how
11 your brain works.

12 But, you see, the only thing or the standard of proof
13 that has gotten Jeremy Phillips sitting over there is
14 probable cause. Everything that's happened in this case to
15 get to the point, to this day, is all that's necessary for
16 somebody to believe there is probable cause for the case to
17 continue.

18 That -- the law has four different basically standards
19 of proof. Probable cause is the lowest one. At none of
20 those probable-cause stages does anybody hear anything from
21 the defendant. All it requires is that somebody believe
22 that there is some reason to think that something illegal
23 happened and somebody to believe that probably somebody, or
24 probably the defendant, had something to do with it. That
25 is certainly not proof beyond a reasonable doubt.

Opening statements

1 And when a defendant pleads not guilty and asks for a
2 jury trial, then the standard changes. And it's not
3 probable cause any more. It's not enough to think he's
4 probably guilty after you've heard all the evidence. The
5 judge will tell you. It's not enough to have a strong
6 suspicion that he's guilty after you hear all of the
7 evidence. That is not proof beyond a reasonable doubt.

8 The other standards are by the greater weight of the
9 evidence. If one side proves more than the other, their
10 side, if they've got better evidence or more convincing
11 evidence, their side wins. That's the civil standard. And
12 then the civil cases have another standard, which is clear
13 and convincing evidence which is higher than the greater
14 weight of the evidence. That's the highest civil burden.

15 But on top of all of that, above that in a criminal
16 case it's proof beyond any reasonable doubt, the highest
17 legal standard that we have. And so that's the standard
18 you've got to apply to this evidence.

19 As the judge told you, the burden of proof is all on
20 the state. The defendant never has to prove anything. The
21 state must prove the defendant guilty beyond any reasonable
22 doubt.

23 So when you, during this trial, we aren't going to be
24 trying to prove anything. We are going to be trying to
25 create doubt about the things the state claims, proves the

Opening statements

1 defendant is guilty, or proves that Jeremy is guilty. And
2 that's all we have to do is show you through any one thing,
3 any combination of things, or the cases as a whole, that
4 there is some doubt. And the judge will define what that
5 is, but if there's a reasonable doubt you must resolve it
6 in his favor even if you think there's a strong suspicion
7 or a strong probability he's guilty. That's not
8 sufficient. You must resolve it in his favor and find him
9 not guilty.

10 And so that's all we're going to be doing, is be
11 trying to show you, not prove anything. We're trying to
12 show you that there's doubt about by what the state is
13 trying to show you.

14 And it's hard for a jury to sit here, and the state,
15 the prosecutors and the police officers do it, and they go
16 to all of this trouble to try to prove a defendant guilty.
17 It's hard for you to come out here and say, well, you
18 didn't meet your burden, you didn't prove it beyond a
19 reasonable doubt, turn him loose and everything he's done
20 didn't work, didn't meet the standard.

21 But that's your duty. To give a man a fair trial you
22 have to be willing to do that. That's all we ask you to
23 do, is give Jeremy a fair trial.

24 And I don't know what all the evidence is going to be
25 in this case. I know a little bit from what papers and

Opening statements

1 everything that they've supplied us.

2 The only, there is one thing, when you're thinking
3 about reasonable doubt, I want you to start off with this.
4 What happened is after that fire, firemen went out there.
5 They found a burnt body in the fire. The police detectives
6 went out there. They called SLED up there.

7 Everybody checked out what was going on. And as of
8 August the 31st, the day after the fire, as far as we can
9 tell from the paperwork nothing was going on. They was no
10 witnesses were being interviewed, no search warrants were
11 being issued, even issued. Nothing was happening.

12 I am not saying the case was closed, because a
13 criminal case is never closed. But after the initial going
14 out there and seeing the, what had happened, nothing was
15 going on. For a week nothing went on.

16 And then out of the clear blue sky Hazel Willis comes
17 into the sheriff's department on her own, makes a statement
18 accusing Jeremy, her son, Jesse Willis and Nakia Gossett,
19 accusing them all of having something to do with that fire
20 and that death.

21 And from her statement everything else has flowed
22 downhill, is what I say, because everything else that has
23 been done in this case is an effort to try to verify and
24 substantiate the statement that Frances Willis came in a
25 week later and made.

Jimmy Lamb
Direct examination by Mr. Morin

1 And to start with, we submit to you, that causes
2 somebody to have some doubt. That causes somebody to say
3 why a week later did this woman come in out of the blue
4 when nothing was going on with the investigation and start
5 this whole mess. That's what we are going to be interested
6 in, that and a lot of other things.

7 When you're thinking about reasonable doubt, when you
8 listen to the evidence, keep asking yourself that, what was
9 going on during that week, why did she do that then. We
10 don't know. That's what I'm talking about when I'm talking
11 about reasonable doubt.

12 THE COURT: Solicitor.

13 MR. MORIN: The state calls Jimmy Lamb.

14 (Photographs marked State's Exhibits Nos. 1 through 11
15 for Identification.)

16 JIMMY LAMB, having been duly
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. MORIN

19 Q .Sir, will you state your name for the jury?

20	A	Jimmy Lamb.

21 Q Mr. Lamb, where do you work?

22 A I'm the fire chief at the Goucher-White Plains Fire
23 Department on a volunteer basis.

24 Q How long have you been fire chief out there?

25 | A About four years.

Jimmy Lamb
Direct examination by Mr. Morin

1 Q So on August 30th of 2006 you were so employed?

2 A Yes, sir.

3 Q Did you have the occasion to respond to a fire on
4 August the 30th of 2006?

5 A Yes, sir, I did.

6 Q Can you tell me about that?

7 A That was a structure fire on Oakstone Road. I don't
8 recall the street number right off. But it was a
9 single-wide mobile home fire that involved a fatality.

10 Q Tell me a little bit about what you saw when you
11 arrived.

12 A When we got there we found a single-wide mobile home
13 that was about 75 percent involved in fire. And it had
14 extended into the back bedroom, which was the only area
15 that at that time was not fully involved in fire. No cars
16 in the yard, which initially led us to believe that there
17 was nobody at home.

18 Q Okay. I'm going to show you what's been marked for
19 identification as State's Exhibits 1, 2, 8, 9, 10 and 11
20 and ask if you recognize these photographs.

21 MR. WEATHERFORD: I have already seen?

22 MR. MORIN: Yeah.

23 MR. WEATHERFORD: All of them?

24 MR. MORIN: Yeah. I'll show them to you again.

25 MR. WEATHERFORD: All right.

Jimmy Lamb
Direct examination by Mr. Morin

1 A Yes, sir. All of those are photographs from the
2 house.

3 Q Is this the house to which you've described responding
4 to a fire?

5 A Yes, sir.

6 MR. WEATHERFORD: No objection.

7 MR. MORIN: At this time the state moves State's
8 Exhibits 1, 2, 8, 9, 10 and 11 into evidence, Your Honor.

9 THE COURT: They are admitted without objection.

10 (Photographs marked State's Exhibits Nos. 1, 2, 8, 9,
11 10 and 11.)

12 Q Did you have -- have you had the occasion in the past
13 to work fires with fatalities?

14 A Yes, I have.

15 Q Is there anything that stands out to you about this
16 fatality? Well, first of all, tell me about the fatality.
17 When did you first discover it?

18 A We had already knocked down the fire and were starting
19 to do clean up and overhaul.

20 The center part of the home had already collapsed, so
21 we moved the roof back to make sure there were no hot spots
22 or other fire in the area. And that's when we discovered
23 the body.

24 Q Okay. I'm going to ask if State's -- this is State's
25 Exhibit No. 2. Does this describe what you talk about?

Jimmy Lamb
Direct examination by Mr. Morin

1 And here is State's 10. Does that show what you're talking
2 about when you say you were looking for hot spots?

3 A Yes, sir. That's the section of the roof that we
4 rolled back.

5 Q Okay. Once again, these are State's 2 and 10.

6 Now, one of those is taken during light hours and one
7 is taken at night. Was it light or dark when you were
8 there?

9 A It was dark.

10 Q Was it light or dark when you left?

11 A It was light. We stayed all night.

12 Q Okay.

13 MR. MORIN: Now, Your Honor, I'm going to ask that he
14 step down so he can point to these pictures and show them.

15 THE COURT: Okay.

16 (Whereupon, the witness left the stand.)

17 Q If you can, you can either show it from there or you
18 can step over here and point this way. I'm giving you
19 this.

20 If you will, show me exactly what it is you say you had
21 to pull back to check for hot spots.

22 A This, the center section here is the roof section.

23 Q Okay.

24 A You can see there is a porch. And this was kind of
25 the front-door area. And this part had already collapsed.

Jimmy Lamb
Direct examination by Mr. Morin

- 1 So we couldn't see what was on the ground there.
- 2 Q Okay.
- 3 A Partly rolled back. And then this is the picture of
- 4 the right, this section.
- 5 Q All right. Now, when you rolled it back did you see
- 6 the body?
- 7 A Not initially. The body was burned to a point that it
- 8 was hard to see.
- 9 Q Okay. Approximately where did you see the body?
- 10 A Just inside, inside the door here, a few feet inside
- 11 the door.
- 12 Q Okay. And on the bottom, can you see the area where
- 13 it was?
- 14 A It was in this general area right here.
- 15 Q Okay. Now, you can have --
- 16 A Okay.
- 17 (Whereupon, the witness returned to the stand.)
- 18 Q And I'm just going to show some of these other
- 19 photographs and ask you a few questions about them.
- 20 This is another. Well, you tell me what this is. Can
- 21 you tell me what these two pictures are?
- 22 A The bottom picture that you see there looks like from
- 23 the front side of the mobile home.
- 24 Q Right.
- 25 A That if you're facing it, looks like the, the bedroom

Jimmy Lamb
Direct examination by Mr. Morin

1 which was back to the left side. And that was pretty much
2 the only part that hadn't, wasn't fully involved and
3 collapsed.

4 The top picture there is from the front porch into the
5 living room and kitchen area.

6 Q Okay.

7 A To the right is the kitchen.

8 Q Okay. Now, this being, somewhere in here was the
9 door.

10 A Right.

11 Q And as you go this way to the left there was a
12 kitchen, is that correct?

13 A As you go in and go back to the right, the kitchen
14 area was back there.

15 Q Right. Okay. And I'm also going to show you. This
16 is State's Exhibit No. 11. This photograph is what?

17 A It looks like the back side of the mobile home.

18 Q Okay. And, once again, down here is the bedroom area
19 that didn't collapse.

20 A Right.

21 Q Okay. Now, I think you've testified, or have you in
22 the past worked any fatalities in fires before?

23 A I have.

24 Q Okay. Was there anything that stands out in your mind
25 about this one?

Jimmy Lamb
Direct examination by Mr. Morin

1 A This particular fire, I would say the only thing that
2 stood out initially was the fact, first, that there were no
3 cars there which led us to believe that there was nobody
4 there. And generally on fire scenes where there is a
5 fatality, there's a very strong odor. And you can
6 generally tell that before you take any action when you get
7 off the truck. And in this particular case there was none
8 of that.

9 Q Okay. The -- you were present when the body was
10 found.

11 A Yes.

12 Q Can you give me a general description of what you saw
13 when you found it?

14 A To be honest, the guys initially didn't even realize
15 it was a body. It was burned to that point. And my
16 experience previously, bone is a difficult thing to burn.
17 But the body, there were no legs or arms remaining.

18 Q Once you found the body, what was your, what did you
19 do?

20 A We, we pulled everybody back off the scene that was in
21 the yard, taped off the yard and the area around the house
22 and requested law enforcement to come out, and the
23 coroner's office.

24 Q After you left that morning did you have any other
25 involvement in this?

Jimmy Lamb
Cross-examination by Mr. Weatherford

1 A We did go back out. The news media had come out to do
2 an interview, and we went back out the next day for that.

3 Q Okay. But you were just there for an interview.

4 A For an interview, uh-huh.

5 Q Please answer any questions Mr. Weatherford may have.

6 CROSS-EXAMINATION

7 BY MR. WEATHERFORD

8 Q Chief Lamb, what do you do other than be a
9 firefighter?

10 A Full time I'm a supervisor at the 9-1-1 center in
11 Spartanburg County, and I am a police officer part time in
12 Union County.

13 Q Okay. Do you know what time the fire started?

14 A I don't recall. It was in the evening, but I don't
15 recall the time.

16 Q They've got, somebody's got, some records that says
17 when you got the call, when you got there and so forth.

18 A Right.

19 Q And that's what? Is that in the 9-1-1 records?

20 A It is. And we put that on our fire report that's
21 submitted.

22 Q And how many fire departments responded?

23 A Three.

24 Q Yours and what else?

25 A Macedonia Fire Department and Cowpens Fire Department.

Jimmy Lamb
Cross-examination by Mr. Weatherford

1 Q Were you kind of the one in charge?

2 A Yes, sir.

3 Q And how many, how many firefighters actually were
4 there on the scene?

5 A It's, it's difficult to say. Probably 20 or more.

6 Q Okay. Did somebody come from Corinth?

7 A I'm not sure.

8 Q All right. Do you know who started the fire?

9 A No, sir.

10 Q Do you know how it got started?

11 A No, sir.

12 Q Or when it got started?

13 A No, sir.

14 Q Obviously a fire has got to get started before you're
15 ever called.

16 This mobile home from those photographs, you say the
17 address is Oakstone Road?

18 A The fire was on Oakstone Road.

19 Q All right. Was this trailer, the pictures you see,
20 how is it situated in comparison to Oakstone Road? Was it,
21 was it facing the road square?

22 A It's facing the road, basically parallel to the road.
23 And as I recall, there's a little dip down in the yard.

24 Q Kind of down in a small dip. Are there other
25 structures, mobile homes, or anything like that around

Jimmy Lamb

Cross-examination by Mr. Weatherford

1 there?

2 A There was one. There was a mobile home behind that
3 one a little ways off behind there. I'm not sure what's on
4 either side of it.

5 Q This photograph, Exhibit 10, here I'm holding up, now,
6 that, that would be looking from the right end of the --

7 A Yes, sir, looking from the kitchen back towards the
8 bedroom area.

9 Q Okay. So the road would be in this direction?

10 A Yes, sir. And it runs basically parallel with the way
11 that the mobile home is setting.

12 Q Kind of go up and down that way?

13 A Right.

14 Q So the fire was primarily the right half of the
15 trailer?

16 A The majority of it was.

17 Q Do you know what was on the right end of the trailer,
18 the very right-hand end?

19 A The kitchen.

20 Q Okay. And how far would, approximately would, that be
21 to this deck which I think you said went into the living
22 room?

23 A Or the front room there of the house. The kitchen
24 area being a few feet from, from that room, the fire was
25 already burned to the point that I'm not sure if there were

Jimmy Lamb
Cross-examination by Mr. Weatherford

- 1 anything between the two.
- 2 Q But you saw like the kitchen appliances and so forth
- 3 would have been on the right-hand end.
- 4 A Yes, sir.
- 5 Q Were you able to tell whether or not there were any
- 6 windows on the end or in the back of the trailer?
- 7 A I couldn't tell.
- 8 Q All right. I assume since there's a porch here there
- 9 was some kind of door there.
- 10 A Yes, sir.
- 11 Q Because there's, from this photograph looks like
- 12 there's -- is that another door?
- 13 A There was a door into the back bedroom.
- 14 Q So both of them would have been on the front.
- 15 A Right.
- 16 Q It would have basically had two front doors.
- 17 A Yes, sir.
- 18 Q And did it have any back doors? I think this is a
- 19 picture from the back of it. Did you see any doors or any
- 20 way to get in and out from the back?
- 21 A Not that I can see. Windows.
- 22 Q I see a window on the far right-hand side of that,
- 23 this photograph right there. Do you know if that would be
- 24 consistent with any other windows that had been destroyed,
- 25 or could you tell anything?

Jimmy Lamb

Cross-examination by Mr. Weatherford

1 A I couldn't tell. When we arrived the entire center
2 part there had already collapsed:

3 Q Do you know what's covering this window here? Has it
4 got any screens, or how it opens and closes? Do you know
5 anything about that?

6 A No, sir.

7 Q This area right here, this kind of metal frame, it's
8 hard to see up there. Can you see what I'm talking about?

9 A Yes, sir.

10 Q Is that, is that somewhere around where the body was
11 found?

12 A It's relatively close. It was a little bit to the
13 right of that area and in front of it.

14 Q And how far approximately would that be from the end
15 of the house where the kitchen was?

16 A Feet-wise, I'm not sure. It was just a few feet
17 inside the front door.

18 Q Could you just, could you estimate approximately how
19 far the, the body was from the actual kitchen part?

20 A I'm not sure where the kitchen ended because that wall
21 and everything was gone. But from the end of the mobile
22 home probably 12 or 15 feet or more.

23 Q Okay. All right. And you and your firefighters are
24 the ones that took the top and just kind of folded it back
25 out of the way.

Jimmy Lamb
Cross-examination by Mr. Weatherford

- 1 A Yes, sir.
- 2 Q And this, this yellow tape here, it says sheriff's
- 3 tape. But do you have that kind of tape with you?
- 4 A No, sir. We have fire-line tape.
- 5 Q So this tape in Exhibit 9 here that says sheriff's
- 6 tape, somebody else put that up?
- 7 A Yes, sir.
- 8 Q While you were there did you see or talk to any
- 9 civilians or neighbors or anybody about what --
- 10 A I didn't, no, sir.
- 11 Q All right. Do you know of anybody that did?
- 12 A There were several people there who spoke to people in
- 13 the area, as is common when you have a fire. Generally,
- 14 everybody from the neighborhood comes out. I didn't speak
- 15 to any of them. I'm not sure who did.
- 16 Q What about any law enforcement officers? Did you talk
- 17 to any of them?
- 18 A The deputy that came out and then the investigators
- 19 that came out.
- 20 Q Do you know who they were?
- 21 A The deputy that came out was Deputy Painter.
- 22 Detective Fowler was the investigator.
- 23 Q Do you know anything about the origin of the fire? Is
- 24 that something that's within your purview?
- 25 A Generally we try to determine the cause and origin of

Jimmy Lamb

Cross-examination by Mr. Weatherford

1 the fire. However, if, if, if there's a fatality or if it
2 appears suspicious, and in this particular case when we
3 found the body we opted to leave that portion up to law
4 enforcement.

5 We obviously believe that the fire started in the
6 worst burned area of the house, being somewhere near the
7 living room-kitchen area. But we didn't do the cause of
8 the fire.

9 Q You just left that to somebody else.

10 A We left that for law enforcement.

11 Q Did you see any, anybody that you knew of that worked
12 for SLED there that night or that morning?

13 A Later that night an investigator came out from SLED,
14 but I don't recall his name.

15 Q Okay. Do you know what he did?

16 A They, they processed the scene.

17 Q Did they bring a dog with them, or anything?

18 A I don't recall a dog.

19 Q Do you, do you know Jeremy Phillips?

20 A I do.

21 Q Did you see him there that night at any time anywhere?

22 A I didn't see him there.

23 Q How do you know Jeremy?

24 A I went to school with Jeremy.

25 Q What do you know about him?

Jimmy Lamb
Redirect examination by Mr. Morin

1 A I haven't seen him very much since graduation. I
2 remember him from school. We were friends in school.

3 Q Somebody you liked.

4 A Right.

5 Q Thank you, sir.

6 REDIRECT EXAMINATION

7 BY MR. MORIN

8 Q Officer Lamb, if I understand correctly, this mobile
9 home is facing Oakstone.

10 A Yes.

11 Q A short distance from that it connects with which
12 road, do you recall?

13 A Oakdale Road.

14 Q Okay. Is that here in Cherokee County?

15 A Yes, sir.

16 MR. MORIN: That's all the questions I have, Your
17 Honor.

18 THE COURT: Thank you. You may step down.

19 MR. MORIN: We ask Officer Lamb be excused, Your
20 Honor.

21 MR. WEATHERFORD: No objection.

22 THE COURT: He may.

23 (Whereupon, the witness was excused.)

24

25

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 FRANKLIN D. CONRAD, II, having
2 been first duly sworn, testified as follows:

3 THE CLERK: Do you need to get your case file? Bring
4 it up there if you need to.

5 DIRECT EXAMINATION BY MR. MORIN

6 Q Sir, would you state your name for the jury?

7 A My name is Franklin D. Conrad, II.

8 Q Where do you work, sir?

9 A I'm a lieutenant with the South Carolina Law
10 Enforcement Division. It's commonly called SLED.

11 Q What are your duties there?

12 A I'm the, currently the, administrative lieutenant over
13 the arson unit and the bomb squad.

14 Q How long have you been doing that?

15 A I've been employed by the state as an arson
16 investigator since February of 1990.

17 Q Can you tell us about your training? Well, your
18 training and expertise in the area in which you are
19 employed.

20 A Okay. I've taken classes through the South Carolina
21 Fire Academy, as well as the criminal justice academy,
22 where I received this certification, certified fire
23 investigator through the criminal justice academy.

24 I've also attended the F. B. I.'s Police, Arson and
25 Crime Scene School, the bureau of alcohol, tobacco and

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 firearms' advanced arson for profit school.

2 I'm a member of the South Carolina Chapter of the
3 International Association of Arson Investigators. And over
4 my career from 1986 to current I've attended close to 60
5 seminars relating to arson investigation.

6 Q Have you ever been qualified as an expert in arson
7 investigation?

8 A Yes, I have.

9 Q Approximately how many times?

10 A I believe 12 times in general sessions, a couple in
11 common pleas and once in federal court.

12 MR. MORIN: Your Honor, at this time we move Officer
13 Conrad as an expert in fire investigation and arson.

14 MR. WEATHERFORD: Could I examine him?

15 THE COURT: Well, do you have an objection?

16 MR. WEATHERFORD: I object unless I could ask him some
17 questions to find out whether or not I object.

18 THE COURT: All right. Let me ask the jury to please
19 go to your jury room.

20 I'll bring you back in just a few minutes.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Let me be sure I understood.

24 You are the lieutenant in charge of arson
25 investigation for the state law enforcement division?

Franklin D. Conrad, II (In-camera)
Cross-examination by Mr. Weatherford

1 THE WITNESS: Yes, sir. I serve.

2 THE COURT: Okay. Mr. Weatherford, go ahead and ask
3 whatever questions you would like.

4 CROSS-EXAMINATION

5 BY MR. WEATHERFORD

6 Q I would just like to get some timeframes. And you
7 rattled off those classes and so forth.

8 A Yes, sir. Okay.

9 Q And I just want to get some timeframes. When did you
10 go to work for SLED?

11 A I started SLED in -- we were -- I started the state
12 at, in February of 1990 underneath the South Carolina Arson
13 Control Team. That was under the fire marshall's office.

14 The following July, which would have been July 1991,
15 we transitioned back to the state law enforcement division,
16 and I have been there since July of 1991.

17 Q When you started in 1990 were you trained in arson or
18 you just went for on-the-job training?

19 A No, sir. I was trained prior to there. I worked as a
20 fire investigator for several insurance companies.

21 Q So where did you begin your training, and when?

22 A I can read my C. V. if you'd let me.

23 Q If you would, just let me look at it.

24 A Sure. It's --

25 Q It might speed up things.

Franklin D. Conrad, II (In-camera)
Cross-examination by Mr. Weatherford

- 1 A Yes, sir. I'll be glad to do that.
- 2 (Pause.)
- 3 Q All right. The first thing I see without a date with
4 regard to fire was the University of Memphis, Memphis,
5 Tennessee.
- 6 A I started taking those classes in approximately 1986
7 to '87, around that timeframe.
- 8 Q All right. When is the first time you were certified
9 as any kind of fire expert as far as classes?
- 10 A As far as class, it would be in 19 -- it's on that
11 next page at the criminal justice academy. It would be --
12 it says Certified Fire Investigator of the South Carolina
13 Criminal Justice Academy. I think it's 1988 or '89.
- 14 Q That's at the bottom.
- 15 A I mean, I'll be glad to look at the date that's on
16 there and show it to you.
- 17 Q Well, I was just looking at this first page. I didn't
18 see any dates. But is that what you're talking about?
- 19 A No, sir. That's a national designation. The first
20 time that I was certified as a fire investigator would be
21 from October 30th to November 8th, 1989, at a state level.
- 22 Q And who were you working for then?
- 23 A At that time I was working for -- it would have been
24 Brooks Reports, which would have been a private
25 investigation company that provided investigative services

Franklin D. Conrad, II (In-camera)
Cross-examination by Mr. Weatherford

1 for fires to insurance companies primarily.

2 I was also the, a volunteer or station chief with the
3 Columbia Fire Department at that time. And that's who put
4 me through the criminal justice academy's arson school.

5 Q And these seminars, is that what said you've been to
6 about 50 or 60?

7 A Well, it's that page, plus the next page, yes, sir.

8 Q The next page and then on into the next one.

9 A Well, from -- the last two pages deal with -- the
10 first three deal with arson primarily. The last two deal
11 with weapons of mass destruction, and since I've served
12 that function as well as a team leader for SLED.

13 Q Do you have any degrees in arson? Is there such a
14 thing?

15 A I carry a national certification through the
16 International Association of Arson Investigators. It
17 requires submitting an application, having peer review,
18 attending -- they have an approved reading list, as well as
19 experience in classes that you attend.

20 You take a national exam. As well, once you're
21 certified, then you have a peer review based upon
22 continuing education every five years. You have to
23 recertify, and that's, that's part of the process.

24 Q Are you familiar with the National Fire Protection
25 Association?

Franklin D. Conrad, II (In-camera)
Cross-examination by Mr. Weatherford

1 A Yes, sir.

2 Q Is that some kind of official thing or something that
3 you study?

4 A An F. P. A. is a, is a group that provides standards
5 and guidelines relating to a wide variety of fire-related
6 issues.

7 Q Okay. And I have some information here regarding a
8 guide published by them in 1992.

9 A And it was an F. P. A. 1921. It was originally
10 published in 19 -- I believe, I thought the original
11 publication was 1991. It's updated every three years. And
12 they're in their fifth revision right now.

13 Q Okay. And is that guide part of the training that
14 you --

15 A Yes, sir.

16 Q Do you use or go by the principles in that manual or
17 whatever it is?

18 A It's a suggested guideline, yes, sir. It's not a
19 standard, but it is a guideline for arson investigation.

20 Q Do you consider those guidelines as being appropriate
21 and factual?

22 A They're not nonbinding, but, yes, there are general
23 principles in there.

24 Q All right.

25 MR. WEATHERFORD: Your Honor, I have no objection.

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 THE COURT: Okay. Bring the jury back, please.

2 (The following takes place in the presence of the
3 jury.)

4 THE COURT: All right. Any objection to the witness
5 being qualified as an expert in the field of fire and arson
6 investigation, determination and cause?

7 MR. WEATHERFORD: None, Your Honor.

8 THE COURT: He is so qualified.

9 CONTINUED DIRECT EXAMINATION

10 BY MR. MORIN

11 Q Officer Conrad or Lieutenant Conrad --

12 A Yes, sir.

13 Q -- did you have the occasion to go to [REDACTED]

14 [REDACTED] in Cherokee County?

15 A Yes, I did.

16 Q Do you remember when that was?

17 A It would have been September 7th of --

18 Q September 7th. Do you know when the fire occurred?

19 A The fire happened on August 30th of 2006.

20 Q Okay. When you went there on September the 7th, what
21 did you bring with you, if anything?

22 A I brought my assigned vehicle with me that contains
23 the equipment that we use to process a, a fire scene, as
24 well as requesting an additional agent to come, which is an
25 arson detective that handles an arson detection or an

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 accelerant detection K-9.

2 Q A dog.

3 A Yes, sir.

4 MR. WEATHERFORD: I think are they already in.

5 MR. MORIN: Well, no. That's what I am getting ready
6 to do.

7 MR. WEATHERFORD: I don't have any objection, Your
8 Honor.

9 MR. MORIN: Well, in that case, Your Honor, at this
10 time the state would move State's Exhibits 3, 4, 5, 6 and 7
11 into evidence.

12 THE COURT: Are they all photographs?

13 MR. MORIN: They are, Your Honor.

14 THE COURT: They are admitted without objection.

15 (Photographs marked State's Exhibits Nos. 3, 4, 5, 6
16 and 7.)

17 Q Officer Conrad, I'm going to show you State's
18 Exhibits -- and let me get them in order here -- 3, 4, 5, 6
19 and 7 and ask you if you can identify these photographs.

20 A Yes, sir, I can identify 3 through 7.

21 Q All right. And can you tell me what they are?

22 A Those are photographs that I took at the fire scene.

23 Q Okay. Let me have them.

24 Now, when you got to the fire scene -- and it's you and
25 another officer handling the dog, the K-9.

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 A Yes, sir, Special Agent Ware.

2 Q Okay. What did y'all do? Tell us the procedure that
3 you go through when you get there.

4 A We photograph the exterior of the fire scene.

5 First of all, we obtain, use a consent or a search
6 warrant to enter the scene. We need permission to be on
7 the property. That was obtained.

8 And then what we do is we photograph the scene to
9 document what the scene looks like.

10 Then we proceed to look at the damage at the scene to
11 try and figure out where the fire may have originated from.
12 The K-9 would be used in this case since it was on the
13 scene, would be introduced to the scene by the K-9 handler
14 to do a search. And the dog is trained to detect common
15 materials used to intentionally set fires from petroleum
16 products. They're commonly used accelerants.

17 The dog would scan the area, any areas, that would
18 be -- have alerts would be marked. We would go in and
19 collect the samples and process the scene and submit the
20 samples to the laboratory.

21 Q Did, did, were there any alerts?

22 A Yes, sir, there were.

23 Q How many?

24 A There were six alerts with the K-9.

25 Q Okay. Did you take any samples?

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 A Yes, I did.

2 Q How many?

3 A I took three samples and placed them into K-pack bags.

4 (Bags with samples marked State's Exhibits Nos. 12
5 through 14 for Identification.)

6 MR. WEATHERFORD: I don't have any objection.

7 Q Officer, I'm going to show you what's been marked as
8 State's Exhibits 12, 13 and 14 and ask if you can identify
9 those items.

10 A Yes, sir.

11 State's Exhibit 12 is labeled sample one that I
12 collected from the fire scene.

13 State's Exhibit 13 is sample number three that I
14 collected from the fire scene.

15 And Exhibit 14 is sample number two that I collected
16 from the fire scene.

17 Q All right.

18 MR. MORIN: At this time we move these three items
19 into evidence, Your Honor.

20 THE COURT: They're admitted.

21 (Bags with samples marked State's Exhibits Nos. 12
22 through 14.)

23 MR. MORIN: I would like to ask Officer Conrad to step
24 down for photographs' identification, Your Honor.

25 THE COURT: Okay.

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 (Whereupon, the witness left the stand.)

2 Q If you will come, I'm going to show you what's been
3 marked as State's Exhibit No. 4 and ask if you can identify
4 that.

5 A Yes. Can I take it off for a second?

6 Q You may.

7 A Okay. That, that is the, the orange cone that is next
8 to the K-pack bag, is K-9 alert number one. And the sample
9 is the one that I collected that supports orange with K-9
10 alert.

11 Q Okay. And how about this one?

12 A That is the sample that I collected, as well as K-9,
13 the cone, is K-9 alert number two. And the sample was
14 collected at the location of the K-9 alert two and placed
15 in the K-pack bag.

16 Q I note that around there there's what appears to be
17 wood. Did you scrape that off? There's a trawl right
18 there.

19 A Yes. The fire debris was cleaned off the floor using
20 the trawls, the tools that we use, are used one time at one
21 location.

22 So you move one -- one would use one set of trawls and
23 fresh new latex gloves. And after you collect the sample,
24 it's, your gloves and that is no longer used. And then you
25 go to the next one and you get another clean trawl, new

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 gloves.

2 And you would take your sample and then take that off
3 and leave it. And then you go to the next spot so you
4 don't contaminate, bring something from one spot to the
5 next.

6 Q Okay.

7 A That would be why the trawls and gloves are in there.

8 Q And that's State's Exhibit No. 3.

9 A Okay.

10 Q Now, this is State's Exhibit No. 5.

11 A Yes, sir.

12 Q Can you tell me about this one?

13 A This one here is a, there is no K-9 alert there. The
14 actual odor, I detected an odor myself with my nose at the
15 foot of the bed. And that's why there isn't an orange cone
16 there. And I placed the debris into the K-pack bag.

17 The K-pack bag looks like a plastic bag, but it's a
18 special bag designed to hold in petroleum products and
19 vapors, and it's heat sealed.

20 Q Now, of course you said this occurred, this fire
21 occurred, on August the 30th, is that correct?

22 A Yes, sir.

23 Q And you took this sample on September --

24 A The 7th.

25 Q -- the 7th. And are you telling the jury that when

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 you got there there was a strong enough odor of gasoline at
2 that time that you could smell it?

3 A Yes, sir, after you removed the debris off the top
4 layer.

5 Q Okay. Now, there's looks like a --

6 A That's a folding mattress-type collapse. It's a bed
7 that folds up and, you know, goes towards a like sofa. It
8 goes --

9 Q So, so this is basically the bar that usually pokes
10 you in the back when you lay on it.

11 A That is the -- yes, when you're sleeping on it. It's
12 not the headboard.

13 Q Right.

14 A That's what you feel when you're on it. That's
15 towards the foot of the bed.

16 Q Okay. Now, I'm going to show you State's Exhibits No.
17 6 and No. 7. Did you take these photographs?

18 A Yes, I did.

19 Q Can you tell me what the significance of these
20 photographs are?

21 A The photographs themselves, the reason I took those
22 was because as, after you remove the debris to expose the
23 floor, you could see a pattern. Is there a way to zoom
24 individually on these, because it might be easier to see
25 being larger?

Franklin D. Conrad, II
Direct examination by Mr. Morin

- 1 Q This is State's Exhibit No. 7.
- 2 A Okay. That just makes it a little easier to see.
- 3 Q Okay.
- 4 A This is the, will be the -- I'm not real -- hold on
- 5 one second. Let me get things here.
- 6 Okay. This is the front deck of the house, of the
- 7 mobile home. So this would be the front wall of the mobile
- 8 home. I'm not real --
- 9 Q Do you need to come around?
- 10 A Yeah. Let me try. This might be easier keeping
- 11 things lined up.
- 12 Q Yes.
- 13 A This is the front wall of the mobile home where the
- 14 door -- this piece of metal right here will be the upright
- 15 door section of the side of the door that's falling
- 16 outward. And that would be the door opening.
- 17 And there's a pattern. You could see how the pattern,
- 18 the wood is burned deeper into the floor. And you could
- 19 see a higher level of flooring here and a higher level of
- 20 flooring here.
- 21 And what's happened is the floor has been kind of
- 22 sculpted out where there was heavier burning in some areas.
- 23 And that's the same thing that's reflected in this
- 24 photograph right here. You could see how there's a pattern
- 25 that kind of comes around. And then I'm not real good at

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 looking on the screen and moving my hand at the same time.

2 But it moves up like that.

3 Q Well, if you need to walk over there and point to
4 it --

5 A Oh, this is the area right here that I'm talking
6 about, is you have a low -- a high area right there and
7 then a low area that comes around here. And this is a
8 higher area where the wood, the wood has been burned down
9 lower through here. And then it goes out towards the front
10 door in that area.

11 Q What, in your opinion what, causes that kind of
12 pattern?

13 A That's, that's typically what we see when a petroleum
14 product is poured or introduced onto to a surface and it
15 burns away and it's burns --

16 Q So, so the, the lower parts show where the accelerant
17 was. Is that what you're saying?

18 A Yes, that's -- we call it a pour pattern.

19 Q A pour pattern. Okay. And I note that there's a
20 cone.

21 A Yes, another, the K-9 --

22 Q Of course, and of course this here is the couch
23 pull-out bed that you described.

24 A Yes, yes.

25 Q Okay. You can have a seat.

Franklin D. Conrad, II
Direct examination by Mr. Morin

1 (Whereupon, the witness returned to the stand.)

2 Q Once you took the samples from the three areas, put
3 them in the K-pack bag, what did you do with them next?

4 A I took them to the SLED forensic laboratory and turned
5 them in to the laboratory for analysis.

6 Q Okay. Now, were you the first SLED agent to get, to
7 investigate this scene?

8 A No, I was not.

9 Q Who was the first one?

10 A The first agent was Larry -- Special Agent Larry
11 Chapman. He came to the fire scene on the night of the
12 fire.

13 Q Okay. But he didn't take any samples?

14 A No, sir.

15 Q Why did you go back out there?

16 A Information developed the day before that I was, that
17 I showed up on the scene. So it would have been September.
18 I was there on the 7th. So it would have been September
19 the 6th.

20 I received a call from the -- from Captain Mike
21 Fowlkes with the Cherokee County Sheriff's Office saying
22 that additional information had developed regarding the
23 investigation and he wished somebody to come. He wanted
24 somebody to come out to continue the investigation at the
25 scene.

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 Q Okay. And when you got there, I mean, did you have to
2 move off debris to expose this pattern?

3 A Yes.

4 Q Or was it obvious as soon as you got there?

5 A No. You had, we had to move the debris off of that
6 area.

7 Q And that's part of your training as to how to approach
8 that?

9 A Yes, sir. We would remove the debris.

10 Q In your expert opinion what was the cause of this
11 fire?

12 A It was an intentionally set fire.

13 Q Okay. Do you have any belief or opinion as to what it
14 was that was used to start it?

15 A Yes, sir. Based upon results that were provided to me
16 through SLED matching the, the pattern that was there, it,
17 it appeared to me that based upon the patterns that it was
18 a pour pattern. And the samples were confirmed to have
19 gasoline present in them.

20 Q Please answer any questions Mr. Weatherford may have.

21 A Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. WEATHERFORD

24 Q Okay. Agent Conrad, you, you, you didn't go up there
25 the night or the next day of the fire.

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

- 1 A No, sir.
- 2 Q Agent Chapman did.
- 3 A Yes, sir.
- 4 Q And who is he in relation to you?
- 5 A Who is he? He's the agent assigned.
- 6 Q Does he work for you or --
- 7 A Yes, at the time he was an agent that worked for me.
- 8 I was in Alabama at the time of the fire.
- 9 Q All right. And, and when he went up there as far as
- 10 you know they knew there was a fatality.
- 11 A Yes, sir; yes, sir.
- 12 Q And he did not take any samples.
- 13 A No, sir. He did not.
- 14 Q Did he take any photographs?
- 15 A Yes, sir, he did.
- 16 Q Do you know who has them?
- 17 A Yes, sir.
- 18 Q Have you, have you looked at them?
- 19 A Yes, sir.
- 20 Q Are they, are they for all intents and purposes the
- 21 same as these photographs are?
- 22 A I mean, they're of the same scene. But the fire
- 23 debris was not removed. So, I mean, he didn't remove the
- 24 fire debris in that section. So it would not -- they don't
- 25 look the same as those because I took the fire debris out.

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 But the fire debris would be there.

2 Q By fire debris, what do you mean, the roof?

3 A Yes, the roof. The roof was still there. We, I
4 peeled the roof. Myself and Agent Ware peeled the roof
5 over. It was partially collapsed still onto the bed. We
6 cut the roof and peeled it off to expose that area of the
7 mobile home.

8 Q Had the firemen or anybody before you done any peeling
9 of the roof that you could tell --

10 A There was some peeling of the roof over towards the
11 side where the kitchen was, which looking at from the
12 street side would be the right side of the mobile home.
13 That is the area that Larry, Special Agent Chapman, worked
14 at. I went from primarily the kitchen area to the left
15 side.

16 Q All right. This would be a photograph looking at the
17 front --

18 A Yes, sir.

19 Q -- of the mobile home. And the fire would have been
20 to the right of that photograph?

21 A Yes, sir, to the right. You're right. Yeah, yeah,
22 the far side towards the jury.

23 Q I'm sorry. That was Exhibit No. 8. This is Exhibit
24 No. 1. That shows the deck.

25 A Can I step down? The angle on the screen here just

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

- 1 isn't --
- 2 Q Yes. I'm sorry.
- 3 A I'm sorry. I can't.
- 4 Q And there should be --
- 5 A Can I use a stick?
- 6 Q There should be a yardstick somewhere around here.
- 7 A Okay.
- 8 Q I don't know.
- 9 A I just want to step down to get a squarer view on the
- 10 screen.
- 11 Q Okay. I'm sorry.
- 12 (Whereupon, the witness left the stand.)
- 13 Q I'm just trying to get the, the location. Now, the
- 14 deck kind of thing you see there on the right --
- 15 A Yes, sir. That is the front deck.
- 16 Q And the picture we saw a minute ago, the door, the
- 17 entrance door, was to the right of that deck?
- 18 A There is two doors.
- 19 Q Right?
- 20 A There's two doors, one to the left side of the mobile
- 21 home and one to the right side.
- 22 Q That's the one we saw.
- 23 A That will be the left door.
- 24 Q In this photograph.
- 25 A Yes, sir.

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 Q And then back onto this one. And the kitchen would
2 have been to the far right-hand side?

3 A Yes, sir.

4 Q All right. And this is Exhibit 9. Looks like that
5 bed would have been to the far left portion of the porch if
6 you came straight out from the bed.

7 A Well, it's the left portion of the living room, not
8 the porch.

9 Q Well, I mean, if you came straight out.

10 A Yeah, yes. The porch is in front of it, yes, sir.

11 Q And the kitchen would have been --

12 A To the right, would have been on that towards the end
13 where your finger was on the lower right corner of the
14 photograph.

15 Q Okay. Do you know how far it was from the, say the,
16 end of the trailer to the bed?

17 A If I remember right the measurement of the trailer
18 was, it was approximately 12 feet wide and I believe
19 40 feet long. So it would be, I would estimate from the
20 bed to the, to the stove would probably be about 18 feet.

21 Q From this photograph here, this is No. 8, would it be
22 fair to say that it was, the trailer was about half burned
23 up?

24 A There was --

25 Q Rough?

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 A Probably when you get in there, it's probably more
2 than half because the walls are burned in there. But
3 visually looking at it, you know, from the right side, was
4 the right half was the heaviest damage compared to the left
5 there.

6 Q And how long did you say the mobile home was?

7 A I believe it was 40 feet long.

8 Q So would it be in the neighborhood of somewhere from
9 this bed to the end of the trailer approximately 20 feet.
10 Is that just --

11 A I said it was probably that. I think I said about
12 18 feet from the bed to the stove and there's probably --
13 the stove was not on the end wall. So probably be
14 about right there.

15 Q And you mentioned that you thought the door was down
16 right here beside the deck. Is that where --

17 A There's another door.

18 Q Not the one we see here.

19 A No, not this one but --

20 Q The burned-up door.

21 A Yes, the --

22 Q I'm sorry.

23 A No. I just have a hard time looking up there and
24 moving. I'm not that -- this. This right here would look
25 like the metal possibly. No. Here it is right here. You

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 see the aluminum right through here. That would be the
2 door frame actually.

3 Q So on this No. 10 here --

4 A It'll be this portion of the door frame right there.

5 Q All right. So the bed would have been to the left of
6 that door frame and the, the kitchen would have been to the
7 right.

8 A Of the right door, the bed would have been to the left
9 and the kitchen would have been to the right. But the
10 other door that you could see, the bed would have been to
11 the right.

12 Q Well, okay. And were you able to determine -- you saw
13 the door there. You can go back.

14 A Yes, sir.

15 (Whereupon, the witness returned to the stand.)

16 Q I think. From the -- go ahead.

17 A Oh, okay. I'm sorry.

18 Q Were you able to tell anything about doorframes or
19 windows or anything like that other than that door that you
20 just showed us is on to the right like windows or doors?

21 A Oh, I was able, I was able to show the door to the
22 right, the one closest to the kitchen area.

23 We stood it upright, and we were able to determine
24 that the doorjamb was still intact approximately 5 feet on
25 both sides.

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 Q Did, did that mobile home as far as you could
2 determine have a back door?

3 A No, sir. It did not have a back door. It had two
4 front doors.

5 Q Were you able to determine whether or not it had any
6 windows in the burned half?

7 A Where the --

8 Q On the back.

9 A On the back.

10 Q Showing you No. 11.

11 A Oh, I was thinking the front. There's, there's --

12 Q Do you see a window in No. 11? What I'm asking is
13 were you able to find if there was a window on the
14 right-hand burned-out part? Do you see what I'm talking
15 about?

16 A Yes, sir. And, no, I did not. I did not.

17 Q So you don't know what kind of ways or things that
18 would have been before the fire to get in from the back.

19 A No, sir. That that portion of the, like I said, that
20 that portion of the mobile home had been peeled or had been
21 moved prior to me being there.

22 Q You mentioned the dog hit on six spots.

23 A Yes, sir.

24 Q And you took two samples.

25 A Took two of the K-9 samples.

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 Q Why did you not take them all?

2 A We normally don't collect every sample. We take a
3 representative sample of what the scene is, but we don't
4 necessarily take every alert.

5 The dog can conceivably in a -- along a pour pattern
6 it could, you know, keep alerting all the way through that
7 thing. And it is just a continuation of the same pattern.
8 So you don't take the samples. You just take them
9 disbursed through there for collective.

10 Q Is that just a random selection, or is there any
11 method to the madness?

12 A Well, you -- well, I don't know.

13 Q I'm sorry.

14 A I don't know there is method to the madness. There is
15 a reason behind it, but it's, it's, you, you, you do a
16 combination of the K-9 alert versus your visual cues that
17 you pick up from your training and background, as well as
18 using a, a machine that I have in my car, which is a
19 hydrocarbon detector. And you pick, you typically pick,
20 what you think the strongest responders are going to be,
21 and you collect those.

22 Q Did you, did you use that machine?

23 A Yes, sir.

24 Q And is that how you selected the other sample?

25 A Select the other samples?

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 Q You took two samples that the dog alerted on.

2 A Yes.

3 Q And you took one you said you smelled.

4 A I smelled it visually.

5 Q What about --

6 A I ask did not smell it visually. I smelled it with my
7 nose. You can't smell visually. You see visually.

8 Q But the machine, did you take any samples? Was it the
9 one you took there?

10 A Yeah. You, it, when -- you don't actually take a
11 sample. It, it has had a motor, it, it, that has a tube on
12 it that draws air into it. And it measures it. You don't
13 physically take anything. It's, it's more a presumptive
14 test. So there is no real taking there. And I did use it
15 on all of the samples that we took.

16 Q So it's kind of like an illumination thing?

17 A Like, like luminal or --

18 Q Well, that machine is what I'm trying to figure out
19 now.

20 A Okay.

21 Q Do you take a sample and then, and then check it with
22 the machine, or do you check the machine after the dog hits
23 before you take the sample? How does that work?

24 A Well, the dog went through and did the -- since we had
25 the dog, the dog went through on the primary search. And

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 that's how the alerts, the cones got placed. And then as
2 you go through you go ahead and you process the scene. And
3 that's where we exposed the pattern.

4 And then I smelled this -- then that one sample that I
5 took at the foot of the bed. At that point since I smelled
6 it, I took the combustible gas detector and I checked to
7 see if, because when you detect an odor, the odor, the odor
8 winds up getting in the air and you smell it with your
9 nose.

10 But you may not be able to isolate where exactly the
11 odor is emanating from. So you use that piece of
12 equipment. And you could use the wand. And as you get to
13 it, it responds. And then that's when you know, okay, this
14 is where the target area may be. And then you collect it
15 from there.

16 Q And that's how you got the sample that the dog did
17 not -- or there's not a cone there.

18 A Yes, that's how I got that one after I smelled it and
19 then used that.

20 Q Why do you use dogs?

21 A Why do we use dogs? Serve a tool that's --

22 Q What can they do we can't do?

23 A On a fire scene or --

24 Q Yeah.

25 A I mean, they can catch a Frisbee in their mouth. And

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 I can't do that but --

2 Q I know.

3 A But on the fire scene their nose, the, the, the reason
4 that the K-9 is used, dogs are used because of their unique
5 sense of smell. Much like a bloodhound is trained to pick
6 up on scents to either track people, or hunting dogs to
7 track an animal, the K-9 can also be imprinted with -- as a
8 bomb dog to smell explosives or a drug dog to smell drugs.

9 And they found that they -- that I just keep using my
10 hands. I need to stop doing that.

11 Q I don't think you need that microphone anyway. Push
12 it out of your way if you want to.

13 A But the dog can be imprinted with commonly known
14 accelerants. By accelerants I mean those are flammable
15 liquids like gasoline, kerosene, lighter fluid, you know, a
16 whole wide range of petroleum products.

17 And when the dog, its nose is trained for that, they
18 can detect it at a lower level than my nose can pick up, as
19 well as a lower response level than my -- the L. I. S. or
20 the combustible gas detector that I use. So the dog may be
21 able to find it when I don't.

22 Q Or even the machine.

23 A Yes. That's, that's correct.

24 Q Is there any time limit as to how long an accelerant
25 will stay in a place?

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

- 1 A There's, it depends on a lot of, a lot of variables.
2 The material that was, was there, whether it was a light
3 product or a heavy product, the temperature and the
4 humidity, how much was -- there's a wide range of variables
5 in it.
- 6 Q In this case, from what you know about this case, were
7 you able to tell how long that, what you found, was there?
- 8 A How long it had been there or how long, how much? I
9 don't understand what you're, if --
- 10 Q Okay. The first, the fire occurred on the 30th.
- 11 A Yes.
- 12 Q And the first arson investigator went up there on the
13 30th.
- 14 A Yes.
- 15 Q He didn't, obviously he didn't, smell any samples or
16 he would have taken some.
- 17 A He didn't. Yes. He didn't process that side of the
18 trailer either.
- 19 Q Is there any reason he didn't?
- 20 A He just, he didn't pull the tin and he didn't shovel
21 it off. I, I don't know.
- 22 Q Do his photographs show those, what you've described
23 as burn patterns?
- 24 A The burn patterns? No, because the fire debris is
25 covering the burn patterns. I had to remove the fire

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 debris to see them.

2 Q So from his photographs you can't see.

3 A No, you cannot, because there's the debris from the
4 mobile home burning, has fallen on the floor and covered
5 it.

6 Q Do you know if this area was secured?

7 A It had barrier tape, but that's all it had around it.

8 Q So for seven days and seven nights the only thing
9 protecting this scene from contamination was that yellow
10 tape.

11 A Yes, sir.

12 Q So far as you know there were no armed guards or
13 anything.

14 A I'm, I'm pretty positive there weren't those. It was
15 the only thing when I arrived, there was the barrier tape.

16 Q For your dog or your machine to detect accelerants
17 does it have to have been burned?

18 A No, sir. It picks it up both raw and burned.

19 Q So I'm just, I'm just asking hypothetically. Somebody
20 could have come in after the fire and poured gas around and
21 the dog would have still picked up on it?

22 A Somebody could have hypothetically done that, but it
23 wouldn't have matched. It, it wouldn't explain -- if
24 somebody had poured that, it wouldn't have made the floor
25 dissolve into the burn, you know, the pattern that was

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 present but --

2 Q But those patterns, can't they be also called, in
3 addition to accelerants be called, by what's called
4 flame-over or burn-over like a roof catching on fire and
5 then dropping down over it?

6 A You do have some charring, but those, that is not the
7 pattern that would be. And the, the, it was not flame-over
8 that would cause that. It would be actually flash-over.
9 Flash-over is -- flame-over is just actually the event
10 where the flame rolls up the wall and runs across the
11 ceiling.

12 The pattern that actually creates the low charring or
13 the event that creates that real low charring is actually
14 called flash-over. And a flash-over occurs when the fire
15 gases, the smoke that stays in a room, builds up at the
16 ceiling and comes down. And it can escape. And it starts
17 heating up.

18 And what happens is if, if the fire continues to
19 progress and that layer continues to heat, it will reach an
20 autoignition temperature. It'll just break into flames.
21 And that expanding flame front releases a lot of energy.
22 And that charring, that's what creates the charring on the
23 floor.

24 Q And it can look like a burn pattern.

25 A It can. It creates a burn pattern, but it doesn't

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 look like that burn pattern, no, sir.

2 Q If, if somebody got drunk and was smoking a cigarette
3 and left a cigarette burning, that can start a fire, can't
4 it?

5 A I imagine a cigarette would start a fire.

6 Q On a bed or something.

7 A You wouldn't have to be drunk to do that.

8 Q Well, I mean, just hypothetically.

9 A I mean, a cigarette, yeah, a cigarette can start a
10 fire, yes, sir.

11 Q All right. What would happen if you, if you poured
12 gas on the floor and you threw a cigarette in it? Would it
13 ignite --

14 A No, sir.

15 Q -- or have you got to have other flame?

16 A I imagine a cigarette would not ignite the gasoline.

17 Q You just, you could actually take a cigarette into a
18 bucket of raw gas --

19 A But --

20 Q And, and you throw the cigarette into it, and it, it,
21 the cigarette itself, will be quenched out by the liquid
22 gasoline.

23 A You wouldn't want to test that over a long period of
24 time doing it thousands and thousands of times, but the
25 chance is that it may ignite it. But the vast majority of

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 the times the liquid will actually just put the cigarette
2 out.

3 Q What about if somebody threw something from outside in
4 a window or a door? What would it take to ignite, say,
5 gasoline? Some kind of open flame?

6 A An open flame, a, a, some kind of sparking device that
7 may get the vapor to, to, because gasoline, the component
8 of gasoline that burns is actually the vapor. It's not the
9 liquid. So you have to get the, the vapor to ignite. And
10 then the vapors continue to burn, not the liquid. So it,
11 it, you could have open flame. You could have a spark.

12 Q And you got, you got called in on September the 7th.

13 A I, I got called the 6th but I went to the scene on the
14 7th, yes, sir.

15 Q Okay. And, and it was because the detective called
16 and told they had gotten some additional information.

17 A And wanted the scene to be revisited to, to look.

18 Q And you know what that information, who, where it came
19 from?

20 A From the sheriff's office.

21 Q Did he tell you what information was additional
22 information?

23 A That there had been a witness or somebody that had
24 provided information. I did not have, I was not a party to
25 that conversation. So I don't, I mean.

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 Q But it was explained to you that some witness had come
2 in.

3 A Had come forward and stated that there may have been
4 foul play at that location and that the fire may have been
5 intentionally set.

6 Q All right. And do you know if that scene, if anybody
7 had been in there or done anything to contaminate that
8 scene in the week that preceded, day and night?

9 A I, I had never been to that scene or that neighborhood
10 until I showed up that morning, and I haven't been back
11 since. I have no idea of the, anything that went on on the
12 property prior to me arriving there.

13 Q So all you know is what, what you found when you got
14 there.

15 A Yes, sir.

16 Q Did you find anything that might have started the
17 fire, the, the flame or anything like a lighter?

18 A No, sir. I did not find the, the, an ignition device,
19 no, sir.

20 Q Okay. And-but you're fairly satisfied it couldn't
21 have been a cigarette.

22 A I, I would say that the chances are that it would not
23 be a cigarette, no, sir, being placed into the gasoline,
24 no, sir. But I don't know what the ignition device is.
25 We, I did not find it.

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 Q Did you, did you comb the scene for items that might
2 have been in there and burned up?

3 A Yes, sir. I mean, do you mean look in the debris to
4 see what's there?

5 Q Yes.

6 A Yes, sir.

7 Q All right. Are you the, the primary one that would
8 have combed the debris for any evidence that might be
9 pertinent?

10 A Myself and Agent Ware. And, and I can only talk to
11 the portion that I did. You know, I wasn't there on the
12 other half. I'm talking about what I did. Yes. Myself
13 and Agent Ware did.

14 Q I'm trying to. Okay. Did you find any -- if somebody
15 has what's called steel-toed boots and they were in that
16 fire, would the steel toes have been left?

17 A Yes, sir. The soles of the shoes would have been left
18 too.

19 Q All right. Did you find anything like that?

20 A We found some clothing in there. We found the remains
21 of a T. V. that was near the front window. We found the
22 remains of some fabric that was unidentified as to what it
23 would go to since they were just scraps, I mean, burned
24 portions, not necessarily scrap.

25 Q But anything that could be related to boots of any

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 kind.

2 A There -- I do not recall seeing boots, remember seeing
3 boots in there.

4 Q And, and, specifically, if, if, if everything on a
5 boot burned up, there'd still be some metal like if the
6 steel-toed boots or the nails in the heels if it had them.

7 A The nails would be difficult to find because nails are
8 a common -- you know, I don't know that you could isolate a
9 nail from a brad molding, but you, you know, you, you may
10 be able to find portions. You may kind the -- if the boot
11 has a zipper on it, you'd find, you would find possibly the
12 zipper. Or you may, if it's a lace-up type boot you may,
13 find the, the round --

14 Q Eyes.

15 A Yeah, the circle you put the thing in. I know there's
16 some term for that, but I don't know what it is.

17 Q All right.

18 A Eyelet, eyelet.

19 Q As far as your investigation, you didn't find any
20 evidence that there were any boots in there.

21 A I don't recall seeing any boots in there.

22 Q And did you find a pour pattern from the, from the bed
23 which is on the left-hand side of the porch leading towards
24 the kitchen?

25 A The actual, the samples that we took, actually there's

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 one at the foot of the bed, one at the front wall of the
2 bed and one at the right side of the bed, which would be
3 the side closest to the kitchen. And the one at the right
4 side of the bed also tested positive for gasoline.

5 Q Well, let me show you and then I'll put it up here.
6 This is Exhibit 10. Would it be fair to say that all the,
7 all the hits the dog made were somewhere around that bed?

8 A Yes. The K-9. Well, there was, there were, there was
9 one hit actually outside the window or outside the exterior
10 wall.

11 Q On the left-hand side of the porch.

12 A Yes, sir, looking at the front on the left side of the
13 porch.

14 Q But what I'm interested in is anything back towards
15 the kitchen.

16 A No, sir. There was, there weren't any K-9 alerts in
17 the kitchen area. I know that.

18 Q Or anything leading from the bed to the kitchen.

19 A Leading from the bed to the kitchen. No. It was on
20 the right side of the bed leading more towards the front.

21 Q I'm talking about like from here over to the end of
22 the trailer.

23 A No. The, the only alert would be in the area over
24 like on the right side of the bed somewhere.

25 Q All right. Why don't you come up here and just show

Franklin D. Conrad, II
Cross-examination by Mr. Weatherford

1 us that?

2 (Whereupon, the witness left the stand.)

3 A Excuse me. Go ahead.

4 Q Okay.

5 A Okay. The, this photograph doesn't have the cone
6 because it was taken --

7 Q All right.

8 A Okay. But the cone would be somewhere in the area of
9 approximately right here. The other photograph will show
10 the exact location. Here is this, and then the kitchen
11 area is over in this area over here.

12 Q And what I'm looking for, is there any kind of trail
13 leading to like --

14 A Like going from here over to here?

15 Q Yeah.

16 A No. It's primarily here, it's primarily here, here
17 and then coming like to the front door, which would be
18 right in about this area.

19 Q Okay. All right. Thank you, sir.

20 (Whereupon, the witness returned to the stand.)

21 Q And you obviously don't know who might have caused
22 that fire.

23 A Who might have caused the fire? No. I investigated
24 the cause of the fire. I wasn't involved in any of the
25 interviews or anything afterwards.

Franklin D. Conrad, II
Redirect examination by Mr. Morin

1 Q All right. Thank you, Lieutenant Conrad.

2 REDIRECT EXAMINATION

3 BY MR. MORIN

4 Q Lieutenant Conrad, I'm fairly certain I understood
5 you, but I want to make sure. These three items, State's
6 12, 13 and 14, these are the K-pack bags that you
7 collected.

8 A At the fire scene, yes, sir. And I sealed them.

9 Q And have you testified that these all tested positive
10 for gasoline?

11 A According to the report I received.

12 MR. MORIN: That's all the questions I have, Your
13 Honor.

14 THE COURT: You may step down.

15 THE WITNESS: May I be excused, sir, to return to
16 Columbia?

17 MR. MORIN: I ask that this witness be excused, Your
18 Honor.

19 MR. WEATHERFORD: I have no objection.

20 THE COURT: He may be.

21 (Whereupon, the witness was excused.)

22 THE COURT: All right. Ladies and gentlemen, we are
23 going to recess for lunch.

24 Keep in mind that during the trial of this case you're
25 not permitted to talk about this case with any person

1 whatsoever. That includes your fellow jurors. It also
2 includes anybody else. You can't talk about the case until
3 you're involved in jury deliberations. So during the lunch
4 recess no discussions.

5 Also, you can't allow yourselves to be exposed by
6 others or exposed to conversations or discussions by others
7 that might take place about the case. You can't allow
8 yourselves to be exposed to any type of media coverage that
9 may relate to the case. You can't conduct any research or
10 do your own investigation into any issue that might arise
11 during the case.

12 You've got to base your decision upon the law that you
13 see and hear during the trial of the case and the law that
14 I'll provide you. So during the lunch recess follow those
15 instructions. Do have a good lunch.

16 Please report back to your jury room at 2:30 this
17 afternoon, 2:30 this afternoon.

18 (The following takes place outside the presence of the
19 jury.)

20 MR. WEATHERFORD: Your Honor, we have some spectators
21 in here, and I would ask the Court to explain the
22 sequestration order to them, because I understand they are
23 relatives to one of the witnesses or know one of the
24 witnesses.

25 THE COURT: Are they witnesses?

1 MR. MORIN: Your Honor, there was one witness was,
2 before I asked the first question stepped in. I don't know
3 if you saw, but I immediately had her leave before I asked
4 Mr. Lamb one question.

5 MR. WEATHERFORD: But I'm just asking these people not
6 discuss anything that's happened in here. One of the
7 witness who had --

8 MR. MORIN: They're not.

9 THE COURT: Well, I've got control over the witnesses.
10 I can instruct the witnesses. If they were here, I'd be
11 happy to do that. Since y'all don't have them here, I
12 can't do it, but I can instruct the witnesses not to
13 discuss anything with anybody.

14 I can't have -- I can't make everybody in Cherokee
15 County not talk about this case. I don't have any
16 jurisdiction over them. The witnesses, I do. And if they
17 do discuss it with anybody, then they won't testify.

18 So y'all, since y'all have your own witness list and
19 they're not here in the courtroom, y'all need to address
20 that with the witnesses and instruct them that they cannot
21 discuss this case with anyone.

22 If there's any questions about adhering to that
23 policy, I'll have a talk with the witness. But I can't
24 just order everybody in the county not to talk about the
25 case if they're not involved in this trial.

Dr. Joel Stephen Sexton
Direct examination by Mr. Morin

1 So if you have a witness that has, you have a problem
2 with, I'll be happy to have a word of caution with them.
3 I'll rely upon you as court officers to instruct your
4 witnesses not to discuss this case with any person
5 whatsoever,

6 Court is in recess until 2:30.

7 (Whereupon, a recess was taken.)

8 THE COURT: All right. Are we ready for the jury?

9 MR. MORIN: The state is ready.

10 MR. WEATHERFORD: The defense is ready, Your Honor.

11 THE COURT: Okay. Bring them in.

12 (The following takes place in the presence of the
13 jury.)

14 THE COURT: Good afternoon, ladies and gentlemen.

15 As you know, when we recessed for lunch the state had
16 begun with their presentation of evidence. So we're going
17 to continue with that presentation this afternoon.

18 Mr. Morin.

19 MR. MORIN: The state would call Joel Sexton.

20 DR. JOEL STEPHEN SEXTON,
21 having been first duly sworn, testified as follows:

22 DIRECT EXAMINATION BY MR. MORIN

23 Q Sir, would you state your name for the jury?

24 A It's Dr. Joel Stephen Sexton. That's S-E-X-T-O-N.

25 Q Dr. Sexton, where do you work?

Dr. Joel Stephen Sexton
Direct examination by Mr. Morin

1 A In Newberry, South Carolina.

2 Q And what you do you in Newberry?

3 A I am a physician with specialization in pathology and
4 subspecialization in forensic pathology.

5 We have a practice that contracts with the Newberry
6 County Hospital. I'm the director of pathology for that
7 hospital and supervise their laboratory.

8 We also do autopsies, forensic autopsies primarily,
9 for about 26 county coroners in the upper part of the
10 state. They send cases to us periodically.

11 Q Now, how long have you been practicing as a
12 pathologist?

13 A I graduated in 1968 and became licensed in the state
14 at the Medical University in Charleston. And in 1972 I
15 finished my residency training and became nationally board
16 certified in anatomic pathology, medical pathology and
17 forensic pathology.

18 Q Have you ever been qualified as an expert in forensic
19 pathology before?

20 A Over 700 times.

21 MR. MORIN: Your Honor, at this time we move Dr.
22 Sexton as an expert in forensic pathology.

23 MR. WEATHERFORD: No objection.

24 THE COURT: He is so qualified.

25 Q Dr. Sexton, did you have occasion to perform an

Dr. Joel Stephen Sexton
Direct examination by Mr. Morin

1 autopsy on October, I mean, August 31st of 2006?

2 A I did.

3 Q Okay. Can you tell me, tell me the condition of the
4 body when you received it to do the autopsy?

5 A We did several that day, but the one in question we
6 started at 1:30 on that date. And it was a person that had
7 been in a fire. So the body was badly burned. Almost the
8 entire surface of the body was burned, with the legs from
9 the mid thighs down being completely burned away and the
10 hands burned away.

11 Q What about the thoracic cavity?

12 A There was enough burning -- the burning was mostly on
13 the front of the body so that we could actually see the
14 internal organs and see some of the ribs, although the
15 internal organs were all well preserved when we examined
16 them at the time of the dissection.

17 The back of the body had less burning, but there was
18 at least enough burning that had he survived he would have
19 probably lost the tissue on the back of your body.

20 There are three stages -- sunburns that we call first
21 degree, second degree is when you start blistering and you
22 lose the epidermis. When it gets deep enough that it
23 destroys the hair follicles, then the skin won't grow back.
24 And that type of burn was on even the back of the body
25 which had some protection.

Dr. Joel Stephen Sexton
Direct examination by Mr. Morin

1 Q Was there any skin that wasn't dead?

2 A Small quantity on the buttocks.

3 Q And was that consistent with a Hispanic male?

4 A It was.

5 Q Now, with regards to the -- so the head, can you tell
6 me any -- describe any of the injuries he had to his head
7 and face?

8 A The skin on the face and on the scalp was burned away.
9 So there was no soft tissue to examine for any injuries in
10 the soft-tissue area.

11 The front teeth, the upper right central incisor,
12 which is the, your front two teeth, the one on the right
13 and the one next to that, had been knocked out.

14 When we have a body like this where the, there's a lot
15 of burning in that part of the face, we can see when a
16 tooth just falls out because the socket is there and it's
17 empty and it looks normal.

18 In this case there was hemorrhage and fracture of that
19 socket indicating there was trauma to these two front teeth
20 and they had been knocked out.

21 In addition, when we examine internally in the skull
22 to examine the brain, there was contusion on the surface of
23 the brain that we referred to as subarachnoid hemorrhage.

24 The brain floats in fluid, cerebral spinal fluid,
25 that's made inside the brain. It comes out of the brain

Dr. Joel Stephen Sexton
Direct examination by Mr. Morin

1 and it engulfs the brain and acts as a shock absorber so
2 that you can fall and hit your head or be hit with a
3 baseball and oftentimes not receive any serious injury
4 because the brain is in that fluid that acts as a shock
5 absorber.

6 If you have a serious enough injury it actually moves
7 the brain enough so that the small vessels that communicate
8 between the brain, across that cerebral spinal fluid to the
9 dura, the surface of the soft tissue inside the skull, it
10 tears those vessels and we get subarachnoid hemorrhaging.
11 So it indicated he had received a serious injury to his
12 head.

13 Q And that serious injury to his head, can you say there
14 was a long term before that, or a short term?

15 A There was no evidence of any sort of healing, although
16 healing in the brain takes a lot slower time than it does
17 elsewhere. And there was no clotting of this material. It
18 was still liquid. So this is indicative of it being on or
19 about the time of death.

20 Q Okay. Now, after examining the body did you have, did
21 you come to a conclusion as to what the cause of death was?

22 A Yes.

23 Q And what was that?

24 A There were a number of things that indicated the cause
25 of death.

Dr. Joel Stephen Sexton
Direct examination by Mr. Morin

1 When a person breathes in smoke we see soot deposited
2 on the inside of the trachea or your airway. And there was
3 some soot deposited there. Not as much as we usually see.

4 Also, the blood is -- the hemoglobin in the blood that
5 carries your oxygen throughout your body as you breathe
6 oxygen into your lungs, has a greater affinity for carbon
7 monoxide. And when carbon monoxide is in the blood it
8 stays bright red.

9 When we examined some of this and put it into
10 formaldehyde, initially it was bright red. Then it started
11 changing a little bit.

12 If it's more than 50 percent saturated with
13 carboxyhemoglobin from the carbon monoxide, then it stays
14 red even in formaldehyde. So there was indication there
15 was some carboxyhemoglobin present but not more than 50
16 percent.

17 The other thing was if the airway itself when you
18 breathe in flames as opposed to being at one end of the
19 house with smoke getting to you before the flames, if
20 you're in the area where the flames are initially, then you
21 get injury to the vocal-cord area and to the area above
22 that in the back of your throat from the heat of the
23 flames. And there was evidence of that.

24 So in my opinion within reasonable medical certainty
25 he died from the thermal burns -- there is the actual

Dr. Joel Stephen Sexton
Direct examination by Mr. Morin

1 flames getting into the airway -- and the carbon monoxide
2 that got into his airway and into his system. But the
3 carbon monoxide alone, a healthy person like him, would
4 probably not have killed him. It took also the flames.

5 I should mention that the injuries that we saw on the
6 face with the teeth broken and the subarachnoid hemorrhage
7 indicated that he had received some sort of injury to that
8 area prior to him being in the fire and prior to his dying
9 from the flames and the smoke.

10 Q Now, with regard to identification, did you receive
11 any assistance from any other professional with regard to
12 that?

13 A Right. When it's a type of identification where it's
14 not clear-cut, we have some where there are multiple
15 fillings. And when you look at those restorations, they
16 look just like if you were imagining this United States map
17 and each of our states has a different outline so you can
18 easily put your state in the right place, just like you're
19 doing a jigsaw puzzle, and that often is true when there
20 are a lot of restorations.

21 When there are not a lot of restorations or if there's
22 only a few, then we employ a forensic dentist, a person
23 with forensic training who is a dentist, who understands
24 how to identify people by examining their premortem dental
25 records and comparing them with the records that we produce

Dr. Joel Stephen Sexton
Direct examination by Mr. Morin

1 by x-raying the mouth at the time of the autopsy. And
2 Dr. Robert Brown is the person that we use for that
3 purpose.

4 Q Did you collect a blood -- did you send a blood
5 standard in or did you have a blood standard of the victim?

6 A When we do an autopsy, right now as the body is nearly
7 70 percent water, we don't think of ourselves like that
8 because of the bones that are present, but even bones have
9 a large water content. So the internal organs don't burn
10 up completely even in a serious fire like this.

11 We were able to collect blood; we were able to collect
12 some bile; we were able to collect internal organs and
13 other tissues that could be sent for toxicology and for D.
14 N. A. analysis. We do that on every case, and on this case
15 that was done as well.

16 Q And what did you do with the blood standard?

17 A It was transferred to the officer that was present.

18 Q Okay. I'm curious as to the size of the body when you
19 received it. Was it, do you know, was it 3 feet, 4 feet?

20 A It was probably at least about four or maybe a little
21 more. The top of the head was present, although it was
22 severely burned, down to the thighs or mid thighs.

23 Q Okay. Please answer any questions Mr. Weatherford may
24 have.

25

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 CROSS-EXAMINATION

2 BY MR. WEATHERFORD

3 Q Dr. Sexton, did you prepare a report, written report,
4 about this?

5 A Yes, I did.

6 Q Do you have it with you?

7 A I do.

8 Q You list on the first page there carbon monoxide
9 poisoning and thermal injury. That means -- thermal injury
10 is just actually kinda breathing in the fire. Would that
11 be a layman's way of putting that?

12 A Well, breathing in the fire, as well as the damage
13 done to the body externally by the fire. Some of that
14 would have been after death and some of that would have
15 been prior to death.

16 Q All right. So you can have the thermal injury without
17 ever breathing in any fire.

18 A Yes. That's correct.

19 Q But in this case you found both.

20 A That's correct.

21 Q And that would indicate both that and the carbon
22 monoxide, is that the body was breathing when the fire
23 started.

24 A Yes, sir. That's correct.

25 Q And the other injuries that you've mentioned, the

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 front teeth, teeth being knocked out, and the brain
2 contusions, would either one of them individually or
3 together cause death?

4 A In some cases. We've had cases where a person is
5 driving a car, say, downtown and somebody comes through an
6 intersection and they T-bone the individual and the
7 driver's head hits the windshield.

8 We don't see that much any more fortunately because of
9 the air bags, but when we did see that, a 20-year-old
10 person would have only one injury, the bruise on top of the
11 head with that subarachnoid hemorrhage, and they would be
12 dead.

13 So definitely we can have just that little bit of
14 injury and it cause death. But in this case obviously the
15 person was alive during the fire. So it was not enough in
16 this case to cause death.

17 Q So it would fair then to say that when the fire was
18 lit the person was alive.

19 A Yes, sir.

20 Q So logically from that statement, then whoever lit the
21 fire or caused the fire would be the one responsible for
22 the death.

23 MR. MORIN: Objection. Calls for speculation on his
24 part.

25 THE COURT: Sustained.

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 Q Did you find any evidence of any gasoline or
2 accelerants on the body or anything that you examined?

3 A We collect anything that's present in the way of
4 clothing that can be analyzed for that, and that was
5 collected and turned over to the officer. I do not have a
6 report back as to the results of that.

7 Q Would that be in the toxicology report?

8 A No. It's generally in a separate report for arson.

9 Q I'm trying to trace it. Who would that -- who did you
10 turn this over to?

11 A That would probably have been the arson investigator
12 at that time.

13 Q And do you have any record of who that was?

14 A Let me see if I do here. Just a moment.

15 (Pause.)

16 A It looks like our office actually delivered that to
17 SLED. One of our people in the office, Aaron Salters,
18 carried that down to SLED.

19 Q And do you know who they gave it to?

20 A It would have been checked in at the evidence check-in
21 there at SLED.

22 Q Can you tell me what was sent to SLED?

23 A Yes. There was a portion of denim pants that were
24 mostly burned but still some of the pants. And what we do
25 is put it in a brand new paint can that's clean and seal it

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 air tight to preserve any volatile that might be present.
2 And then the toxicology was sent as well, and the D. N. A.
3 sample. All of that was transferred to the check-in area
4 at SLED.

5 Q The D. N. A. sample, what would that consist of?

6 A Usually just a tube of blood in a special fixity. The
7 E. D. T. A. is the fixity that we use for SLED's analysis
8 on D. N. A. It's a purple-top tube.

9 Q Would the toxicology include any kind of substances in
10 the body such as alcohol or drugs?

11 A Yes, sir, it would.

12 Q You wouldn't have checked for that.

13 A We don't. We get a report and have a report for that.

14 Q Is that the SLED toxicology report?

15 A Yes, sir.

16 Q All right. When did you get that?

17 A It looks like here it was issued November 22nd of
18 2006. I don't know when we actually received it. That's
19 when it was typed up and signed.

20 Q You did your toxicology or your autopsy on the 31st.

21 A Of August, that's correct.

22 Q Of August. And was it complete that day?

23 A Yes, sir.

24 Q All right. You mentioned a case history. Where did
25 you get a case history from?

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 A Usually our histories come from the coroner. The
2 person that schedules the autopsy is the coroner or deputy
3 coroner. And they give us a history at that time and give
4 us as many details about who the person is or what the
5 circumstances were. So in this case I feel sure it came
6 from the coroner or a deputy.

7 Q Do you have any record of who it came from?

8 A Just a moment. I'll see if I do.

9 (Pause.)

10 A Yes. It was a Deputy Glenn Fuller, Sr., who is the
11 one that transferred the information to us on this
12 particular case.

13 Q And was that verbal or some kind of written --

14 A It's verbal, plus there's, here's some notes that he
15 indicated that he had gotten some dental records already at
16 our request and some other samples that had been in the
17 emergency room.

18 Q Could I see his notes?

19 A You may.

20 (Pause.)

21 Q All right. What case history did you give in this
22 situation?

23 A The history is a 33-year-old Hispanic male found dead
24 in a house fire. SLED arson team's investigating the fire.
25 He lived alone. He had been to the emergency room the day

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 before with a nosebleed and was intoxicated at that time.
2 He had a history of alcohol abuse. He was allegedly beaten
3 and later set on fire using accelerants.

4 Q And you had this information before you started the
5 autopsy?

6 A That's correct.

7 Q This paper from Deputy Coroner Fuller, it indicates
8 some blood was obtained with regard to the night before.

9 A Yes, sir. That's correct.

10 Q And as I read that, he brought that to you. Is that
11 right?

12 A Correct. And it was transferred on to SLED.

13 Q All right. And the history of alcohol abuse, is that
14 mentioned in that?

15 A It's not in this written portion.

16 Q Where did that --

17 A I said apparently it was a verbal statement.

18 Q Okay. And you think that came from Deputy Coroner
19 Fuller.

20 A He was the one that scheduled the autopsy. I don't
21 know exactly who it came from. Either he or someone else
22 involved in the investigation.

23 Q Well, what I am trying to establish is who talked to
24 whom and who told this information that ended up in your
25 report.

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 A As I say, we normally get this from this coroner. I
2 don't have any specific recollection in this case as to who
3 gave that information.

4 Q Okay. Did, did the body come with, with Coroner
5 Fuller? Did he bring it down there?

6 A I don't have any specific recollection of that either.
7 Sometimes the coroner comes, sometimes one of the
8 investigators that's investigating that particular death
9 comes, sometimes both.

10 Q You didn't, you don't have any independent
11 recollection and don't have any notes about that.

12 A I'll see if I have notes. I don't have any
13 independent recollection. And it's not written on our
14 worksheet.

15 Q All right. You begin to do the examination, and you
16 get to the teeth. Now, tell me about how -- do you take
17 x-rays of the, of the victim, or how, how does that
18 proceed?

19 A Yes, sir. We take x-rays of the victim. In the case
20 of trying to identify someone dentally, by dental
21 comparison, we take x-rays of the teeth, as well as
22 photograph them. And I have the photographs.

23 Q May I see the photographs?

24 A You're welcome to. Front and back.

25 Q All right.

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 MR. WEATHERFORD: For the record, Your Honor, I would
2 like to mark this for identification.

3 (Photographs marked Defendant's Exhibit No. 1 for
4 Identification.)

5 Q All right. Let me hand this back to you, Defendant's
6 No. 1 for Identification. It has got pictures on the front
7 and back. Are they the same pictures or different
8 pictures?

9 A Four of the pictures that are on the back are
10 enlargements of pictures that are on the front.

11 Q Okay. Was the, was the jaw still intact, together?

12 A Yes, it was.

13 Q Okay. If an explosion had occurred in the mouth would
14 that show up on these photographs?

15 A Usually it will just be the soft tissue that will be
16 split. When a person shoots themselves with a shotgun if
17 their mouth is closed, it splits the mouth all the way
18 around to the ears sometimes with the blast is coming out
19 of the front of the face.

20 Q But like hypothetically if a person had poured gas
21 into somebody's mouth and ignited it and caused some kind
22 of explosion, would you be able to see that from your
23 autopsy?

24 A Usually gas like that doesn't -- it burns rapidly as
25 opposed to exploding. And, depending on how it's lit,

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 you'd have to have an opening to get the whatever you're
2 going to light it with in. That opening provides a vent
3 for it to come straight back out through that opening
4 generally.

5 Q Do you see any evidence of anything like that
6 occurring in these?

7 A All we would see would be the burning which is present
8 there in this body. It would not tend to blow the mouth
9 apart in my experience.

10 Q But if somebody -- hypothetically, if a, if a
11 description you had indicated there was an explosion in the
12 mouth, would you be able to tell whether that was an
13 accurate statement or not from looking at these
14 photographs?

15 A Like I say, explosions generally don't occur with gas
16 being in an environment like that. But I would not be able
17 to tell whether an explosion occurred based on just the
18 jaws themselves if they're in a mouth that's open because
19 everything's going to be vented out through the mouth with
20 pressure.

21 Q All right. These, the big pictures in the same
22 exhibit, were, were the jaws detached and then
23 photographed, or how did that --

24 A Yes, there's -- in order to take x-rays like the
25 x-rays taken in the dental chair, we have to remove the

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 upper and lower jaws, photograph them and document it with
2 indication of what restorations or other things are
3 present, and then split those and lay them on a flat film
4 in order to x-ray them to simulate the x-rays taken in the
5 dental chair.

6 Q How do you do that?

7 A With a saw.

8 Q Saw. I assume the, on the big pictures on the
9 right-hand side, that looks like the bottom teeth, is that
10 correct?

11 A That's correct.

12 Q And the top left-hand would be an upper?

13 A That's correct, the upper jaw.

14 Q And then the bottom left-hand will be both.

15 A Yes. That's correct.

16 Q All right. And the teeth you described as being
17 recently knocked out or however you want to describe it --

18 A Right.

19 Q -- is that two or three teeth right there?

20 A Two teeth.

21 MR. MORIN: Your Honor, I'm going to object at this
22 time. This -- if he wants to ask questions off this he
23 needs to put it into evidence so there's no --

24 THE COURT: Sustained.

25 Q From your -- did you read the dental x-rays?

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 A Did I read the dental x-rays? I looked at them, but I
2 then referred them to our dentist, forensic dentist, who
3 makes the comparison because there were no restorations.

4 And it's the type of analysis that needs to be done by
5 an expert. They can evaluate, since they do this on a
6 daily basis, and look at these x-rays, not just the
7 restorations which are not here but the appearance of each
8 tooth.

9 Each tooth has five sides that you can see without
10 looking on an x-ray -- the surface that you bite with, the
11 front surface, the surfaces on either side of the tooth and
12 the side next to your tongue. And all of these have
13 different characteristics, or may have some fracture or
14 something wrong with it or some growth on it.

15 Plus, by x-ray you can look at the individual roots
16 and the cavities in the roots or the root pulp chambers.
17 And all of these give you an identification just like a
18 fingerprint. But that's a special area of expertise that
19 I'm familiar with but I do not practice.

20 Q So you couldn't give any opinion with regard to the
21 x-ray.

22 A In this case I did not choose to.

23 Q And earlier you mentioned something about comparing
24 restorations or fillings, you know --

25 A That's correct.

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 Q -- to maps, to the state boundaries and so forth. But
2 none of that applies in this situation, is that correct?

3 A That's correct.

4 Q Okay. And did you have dental x-rays that came from
5 some place other than what you took yourself to compare
6 them with?

7 A There are some available at this time. At the time of
8 the autopsy there were not.

9 Q So at the time you wrote your report and reached your
10 conclusions you did not have any x-rays from anywhere else.

11 A That's correct.

12 Q All right. And your findings were that -- which teeth
13 were missing other than the -- I'm not talking about the
14 ones that I talked about being knocked out but the other
15 ones that have been like in your, in your report teeth
16 number three and 14. What did you find about them?

17 A In our report, and this is from Dr. Brown, and trust
18 there are no typographical errors, that tooth three and
19 tooth four -- 14 on the upper jaw had been extracted
20 previously and the sockets were healed.

21 And I say from him because all of us are familiar with
22 wisdom teeth which is your third molar. Sometimes when
23 that's taken out the other teeth shift. Or if the one in
24 front is taken out and you've got them all that erupted,
25 they'll shift. So it's very hard for a non-dentist to,

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

- 1 without x-rays to, know which tooth we're talking about.
2 But three and 14 had healed sockets. They are right --
3 Q Let's stop right -- let me. That's the ones I asked
4 you about right then.
5 A Yes.
6 Q Now, did, did you make that determination or did
7 Dr. Brown make that determination?
8 A It's his determination. We simply --
9 Q Was he there with you?
10 A We transferred it to his office. He's a couple of
11 blocks away.
12 Q All right. How did you do that?
13 A Usually he comes and picks them up.
14 Q All right. So did you send those photographs in
15 Defendant's Identification No. 1, or did you just send the
16 x-rays that you made?
17 A Both.
18 Q Okay. So he had opportunity to look at both of those.
19 A That's my recollection because we take all of this on
20 digital, and so we're able to make him a print right then.
21 Q All right. And then how does he communicate with you
22 with regard to his findings?
23 A Usually verbal.
24 Q So sometime that day he would have looked at them and
25 called you back and given you this information?

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 A I would say sometime before we typed this up, which
2 might have been --

3 Q What day was it typed up?

4 A September 1st.

5 Q That would be the next day.

6 A That's correct.

7 Q Okay. So sometime within that one-day period of time
8 he sought the x-rays you sent him and the photographs you
9 sent him and communicated with you to give you the
10 information that's in this paragraph about the teeth?

11 A Yes. That's correct.

12 Q So basically most of this information has come from
13 him.

14 A Yes, sir. That's correct.

15 Q And you aren't really qualified or are not taking a
16 position to be qualified in this situation to make this
17 determination.

18 A Not on this type of case, that's correct.

19 Q Okay. And the dental x-rays you said that were
20 available either the 31st or the 1st, how did, how did they
21 come?

22 A I didn't say the dental x-rays were available. The
23 pre-mortem x-rays were not available at that time.

24 Q All right. In your, in your paragraph on your report
25 that you signed on the 1st, what does it say about the

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 dental records, including the x-rays?

2 A It says that we have our dental x-rays and that we are
3 able to compare. Dr. Brown was able to compare the dental
4 record, in other words, the written record with what he
5 had, the teeth and the x-rays, for a comparison.

6 Q Do you know where he got something to compare them to?

7 A That was brought by Mr. Fuller, I suspect. I don't
8 know that because he's got that, that record, but that was
9 brought at the time of autopsy from the dentist.

10 Q Was, was that included in your e-mail or whatever you,
11 you sent to Dr. Brown, the, the, what the coroner brought
12 you, or did he go down to Dr. Brown's?

13 A The coroner -- the dentist is a female. And as far as
14 I know, the coroner brought the records, brought them to
15 us, and we transferred those along with the x-rays and the
16 photographs.

17 Q Do you have any record of doing that?

18 A No. Like I say, he generally is there. He sort of
19 helps us in the autopsy room. He's only a few blocks away.
20 So if we have a case like that, if he's free he comes over
21 and gets involved at that time.

22 Q In this case did he, was he standing there with you,
23 or did you send it to him by --

24 A I assumed he did. But we may have sent it. But we
25 did not record an evidence transfer in that case. He's

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 part of our staff essentially.

2 Q But there's no record of whether he was there or not
3 or whether you sent some things to him or didn't send
4 something to him. It's just in your report.

5 A That is correct.

6 Q And you don't know where you got that information or
7 how.

8 A The information I know came from Dr. Brown.

9 Q Specifically, I mean, where he got the records to
10 compare them to.

11 A They had to come with the body or be brought over that
12 same day for him to do it the same day.

13 Q But that's just an assumption you're making.

14 A That's an opinion I'm giving based on the fact that
15 we've got it in the report that was typed the next day.

16 Q Well, I'm trying to track the, the x-rays that were
17 used to compare the ones you took. And do you know who got
18 them and what they did with them?

19 A That occurred more recently. You're talking about the
20 x-rays that were taken by the dentist of Juan Roman?

21 Q No. I'm, I'm, I'm this report, does it not say that
22 you took x-rays and they compared them to something over
23 here to see if they were the same? Is that a fair
24 assessment?

25 A He looked at the x-rays as part of his examination and

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 looked at the written record and looked at the photographs
2 of the teeth in order to make his initial determination.

3 Q And how do you know that, what he looked at?

4 A Because that's what we gave him.

5 Q And, and so I'm back to the question of where did you
6 get -- do you have any written record of where you got the
7 x-rays to compare what you took with?

8 A No, I do not.

9 Q Okay. With regard to the teeth that were knocked out,
10 can you determine from what you found whether that was done
11 prior to or during the fire?

12 A All I can say is it occurred while he was alive. I
13 can't say whether it was because of something happening
14 after the fire or whether it happened before the fire, but
15 he was alive at the time. Otherwise, they would not have
16 been contusion. When your heart is beating and you injure
17 yourself, then blood extravagates out of those blood
18 vessels and causes a bruise or contusion.

19 If you're dead, we see on people that are dead and run
20 over by another car, we see a yellow-based abrasion because
21 we're simply seeing the fat under the skin. The heart's
22 not pumping, so there's no bruising there, just the tissue
23 without bruising.

24 So all I can say is he was alive at the time. I
25 cannot say whether the fire had already started at that

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Cross-examination by Mr. Weatherford

1 time.

2 Q Did you smell any kind of odor that you would
3 recognize as being related to gasoline?

4 A I've got no indication of that in the report and I
5 have no personal recollection of that.

6 Q Would any of the injuries that you saw cause a person
7 to, to, emit a gurgling sound prior to death?

8 A Many people we are told exhibit a gurgling sound in
9 the hospital environment where they're being treated or on
10 other scene investigations where witnesses state that, but
11 there's nothing I know of at autopsy that would indicate
12 that. That's simply fluid in the back of the mouth, in the
13 back of the airway, where you're trying to breathe. At the
14 time of autopsy it wouldn't necessarily be there. It would
15 have drifted on down into the lungs.

16 Q Is there any way that a person could hit another one
17 to cause him to have a gurgling sound? I mean, is there
18 something you could break or do?

19 A As a person dies the blood pools in the lungs, and
20 therefore it leaks out of the vessels into the airway and
21 comes up into the airway. So many people as they're dying
22 will have sort of a gurgling sound because they have some
23 fluid up in that airway, depending on how slowly they die.
24 Certainly, if you rupture a vessel by striking someone in
25 the face and that blood's in the back of the airway, as you

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Cross-examination by Mr. Weatherford

1 breathe it's going to gurgle.

2 Q Did you, did you find any indication of that occurring
3 in this, in this case?

4 A I don't know of any way of ever finding that type of
5 finding because you're talking about liquid in an open
6 airway that's partially closed because your tongue is in
7 place. When you die that changes and the fluid drifts
8 away. So there's no way that I know of to establish that.

9 Q Do I understand what you're saying, is that during the
10 fire there might have been a gurgling sound as opposed to
11 prior to that?

12 A I'm saying I don't know of any way that a pathologist
13 can determine if somebody was gurgling just prior to death,
14 because gurgling requires fluid in an open airway that is
15 partially closed by your tongue, which is going to move
16 after death. And so all of that fluid is going to drift
17 away.

18 Q Okay. How many teeth were missing when you examined
19 the body?

20 A You're referring to teeth that were extracted
21 previously that had healed or only those that were --

22 Q Let me ask it this way. How many teeth does a normal
23 person have?

24 A Thirty-two.

25 Q Does that count wisdom teeth?

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 A Yes, sir.

2 Q And some people don't ever develop wisdom teeth.

3 A You would have to ask a dentist that.

4 Q Okay. But how many teeth were in this mouth you've
5 got pictures of here?

6 A How many teeth were still present?

7 Q Yes.

8 A And you're talking about teeth that -- in other words,
9 you're not worried about how they got lost.

10 MR. MORIN: Again, I'm going to object to his
11 reference to this item that's not in evidence.

12 THE COURT: Well, this is a document that's in the
13 possession of the witness. Mr. Weatherford's not asking
14 him about that necessarily.

15 MR. MORIN: Okay.

16 THE COURT: But he's asking him how many teeth he saw.

17 MR. MORIN: Yes, sir.

18 THE COURT: And I assume the witness is referring to a
19 document in his possession to make that determination. So
20 that's appropriate.

21 A I do not have the x-ray with me at this time. That's
22 in someone else's hands.

23 In looking at the photographs in the upper jaw, there
24 are 12 teeth remaining. In the lower jaw there are clearly
25 14. There may be another one that's unerupted. There's a

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 wisdom tooth. You're familiar with how sometimes they come
2 in sideways and they're still under the tissue.

3 Without the x-ray I can't tell whether there's a
4 wisdom tooth here just under the skin. And for that matter
5 there may be wisdom teeth elsewhere here. But 14 and 12
6 are 26 that I can see on the photograph.

7 Q That you can actually see.

8 A That's correct.

9 Q Your report describes two, three and 14 being
10 extracted and having healed sockets. That's two. Upper
11 left and central incisor.

12 All right. Explain that sentence to me, "The upper
13 left central incisor is loose and the socket is
14 hemorrhagic -- hemorrhagic." Does that just mean he's got a
15 loose tooth?

16 A Let me see where you're reading here. You're on the
17 second line of the second paragraph under external
18 examination?

19 Q Yes, sir. The, actually it's the fourth sentence.

20 A Fourth sentence, all right, right.

21 Q Just a loose tooth.

22 A That's correct. It's a loose tooth.

23 Q But it's there.

24 A It's there. And there's hemorrhage in the socket just
25 like there is in the upper right central and the upper

Dr. Joel Stephen Sexton
Cross-examination by Mr. Weatherford

1 right lateral.

2 Q Would that be next to one of the teeth that you
3 described as being knocked out?

4 A Yes, sir. It's the one just to the left of it.

5 Q Then the next sentence talks about number 18 and 32.
6 What does that say about them?

7 A It says the second molar on the left, which is number
8 18, and the third molar on the right, which is number 32,
9 are missing.

10 Q Would they be -- is that?

11 A They're on the bottom.

12 Q On the bottom.

13 A Correct.

14 Q On opposite sides.

15 A Correct.

16 Q And do they have healed sockets or -- yeah. Okay.

17 A Yes. The next sentence they both have healed sockets.

18 Q Okay. I got you. All right. And the day on your
19 report, the September the 1st, it's got your signature. Is
20 that the actual day you signed that?

21 A No, sir. That's the day it was typed.

22 Q Do you know what day you signed it?

23 A I'd have to check with the office to see what day it
24 was sent out.

25 Q Where do you send it to?

Dr. Mary Ellen Watts
Direct examination by Mr. Morin

1 A I would send to it the coroner. And if it's known to
2 be a homicide at that time, it also goes to the solicitor's
3 office and law enforcement.

4 Q Do you have any records of where you sent this one?

5 A Not in my court packet here.

6 Q All right. Thank you, Dr. Sexton.

7 A You are welcome.

8 MR. MORIN: I have no further questions. I ask that
9 Dr. Sexton be excused.

10 THE COURT: Thank you. You may step down.

11 THE WITNESS: Can I carry this with me?

12 THE COURT: Let me see y'all just a minute.

13 You can step down, but don't leave yet.

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 THE COURT: If you will, leave that exhibit with the
17 court reporter. Thank you.

18 MR. MORIN: The state calls Donna Watts.

19 DR. DONNA ELLEN WATTS, having
20 been first duly sworn, testified as follows:

21 DIRECT EXAMINATION BY MR. MORIN

22 Q Ma'am, will you state your name for the jury, please?

23 A Mary Ellen Watts.

24 Q Where do you work, Ms. Watts?

25 A In Cowpens.

Dr. Mary Ellen Watts
Direct examination by Mr. Morin

1 Q And what you do you do in Cowpens?

2 A I'm a general dentist.

3 Q Okay. I guess Dr. Watts, then.

4 A That's fine.

5 Q Dr. Watts, did you have the occasion during your
6 practice to have a patient by the name of Juan Roman?

7 A I did.

8 Q Okay. Can you tell me approximately when you saw him?

9 A It was April of 2006, is the first time.

10 Q Okay.

11 (X-rays marked State's Exhibit No. 15 for
12 Identification.)

13 Q Dr. Watts, I'm going to show you what's been marked
14 for identification as State's Exhibit No. 15 and ask if you
15 can look in there and tell me if you recognize that.

16 A Yes.

17 Q Can you tell me what that is, ma'am?

18 A We call it a Panorex.

19 Q How do you make it?

20 A We have a machine that revolves going around the head
21 as the patient stands, and it takes a full-head view of the
22 mouth.

23 Q Okay. Did you make this x-ray, I guess, for lack of a
24 better --

25 A My assistant did, yes.

Dr. Mary Ellen Watts
Cross-examination by Mr. Weatherford

- 1 Q Okay. And this is made in your office?
- 2 A Yes.
- 3 Q And who is this x-ray of?
- 4 A Juan Roman.
- 5 Q And he was a patient of yours.
- 6 A That was the first day he came, yes.
- 7 Q And he was a patient of yours and you took that.
- 8 A We did.
- 9 Q All right. Did you do any other -- well, first of
- 10 all, no.
- 11 MR. MORIN: We'll move State's Exhibit No. 15 into
- 12 evidence, Your Honor.
- 13 MR. WEATHERFORD: No objection.
- 14 THE COURT: It's admitted.
- 15 (X-rays marked State's Exhibit No. 15.)
- 16 Q Did you do any other dental work on Mr. Roman?
- 17 A We took out two teeth that day.
- 18 Q What teeth did you take out, do you know?
- 19 A Upper right first molar, number three, and upper left
- 20 first molar, number 14.
- 21 Q Please answer any questions Mr. Weatherford may have.
- 22 CROSS-EXAMINATION
- 23 BY MR. WEATHERFORD
- 24 Q Do you have your records with you?
- 25 A I do, yes.

Dr. Mary Ellen Watts
Cross-examination by Mr. Weatherford

1 Q What date did you see Mr. Roman?

2 A It was April the 5th of 2006.

3 Q And you took out two teeth.

4 A Right.

5 Q Number three and 14.

6 A Yes.

7 Q Do you have any kind of chart that shows us these
8 numbers?

9 A Yeah.

10 Q That's actually a copy of your records?

11 A Yes. That is the record. It starts on the upper
12 right, it's one, goes over to 16 on the left.

13 Q Up that way.

14 A And then you drop to 17 on the lower, and back to 32.

15 Q Like that.

16 A Yes.

17 MR. WEATHERFORD: We'd mark this for identification.

18 THE COURT: She's already identified it.

19 A A copy of that is in y'all's --

20 Q Well, I know. But I want to mark the actual record
21 because it is more legible and I may want to introduce it
22 later.

23 MR. WEATHERFORD: That hasn't been introduced yet, has
24 it? So I'd like to mark it for identification purposes at
25 this time.

Dr. Mary Ellen Watts
Cross-examination by Mr. Weatherford

- 1 (Record marked Defendant's Exhibit No. 2 for
2 Identification.)
- 3 A Those are my notes.
- 4 Q All right. Now, don't take that with you.
- 5 A Gotcha.
- 6 Q But I want to ask you a couple of questions.
- 7 You treated him on the April the 5th and took out those
8 two teeth.
- 9 A Right.
- 10 Q All right. Then what?
- 11 A We saw him again on the 6th, two days later. He was
12 hurting -- of April. And he didn't want to get them out
13 that day.
- 14 Q Is that some different teeth that were hurting?
- 15 A It was adjacent to where we had worked, the one in
16 particular that was hurting.
- 17 Q Which would be number what?
- 18 A Fifteen, right behind.
- 19 Q That would be upper?
- 20 A Upper left, second molar.
- 21 Q Okay. So you didn't do anything to that one.
- 22 A No. We just gave him antibiotics and pain medicine.
- 23 Q What kind of pain medicine did you give him?
- 24 A We gave him hydrocodone, 7.5, and Lortab.
- 25 Q All right. And then did you do anything else to him?

Dr. Mary Ellen Watts
Cross-examination by Mr. Weatherford

- 1 A That was it. He came back in May to the front office,
2 and that was it.
- 3 Q And what happened in May?
- 4 A He came in and picked up his Panorex and was going to
5 take it and go somewhere else.
- 6 Q That would be this --
- 7 A Yes.
- 8 Q -- x-ray that you just introduced?
- 9 A Right.
- 10 Q Number 15. And how did you get that back?
- 11 A We received word that Dr. Robert Brown had it and the
12 coroner's office had it. And then it today was brought in.
- 13 Q Do you know how it got to Dr. Brown?
- 14 A No. I gave it to the patient.
- 15 Q Okay. And that's the last you saw of it?
- 16 A That's the last I saw.
- 17 Q Until?
- 18 A Now, we were told he may go somewhere, to Piedmont
19 Dental. So other than that, you know, that's what's, was
20 in our record. You know, I don't know where he went.
- 21 Q When he left your practice, how many teeth were in his
22 head that you could see?
- 23 A He had lost a lower right molar before we saw him. We
24 took out two teeth. So he had 29 teeth that I know of.
- 25 Q Being the two you extracted. And what other number?

Dr. Mary Ellen Watts
Cross-examination by Mr. Weatherford

- 1 A Thirty-two, lower right third molar, was already
2 missing.
- 3 Q Be the last, the wisdom tooth on the bottom right?
- 4 A The last on the lower right, uh-huh.
- 5 Q So he was missing three teeth.
- 6 A Right.
- 7 Q And that means that he had his other wisdom teeth.
- 8 A He had, yes. Excuse me. I said lower right that he
9 was missing. As far as I know he had his other wisdom
10 teeth, yes.
- 11 Q I mean, I've heard of people not having wisdom teeth
12 come in --
- 13 A No. They were visible.
- 14 Q -- and some of them being sideways where you couldn't
15 see.
- 16 A It was --
- 17 Q But all of his were visible except the one that was
18 taken?
- 19 A Uh-huh.
- 20 Q All right. And that one was missing before you took
21 the other two out.
- 22 A Right.
- 23 Q And you at some time or other faxed something to
24 Dr. Brown.
- 25 A Just a copy of our records saying. The front page of

Dr. Robert L. Brown
Direct examination by Mr. Morin

1 this.

2 Q All right. And when did you do that?

3 A It was done September the 5th of 2006.

4 Q That was some. All right. September the 5th.

5 A Yes, sir.

6 Q And prior to that you hadn't given anything to
7 anybody.

8 A Other than the patient, no.

9 Q Okay. Which is Exhibit 15 here.

10 A Right.

11 Q And how did you get that back?

12 A Today discussing it with Dr. Brown. And it came back
13 through either the coroner's or the sheriff's office. I
14 don't know. But everybody has had access to it and has
15 looked at it.

16 Q They have. All right. Thank you, Dr. Watts.

17 MR. MORIN: That's all the questions I have of Dr.
18 Watts. I ask that she be excused.

19 THE COURT: You may step down. Let her leave that
20 card with the court reporter, please.

21 (Whereupon, the witness was excused.)

22 DR. ROBERT L. BROWN, having
23 been first duly sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. MORIN

25 Q Mr. Brown, would you state your name for the jury?

Dr. Robert L. Brown
Direct examination by Mr. Morin

- 1 A Robert L. Brown.
- 2 Q Where do you work, sir?
- 3 A I'm a general dentist and I practice in Newberry,
4 South Carolina.
- 5 Q Do you have a general dentist practice there?
- 6 A Yes.
- 7 Q How long have you been a dentist?
- 8 A Since 1978.
- 9 Q And, Dr. Brown, have you ever had any forensic
10 training?
- 11 A Yes, I have.
- 12 Q Can you tell me about that?
- 13 A I have attended a American Dental Association
14 Conference on Forensic Dentistry and Identification in 2000
15 in Chicago; I attended a course on bite mark analysis using
16 digital means at the University of California, Santa
17 Barbara, 2001; I attended the American Association of
18 Forensic Scientists and the American Society of Forensic
19 Odontologies annual meeting in Atlanta in 2003.
- 20 Q And, Dr. Brown, do you do any work with Newberry
21 Pathology?
- 22 A Yes, I do. I've been their dental consultant for
23 about the past 20 years.
- 24 Q And as their dental consultant, what have you been
25 called upon to do?

Dr. Robert L. Brown
Direct examination by Mr. Morin

1 A I usually do identifications to confirm identities of
2 individuals or unknowns that are, whose bodies have been
3 given there for autopsy.

4 Q Okay. And in the course of your practice, as well as
5 what you do for Newberry Pathology, have you ever been
6 called upon to compare dental records for identification
7 purposes?

8 A Oh, yes, I have.

9 Q And about how many times have you done that?

10 A In the course of the last 20 years I probably do ten
11 to 12 cases a year.

12 Q Okay. Have you ever been called on to come into court
13 and testify as to identification?

14 A Yes, I have.

15 Q In what states?

16 A North Carolina, South Carolina and Georgia.

17 Q Now, there is no actual forensic dentist, per say, is
18 there?

19 A No, there's not.

20 Q But you have testified as an expert in examining
21 dental records to prove identification, is that right?

22 A Yes, I have.

23 (X-rays marked State's Exhibit No. 16 for
24 Identification.)

25 Q Dr. Brown, I'm going to show you what's been marked as

Dr. Robert L. Brown
Direct examination by Mr. Morin

1 State's Exhibit No. 16 and ask if you can tell me what that
2 is.

3 A This is the x-rays or radiographs taken during autopsy
4 on an individual.

5 Q Okay. Can you tell me who the individual was or at
6 least who it was listed as?

7 A He was listed a Juan Roman.

8 Q And how do you spell that?

9 A R-O-M-A-N.

10 Q Okay. And were you participating in this autopsy or
11 part of it? How did you become involved with this?

12 A I was called in to help with the identification after
13 the autopsy.

14 Q Okay. And the x-ray that you have there, did you make
15 that or participate in making that?

16 A No, I did not.

17 Q How did that come about?

18 A This is done at autopsy by taking the jaws of the
19 individual and x-raying them at the hospital.

20 Q Okay. And these are listed as coming from Mr. Roman?

21 A Yes, they are.

22 MR. MORIN: Move these into evidence, Your Honor.

23 MR. WEATHERFORD: No objection.

24 THE COURT: They are admitted.

25 (X-rays marked State's Exhibit No. 16.)

Dr. Robert L. Brown
Direct examination by Mr. Morin

1 Q Now, before we get to that, there's been -- can you
2 tell the jury a little bit about tooth numbering and how
3 you can tell what number a tooth is and that kind of thing?

4 A Okay. In general practice throughout the United
5 States and most of the world we use two different series or
6 two different sequences for numbering or naming teeth.

7 The current one in use in most countries now, we
8 number the teeth from one to 32 beginning with the
9 upper-right third molar, the wisdom tooth, as being number
10 one, around to number 16 on the upper-left wisdom tooth,
11 start with number 17 on the lower left around to number 32
12 on the lower-right wisdom right tooth. So every tooth has,
13 has a definite number.

14 Q So you start on, for lack of a better term you start
15 on, the right here --

16 A Right to left.

17 Q -- on the top and come around.

18 A And drop down.

19 Q And drop down and come back.

20 A Left to right.

21 Q Okay. Now, when you were called upon in this case,
22 what information or what did you look at when trying to
23 determine whether or not this was Mr. Roman?

24 A Initially, I was given the x-rays that were taken at
25 autopsy and a copy of a treatment record and notes from

Dr. Robert L. Brown
Direct examination by Mr. Morin

- 1 Dr. Mary Watts.
- 2 Q Okay. Did you make a finding at that point?
- 3 A At that point all we could determine was that all of
- 4 the -- the x-rays were consistent with Dr. Watts' notes as
- 5 far as missing teeth and teeth present.
- 6 Q Okay. All right. I'm going to show you what's been
- 7 marked as State's Exhibit No. 15 as well as State's Exhibit
- 8 No. 16 and ask if you have seen these items.
- 9 A Yes. The first one here is a panoramic x-ray by --
- 10 that was taken in Dr. Watts' office, and the second one are
- 11 the x-rays taken at autopsy.
- 12 Q Have you had the occasion to look at those and compare
- 13 the two?
- 14 A Yes, I have.
- 15 Q What was your conclusion in looking at that?
- 16 A After looking at these I find no inconsistencies
- 17 between the x-rays in the notes and determined that the
- 18 individual at autopsy was indeed that of Juan Roman in Dr.
- 19 Watts' x-ray.
- 20 Q Dr. Brown, I'm going asking to ask you -- well, first
- 21 of all, is it possible for us to take these x-rays, and do
- 22 you know if they'll work on our projector here?
- 23 A Yes. They will.
- 24 Q All right. I'm going to ask if you could bring those
- 25 two x-rays and step down if that's all right with the

Dr. Robert L. Brown
Direct examination by Mr. Morin.

1 Court.

2 THE COURT: Sure.

3 (Whereupon, the witness left the stand.)

4 Q What I want to do, Dr. Brown, if you could, not going
5 into -- well, if you could tell the jury basically and show
6 them basically what you were looking at on these two x-rays
7 and how you came to the conclusion that they were the same
8 person.

9 A Any time we do a dental identification on an unknown
10 we start off with the x-rays and autopsy we call postmortem
11 x-rays, and we note any findings on that, whether they're
12 missing teeth, any fillings, abnormalities of bone
13 structure or other items.

14 This, this x-ray was taken at autopsy, and as I was
15 talking before, this shows from the upper right to the
16 upper left. I will be with you here in a second on this.
17 And then lower left to lower right.

18 So up here in the upper right would be tooth number
19 one, tooth number two. The third tooth there, number
20 three, is missing. And then we have four, five, six and
21 seven that show up on this x-ray, or four, five and six,
22 yeah, seven that show up on that.

23 In upper left we have 11, 12 and 13. Tooth number 14
24 is missing. Tooth number 15, which is the upper-left
25 second molar, is slightly down and is moved towards the

Dr. Robert L. Brown
Direct examination by Mr. Morin

1 front of the mouth due to the missing tooth or tooth number
2 16. On the bottom left is 17. And 18 is missing.
3 Nineteen, 20 and 21 are there. We'll come back in a
4 second.

5 Anyway, on this side we'll note in a few minutes the
6 only tooth missing here is number 32. So basically three
7 and 14 were missing, along with 18 and 32.

8 Those notes were made, and we also noted that this
9 particular individual had severe periodontal disease which
10 is -- let me get this -- evidenced by a lot of bone loss
11 around these teeth. The bone should be up at this level
12 and it is farther up. There's a large bony defect here
13 where that tooth was removed. Very little bone around this
14 one, which is tooth number two.

15 Okay. Where 14 was you see another bony defect. A
16 lot of bone missing up here. This tooth I told you, 15, is
17 moved. Eighteen is missing.

18 And then on to the lower right, the 32 is missing,
19 but, once again, there's a lot of bone loss around here.
20 There is an abscess around this tooth.

21 We look at curvature of roots that are different
22 shaped. Instead of being all out at angles, this one is
23 curved back and that one is a little bit curved.

24 You look on the top you see this particular tooth,
25 number five, curved towards the back. Pointed roots on

Dr. Robert L. Brown
Direct examination by Mr. Morin

1 this tooth. And these are all the things you look at when
2 you evaluate.

3 So all of these notes were made from the autopsy
4 photos. Those were compared with Dr. Watts' treatment,
5 comes from her record which indicated the same teeth
6 missing, three, 14, 32. This was a panoramic x-ray taken
7 at her office. This was done in April of 2006, the first
8 time she saw the gentleman before any of these teeth were
9 extracted.

10 We see tooth number three is here. Notice the large
11 defect up here, curved roots, pointed roots. The same as
12 what I was showing you on the previous x-ray.

13 On the other side, tooth number 14 was extracted in
14 her office. Once again, this shadow here indicates there
15 was an abscess around the tooth. A lot of bone loss here,
16 a lot of problems around the tooth behind it. This tooth
17 was later extracted, same sort of problems, number 18.

18 And then on the lower right side we have the same
19 thing with a lot of bone loss around the teeth on this
20 individual, and the shadow here indicating some sort of
21 either a cavity or defect or broken area on the tooth.
22 This also shows up on the x-rays at autopsy as a shadow
23 right here on this tooth. Not doing too good of a job
24 here. Anyway, it shows up right that in that area.

25 Everything was consistent from the x-ray taken in

Dr. Robert L. Brown
Cross-examination by Mr. Weatherford

1 October of 2006 to the autopsy x-rays taken later on that
2 summer. I think it was -- so there were no
3 inconsistencies. As I evaluate these I consider both of
4 these to be from the same individual.

5 Q Thank you, Doctor.

6 (Whereupon, the witness returned to the stand.)

7 Q Please answer any questions Mr. Weatherford may have.

8 CROSS-EXAMINATION

9 BY MR. WEATHERFORD

10 Q Dr. Brown, did you take the x-rays that were taken at
11 the autopsy?

12 A No, I did not.

13 Q Do you know who did that?

14 A I don't know specifically. I know who normally takes
15 these x-rays.

16 Q Would it say on the x-ray?

17 A No, it would not.

18 Q I'm speaking of Exhibit 16.

19 A No.

20 Q You wouldn't able to tell?

21 A Normally they're taken by Dr. King Garvin.

22 Q And then how do they, how do they get, how did this
23 get to you?

24 A It was given to me by the pathologist, by Dr. Sexton's
25 office.

Dr. Robert L. Brown
Cross-examination by Mr. Weatherford

1 Q Did somebody bring it over there or did they send it
2 by machine or --

3 A Yes. It was either delivered to me or I went to their
4 office to look at it.

5 In this particular case I don't recall which way we
6 did it. I typically do it both ways. If I'm available I
7 go to the morgue for the autopsy. If not, I go to their
8 office.

9 Q Is there any -- did you keep any records about what
10 you did in this case?

11 A No. I don't keep records on the cases like this. We
12 keep the records in their file.

13 Q All right. And so you don't have any independent
14 recollection of whether you went over there or somehow they
15 got to your office.

16 A The only part I remember on this particular case is
17 talking to Dr. Watts by telephone from my office.

18 Q And when did you do that?

19 A That would have been shortly after the autopsy before
20 she faxed her treatment record to me. I believe that
21 record is -- I don't have it in front of me. You have it
22 there. I think it's September the 5th, I believe, that
23 year.

24 Q All right.

25 A So I would have talked to her earlier that day.

Dr. Robert L. Brown
Cross-examination by Mr. Weatherford

1 Q One thing that's confusing me is that the autopsy
2 records say the dental records including x-rays are
3 available and confirmed decedent's identity. And that's
4 dated September the 1st, when it's typed. And then Dr.
5 Watts, I think you just mentioned, faxed you her actual
6 dental record on September the 5th. Is that what your
7 records say?

8 A The next copy I have is dated September the 5th.

9 Q Did you receive those records from any other source or
10 at any other time?

11 A It is my recollection this is the first time I saw
12 these, this, her particular treatment record.

13 Q And they were faxed to your office.

14 A This copy was, yes. Now, she may have faxed some to
15 the pathologist's office. That I'm not sure.

16 Q And when did you get the x-rays from -- that were
17 originally taken, the panoramic x-ray, Exhibit No. 15, in
18 her office?

19 A I saw that x-ray last week.

20 Q Well, what did you compare the autopsy x-rays to in
21 order to determine or make a finding that it was the same
22 person?

23 A Okay. When I looked at those after looking at her
24 treatment record and the x-rays, I confirmed that there
25 were no inconsistencies between her treatment record and

Dr. Robert L. Brown
Cross-examination by Mr. Weatherford

1 the x-rays. There was not a positive identification done
2 at that time by me.

3 Q All right. I'm confused because the autopsy record
4 dated September the 1st said the dental records and x-rays
5 were available and confirmed the decedent's identify. But
6 that's not true?

7 A I didn't sign that. I don't know.

8 Q Well, I know, but, I mean, did you -- did you look at
9 x-rays and compare them to the x-rays taken at the autopsy
10 on or before September the 1st?

11 A I don't recall seeing those x-rays before in my life.

12 Q All right. And did you examine those x-rays and
13 compare them to the panoramic x-rays, Exhibit 15, on or
14 before September the 5th when you got the faxed copy of the
15 dental records, which would be just for the purpose --

16 A My recollection is I don't recall seeing that before
17 that date.

18 Q All right. This Defendant's No. 2 for
19 Identification --

20 A Yeah. I'm familiar with that.

21 Q -- is this what got faxed to you?

22 A Uh-huh.

23 Q And that was on September the 5th.

24 A The 5th, yes.

25 Q When -- did you ever tell Dr. Sexton that you had

Dr. Robert L. Brown
Cross-examination by Mr. Weatherford

- 1 compared the records and that they matched?
- 2 A What I recall saying on this was there were no
3 inconsistencies with this.
- 4 Q Which means what?
- 5 A I don't do a positive identification until I'm willing
6 to come into a courtroom and state my findings.
- 7 Q All right. So did you confirm to Dr. Sexton that this
8 was the same person before you got the record from
9 Ms. Watts or Dr. Watts?
- 10 A I don't recall saying that, no.
- 11 Q And did you just testify that you did not compare the
12 two x-rays until sometime recently?
- 13 A Those were compared recently, yes.
- 14 Q And you wrote a letter dated November the 28th of '07.
15 And is that the first time you've ever compared these
16 x-rays and indicated?
- 17 A That was the first time in my recollection that I
18 compared the two sets of x-rays.
- 19 Q And confirmed that it was the same person.
- 20 A Confirmed that.
- 21 Q And not on August the 31st or September the 1st as
22 autopsy indicates.
- 23 A I didn't sign that or write that. I don't know.
- 24 Q I understand. But you didn't do that.
- 25 A That's not my writing.

Dr. Robert L. Brown
Cross-examination by Mr. Weatherford

1 Q Well, I know. But, I mean, your testimony is you did
2 not do that.

3 A Yes.

4 Q And your testimony is the first time you even got the
5 written records from Dr. Watts was September the 5th.

6 A Correct.

7 Q And the first time you ever looked at both x-rays was
8 November the 28th.

9 A The 28th, uh-huh.

10 Q Did you ever see -- this is Defendant's No. 1 -- these
11 photographs?

12 A Yes, I did.

13 Q All right. And how did you come to do that?

14 A Those were autopsy photographs that were taken.

15 Q And how did you see them, and when?

16 A I would have seen those originally after the autopsy,
17 and I saw them again last week as part of my examination.

18 Q And how many teeth did he have when the autopsy was
19 done or when you looked at the records? How many teeth did
20 he have?

21 A At autopsy there were six missing teeth.

22 Q Which would be 28?

23 A No. It would be three, seven, eight, 14, 18 and 32.

24 Q And if -- did he have 32 teeth to start with? In
25 other words, he's got all four wisdom teeth except --

Dr. Robert L. Brown
Cross-examination by Mr. Weatherford

1 A The Panorex that was taken by Dr. Watts at that time
2 indicated that there were at least 31 teeth. Thirty-two if
3 it had been extracted before had healed at some time in the
4 past. But it's rare for an individual to only have three
5 third molars. So I would assume that he originally had 32
6 teeth.

7 Q All right. And when the, when you looked at the
8 records, he had how many?

9 A In autopsy photos with six missing teeth, he would
10 have 26 teeth.

11 Q All right. You say 13 and 14 were missing.

12 A Yes.

13 Q And 18 and 32.

14 A Eighteen, 32.

15 Q And then seven and eight.

16 A Seven and eight were apparently lost at some point
17 around the death. He had open sockets with hemorrhage,
18 yeah.

19 Q Front?

20 A Front tooth, yeah. Everything else had been lost
21 prior to that extracted, prior to that because it indicated
22 healing of the tissue around it. Seven and eight had open
23 sockets indicating loss sometime around the time of death.

24 Q Do you know -- from Dr. Watts' records there were 29
25 teeth, is that correct? Do you have the fax she sent you?

Dr. Robert L. Brown
Cross-examination by Mr. Weatherford

1

2 THE COURT: That is not in evidence.

3 Q I mean, do you have the fax she sent you?

4 A I do.

5 Q All right. And from that how many teeth?

6 MR. MORIN: Your Honor, I have to object.

7 THE COURT: Well, if you know how many teeth there
8 were, you can testify to it. But if you need a document to
9 refresh your memory, you can testify to it. But if you're
10 not refreshing your memory, you can't use it.

11 The document can be introduced. I don't know why
12 we're not introducing it if you want him to testify from it
13 and look at it and tell everybody about it.

14 A Her x-ray indicates --

15 THE COURT: Just a minute. I sustain the objection.

16 Q All right. Did you -- you received a report from Dr.
17 Watts that you talked about on the, on the 5th --

18 A That's correct.

19 Q -- which you used to confirm there were no
20 inconsistencies from the autopsy photographs as you
21 testified.

22 A That's correct.

23 Q And the records that you received on the 5th, how many
24 teeth did he have?

25 MR. MORIN: Objection. He's asking to do the same

Dr. Robert L. Brown
Cross-examination by Mr. Weatherford

1 thing.

2 THE COURT: I understand. Overruled. No. He's
3 testifying there are no inconsistencies. He's questioning
4 his opinion in that regard. So overrule the objection.

5 A In this she indicates that three, 14 and 32 were
6 missing originally. Well, three and 14 she extracted, and
7 32 is missing.

8 Q So according to the records you received from her he
9 had 32 -- 29 teeth?

10 A That would be correct.

11 Q And the records you looked at from the autopsy, he had
12 26 teeth.

13 A That's correct.

14 Q And you say that's not inconsistent.

15 A No.

16 Q Do you know what happened to the other three teeth?

17 A Yes. The 18 had been lost prior to his death. It had
18 already healed. That's the lower left second molar.

19 Number seven and eight are the two front teeth that were
20 lost, as I stated, sometime around the time of death. He
21 had open sockets indicating they had just been lost at that
22 time.

23 Q All right. All I asked was that you looked at some
24 records or x-rays that had 26 teeth and records --

25 A I looked at a record that said -- well, I looked at

Dr. Robert L. Brown
Redirect examination by Mr. Morin

1 photographs that showed 26 teeth.

2 Q Photographs and the x-rays.

3 A No. The x-ray doesn't show all the front teeth.

4 There are on the x-rays -- the x-rays of Dr. Watts. Those
5 teeth do not show up on the autopsy x-ray.

6 Q Sir, I'm trying to ask about your statement that there
7 no inconsistencies. And you first -- first you looked at
8 Exhibit 16, the autopsy x-rays. And those x-rays are
9 photographs which --

10 A They show three missing teeth indicated in her record
11 and two teeth that were lost at time of death.

12 Q But my question was how many teeth were there in the
13 records that you saw at autopsy.

14 A I have already stated that, 26.

15 Q Okay. And the records that you got some four days
16 after the autopsy date show there were 29 teeth.

17 A At the time that those records were made, that's
18 correct.

19 Q Right. And there are no records of what happened to
20 any of the teeth in between that you have.

21 A That's correct.

22 Q Is that correct? Okay. Thank you, sir.

23 REDIRECT EXAMINATION

24 BY MR. MORIN

25 Q Dr. Brown, when you look at teeth as a dentist is

Dr. Robert L. Brown
Recross-examination by Mr. Weatherford

1 there a little bit -- are you just reaching down and
2 counting how many teeth you see?

3 A No.

4 Q Are there other things you look at?

5 A Well, as I stated, showed up there, we look at bone
6 structures, we look at root surfaces, we look at pulp
7 chambers, we look at teeth that have been lost since the
8 prior examination, particularly if there's a healed socket
9 as in the case of number 18.

10 We also look at teeth lost at any time during or just
11 prior to the individual's death as in teeth numbers seven
12 and eight which had recently been lost as evidenced by the
13 hemorrhage showing and the open socket showing in the
14 photographs.

15 Q Thank you. No further questions.

16 RECROSS-EXAMINATION

17 BY MR. WEATHERFORD

18 Q Dr. Brown, you didn't do that comparison of x-rays
19 until last week, is that right?

20 A That's correct.

21 Q So up until last week you didn't know whether or not
22 it was the same person.

23 A I knew that there were no inconsistencies. I did not
24 confirm it until last week on the 28th.

25 Q No inconsistency means it could have been somebody

Dr. Robert L. Brown
Recross-examination by Mr. Weatherford

1 else.

2 A It means there was nothing that said it was not that
3 individual.

4 Q Except the three different teeth or missing tooth.

5 A Missing teeth -- a missing tooth at, at autopsy or
6 postmortem that was present antemortem or in the treatment
7 records of an individual is not an inconsistency.

8 An inconsistency would be if tooth number 14 was
9 visible at autopsy and was indicated in a treatment record
10 as being missing. That would be an inconsistency.

11 Q All right. Thank you.

12 MR. MORIN: I have no further questions. I ask
13 Dr. Brown be excused.

14 THE COURT: You may step down. Thank you.

15 (Whereupon, the witness was excused.)

16 THE COURT: We're going to take a short break before
17 we go further.

18 I'll ask the jury to please go to your jury room. Do
19 not discuss the case in any fashion. I'll bring you back
20 shortly.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Court is in recess for 15 minutes.

24 (Whereupon, a recess was taken.)

25 THE COURT: All right. Who is the next witness?

Hazel Lee Willis
Direct examination by Mr. Morin

- 1 MR. MORIN: Hazel Willis.
- 2 THE COURT: Who?
- 3 MR. MORIN: Hazel Willis.
- 4 THE COURT: Is she in here?
- 5 MR. MORIN: She is in here right now.
- 6 THE COURT: All right. Bring the jury in, please.
- 7 (The following takes place in the presence of the
- 8 jury.)
- 9 THE COURT: All right. Solicitor.
- 10 MR. MORIN: The state calls Hazel Willis, Your Honor.
- 11 HAZEL LEE WILLIS, having been
- 12 first duly sworn, testified as follows:
- 13 DIRECT EXAMINATION BY MR. MORIN
- 14 Q Hazel, will you tell the jury what your name is?
- 15 A Hazel Lee Willis.
- 16 Q Okay. Hazel, do you live in Cherokee County?
- 17 A I sure do.
- 18 Q Okay. Back in August of 2006 where did you live?
- 19 A Right there in Cowpens at -- I can't remember the
- 20 address.
- 21 Q All right. What kind of building did you stay in?
- 22 A A trailer.
- 23 Q All right. Who stayed in the trailer with you?
- 24 A Alberto.
- 25 Q Alberto. What's his name?

Hazel Lee Willis
Direct examination by Mr. Morin

- 1 A Alberto Wowedges. I can't pronounce his last name.
2 Alberto Wowedges.
3 Q Rodrigues?
4 A Wodrigues.
5 Q Thank you. You have a little speech impediment there?
6 A Yes, sir. I sure do.
7 Q Okay. Anybody else live there with you?
8 A Yeah. My son.
9 Q What's your son's name?
10 A Jesse Curtis Willis.
11 Q Okay. Now, do you know Jeremy Phillips?
12 A Yes, I do.
13 Q Do you see Jeremy here today?
14 A Yes, I do.
15 Q Where is he? Sitting over there at the defense table?
16 A Yes.
17 Q Okay. How long have you known Jeremy Phillips?
18 A I'd say about, about a year and a half.
19 Q Okay. Now, did you know Juan Roman -- Roman?
20 A No, I don't.
21 Q Did you know a man named Juan?
22 A Yes, I do.
23 Q Where did Juan live?
24 A Next. Before you get to my trailer. He lives in the
25 first trailer.

Hazel Lee Willis
Direct examination by Mr. Morin

- 1 Q Is that trailer still there?
- 2 A No. It don't.
- 3 Q Where is that trailer now?
- 4 A It's burned.
- 5 Q Do you remember when it burned?
- 6 A Yes, I do.
- 7 Q Do you remember that night that it burned?
- 8 A Yes, I do.
- 9 Q Tell me what you remember about that, Hazel.
- 10 A Okay. Me and my, my boyfriend, Alberto, we went to
- 11 the bed. And we had lights off except the bedroom light.
- 12 And Jermany come to my winder and pecked on my winder so
- 13 hard. And he said turn the lights outs because the
- 14 ambulance be here.
- 15 Q Okay. You said Jermany.
- 16 A Jermany.
- 17 Q Who is Jermany? Are you trying to say Jeremy?
- 18 A Jermany.
- 19 Q Okay.
- 20 A I can't pronounce his name.
- 21 Q Do you remember the first time you saw him that night?
- 22 Was that the first time you saw him, or did you see him
- 23 earlier?
- 24 A I seen him earlier, yeah.
- 25 Q All right. Tell me about the time you saw him

Hazel Lee Willis
Direct examination by Mr. Morin

- 1 earlier.
- 2 A Okay. I was drunk. And I know that.
- 3 Q Okay. What had you been drinking?
- 4 A I was drinking liquor, I was drinking beer. I drunk
- 5 12 beers and I drunk a pint of Jack Daniels.
- 6 Q Okay. And did you see Jeremy then?
- 7 A Yes, I did.
- 8 Q Tell me about the first time you saw him.
- 9 A The first time I saw him, him and my son and all and
- 10 Nakia was there. And, and I, I let her stay with me
- 11 because she didn't have no place to go. So she stayed with
- 12 me. And so they came to my trailer, and, and so they left.
- 13 Q All right. They came to your trailer. Did Jesse come
- 14 to your trailer?
- 15 A Uh-huh.
- 16 Q Jesse Willis?
- 17 A Uh-huh.
- 18 Q How do you know Jesse Willis?
- 19 A He's my son.
- 20 Q All right. Do you remember what he was wearing?
- 21 A Not Jesse, I don't.
- 22 Q All right. Do you remember anything that stood out
- 23 that makes you remember anything about Jesse?
- 24 A Yeah. He's my son.
- 25 Q Yeah. Was there -- you can't remember what he was

Hazel Lee Willis
Direct examination by Mr. Morin

- 1 wearing. Do you remember anything else about him?
- 2 A Yeah. They came in my trailer. Jesse came in my
3 trailer. He had blood. He had Juan's boots because we
4 seen it earlier that morning. He had Juan's boots and --
- 5 Q Okay. Did you see? Did you see Jeremy?
- 6 A Not that time, I didn't.
- 7 Q When was the next time you saw Jeremy?
- 8 A I seen Jermamy come up 'ar. My son done left.
- 9 Q Okay.
- 10 A So, so I seen Jermamy. And he had one of them overall
11 things.
- 12 Q Okay.
- 13 A And he had blood on it.
- 14 Q Okay. He had blood on his overalls?
- 15 A And then my son had blood on his when he brought them
16 boots.
- 17 Q All right. Did they come in your house?
- 18 A They sure did.
- 19 Q Did they stay long?
- 20 A I knelt down and started bawling and crying and
21 spitting up blood. And my boyfriend, he got hold of me.
22 And, and I said, oh, my God, he's, y'all killed him, y'all
23 killed him and stuff like that. And then I came. And I
24 couldn't say nothing else because my boyfriend had me and
25 held me.

Hazel Lee Willis
Direct examination by Mr. Morin

- 1 Q All right. Did they leave?
- 2 A Yeah, they left.
- 3 Q All right. Now, when was the next time you saw
- 4 Jeremy?
- 5 A On the 3rd.
- 6 Q Did you see him later that night?
- 7 A No, I didn't.
- 8 Q At your trailer after they left did you go to bed?
- 9 A Me and Juan went to bed.
- 10 Q Okay.
- 11 A But I couldn't --
- 12 Q Okay. Let me ask you this.
- 13 A Uh-huh.
- 14 Q If I'm looking at your trailer is your bedroom on this
- 15 side or this side?
- 16 A My bedroom is this way.
- 17 Q All right. That way. Did you have any windows in
- 18 your, in your bedroom?
- 19 A Yes, two.
- 20 Q Okay.
- 21 A And I had curtains up.
- 22 Q All right. After Jeremy and Jesse left --
- 23 A I say about 20 minutes after that I, the, that's when
- 24 he come to my window.
- 25 Q Who came to your window?

Hazel Lee Willis
Direct examination by Mr. Morin

- 1 A Germany.
- 2 Q Once again, you are calling Jeremy Germany, right?
- 3 A Germany.
- 4 Q Okay.
- 5 A He came to my window. That's when he told me to have
6 the lights turned out because the ambulance might come.
- 7 Q All right. Okay. So did you do that?
- 8 A Yes, I did.
- 9 Q Okay.
- 10 A And then my curtain fell.
- 11 Q Okay.
- 12 A I say about ten seconds my curtain fell. And then I
13 see a little frame in the -- my curtain fell. I see a
14 little frame in his -- with the living room where he slept
15 in that fold-out bed, the little frame. And then he came
16 out, Germany did. And he came on the side of where the
17 kitchen window and throwed something in the kitchen and it
18 flame up.
- 19 Q Did you see Jesse doing anything?
- 20 A Yes. I seen Jesse on the other end.
- 21 Q Okay. Now, I'm just going to ask you real quick. If
22 this -- okay. If this is the -- there's a hitch on the
23 front of his trailer, right?
- > 24 A Uh-huh.
- 25 Q All right.

Hazel Lee Willis
Direct examination by Mr. Morin

- 1 A And there's a kitchen winder there.
- 2 Q Right here by the hitch?
- 3 A Uh-huh.
- 4 Q Is that the window you say you saw Jeremy throw
- 5 something in?
- 6 A I sure did.
- 7 Q All right. And after you say he threw something in --
- 8 A And it flame up.
- 9 Q Okay.
- 10 A And then that's when I, that's when I went straight
- 11 to -- I mean all, all messed up. I said, Lordy, mercy. I
- 12 said he got a little girl and he wouldn't never do nothing
- 13 like that. I said it might could be yours.
- 14 Q Now, Hazel, your son Jesse was with him, wasn't he?
- 15 A Yes.
- 16 Q All right. Now, that was on August the 30th,
- 17 Wednesday, right?
- 18 A Yes, sir.
- 19 Q Do you remember when you went to tell the police what
- 20 happened?
- 21 A Yes.
- 22 Q Why did you do that?
- 23 A Because I was scared for my life and my grandbaby's
- 24 life because he was threatening my life.
- 25 Q Who was threatening your life?

Hazel Lee Willis
Direct examination by Mr. Morin

1 A My son and Jermany.

2 Q Your son and Jeremy. What did Jeremy say to you?

3 A He said I shouldn't be saying nothing going around and
4 saying anything. And he said, "I'm going to kill you if
5 you do say anything. I'm going to kill you." That's the
6 exact words he used.

7 And then my son, it was on the, the 30th, and he, he
8 told me the same, my son, and I talked to him. And I was
9 scared of them.

10 And Alberto done went home because he had to work.
11 And, yes, I have been drinking to get my nerves settled
12 because I couldn't. And then my son told me, he said,
13 "What's the matter, mama?" And I said, "I'm scared what
14 y'all done, I'm afraid what y'all done. That little old
15 girl ain't got no daddy." I said what, something like that
16 could happen, said my goodness.

17 Q Do you remember how you got to the -- where did you
18 first talk to the police?

19 A My son, my oldest son, that I live with now, he
20 carried me to police because I couldn't sleep. I couldn't
21 or nothing. I could not bear to live with myself knowing
22 that man got burnt up and everything.

23 I just, I just couldn't. And I'm afraid my son would
24 harm us and everything because he done -- my son used to
25 hit me and all. And then Jermany one time beat up my

Hazel Lee Willis
Direct examination by Mr. Morin

1 boyfriend. And that's why I was afraid. That's why I
2 went.

3 Q Now, Hazel --

4 A I just couldn't sleep.

5 Q I understand. Hazel, let me ask you one other thing.
6 When you looked out your window from your bedroom --

7 A Yes, sir.

8 Q -- could you see Juan's trailer?

9 A Yes.

10 Q Could you see the porch, that wooden porch? Was that
11 facing your house or facing away?

12 A Okay. It was facing the other way. But I seen him
13 come out coming around when he was coming around, and I
14 seen him, you know --

15 Q Okay.

16 A -- turn around and throw it.

17 Q So.

18 A That's what I mean.

19 Q So you didn't see him actually come out of the
20 trailer.

21 A No, I didn't.

22 Q You saw him come around from the front?

23 A Yeah, around the front. That's what the front of the
24 trailer.

25 Q And had you been in Juan's trailer before?

Hazel Lee Willis
Direct examination by Mr. Morin

- 1 A Yes, I have.
- 2 Q And I just basically drew up that with the trailer
3 hitch. But you sort of have a porch on the front, is that
4 right?
- 5 A Uh-huh. Not that big.
- 6 Q Not that big. But he had one there.
- 7 A Yes, sir.
- 8 Q And of course your trailer was over here, right?
- 9 A Uh-huh. And the steps is over here on this corner.
- 10 Q Right here?
- 11 A Right there, yeah.
- 12 Q Okay. Some steps. But there was two windows right
13 here.
- 14 A Uh-huh.
- 15 Q Is that right?
- 16 A You're talking about my trailer?
- 17 Q No. I'm talking about Juan's trailer.
- 18 A Okay.
- 19 Q Did he have this window right there?
- 20 A Uh-huh.
- 21 Q And what was right inside the window?
- 22 A That was the kitchen.
- 23 Q Okay.
- 24 A And that was the kitchen sink.
- 25 Q Okay. Hazel, please answer any questions Mr.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 Weatherford has.

2 A Okay.

3 CROSS-EXAMINATION

4 BY MR. WEATHERFORD

5 Q All right. Your name is Hazel Willis.

6 A Yes, sir.

7 Q Not Frances Willis.

8 A Nu-uh.

9 Q Okay. If I happen to call you Frances, please correct
10 me. I used to know somebody by that name. So you tell me
11 if I say the wrong thing and don't realize it. All right.

12 A Okay.

13 Q All right. Ms., Ms. Willis, how old are you?

14 A I'm 47. I was 47.

15 Q What do you do for a living?

16 A I don't, I don't work. I'm disabled. I'm, I used to
17 work at Pacolet Mills, and they found out I had arthritis
18 in my back, that crip arthritis. And then I draw S. S. I.

19 Q All right. How long have you been doing that?

20 A And I been drawing that for ever since I was 23 or 24.

21 Q And how old did you say you were now?

22 A Forty-seven.

23 Q Okay. So the last 25 years.

24 A Yeah. And I also had cancer.

25 Q What, what were you put on disability for?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A What I put on disability for?
- 2 Q Why did you get on disability? Was it for arthritis
- 3 of the back?
- 4 A Because that, and also I'm mentally.
- 5 Q Pardon me?
- 6 A I can't, I can't apply for a job because I can't talk
- 7 for myself, because my parents and my grandparents, they
- 8 wouldn't send me to school. And I had to stay at home and
- 9 everything. And I was the only girl, the oldest grandbaby,
- 10 they got. I was the first baby.
- 11 Q And so how many children do you have?
- 12 A I've got two boys.
- 13 Q And what are their names and ages?
- 14 (Pause for train.)
- 15 Q All right. Go ahead.
- 16 A Okay. My first one Darren Lee Willis.
- 17 Q And how old is he now?
- 18 A He's 27.
- 19 Q Okay.
- 20 A Jesse Curtis Willis. He's 22.
- 21 Q Okay. And you lived on Oakstone Road in August of
- 22 '06, last year.
- 23 A Uh-huh.
- 24 Q How long had you been living there in that trailer?
- 25 A I was living there for, it was about two years and a

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 half.
- 2 Q Who, who owns that trailer?
- 3 A Charles Scruggs.
- 4 Q Charles Scruggs?
- 5 A Yes, sir.
- 6 Q And --
- 7 A And also owned the other one.
- 8 Q And this trailer that's been drawn up here, is that
- 9 supposed to be something like Juan's, Juan's trailer?
- 10 A Yes, sir.
- 11 Q And is Oakstone Road up here?
- 12 A Uh-huh, yes, sir.
- 13 Q Okay. Kind of like, something like that? I'm not
- 14 trying to get to scale.
- 15 A Okay.
- 16 Q And where is your trailer in relation to that one?
- 17 A Down there.
- 18 Q Down here?
- 19 A On up, and it goes this way.
- 20 Q It goes longways?
- 21 A Uh-huh. His'n is that way and mine's that way.
- 22 Q All right. Is there a driveway down this way?
- 23 A Uh-huh, yes, sir.
- 24 Q Okay. In between?
- 25 A Yes, sir.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q And yours, you say, is down this way.
- 2 A No, not that far.
- 3 Q Well, just --
- 4 A On over yonder.
- 5 Q Over this way?
- 6 A Uh-huh, right there. Perfect.
- 7 Q Right here.
- 8 A Uh-huh. That's my trailer.
- 9 Q And where is your bedroom?
- 10 A Right there.
- 11 Q Right here?
- 12 A Uh-huh.
- 13 Q Or on the end?
- 14 A Right there on the end. That's my bedroom.
- 15 Q On the short end or the long end?
- 16 A It's big enough I can put a bed in it.
- 17 Q Wait a minute. I just want to know where it is. Is
- 18 it right here or right here, the window?
- 19 A Right there.
- 20 Q Right here?
- 21 A Uh-huh, to the winders.
- 22 Q About like this and then right here?
- 23 A Uh-huh. There you go. That's it.
- 24 Q Okay. And how far would it be from here to here?
- 25 A Not too far. And there was a tank right up there too,

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 gas tank. That's what I was afraid, it might come up there
2 and blow me up.
- 3 Q All right. I'm going to show you Defendant's No. 11.
- 4 A Uh-huh.
- 5 Q Is that the tank you're talking about?
- 6 A That's the tank.
- 7 Q And is that kind of the view you would have from your
8 house?
- 9 A Just like that, yes, sir.
- 10 Q Okay. And how far? You said not too far. But about
11 how far?
- 12 A I don't know.
- 13 Q Longer than the length of a car?
- 14 A I don't remember, uh-uh.
- 15 Q Longer than from here to the clock?
- 16 A My trailer would be up here and my front winder would
17 be right here. Probably about where that door --
- 18 Q Okay.
- 19 A His trailer.
- 20 Q About from you to the door.
- 21 A Yeah, about this door to that door. My winder be
22 right there.
- 23 Q All right. And is there any lights out there?
- 24 A Yeah. He had a good old night light.
- 25 Q Who did?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Juan.
- 2 Q But there are no street lights or anything.
- 3 A Uh-uh.
- 4 Q No -- like you see in a parking lot or something like
- 5 that.
- 6 A If I ain't mistaken, that day the power went out.
- 7 Q Before or after the fire?
- 8 A Before the fire.
- 9 Q Okay. And do you know why the power went out?
- 10 A No, I don't.
- 11 Q And so at the time of the fire there wasn't any light
- 12 around out here.
- 13 A Uh-uh. And that's how I know I see that fire.
- 14 Q All right. You mentioned that you had been drinking.
- 15 A Yeah.
- 16 Q And that you lived with somebody named Alberto.
- 17 A Yes, sir.
- 18 Q And when did you start drinking?
- 19 A I started drinking when my mama died three years ago.
- 20 Q No. That day.
- 21 A Three years. My mama died four years ago. I started.
- 22 Q You been drinking ever since?
- 23 A I been drinking ever since, and to now. And I been
- 24 straight a year and two months. And I ain't drank a drop.
- 25 Q Well, on your disability do you get medication?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Yes, I do.
- 2 Q What kind of medication?
- 3 A I got Klonopins.
- 4 Q What?
- 5 A Klonopin.
- 6 Q What is that?
- 7 A Klonopin like a Xanax except it ain't stout as a
- 8 Xanax.
- 9 Q Okay. And anything else?
- 10 A And, yeah, blood pressure and stomach pills. I got
- 11 ulcers. And a sleeping pill.
- 12 Q What kind of sleeping pill?
- 13 A I don't know the name of them.
- 14 Q How long have you been getting them?
- 15 A I been taking them all of my life just about, might as
- 16 wells say.
- 17 Q And you don't know the name of it? Do you get it at
- 18 the drug store?
- 19 A My doctor gave it to me. Now, he changed me to
- 20 another one. I got it right here. He changed me to
- 21 another one.
- 22 Q Well, I want to know what you were doing on August the
- 23 30th.
- 24 A I didn't took my sleeping pill.
- 25 Q All right.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A When I'm drinking I don't take my sleeping pill, but I
2 will take my Klonopin.
- 3 Q All right. Let me. I'm trying to get back to when
4 you started drinking on the 30th.
- 5 A Started drinking?
- 6 Q Uh-huh, on the 30th, the day of the 30th. What time
7 did you start drinking?
- 8 A Oh, early in the morning.
- 9 Q Well, about what time is early to you?
- 10 A It, I didn't eat breakfast. I started 10:00 o'clock.
- 11 Q All right. And do you have a car?
- 12 A No. My papa.
- 13 Q What's his name?
- 14 A His name is -- that day when I went and got my beer,
15 it was, I can't, let's see. I call him my papa, but he
16 ain't. His last name is White. I can't. And he drives a
17 red car. White.
- 18 Q Did he come and get you and take you to get beer?
- 19 A My papa sometimes and he does.
- 20 Q That day.
- 21 A My father-in-law, exfather-in-law.
- 22 Q What's his name?
- 23 A J. D. Willis.
- 24 Q All right. And D. J. came and got you.
- 25 A His name is Jesse Dean.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q That's another Jesse.
- 2 A No. That same one, but they call him J. D.
- 3 Q That's not your son Jesse.
- 4 A Uh-uh. I named my son after him, after my
- 5 father-in-law.
- 6 Q Okay. All right. You got up, and at 10:00 o'clock
- 7 you started drinking beer, is that right?
- 8 A That morning, yeah.
- 9 Q On the 30th.
- 10 A Yes, sir. And I drunk liquor.
- 11 Q Did you already have the beer at the house or did you
- 12 have to go get it?
- 13 A I already had it.
- 14 Q All right. You had?
- 15 A And liquor.
- 16 Q You estimate you drank 12 beers and a pint of liquor
- 17 that day?
- 18 A Uh-huh, have --
- 19 Q Just by yourself.
- 20 A Alberto drank beer too.
- 21 Q Yeah. Did he drink more? Did you have -- you drank
- 22 12 of them yourself, is that right?
- 23 A Yes, sir.
- 24 Q And you drank the liquor yourself.
- 25 A Yeah, because he don't drink liquor.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q But Alberto was drinking beer too.
- 2 A Yes, sir.
- 3 Q All right. And y'all already had all the beer you
4 needed that day in the house.
- 5 A Yes, we did and then --
- 6 Q What day of the week was that? Do you remember if it
7 was a weekend or just a week day?
- 8 A I don't remember.
- 9 Q But you drank every day, so it doesn't matter, right?
- 10 A Yes, sir. That morning he, Juan, came up there and
11 wanted a beer. And we gave. He's -- my boyfriend is
12 Spanish. And they talk in Spanish. So he gave him a beer.
- 13 Q Well, how long, how long had Juan been living there?
14 You said you been there a couple of years.
- 15 A I don't know because I was with my boyfriend. And
16 when I come home the first thing I knowed Juan was there.
17 And I didn't get to meet him but just -- I didn't. I came
18 home because I was staying with him a month, with Alberto,
19 and when I --
- 20 Q Over in Spartanburg somewhere.
- 21 A No. He lived in Lyman. That's where Alberto lived,
22 in Lyman. And I stayed with him.
- 23 Q You'd been staying with him for a while.
- 24 A Yes, sir.
- 25 Q And then when you came back home --

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Me and him came.
- 2 Q You and him came back over to your house.
- 3 A Uh-huh.
- 4 Q So was that common, you'd stay over at his house for a
- 5 while and he would come and stay at your house for a while?
- 6 A Uh-huh. Go back and forth.
- 7 Q And-but you usually were together, you and Alberto.
- 8 A Uh-uh. When he ain't working.
- 9 Q Well, does Alberto speak English?
- 10 A A little bit.
- 11 Q Enough for you and he to communicate.
- 12 A Yes, sir.
- 13 Q How long have you known Alberto?
- 14 A I knowed him. I talked to him on the phone for six
- 15 months. I talked to him on the phone for six months.
- 16 Q In Spanish or English?
- 17 A English. And then --
- 18 Q How did you get to talking to him on the phone?
- 19 A Another friend of mine hook us up together.
- 20 Q And so y'all talk for six months on the telephone.
- 21 A We sure did.
- 22 Q And then when did you start living together?
- 23 A We started living together. It was on about middle,
- 24 almost my birthday.
- 25 Q Well, when is that?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A That, my birthday, is August 27th. Before my birthday
2 it was about August, I'll say August, August the 22nd. And
3 then my birthday is the 22nd.
- 4 Q The year of the fire, 2006, or is it a year or two
5 before that?
- 6 A Year or two before that.
- 7 Q Okay. So how long have you lived with Alberto?
- 8 A Off and on it's about, about two years.
- 9 Q Okay. And you and he were able to talk in English
10 during that two years.
- 11 A A little bit, yeah, but mostly we, we watched T. V.
- 12 Q In English?
- 13 A He watched Spanish and I like to watch Spanish. And I
14 listen to Spanish music. I even also got Spanish music.
- 15 Q What I'm trying to figure out is how long had Juan --
16 you've been living here two years. Had Juan lived there
17 two years?
- 18 A I don't know. Uh-uh. I didn't get to. I talked to
19 Juan. My boyfriend talked to Juan. Okay.
- 20 Q Wait a minute. When you went over and stayed at
21 Alberto's for a while, about when was that? Everything I'm
22 asking you is in comparison to when the fire was.
- 23 A Oh, okay, then, okay. I understand what you're
24 saying. Okay.
- 25 Q So how long were you gone from your house before the

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 fire and you came back and Juan was there? A week, a
2 month, a year?
- 3 A No, uh-uh.
- 4 Q Well.
- 5 A Juan ain't been there but probably about a week.
- 6 Q Well, okay. That's what I want to know. So who used
7 to live in that trailer?
- 8 A I can't think of that girl's name.
- 9 Q Some girl.
- 10 A Uh-huh.
- 11 Q Okay. And did you -- you didn't even know her name.
- 12 A No. I can't think of her name.
- 13 Q So you hadn't been in her house.
- 14 A Yeah, once or twice, yeah.
- 15 Q Okay.
- 16 A I don't go nowheres hardly.
- 17 Q Okay. You came back. And Juan was already here.
- 18 A Yes, sir.
- 19 Q And so you had only been back from somewhere in
20 Spartanburg County --
- 21 A Yeah, for three days.
- 22 Q -- three days. Okay. And Juan was there. And he
23 wasn't there when you left.
- 24 A No. He wasn't.
- 25 Q All right. During that three days how many times were

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 you in his trailer? Two times?

2 A And I was with my boyfriend.

3 Q All right. And what was the occasion? Do you
4 remember the dates?

5 A Okay. 30th. 31st we started talking to him.

6 Q That's after he's dead.

7 A I mean not 30th. I mean, I'm sorry. The 28th, the
8 first time I, we talked to him, the 28th, the first time.

9 Q All right. What was that about?

10 A Well, Jermany told us that they was -- and my son
11 did -- let me get this straight. Jermany didn't. It was
12 my son said that there was a Mexican living next door. And
13 I said okay.

14 And Alberto, well, that's great, maybe I can get to
15 know him because he's a Mexican and I'm a Mexican, we can
16 get to know each other, you see. And they talked Spanish.
17 I don't know what they say.

18 And so they, he said do you want to go with me. And I
19 went with him. And he showed us what he had, them boots.
20 And I think his daughter was there when he got them boots
21 and he was wanting to show them off. But I ain't never met
22 his daughter.

23 Q Juan's daughter?

24 A Uh-huh. Juan got a daughter.

25 Q So what makes you say something about his daughter?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Huh?
- 2 Q You said you'd never met her.
- 3 A Because he showed me a picture of her, Juan did.
- 4 Q Okay. All right. And he showed you these boots?
- 5 A He showed us these boots.
- 6 Q What did they look like?
- 7 A They was red skin boots, I mean, snake. I don't know.
- 8 I ain't never seen no boots like them. That's what
- 9 Mexicans wear.
- 10 Q Well, can you describe them?
- 11 A Yeah. They be about the color of his tie, something
- 12 like that.
- 13 Q Kind of yellowish?
- 14 A Something or other like that. See, I'm color, I'm
- 15 what you call color blind, but.
- 16 Q Well, did he have the boots on?
- 17 A They was brand new boots. No. He didn't even put
- 18 them on. He sat them down and showed us. He was tickled
- 19 to death showing me and his, my boyfriend.
- 20 Q Down at his house.
- 21 A Uh-huh, because he invited us down there because he
- 22 wanted a beer, and he gave him a beer.
- 23 Q Who gave who a beer?
- 24 A My boyfriend.
- 25 Q And who had the beer, Juan or Alberto?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Alberto.
- 2 Q And Alberto gave --
- 3 A Juan a beer because he wanted a beer.
- 4 Q Did he take it down there to give it to him?
- 5 A We, he wanted us to walk down there because he talked
6 to him in Spanish. And he told me, he said he's wanting to
7 show us what he got and everything.
- 8 Q Did he tell you where he got them?
- 9 A Yeah. He bought them.
- 10 Q Where?
- 11 A He didn't, I didn't ask. At Mexican store.
- 12 Q Did he tell you how much they cost?
- 13 A Yes.
- 14 Q What did he say?
- 15 A He told me and him. He told Alberto, and Alberto told
16 me, that he said that it's 200 and something dollars for
17 them boots.
- 18 Q All right. Did he show you anything else?
- 19 A And, yeah, we seen a V. C. R. that he got. And then
20 he had a little, he had a T. V. and, and a belt.
- 21 Q What did the belt look like?
- 22 A The belt is black.
- 23 Q Did it match the boots?
- 24 A Uh-uh.
- 25 Q Well, was it kinda, any kind of design or color or --

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A It had some kind of design. I don't know. It didn't
2 have no beads, uh-uh.
- 3 Q But he had a black belt. Did he have it on?
- 4 A I think it was black or dark blue. I don't know.
- 5 Q Did he have it on?
- 6 A No.
- 7 Q Anything else?
- 8 A The only thing I know he had on, he had tacky pants
9 on. And he had a suede shirt on, and it's got blue and all
10 different colors in it. I can't, just like a man's shirt.
- 11 Q Well, get back to the, I'm not through with the belt
12 yet. Anything else about the belt? How wide was it?
13 About that wide? Say about?
- 14 A Yeah. And the belt buckle, I know what the belt
15 buckle, the bet buckle got some kind of Mexican on it. But
16 I can't read it. It had letter.
- 17 Q What shape was it?
- 18 A It was about like that, I mean, it's pretty good sized
19 belt. I mean, you could see the belt. It's fancy, I mean.
20 I ain't never.
- 21 Q What made a black belt fancy?
- 22 A Because it had designs on it. I mean, I don't know
23 what kind.
- 24 Q Beads or something?
- 25 A No. It's like take a gun, or I don't know.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q Did he have all of that in a box or something?
- 2 A He had it in a bag, and-but he had all of it, yeah.
- 3 Q Was it like a Wal-Mart bag?
- 4 A No, it wasn't no Wal-Mart.
- 5 Q What kind was it?
- 6 A It was a Mexican bag.
- 7 Q All right. So you and Alberto go down there and drink
- 8 beer that day.
- 9 A I didn't drink that day.
- 10 Q Okay.
- 11 A I went home and drank.
- 12 Q All right.
- 13 A I left him down there.
- 14 Q But you went inside his house.
- 15 A Uh-huh. He showed me a picture of his little girl,
- 16 and I left.
- 17 Q Did you see where the -- did he have a couch or
- 18 something in there?
- 19 A He had a couch. Okay. You go in the door. Like I
- 20 said, you go in that door right there where you got that
- 21 line at.
- 22 Q Yeah. This being the steps and the door, I think,
- 23 isn't that right?
- 24 A Okay. That's the steps. And you walk on in and be on
- 25 over.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q All right. Come down here.
- 2 A No.
- 3 Q You go. I'm not going to mark until you tell me.
- 4 Over this way?
- 5 A Uh-uh. That's the door. That's the porch.
- 6 Q Yeah.
- 7 A Go to the porch, and it's in the middle of the porch
- 8 where the, where the door is, the middle of the porch.
- 9 Q Right here?
- 10 A Uh-huh. And you walk in there. Okay. The couch is
- 11 over yonder.
- 12 Q Over this way?
- 13 A A little bit, just a little bit.
- 14 Q Okay.
- 15 A It was almost at the bed.
- 16 Q So you come in the door, and then the bed, the couch
- 17 is kind of like this?
- 18 A Uh-huh. And it was laying folding out straight on.
- 19 Q Like a bed.
- 20 A Uh-huh.
- 21 Q Something like this, something like that.
- 22 A Yes, sir.
- 23 Q Okay.
- 24 A And the kitchen was over --
- 25 Q And the kitchen was over here?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Uh-huh.
- 2 Q On this end?
- 3 A Yeah. And he didn't stay in them other two rooms.
- 4 Q And over here --
- 5 A He had --
- 6 Q Is a couple of bedrooms, and he didn't stay in them.
- 7 A Uh-huh. He didn't make that thing long enough, the
- 8 trailer.
- 9 Q Well, I know. But I'm just trying to get some idea of
- 10 how everything is situated. But this is kind of like a
- 11 little living room and this is kind of like a kitchen.
- 12 A Yes, sir.
- 13 Q And these are bedrooms back here that he didn't use.
- 14 A That's right.
- 15 Q And he slept right here on this couch, a pull-out
- 16 couch.
- 17 A Yes, sir.
- 18 Q All right. And you said you had been in his house two
- 19 times. When was the other time?
- 20 A The other time when I went in his house, me and
- 21 Alberto went down there that night because he was hurt. He
- 22 got hurt.
- 23 Q The night before the fire?
- 24 A The first day he got hurt. That's the 30th. That
- 25 morning, he came up there that morning at our house and

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 wanted a, a beer. And he gave, Alberto gave, him a beer.

2 And I seen where somebody hurt him. And he had a blood on

3 him. And I went and got a wash rag and handed it to him.

4 And he said, well, y'all come down here and if you got

5 an extra beer, I'd like to have, bring it with you. And

6 Alberto told him, he said, we'll be down there later.

7 And so the ambulance came. And then so we went down

8 there to check on him. That's why we went the second time,

9 to check on him. And so we went and checked on him.

10 And Alberto asked him did he have a beer, and he said,

11 yeah, I got plenty of beer. And it was the last time we

12 went down there, it was about, it wasn't hardly dark. It

13 was about 4:00, 4:30. And then the ambulance come. And he

14 come several times that day, the ambulance, because he told

15 us he was falling around or something.

16 Q He told you what?

17 A Falling, like fall down.

18 Q Juan was?

19 A Uh-huh. But I don't understand. I told my boyfriend,

20 I said they something wrong instead of him falling like

21 that.

22 Q When did the ambulance come to start with?

23 A 2:00 o'clock.

24 Q During the daytime?

25 A Uh-huh.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q Did any police come?
- 2 A No police until that night.
- 3 Q And, and so the ambulance came and left about 2:00
- 4 o'clock.
- 5 A Uh-huh. And then the police come, showed up at 5:00.
- 6 Q And that was on the 30th?
- 7 A And he was still alive.
- 8 Q The day before he died or the day he died?
- 9 A Before he died.
- 10 Q The day before he died.
- 11 A No. That's same day.
- 12 Q The day he died.
- 13 A Uh-huh.
- 14 Q Well, here's, here's a calendar. It's got August the
- 15 30th of 2006.
- 16 A Yeah.
- 17 Q That's been, that's been established as the date of
- 18 his death.
- 19 A Yes, sir.
- 20 Q So Tuesday the 29th, is that what you're talking
- 21 about?
- 22 A Tuesday the 29th when we saw the boots.
- 23 Q Okay.
- 24 A This day.
- 25 Q The 30th. You're pointing to the 30th.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 A Uh-huh. That's the day that the, that morning when I
2 seen a bruise and he had blood.

3 Q Okay. Same day he died, same day of the fire.

4 A And he wouldn't tell me, you know.

5 Q Was it the same day of the fire?

6 A Same day but except it was that morning.

7 Q Okay. That morning. And about then about 2:00
8 o'clock that day the --

9 A Ambulance. And we went and checked on him at 4:00.

10 Q So the ambulance came and left without him because he
11 was still down there.

12 A Yes, yes. And we went to check on him.

13 Q And did he tell you when he came up that morning to
14 get a beer and you noticed something on his cheek?

15 A Yes, sir.

16 Q And he had blood?

17 A And he had blood.

18 Q Did he tell you what happened?

19 A I, he might told my boyfriend, but he didn't told me.
20 But it looked like to me he got beat up. He told my
21 boyfriend he got, he fell.

22 Q All right. And you went --

23 A And that's what my boyfriend told me.

24 Q And you went down there about 4:00 o'clock to check on
25 him after the ambulance had gone.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Uh-huh.
- 2 Q And then you said something about the police coming.
- 3 A Uh-huh.
- 4 Q Tell me about that.
- 5 A They came to my house, the police, and asked do you
- 6 know who hurt him. And we said no. You see, we didn't
- 7 understand. And, and we told them, no, we didn't know
- 8 about that. And he said, well, Juan got hurt, somebody
- 9 hurt him.
- 10 Q Do you know who the police officer was?
- 11 A No, I don't.
- 12 Q Is it just one police officer?
- 13 A One police officer.
- 14 Q And he came and asked you what had happened to Juan.
- 15 A Uh-huh.
- 16 Q Do you know where Juan was?
- 17 A Yeah, he was in his trailer.
- 18 Q Did the police officer say he had asked Juan what
- 19 happened?
- 20 A Yeah, and Juan said, yeah, that's when he swear that I
- 21 think he, that day he told my boyfriend, and, and my
- 22 boyfriend come and told me, that he said that Jermany and
- 23 Jesse took his billfold and his cell phone.
- 24 Q All right. Now, this --
- 25 A And that's why the police was there.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 Q This occurred on the day of the fire.

2 A Before that fire happened about, it was about,
3 5:00 o'clock then.

4 Q Okay. Was that before or after the police officer
5 came?

6 A That was before the police officer came.

7 Q And he told Alberto that somebody took his phone and
8 his D. V. D. Took his phone and what?

9 A No, cell phone and his billfold. His billfold.

10 Q And that was before or after the police came?

11 A Before the police came.

12 Q Was, what was Juan's condition?

13 A To me if you ask, I think he was drunk and everything.

14 Q All right. And so when the police came they would
15 have found Juan drunk.

16 A That's what the police, yeah.

17 Q Did the police tell you that Juan had told them
18 somebody had beat him up or taken his cell phone or taken
19 his --

20 A Uh-huh.

21 Q What did you say he took? I'm sorry. The phone, the
22 cell phone, and what?

23 A Billfold.

24 Q Billfold. All right.

25 A Where you put money in it.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q Okay. And so he reported that to the police officer.
2 And the police officer came up there and asked you about
3 it.
4 A Yes.
5 Q And then did the police officer leave?
6 A Huh?
7 Q The police officer just left?
8 A Yes. We ain't seen him.
9 Q And that was about what time?
10 A That was when the police came. It was, I would say, I
11 didn't look at the clock or the watch.
12 Q I know. Was it dark, or not?
13 A It was getting dark and I was -- it was almost dark.
14 I say it was 6:00 o'clock when that police came.
15 Q All right. And then he left. And then what's the
16 next thing that happened?
17 A That's when Jermany on the 30th, Jermany, Nakia and
18 Jesse was there.
19 Q Was where?
20 A My house.
21 Q At your house. And what time was that?
22 A I went to the store and got me some, some liquor.
23 Q Some more liquor.
24 A Me some liquor, yeah.
25 Q All right. You already said you drank 12 beers and a

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 pint of liquor.
- 2 A Yeah.
- 3 Q You went and got some more?
- 4 A That was -- I drunk it a little at a time, so. And I
- 5 went and I wanted another little half pint, so I went and
- 6 got it.
- 7 Q All right. How did you do that?
- 8 A My father-in-law took me.
- 9 Q What's his name?
- 10 A J. D., Jesse Dean Willis.
- 11 Q All right. And what time was that?
- 12 A And that was about, I'd say it was, I'd say about
- 13 6:30.
- 14 Q After the police had come and gone --
- 15 A And then --
- 16 Q -- you went to the liquor store and got more liquor.
- 17 A Uh-huh.
- 18 Q Okay. And then, then what?
- 19 A And then I went home. And then just Jermany was
- 20 there, Jesse was there and Nakia was there.
- 21 Q When you got back from the liquor store?
- 22 A Uh-huh.
- 23 Q Had you taken any of that Klonopin that night or that
- 24 day?
- 25 A Yeah. I took, I took a Klonopin.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q How often do you take that, and when do you take it?
- 2 A I supposed to take it three times a day, but I don't
- 3 when I just take one.
- 4 Q All right. But you took one that day.
- 5 A Yeah.
- 6 Q And it's says, the bottle says, don't drink when you
- 7 take it.
- 8 A That's the truth.
- 9 Q But you did it anyway.
- 10 A Yes, I did.
- 11 Q Does that impair your memory or anything?
- 12 A No.
- 13 Q Twelve beers and a pint of liquor doesn't impair your
- 14 memory, and a Klonopin?
- 15 A No.
- 16 Q All right. So you got back from the liquor store.
- 17 And your son, Jesse, and Jeremy and Nakia were there at
- 18 your house.
- 19 A Uh-huh.
- 20 Q Was Alberto there?
- 21 A Alberto was there.
- 22 Q Okay. And what happened then?
- 23 A Well, we just hung out a little while. And then me
- 24 and Jesse arguing and fussing and everything.
- 25 Q About what?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A And, you know --
- 2 Q What were you arguing and fussing about?
- 3 A Because he's wanting my, he's wanting money from me.
- 4 Q He lived with you?
- 5 A And I wouldn't give him no money.
- 6 Q He lived with you?
- 7 A Yeah, my son lived with me. And I wouldn't give him
- 8 no money.
- 9 Q Where did he work?
- 10 A Because he do other stuff, and I don't do, and I don't
- 11 allow him to do.
- 12 Q What kind of other stuff?
- 13 A Crack cocaine.
- 14 Q So -- he, did he ever take any of your money?
- 15 A Yeah, he, yeah.
- 16 Q Did he ever steal stuff from you?
- 17 A Yeah. They stole that day.
- 18 Q Did you ever call the police on him?
- 19 A Yes, I did, and I had it stopped.
- 20 Q How many times?
- 21 A Jesse twice. I had him put in jail one time because
- 22 he hit me and stole my, my medicine.
- 23 Q You called the police on him all of the time, didn't
- 24 you, telling them to get him out of there?
- 25 A Just about, yeah, but, I mean, but, I, I did.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q I mean, every week you called the police on him.
- 2 A Not every week.
- 3 Q Just about, wasn't it?
- 4 A Not every week, no, sir.
- 5 Q It was a lot.
- 6 A I would say about. That's because he wanted my money.
- 7 I mean, he wanted to get drugs, and I had to do something.
- 8 I couldn't handle him.
- 9 Q He'd steal anything you had to get money for drugs,
- 10 wouldn't he?
- 11 A Yeah, he did, yes.
- 12 Q You couldn't get him run off, could you? Pardon me?
- 13 A No, sir.
- 14 Q You wanted him to leave, didn't you?
- 15 A Then I did, I mean, because.
- 16 Q You couldn't get rid of him.
- 17 A Because, I mean, I was getting him so he don't. He
- 18 was getting on my nerves. He was tearing me up.
- 19 Q Doing drugs and stealing your stuff, right? In fact,
- 20 you'd even took some stuff down to Jeremy's and put it, had
- 21 him keep it for you so your own son wouldn't steal it from
- 22 you and go buy drugs.
- 23 A That's the truth.
- 24 Q Right?
- 25 A That's the truth.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q Some of them were your C. D.'s and D. V. D.'s.
2 A Yeah.
3 Q Movies. Got your name on it. You wrote it on there,
4 didn't you?
5 A And cigarettes. Uh-huh. If they ain't mistaken, they
6 still had his --
7 Q One of them is a movie "Where Art Thou," wasn't it?
8 A I think so.
9 Q You ever watch that movie?
10 A About a prison?
11 Q Uh-huh.
12 A Yeah.
13 Q Do you know how it ends?
14 A No, not really because I ain't watched it in a long
15 time.
16 Q Do you remember anything about something blowing
17 something up like a Roman candle?
18 A Roman candle?
19 Q At the end of the movie.
20 A Yeah. I seen dip, because I dip.
21 Q And that was Jesse's favorite movie, wasn't it?
22 A Yeah. But it was my movie. I bought it.
23 Q I know. But you hid it down there at Jeremy's to keep
24 your son from stealing it to buy drugs.
25 A And then there was a western movie. I can't think of

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 the name of it.
- 2 Q How long had Jesse been on drugs?
- 3 A Ever since I moved there.
- 4 Q Two years?
- 5 A Ever since I moved there.
- 6 Q But he lived --
- 7 A I tried to get him. He lived with his papa for a long
- 8 time. And I tried to tell his daddy that he needed help
- 9 because he's really mentally, he got mentally problem. And
- 10 his daddy wouldn't ever get him some help.
- 11 Q Nobody. He wouldn't get help?
- 12 A Nobody would. I tried to.
- 13 Q All right. Well, let's, let's get back to, to that
- 14 night now. The night before that do you remember anything
- 15 about another ambulance coming the night before the fire,
- 16 or police or anything coming the night before the fire?
- 17 A Night before the fire?
- 18 Q I just asked if you remember anything about that.
- 19 A The only thing I see is where they put the fire out.
- 20 I can't. Fire truck, fire department.
- 21 Q But that's the night of the fire. But the day before,
- 22 the 29th, do you remember anything about police or
- 23 ambulance?
- 24 A Yeah, ambulance came, yeah.
- 25 Q Do you know what happened then? What time did the

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 ambulance come the day before?

2 A I try to mind my own business.

3 Q Well, I just would like to know what time the
4 ambulance came if you saw one there the day before.

5 A I seen one there but I didn't look at the clock. But
6 when the ambulance left they brought him home because he,
7 because how I know that, because Juan came up there and
8 told us he had to go to ambulance.

9 Q So, all right. I'm trying to get the sequence of
10 events. Now, the night before he went somewhere in an
11 ambulance, and the ambulance brought him back?

12 A Uh-huh.

13 Q And what time? And then he came up to your house?

14 A Yeah. I can tell you what time he came up at the
15 house.

16 Q What time did he come to your house?

17 A The night before, before the fire, he came up there
18 exactly at 6:00 o'clock because we was getting ready to go
19 in the bed then.

20 Q 6:00 o'clock in the afternoon?

21 A That night.

22 Q Right. And this is August.

23 A Afternoon, I guess. It ain't that morning. It's
24 about near about this time now, 6:00 o'clock he was,
25 6:00 o'clock I remember that.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q But in August it's broad daylight at 6:00 o'clock.
- 2 A Oh, I know.
- 3 Q So was it broad daylight? And he went in an ambulance
- 4 and he came back. And then he came up to our house?
- 5 A Yeah, but, see, we go to bed early.
- 6 Q Well, so you were getting ready to go to bed, and it's
- 7 daylight.
- 8 A Uh-huh.
- 9 Q And then Juan comes up there.
- 10 A Uh-huh.
- 11 Q And then he says that somebody took his cell phone,
- 12 and-or was that the next night?
- 13 A That was that one.
- 14 Q The night before?
- 15 A That was that night. He took his cell phone, took his
- 16 billfold.
- 17 Q Was he drunk that night?
- 18 A Who?
- 19 Q Juan.
- 20 A Yeah.
- 21 Q And he was drunk the next night.
- 22 A Before the death?
- 23 Q The day of the death.
- 24 A The day of the death, yeah, he was drunk.
- 25 Q Both days.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 A He was in my house when Jermany and Nakia and my son
2 there. He was drunk then.

3 Q All right. So that's the day of the, the day of the
4 fire?

5 A The fire, yeah.

6 Q And what time was it? Did all of y'all -- that's
7 after you got back.

8 A I don't know what time.

9 Q All right. You got back from the liquor store.

10 A It was dark.

11 Q You got back from the liquor store.

12 A Uh-huh.

13 Q And Jeremy and Jesse and --

14 A Juan.

15 Q -- Juan and Alberto.

16 A Jermany.

17 Q And you were there, all five of you.

18 A Uh-huh.

19 Q What were y'all doing?

20 A We just talking.

21 Q Well, did you start drinking any of that liquor?

22 A Not right then, I didn't. Not right that moment,
23 because I went straight to my bedroom and put it under my
24 mattress.

25 Q All right. What, what were y'all all talking about?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A We was talking. Juan was sitting over here in the
2 loveseat. Me and Alberto was over here on the couch.
3 Nakia and Jermany was cooking because I told them they can
4 cook. And Jesse just had come in the door, and right there
5 next to the door. Hey, mama, and this and that and the
6 other. And, and so but Juan was talking to Alberto back
7 and forth in Spanish, and I don't know what they say.
- 8 Q Well, was anybody fighting or mad or anything?
- 9 A No, sir.
- 10 Q Everybody seemed to be getting along?
- 11 A Uh-huh.
- 12 Q Now, this is the day that started off when you saw the
13 mark on his face.
- 14 A That, it was that morning.
- 15 Q Right. That morning.
- 16 A Yeah.
- 17 Q But later on that day all of y'all are sitting around
18 in your house.
- 19 A Yeah, but Juan. I believe Juan was hitting on me,
20 Juan was, and --
- 21 Q What makes you think that?
- 22 A Because Alberto was mad and-but --
- 23 Q Alberto was mad at Juan --
- 24 A Uh-huh. And that's when --
- 25 Q -- for trying to go with you.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Uh-huh. Because he wanted me to work where he work.
2 And he told him my baby ain't working nowheres. But he
3 told him in Spanish. I don't know what that Spanish, but
4 he told me later what he said.
- 5 Q Okay. All right. Those two, Alberto was mad at Juan.
6 Then what? Jeremy and them are in there cooking. You got
7 your liquor. What were you doing then?
- 8 A I put my liquor in my bedroom.
- 9 Q All right.
- 10 A I wasn't drinking my liquor then.
- 11 Q Okay. All right. Go ahead. What happened?
- 12 A And then before Juan left he wanted Nakia. This is
13 what happened. Nakia and Jesse and Jermany, they was
14 wanting to go with Juan to get his billfold or something.
15 I don't know what for.
- 16 Q I thought he lost his billfold.
- 17 A Well, he found his billfold, but it was that night.
- 18 Q So somebody beat him up and took it.
- 19 A It was that, on the, the 29th when the, the 29th, that
20 night, when they got his billfold, somebody got his
21 billfold.
- 22 Q Or he said they did.
- 23 A Yeah. That's what he said.
- 24 Q But then it turns out he found it?
- 25 A It turned out he found it that morning and he --

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q The morning you saw the marks on his face.
- 2 A Uh-huh.
- 3 Q So and what about his cell phone?
- 4 A I don't know about his cell phone. He didn't mention
- 5 it.
- 6 Q But he came up while he was there at your house and
- 7 said that he had found his wallet that he thought somebody
- 8 took from him the night before?
- 9 A Well, he talked to my boyfriend, but I was there.
- 10 Q Yeah. But you found out what he said.
- 11 A Uh-huh.
- 12 Q Did he ever say anybody beat him up?
- 13 A No, he didn't.
- 14 Q Did you ever know him to have any nosebleeds?
- 15 A Yeah.
- 16 Q When?
- 17 A Yeah, he did.
- 18 Q How do you know that?
- 19 A He had nosebleed in my living room.
- 20 Q I thought you said that was from the cut on his cheek.
- 21 A Well, it was -- on his cheek he had a scratch mark,
- 22 and then his nose was bleeding.
- 23 Q Okay. So he was bleeding from the cheek and the nose.
- 24 A No. He had a scratch. He had a scratch mark and a
- 25 bruise. That's what I mean.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q And his nose was bleeding --
- 2 A Yeah.
- 3 Q -- when he got there.
- 4 A It was bleeding a little bit.
- 5 Q When he got there or while he was there, or what?
- 6 A While he was there.
- 7 Q It just started bleeding.
- 8 A Uh-huh.
- 9 Q For no reason.
- 10 A No reason at all.
- 11 Q You didn't see anybody hit him.
- 12 A No, no.
- 13 Q Did he tell you anybody had hit him the night before
- 14 or took his wallet and cell phone?
- 15 A No, no, but he did said that the 29th that Jermamy and
- 16 my son took his billfold and his cell phone. That's what
- 17 he said.
- 18 Q When is that supposed to have happened?
- 19 A The 29th.
- 20 Q All right. And he's blaming them for taking his
- 21 wallet and his cell phone.
- 22 A Yeah. And Alberto said that they wouldn't do that to
- 23 you.
- 24 Q All right. Turns out he found his wallet the next
- 25 day.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 A Yes, he did and his -- I don't know about his cell
2 phone. And Juan said, well, see, I told you. I mean
3 Alberto told Juan, said I told you nobody didn't took your
4 stuff, your wallet. But he took, Charles Scruggs took, him
5 to get some beer.

6 Q Took who?

7 A Juan.

8 Q What time was that? Was that when they left, when he
9 left your house?

10 A I'd say it was about 2:00 or 3:00 o'clock.

11 Q In the afternoon?

12 A Uh-huh.

13 Q Or at night?

14 A No. I don't know what time, but I just know that
15 Charles Scruggs did. And you, all you, had to do was just
16 call him.

17 Q How do you know that?

18 A Because Charles Scruggs is my renter.

19 Q Well, how do you know he took Juan to get beer?

20 A Because we was out there cooking. We was out there
21 cooking. We was out there cooking.

22 Q And Charles comes by and just says, Juan, do you want
23 me to take you to get some beer?

24 A Uh-huh. No. He, Juan, was walking to Charles' house
25 because Charles don't live too far from us. He's our

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 renter.

2 Q All right. Was that after he left your house?

3 A Yeah, way before, way. But I can't remember the times
4 because I didn't look at the time. I was outside.

5 Q Well, it would be good if you just put things in order
6 that they happen.

7 Now, so go back to the ambulance. You said it was in
8 the daytime.

9 A Yeah.

10 Q And he came back from the ambulance.

11 A Yeah.

12 Q And then you went to the liquor store.

13 A Yeah.

14 Q You came back.

15 A Yeah.

16 Q And everybody was at your house.

17 A Yeah. And we was having a little ole cookout outside.

18 Q Okay. And Alberto was mad at Juan for hitting on you.

19 A Yeah.

20 Q How did he hit on you?

21 A He didn't hit, what you call. He said that I was
22 sexy. That's what he told me.

23 Q He told Juan that, I mean, Alberto that?

24 A Yeah.

25 Q And that made Alberto mad?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A And he said I wanted your wife. He called me his -- I
2 want your wife work with me at place where he worked. And
3 he said, no, she ain't working, she's staying right here
4 with me to take care of me.
- 5 Q All right. And then Juan left and went and got a ride
6 to go get beer?
- 7 A Yeah, yeah. I would say it was about, it was about
8 6:00 o'clock, or, no, it was about, it had to be about,
9 7:00. And it was dark. It was dark, yeah, yeah.
- 10 Q All right.
- 11 A It was dark.
- 12 Q So Juan leaves to get a ride to go get beer about
13 dark.
- 14 A Yeah, yeah.
- 15 Q On the night of the fire.
- 16 A Yeah.
- 17 Q And did you ever see him again?
- 18 A No, not me.
- 19 Q Did you ever see him come back?
- 20 A No.
- 21 Q All right. Then did Jesse and Jeremy and Nakia --
22 were they still at your house?
- 23 A Yeah.
- 24 Q What happened to them?
- 25 A And a few minutes later they went, left. I don't know

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 where they went. But now my son came back up there.
- 2 Q Jesse.
- 3 A And Nakia. Nakia was with me because she was still
- 4 cooking. Nakia was with me. And she was still cooking.
- 5 And my son came up there. He had blood.
- 6 Q Jesse.
- 7 A Yeah. And that's when he had the boots.
- 8 Q Well, about what time was that?
- 9 A It was about 7:30.
- 10 Q Dark?
- 11 A Uh-huh.
- 12 Q And this is August.
- 13 A That was the 30th.
- 14 Q But you're saying it was dark. And Jesse came to your
- 15 house. And tell me about that. You say Nakia was still
- 16 there cooking.
- 17 A Uh-huh.
- 18 Q All right. Where was Alberto?
- 19 A He was on the couch. We was watching T. V.
- 20 Q All right. And then what?
- 21 A And then I don't know where Germany went. Jesse left
- 22 again. And Nakia, after Jesse left, Nakia left.
- 23 Q Well, when Jesse came that first time when Nakia was
- 24 there did he have blood on him?
- 25 A Yeah, he did.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q He had blood on him.
- 2 A And I started crying and throwing up blood.
- 3 Q All right. What, what time was that?
- 4 A I don't know. I didn't look at the clock. I would
- 5 say it was about 7:30 or 8:00 o'clock. I don't know.
- 6 Q Was it dark?
- 7 A It was dark.
- 8 Q Just got dark?
- 9 A No, it was dark.
- 10 Q Had been dark a while?
- 11 A Uh-huh.
- 12 Q He comes in there. And Nakia's in there and Alberto's
- 13 in there.
- 14 A Oh, that, see you getting me messed up.
- 15 Q No. I'm just trying to get it clear. You tell me.
- 16 A Okay. You asked me first thing, you said when they
- 17 was in there, and I told you the time they was in there.
- 18 It was 6:00 o'clock. It was a little daytime.
- 19 Okay. They was, we was cooking. And Nakia told me to
- 20 sit down and rest, she was wanting to cook. So I said
- 21 okay. So she was cooking. And then Jermany went in there
- 22 in the kitchen with her and everything.
- 23 So me and Alberto left and went in my bedroom. We
- 24 came back in there, so. And I asked Nakia, I said where is
- 25 Jesse. And Jermany still was there. And she said that we

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 don't know. And I asked Jeremy. I said, "Do you know
2 where Jesse?" And he said he supposed to went to that -- I
3 can't think of that man's name -- 'possed to work with.
4 Some kind of junk place. I can't think of his name. I
5 never did, can think of his name. But, anyhow, he had a
6 bunch of dogs. I do know that.

7 Q A bunch of what?

8 A Chows.

9 Q Oh, so they said Jesse had gone with this man.

10 A Huh-uh.

11 Q All right. Keep going.

12 A And then so, so we, it was about 8:00 o'clock. And I
13 went after the beer. I did. And I asked Jeremy or one of
14 them to go down there and see if Juan would give me a beer,
15 because we gave him some beer.

16 So Jermamy went down there and asked him. And he came
17 back up there. He said he didn't want to give me no beers.
18 But I ain't going to say that cuss word because I'm not
19 allowed.

20 Q Well, that's not necessary.

21 A And then the first thing, come another. So first
22 thing I knowed that I say later after that Jesse came in
23 there. And Nakia still was with me.

24 Q All right. Let me, let me stop you there. When
25 Jesse, I mean, Jeremy came back --

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Germany was okay. He didn't.
- 2 Q Just wait a minute. When he came back when he went
3 and asked for the beer --
- 4 A Yeah.
- 5 Q And Juan sent some kind of nasty message back?
- 6 A Yes.
- 7 Q And wouldn't give you any beer.
- 8 A No.
- 9 Q Had anybody given him any money to go get beer
10 earlier?
- 11 A I don't -- no, because I know that Charles took him.
- 12 Q Okay. So he sent some kind of nasty message about it.
- 13 A Yeah.
- 14 Q And then what? And Jeremy came back and told you
15 that.
- 16 A Yeah.
- 17 Q And he was fine.
- 18 A Uh-huh.
- 19 Q Okay. Jeremy didn't have any reason to be mad at Juan
20 at that time.
- 21 A Not that time, but he did after when Juan came.
- 22 Q I know. I'm just trying to go in order here. What,
23 what happened after that?
- 24 A So Juan came back up there and knocked on my door, and
25 we let him in.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q And who was there then?
- 2 A Jermany, Jesse, Nakia and my boyfriend. And Juan
- 3 wanted Nakia to go with him.
- 4 Q Did Juan speak English?
- 5 A A little bit, yeah. Juan speak English.
- 6 Q And so what did, what did he do about Nakia? What did
- 7 he say? You were there, weren't you?
- 8 A I can't, I can't hear it way over yonder, what they
- 9 said, because I was in the kitchen cooking for me and
- 10 Alberto. I couldn't hear him.
- 11 Q You said Juan wanted Nakia to go with him.
- 12 A Yeah.
- 13 Q What did he say?
- 14 A I don't remember what he said.
- 15 Q Well, how do you know he wanted Nakia to go with him?
- 16 A Because he said, Nakia, come on.
- 17 Q And what happened?
- 18 A And Jermany said you ain't, he ain't going without me,
- 19 she ain't going without me, just like that.
- 20 Q Okay. So.
- 21 A And then my son just, I don't know, just flew up.
- 22 Q Jesse. So he was there too.
- 23 A He came.
- 24 Q All right. So now Juan has tried to go with you, and
- 25 now he comes in there and tries to go with Nakia.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Yeah.
- 2 Q And he's drunk.
- 3 A Yeah.
- 4 Q How big is Juan?
- 5 A Huh?
- 6 Q How big is he?
- 7 A He ain't that big.
- 8 Q About like this?
- 9 A He's that much taller than me.
- 10 Q So he comes in there. And he asked Nakia to go with
- 11 him. And Jeremy says, no, that's not happening. So then
- 12 what? And you said Jesse got mad about something.
- 13 A I don't know if Nakia said no or not, because I was
- 14 paying attention to my food, what I cooked.
- 15 Q Well, did she leave?
- 16 A I think all of them left except me and Alberto.
- 17 Q Okay. You don't know who left first or who left
- 18 together, or did they all leave at the same time?
- 19 A Juan left first. I do know that.
- 20 Q Okay. That's when you say he was walking to go get
- 21 beer.
- 22 A I don't know.
- 23 Q Well, you put in there that Juan got picked up by
- 24 Charles Scruggs to go get beer.
- 25 A Yeah, yeah.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q Where is that then?
- 2 A I guess that's it, when he went and got the beer.
- 3 Q Right after he left your house.
- 4 A Yeah.
- 5 Q Okay. And then the other three disappeared.
- 6 A Yeah.
- 7 Q And you said before they left, you said Jesse got mad
- 8 or went wild about something.
- 9 A Yeah, he did.
- 10 Q What was that about?
- 11 A Because my son used to date Nakia.
- 12 Q Jesse did.
- 13 A Yeah.
- 14 Q He used to go with Nakia.
- 15 A Yeah.
- 16 Q And he got mad.
- 17 A Yeah.
- 18 Q At?
- 19 A He still didn't get over with it. I mean, he, he --
- 20 Q He still loved Nakia.
- 21 A Yeah, he did.
- 22 Q Okay. And so when Juan asked Nakia to come and go
- 23 with him that made --
- 24 A Jesse and Jermany mad.
- 25 Q -- Jesse and Jeremy made. And Alberto's mad because

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 he's asking you.
- 2 A Well, Albert got over that because that was a little
3 messed up.
- 4 Q All right. But in a short period of time there all
5 three of them got mad at him for hitting on, on the only
6 two women around there that I've heard about.
- 7 A Yeah. They was. They was the only two women.
- 8 Q And he was drunk.
- 9 A Yeah.
- 10 Q All right. And then they all leave.
- 11 A Later on Jesse.
- 12 Q Apparently Juan goes to get beer. And then what?
- 13 A Then that's when I took, send Jesse down there to get
14 me some beer.
- 15 Q After he got back.
- 16 A Yeah. And Jermany. I told Jermany to go with him,
17 and he did.
- 18 Q Okay. And so the two of them went down there. And
19 then they came back and brought that. He sent a nasty
20 massage back.
- 21 A Yes, and then --
- 22 Q Basically he wasn't going to give you any beer.
- 23 A That's the truth.
- 24 Q Did he say anything about killing anybody?
- 25 A Well, Jermany and Jesse said that he "F" your mother

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 or something like that. I mean, I can't say the word. I
2 mean, I can't.

3 Q I don't want you to. But, I mean, I am just --

4 A But he was cussing, calling me names that, pretty
5 names that, a person shouldn't be calling a woman. And it
6 made Jermany and Jesse mad.

7 Q Anything happen to make him mad like that?

8 A And then that's when Jesse told me that he beat him
9 up, yes, sir.

10 Q All right. So you send Jesse and Jeremy down there to
11 get you a beer.

12 A Uh-uh.

13 Q Juan starts cussing --

14 A Uh-huh.

15 Q -- at you. Or they tell you that.

16 A Uh-huh.

17 Q And so they say they beat him up?

18 A Jesse come out and said that he did beat him up. He
19 beat him up because of what he said about me.

20 Q Okay. And when they came back, is that when you --

21 A That's when Jesse had blood on him.

22 Q And about what time was that?

23 A It was about 8:00 or 8:30 or something like that. I
24 don't know. I didn't keep up the time. I didn't have no
25 clock. I didn't. I just know it was dark.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q Okay. So Jesse comes in. What was Jesse wearing?
- 2 A I can't remember what Jesse was wearing.
- 3 Q What did you see the blood on?
- 4 A He had a tore, a tore-off shirt, I know, tore-off
5 shirt.
- 6 Q Okay. A T-shirt?
- 7 A I guess, but it was tore-off shirt because he --
- 8 Q And you say he had blood on him.
- 9 A He had blood.
- 10 Q What was the blood on, the T-shirt?
- 11 A On his face and on his shirt, and that's, oh God,
12 that's when I went down on my knees and that's when he
13 showed me the boots. And I said get 'em out of here, get
14 'em out of here now, you get out of my house. Nakia got
15 him out of there.
- 16 Q So she was still there.
- 17 A Uh-huh. So she got him out of there.
- 18 Q So he comes in, Jesse comes in, by himself with the
19 boots that you recognize from Juan's, and had blood on him,
20 on his clothes.
- 21 A And then later on Jermany come back and had blood on
22 him.
- 23 Q How much later?
- 24 A Let's see. Let me tell you. It was about, I say
25 about, I don't want to be wrong with it. About 15 or 20

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 minutes. That's when I seen Jermany had blood all over
2 him.
- 3 Q Okay.
- 4 A And that's when I go, God, I just don't know.
- 5 Q Well, did you do that when Jesse came in with blood on
6 him and you went to pieces, or did you wait?
- 7 A I went to pieces on both of them when I seen blood.
- 8 Q Okay. So you went to pieces when Jesse come in.
- 9 A I mean, I was spitting up blood of my own.
- 10 Q When Jesse came back with blood on him --
- 11 A Yeah.
- 12 Q -- you went to pieces.
- 13 A Yeah.
- 14 Q Why?
- 15 A I thought he got hurt.
- 16 Q Who? Jesse?
- 17 A Yes.
- 18 Q Well, did he look hurt?
- 19 A I mean, I don't know.
- 20 Q Well, you had to have some reason to start getting so
21 upset.
- 22 A I don't like blood.
- 23 Q Okay. You ever seen -- you do that every time you see
24 blood?
- 25 A Uh-huh.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q You go to pieces.
- 2 A Especially that much blood.
- 3 Q And start spitting up blood.
- 4 A Yeah.
- 5 Q When have you seen that kind of blood before?
- 6 A When I miscarried my little girl.
- 7 Q Any other times?
- 8 A Yes, my aunt. She killed herself, and she had blood
- 9 all over her.
- 10 Q What about Jesse? I mean, hadn't he beat you up or
- 11 beat Alberto up or something like that?
- 12 A Huh?
- 13 Q Jesse, your son, hadn't he had blood on him before?
- 14 Is that the first time you ever saw any blood?
- 15 A That's the first time I seen that much blood on Jesse
- 16 or Jermany.
- 17 Q And, and he, he came in with blood on him. And he had
- 18 these boots. Did he just sit down and stay there, or what?
- 19 A No, he didn't.
- 20 Q What did he do?
- 21 A Nakia got him out of there.
- 22 Q Okay. And then after that --
- 23 A Jermany came.
- 24 Q By himself?
- 25 A By hisself.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q With blood on him.
- 2 A Yeah.
- 3 Q What was he wearing?
- 4 A Overalls, them snap overalls.
- 5 Q Did he have a shirt on?
- 6 A No shirt.
- 7 Q Were they shorts, long pants or what?
- 8 A No. They was long pants, work pants.
- 9 Q Color of them? Were they blue or brown or --
- 10 A Brown, I think, beige.
- 11 Q All right. So he comes in your house after Jeremy is
- 12 gone. Did Jeremy take the boots with him? I mean, Jesse.
- 13 A No. Jesse. Yeah. I made him.
- 14 Q Okay. You run him off. And then here comes Jeremy
- 15 just ditty-bopping in your house with blood all over him.
- 16 What did he want?
- 17 A To see if I was okay or something. And he said that
- 18 that's when he -- he. And I asked him, I said, why you
- 19 like that. He said, well, he said that he was going to, he
- 20 was going to kill you and burn you down and stuff like
- 21 that. And I said --
- 22 Q Speaking about Juan.
- 23 A Yeah. And I said, Jeremy, that don't give you no
- 24 reason to beat that poor old guy up like that.
- 25 Q Did he say he beat up Juan?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Well, you could tell he did. Anybody. I even told my
2 son that.
- 3 Q Well, how do know it was Juan's blood?
- 4 A I just know it was.
- 5 Q You didn't see it.
- 6 A Huh?
- 7 Q You didn't see it.
- 8 A No, I didn't. Only thing I saw is that when Jermamy
9 come do my winder and told me to turn the lights out maybe
10 the --
- 11 Q That, that was after he came in with the blood, isn't
12 that right?
- 13 A The what?
- 14 Q You said you ran Jesse, and Nakia got him out of
15 there. Twenty minutes later Jeremy comes in with blood on
16 him to see if you're all right. Isn't that what you said?
17 Is that right? I'm trying to understand what you're
18 saying.
- 19 A Jesse brought the boots up there wanting to keep the
20 boots. And I told him no. And then he had blood. That's
21 when I went in sketer (sic). But Jermamy later on went up
22 there. And then before the fire happened that's what
23 happened. That's before the fire happened. Do you
24 understand?
- 25 Q Well, when is the part about Jesse breaking your

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 window? Where does that fit in?

2 A Jesse didn't. Jermany did.

3 Q Well, okay. When did that come in?

4 A That's when the fire started.

5 Q All right. So.

6 A Was blowed up.

7 Q Okay. I'm just, okay. So your son, you run him off
8 with the boots and the blood. About 20 minutes later

9 Jeremy comes in there.

10 A Yeah.

11 Q He's got blood on him.

12 A Yeah.

13 Q Just to see if you are okay.

14 A No.

15 Q Why did he come in there?

16 A He came up there and told me that everything's going
17 to be all right. He said he was asking, he was telling you
18 he was going to jump on you, I mean, he was going to kill
19 you and this and that and the other. And then, and I said,
20 well, that ain't a reason for you to do that. And that's
21 when Jermany said that he was going to kill me and hurt me
22 if I say anything.

23 Q About what?

24 A About that blood on them and stuff.

25 Q All right.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Now, that's the reason.
- 2 Q So they go.
- 3 A So he was threatening my life. Jermany was.
- 4 Q They, they go down to Juan's to get some beer, return
- 5 the favor. He sends back a message. But while they're
- 6 down there they both beat him up. And then your son comes
- 7 in with boots and blood. You run him off. Twenty minutes
- 8 later Jeremy comes in there with blood on him. And I guess
- 9 he came in the door that time. And then what happens?
- 10 Where did he go?
- 11 A I made him leave --
- 12 Q Okay. But he had just beat up somebody trying --
- 13 A -- because he had blood on him --
- 14 Q -- to defend you or because he cussed you for not
- 15 giving -- wouldn't give you any beer. And they beat him up
- 16 for that?
- 17 A I didn't ask them to go down there and do that, to
- 18 beat the poor old guy up.
- 19 Q Well, where was Alberto when all of this was going on?
- 20 A He was asleep.
- 21 Q He had already got over his mad spell?
- 22 A Yeah.
- 23 Q All right. Then Jeremy leaves, is that right?
- 24 A Yeah, he left.
- 25 Q Have you got any idea what time that is after you've

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 seen the blood on both of them and both of them leave?

2 A No, I don't know what time, but I know what time that,
3 I say about 40 minutes later he come to my window because
4 me and Alberto were in the bed. And then my light was on
5 because I was trying to turn the T. V. on. And that's when
6 the power kicked off. And he come, Jeremy come, and knock
7 on the winder. And he, and he knocked it so hard it, it
8 broke. And Jermamy said turn the, he said turn the lights
9 out or don't turn the lights on because it's going to be
10 the, not the ambulance but the fire truck coming out.

11 Q The only lights on were in here in your bedroom?

12 A That's only -- no, they wasn't no lights on in there
13 because the power went out when -- after, after he told me.
14 And then it went out.

15 Q Jeremy comes up there.

16 A They was on when he come up there.

17 Q Busts your window and you said --

18 A He didn't bust. He just pecked on it so hard it
19 broke.

20 Q All right. And --

21 A And told me to turn the lights out.

22 Q And this was about 20 or 30 or 40 minutes after he had
23 left with blood on him.

24 A Yeah.

25 Q And he came back. And you and Alberto were getting

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 ready to go to bed. You said you had all the lights out
2 except in the bedroom.
- 3 A Yeah, except the bedroom.
- 4 Q And he knocked on your window so hard -- well, where
5 is the window that he knocked out? Was it on this side or
6 this side? This side?
- 7 A Up here.
- 8 Q This one?
- 9 A No. Over here, right there. There you go. Right
10 spot.
- 11 Q All right. He knocked the window out. Did he come
12 climbing in the window?
- 13 A No. You can't because it's little.
- 14 Q So he just talked to you through the window.
- 15 A Yeah.
- 16 Q The broken window.
- 17 A Yeah.
- 18 Q And he wanted you to turn the light out.
- 19 A Yeah.
- 20 Q Why?
- 21 A He said the fire truck coming up there.
- 22 Q Well, what would that have to do with it?
- 23 A He told me to turn it off.
- 24 Q Why?
- 25 A I don't know why he said that.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 Q Well, did you ask him?

2 A No, because that's when the power went out because
3 I --

4 Q So while he was there talking to you and he told you
5 to turn the light out, all of the power went out.

6 A Yeah.

7 Q Well, I can't understand why he would want you to turn
8 your light out if you didn't have anything to do with Juan
9 or him getting beat up or anything.

10 MR. MORIN: I'm going to object. He's asking her to
11 speculate now.

12 MR. WEATHERFORD: Okay. All right.

13 THE COURT: She said she didn't know why. So, I mean,
14 that ought to be the end of that.

15 Q All right. After, was Jeremy standing there talking
16 to you through the window when --

17 A Yes.

18 Q -- when the power went off?

19 A No.

20 MR. MORIN: Objection. He asked and asked that
21 question. It has been answered.

22 THE COURT: Sustained.

23 Q After he talked with you in the window, what's the
24 next thing you remember?

25 A When he talked to me through the winder and told me to

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 turn the lights out because the fire truck coming out.
2 there, that's when I seen him walk around through where I
3 seen the fire. And I don't know what happened, but I know
4 he did. And that's when the power went click.
- 5 Q Well, what did you see him do after he left the
6 window?
- 7 A He walked around my trailer.
- 8 Q Which direction?
- 9 A About where my winders is.
- 10 Q Okay. He walked around.
- 11 A And the power is over here.
- 12 Q He walked around here.
- 13 A Down further. Not that. About there.
- 14 Q In here?
- 15 A Okay. Go on. Okay. The power, on down.
- 16 Q You said --
- 17 A No. Not that far.
- 18 Q Over here.
- 19 A On up a little bit more. Right there. That's where
20 the, where you kick the power off.
- 21 Q Oh, you're saying Jeremy went and knocked your power
22 off?
- 23 A I know he did, yeah.
- 24 Q Okay. He talked to you through the window and went
25 around here and then cut the power off?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Yeah.
- 2 Q Okay. And then what did you see?
- 3 A And then when the power went off, then I, I didn't see
- 4 nothing. But the only thing I seen, the curtain fell. I
- 5 seen some little flames, me and Alberto.
- 6 Q The curtain on your window.
- 7 A Yeah, the curtain fell itself. Nobody didn't touch
- 8 the curtain.
- 9 Q The curtain that you were looking out of.
- 10 A It fell down itself.
- 11 Q Right here on this window?
- 12 A On both of them.
- 13 Q Both of them.
- 14 A Yeah, because I had a long quilt.
- 15 Q All right. And it just fell down.
- 16 A Yeah.
- 17 Q And then when it did you happened to see what?
- 18 A A little flame.
- 19 Q You saw a little --
- 20 A A little flame up here in his, on over here where the
- 21 tank is. I can show you on that picture there. Okay.
- 22 There's the tank, and right here where that tree is, that
- 23 right there where he had a window. And that's where I seen
- 24 a little flame in there. And then when I seen that flame
- 25 I, and then I, I went scetle (sic) and I said, oh, dear .

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 God, he's going to burn it down.
- 2 And then all at once I know abouts, I don't know if he
- 3 come out that way or whatever, but at the front back, front
- 4 door or whatever, but he came out here. And, and then I
- 5 seen him throw that in there. And when he did it blowed.
- 6 Q What did you see him throw?
- 7 A I don't know what that man throwed because I --
- 8 Q Some kind of flame?
- 9 A No. He had a flame on the end of it. It had fire on
- 10 the end of it. But it looked like a jug to me. And he
- 11 throwed it in there.
- 12 Q Threw it in the kitchen window?
- 13 A Yeah.
- 14 Q All right. Where is, was it on, on this end?
- 15 A That's it.
- 16 Q Or over here?
- 17 A No. Right there, the kitchen.
- 18 Q On the end. He threw something in here. Is that
- 19 about right?
- 20 A No. In the middle where the --
- 21 Q Or in the middle.
- 22 A Right there.
- 23 Q Okay. Right there. Is that right?
- 24 A That's right.
- 25 Q He threw something that looked like a flame in the

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 window.

2 A Yeah. And then it blowed.

3 Q All right. And that's --

4 A But he got back enough. And I seen my son was over
5 here in the, in the coroner because I didn't see him went
6 in there. He didn't went in there, but he was over here in
7 the corner. I know my son.

8 Q All right. Where was, where was your son?

9 A Over here.

10 Q Over here?

11 A Through the woods, yeah.

12 Q How did you see him over there in the woods? Was it
13 before or after the fire started?

14 A When the, after the fire done burn him up. And that's
15 when my boyfriend had his cell phone, and his cell phone,
16 and he didn't have no minutes on his cell phone. He was
17 going to call 9-1-1. My phone, I couldn't call the house
18 phone because it was, it wasn't working, the house phone.

19 Q So you saw Jesse come, I mean Jeremy come, over here
20 and throw something, a flame, in the window.

21 A Yeah. I seen Jermany throw.

22 Q And the fire started.

23 A Yeah.

24 Q And your son's over here in the woods somewhere.

25 A He was in there somewhere, yeah.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q So there's no light out there except for the fire.
- 2 A You could see him when you see that fire.
- 3 Q All right. But how did you know that was Jeremy if
- 4 all he had was a little --
- 5 A Because he got, got them overalls and big work boots.
- 6 That's how I know.
- 7 Q All right. And then flames flamed up. And somebody
- 8 apparently called the fire trucks, because the fire trucks
- 9 came, didn't they?
- 10 A Yeah. They was several of them out there.
- 11 Q A bunch of fire trucks.
- 12 A Yeah. Ambulance and news reporters.
- 13 Q When did Jeremy come back and tell you he would kill
- 14 you if you told anybody? Was that when he broke the
- 15 window, or did he come back again after this fire started?
- 16 A No. When he came he said some -- okay. He came back.
- 17 When he came back and told me, he told me it was on the
- 18 20 -- I mean the 31st. The 31st he told me.
- 19 Q After the fire.
- 20 A Uh-huh.
- 21 Q He come to your house.
- 22 A Yeah.
- 23 Q By himself or did Jesse come?
- 24 A Because on the 1st when I got my, my, my check on the
- 25 1st when I got my check, and it happened before then. It

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 was that night. And then when I got my check and had my
2 check cashed, I went and paid my bills. And when I come
3 home, that's when Jermany come in my bedroom. Alberto had
4 to go home, and he had to go to work. So he left to his
5 house to go to work. So Jermany and another little guy
6 came in there in my bedroom, now.
- 7 Q Which guy?
- 8 A I don't know his name.
- 9 Q Never seen him?
- 10 A I ain't, I ain't going to say I ain't never seen him.
- 11 Q Well, have you or not?
- 12 A Yeah, I have seen him before.
- 13 Q And where?
- 14 A They came in my bedroom and --
- 15 Q Jeremy and some other guy.
- 16 A Yeah.
- 17 Q What did he look like?
- 18 A I don't know what he looked like. I don't remember
19 what he looked like.
- 20 Q Jeremy and some guy you can't even remember what he
21 looks like came in your bedroom.
- 22 A Yeah.
- 23 Q How did they get in there? Did they break in?
- 24 A No. My door always stay open.
- 25 Q All right. Was it daylight or dark this time?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A It was dark, because I got paid on the 1st.
2 Q So your door always stays open.
3 A Just about. If Alberto's there, it ain't. It's
4 locked.
5 Q Was it open the night he broke the window, the night
6 before?
7 A No. It was locked.
8 Q Why?
9 A Because my boyfriend was there.
10 Q Oh, because Alberto was there you locked the door.
11 When he's gone, you don't.
12 A That's right.
13 Q All right. So Jeremy just walks in your bedroom the
14 next night with somebody else that you can't identify.
15 A Yeah. That's right.
16 Q And threatens to kill you.
17 A Well, no. At first, now, he, Jeremy, wanted sex or
18 something. And I told him no.
19 Q From you?
20 A Yeah.
21 Q And this other guy is standing there listening?
22 A Well, that other guy, but I got hurt that day and my
23 stuff got stolen. And I have done took a sleeping pill.
24 I'm not going to lie about this situation. I'm not no
25 liar. I took a sleeping pill. And I have been drinking.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 And then I was knocked out. I can't hardly remember. But
2 I do remember that you went, Jeremy said you went, and told
3 everybody this and that and the other getting back to him
4 that he killed that Mexican. That's what he said. He said
5 you went and done that. And I ain't mentioned nothing.
6 And then I said what do you want. And he kept on. And
7 while Jermany was sitting there talking to me, my stuff got
8 gone by that boy. Okay.

9 Q What stuff?

10 A My credit card, my I. D., my bank card that I had my
11 bank, and my food stamp card. And I went the next day and
12 called papa that morning and have everything cut off of my
13 bank card and everything, credit card and all, and food
14 stamp.

15 Q So you went and got your check and had everything cut
16 off.

17 A Yeah. They stole my I. D. card too. No. They didn't
18 steal nothing out of there because they didn't know the
19 number or recognize it or nothing because I had it cut off
20 that morning. And I got proof from the bank that they --

21 Q You do? Where is it?

22 A Yeah. Where is it?

23 Q Uh-huh.

24 A It's at the bank place. That's where I leave my
25 stuff, Bank of America.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q You said you had proof from the bank.
- 2 A Yeah, that they had my stuff. They had my I. D. card.
- 3 They had my bank card where I can get my money. I had
- 4 savings. You know, a bank card.
- 5 Q You just said you had proof you had that stuff
- 6 canceled.
- 7 A Yeah. I got proof it got canceled because --
- 8 Q Where is it?
- 9 A Huh?
- 10 Q Where is the proof?
- 11 A You -- I don't remember. It's a year and a half ago.
- 12 I can't remember.
- 13 Q All right. Let me get back to the night of the fire.
- 14 Do you remember when the fire trucks came down there?
- 15 A Yeah.
- 16 Q Were there policeman around down there?
- 17 A Yeah.
- 18 Q Did you go down there and tell --
- 19 A No. The police come up there.
- 20 Q Came up and talked to you?
- 21 A Yeah.
- 22 Q Did you tell them that you --
- 23 A I was scared. I was scared for my life.
- 24 Q Did you tell them? That, this is the night of the
- 25 fire before you got threatened my Jesse -- Jeremy.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Yeah.
- 2 Q Did you tell the police or when they came up and
3 talked to you that you knew who beat up Juan --
- 4 A No, I didn't.
- 5 Q -- that they had come in there with blood all over
6 them?
- 7 A No. I didn't tell them.
- 8 Q Why not?
- 9 A I was scared of my life.
- 10 Q Why?
- 11 A I was scared. I seen that, I seen him got killed and
12 at his own trailer.
- 13 Q And that meant that --
- 14 A They went crazy because they was all on drugs to start
15 with, because I know.
- 16 Q Does that mean that you shouldn't tell the police that
17 you knew?
- 18 A I was scared, but I did went later.
- 19 Q You were scared, but nobody had threatened you at that
20 time.
- 21 A I was having nightmares.
- 22 MR. MORIN: I believe she's answered that question,
23 Your Honor.
- 24 MR. WEATHERFORD: I don't think she's answered it.
- 25 THE COURT: Overruled. Ask it again.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q All right. What I asked you was you were scared. But
2 at that time nobody had threatened you, is that right?
- 3 A When he came to my window.
- 4 Q No, no. When the police officer came up there when
5 the fire was going or being put out, he came up there. Who
6 came, or do you know who it was?
- 7 A A policeman.
- 8 Q Okay. And what did he say?
- 9 A He said, ma'am, do you know who did this or -- I
10 said -- I was scared and shaking, and I said no.
- 11 Q Okay.
- 12 A Because I said that because what he said to me to my
13 window, Jeremy did.
- 14 Q Turn out the light?
- 15 A Because I was scared.
- 16 Q I thought all you said he told from you the window was
17 turn the light out.
- 18 A Yeah. But that meant for something, and the ambulance
19 coming. And when I seen the fire I couldn't do it. I
20 couldn't. When I seen that fire I was scared.
- 21 Q Okay. So you didn't. When the police asked you if
22 you knew what happened, you told them no.
- 23 A I told them no. I'm going to be honest.
- 24 Q All right. And then did you tell them the next day?
- 25 A No.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 Q All right. The next day was when you -- Jeremy came
2 in there and threatened you, right?

3 A Yeah.

4 Q And he had that guy with him that took your stuff.

5 A Yeah. That was that night.

6 Q Okay.

7 A When I went to the bank.

8 Q That was on the 31st.

9 A That was on the 1st. That was on the 1st.

10 Q All right. Did you call the police after they left
11 and tell them that somebody had threatened you?

12 A Yes, I did.

13 Q Who did you call?

14 A I called the Gaffney police.

15 Q And what happened after you called them?

16 A I told them my stuff got stolen.

17 Q And what, what phone did you call from?

18 A My house phone. It was working then.

19 Q What's that number?

20 A My house phone number was 463 -- I can't remember that
21 phone number.

22 Q Your own phone number?

23 A Not there. I know my phone number now.

24 Q You don't know what your phone number was then?

25 A I can't live there no more.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q You don't remember what your phone number was then?
- 2 A No.
- 3 Q Was the phone in your name?
- 4 A Yeah.
- 5 Q And you called the police on the day you got your
- 6 check, the 1st --
- 7 A On the 1st, yes.
- 8 Q -- and told them somebody had --
- 9 A No. On the 2nd when I called the police, on the 2nd.
- 10 Q And told them somebody had taken your stuff.
- 11 A Yeah.
- 12 Q Did you tell them anything about who started the fire?
- 13 A No. I waited until I kept having nightmares and went
- 14 and seen my psychiatrist doctor. That's when he told me I
- 15 needed to report it in, because I'm scared. My
- 16 grandbabies. I got three grandbabies now.
- 17 Q All right. You weren't scared to call the police and
- 18 tell them that this guy took your stuff, him and Jeremy
- 19 came in there and took your stuff.
- 20 A Yeah. I told them.
- 21 Q You told them that.
- 22 A Yeah.
- 23 Q But you didn't tell them Jeremy threatened you..
- 24 A I didn't tell them that, who done it.
- 25 Q And you didn't tell them that Jeremy and Jesse had

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 blood on them --

2 A I just said they came.

3 Q -- or had the boots.

4 A Uh-uh.

5 Q Didn't tell them anything about it.

6 A Not then, no, not then.

7 Q Why not?

8 A I was scared after Jermamy and the other guy stole my
9 stuff, stole my everything I had.

10 Q Well, if you weren't scared to call them and tell them
11 these people stole --

12 MR. MORIN: He's asked this question and she's
13 answered it, Your Honor.

14 Q Why didn't you tell them? Why weren't you, why were
15 you scared to tell them about who did the fire if you
16 weren't scared to tell them who stole your stuff?

17 A I was scared it's going to happen to me that they
18 can't catch them because I don't know where they was.
19 That's why.

20 Q All right. So you didn't tell the police anything
21 about this fire or this blood or these boots or your son
22 and Jeremy, anything, or seeing the flame or any of that
23 until when?

24 A When my son said I needed to do something.

25 Q Which son?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A My oldest one, 27 years old.
- 2 Q So you told him.
- 3 A Yes, I did. I told him.
- 4 Q When did you tell him?
- 5 A I told him on the 3rd.
- 6 Q And what, where does he live now?
- 7 A That was on Jesse's birthday.
- 8 Q Where does he live now?
- 9 A And he came and got me, and Jermamy was there.
- 10 Q Where does he live now?
- 11 A Who?
- 12 Q The son that you told about this fire.
- 13 A I live with him.
- 14 Q Now.
- 15 A Yeah. I got the address on my --
- 16 Q Right after the fire you moved away?
- 17 A Yes.
- 18 Q Why?
- 19 A I was scared. My son come and got me. He didn't want
- 20 me to be there.
- 21 Q Your oldest son. Well, he just lives about a mile
- 22 down the road, doesn't he?
- 23 A Yeah.
- 24 Q Okay. And Alberto left.
- 25 A Yeah.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 Q Where did he go?
- 2 A He went back to Lyman. I was still seeing Alberto
- 3 then.
- 4 Q You're not seeing him now?
- 5 A No, I'm not seeing him now because my son don't want
- 6 me to.
- 7 Q Now, you've got two sons. It would be good if you
- 8 would use their names when you --
- 9 A Darren Lee, the one I'm staying with, Darren Lee.
- 10 Q All right. So you told him on the 3rd.
- 11 A Yes.
- 12 Q Where were you when you told him?
- 13 A I was at his house.
- 14 Q Has he got a telephone?
- 15 A He's got a phone. I don't know --
- 16 Q Did he say, mama, call the police and tell them now?
- 17 A No. He came and got me on the 3rd because he seen
- 18 what happened.
- 19 Q Did you, did you call the police when you told him?
- 20 A Right then?
- 21 Q Yeah.
- 22 A It took me three days.
- 23 Q Well, what happened in three days to keep you from
- 24 being scared that wasn't in existence the night of the fire
- 25 or the night after the fire or the next day? What happened

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 during that whole week?
- 2 A I went to the mental health and they put me in the
3 hospital for at least about two days because I was -- and
4 then my son told them what happened, because I told my son
5 and some lady friends.
- 6 Q Where did you go to the hospital?
- 7 A Spartanburg.
- 8 Q Spartanburg Regional?
- 9 A Uh-huh, mental health.
- 10 Q Do you know what day you went in there?
- 11 A No, sir.
- 12 Q So you went to the Spartanburg Regional Mental Health
13 because you were afraid to tell the police about what you
14 said you saw?
- 15 A Yes, they, yes.
- 16 Q Did they suggest you call the police?
- 17 A Afterwards, yes, after I got home, yes.
- 18 Q You were pretty safe in that hospital, weren't you?
19 Nobody is going to come in there and get you, were they?
- 20 A Yes. I know.
- 21 Q Why didn't you call the police then?
- 22 A I went home and do it.
- 23 Q Well, you were in the hospital, you just said, for two
24 days.
- 25 A Yeah.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 Q While you were in the hospital --

2 A Because I was having a nervous breakdown.

3 Q While you were in the hospital why didn't you call the
4 police?

5 A I don't know how to call the police. I can't read and
6 write.

7 Q You can call 9-1-1, can't you?

8 A How am I going to call 9-1-1 in the hospital and they
9 won't let you use the phone?

10 Q Well, did you tell your hospital workers what was
11 bothering you?

12 A I told my doctor. And my doctor said as soon as I get
13 home the only way I'm going to get my life strengthened and
14 me getting off of the beer and other things, the liquor.

15 Q Were you in, were you in the doctor's office when you
16 told him that?

17 A Yeah. I told him everything.

18 Q Who was your doctor?

19 A It was Dr. Smith.

20 Q Where is his office?

21 A Spartanburg.

22 Q Do you know the address?

23 A Mental health.

24 Q All right. And he put you in the hospital.

25 A He put me in there for two or three days.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 Q And he didn't tell you to call the police and tell
2 them about this?

3 A No, not really he didn't because he knowed that I was
4 afraid for my life. He's trying to help me.

5 Q And then you went to the hospital. Did you tell
6 anybody in the hospital what had happened?

7 A Only body I talked to was my doctor and my son.

8 Q What did they do to you while you were in the
9 hospital?

10 A They had to actually lay me down.

11 Q For two days you laid there and didn't tell anybody
12 what was wrong with you?

13 A Until I talked to the doctor, yes, sir.

14 Q You told him that before you went in, right?

15 A And I talked to him that --

16 Q While you were in there?

17 A Yeah.

18 Q Did you tell him again?

19 A Yeah.

20 Q He still didn't tell you to call the police?

21 A He said as soon as I get home. And he told my son
22 that too, because he knows I, I needed help because I was
23 scared to get outside because they was free. Even my own
24 son was free, because he helped. And I was afraid.

25 Q Did you ever tell your son that you saw him setting

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 the fire?

2 A I told my son everything, sir.

3 Q Did you ever tell your son Jesse that you saw him --

4 A Yes, I did.

5 Q -- setting the fire?

6 A Yes, I did.

7 Q Well, I thought you just told us you saw Jeremy set
8 the fire.

9 A Oh, no. See, I told Jesse that he was with him. And
10 I saw Jesse have blood, and he helped kill him. That's
11 what I told Jesse. He helped kill him. That's what I
12 mean. He helped kill him.

13 Q Did Jesse come to you after the fire and tell you he
14 didn't have anything to do with it and then you told him,
15 yeah, you did, I saw you, and then he started crying and
16 admitted everything?

17 A Yes, sir.

18 Q And then Jesse told you that if you told anybody he'd
19 kill you.

20 A Yeah, he did. He was on drugs bad. Every day was.

21 Q Well, who did you see setting the fire, Jeremy or
22 Jesse?

23 A I didn't see -- I seen him when he, Jermamy, threwed
24 that can or that plastic in that window. I saw Jermamy
25 done that. I didn't see Jesse done anything but just he

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 helped, because he had blood. That's when I figured he
2 helped.

3 Q Do you remember when you went down to the police
4 station and made this statement?

5 A Yes, I remember it. That's when I was getting off of
6 my beer and liquor and all.

7 Q All right. And you went down there on September the
8 6th, is that right?

9 A Uh-huh.

10 Q And that was a week after the fire.

11 A Uh-huh.

12 Q And you went down there and talked to some detective
13 or something?

14 A Yes.

15 Q And they, they wrote, sat down and wrote, what you
16 told them, is that right?

17 A Yes. But that's when I was still, was, you know, I
18 was on the beer and on my medication.

19 Q So you were drunk.

20 A But now I'm not.

21 Q So you were drunk when you made this statement?

22 A No, I wasn't drunk. I was getting off of it. Anybody
23 got common sense, if they alcoholic and drink much as I
24 drink, it's going to take them at least three or four weeks
25 to get off of it so to get your mind straight.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 Q I'm not talking about that. I'm talking about this
2 statement here when you went down there. How did you get
3 down there? You said your son, your other son, took you.

4 A My son Darren Lee.

5 Q Okay.

6 A Darren Lee took me.

7 Q And you said you couldn't read and write.

8 A No. I sure can't.

9 Q All right. After you made this statement to the
10 police did they write it down and read it back to you or
11 something?

12 A Yes, sir, I think they did, yes, sir.

13 Q Okay. And do you remember telling them that --

14 A I can't read and write.

15 Q I know. Okay.

16 A And I also told them that my son got mental problems
17 and he is mental. He had --

18 Q But do you remember, do you remember telling him,
19 telling your son Jesse, when he told you he didn't set the
20 fire, you said that's not right, I saw you set the fire?
21 And then you said he started crying and admitted
22 everything. Do you remember telling him that?

23 A But I don't -- they must have got that messed up or,
24 or they turned that around. What I mean, I told Jesse I
25 saw him helped. He helped Jermain set the fire. That's

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 what I mean.

2 MR. WEATHERFORD: Just for the record, I would like to
3 mark this for identification.

4 (Statement of Hazel Willis marked Defendant's Exhibit
5 No. 3 for Identification.)

6 Q Can you read this or not?

7 A No, I can't read.

8 Q Okay. That's all I wanted.

9 A I can't read a thing.

10 Q So it wouldn't do you any good to show you that.

11 A That's right. It wouldn't do no good.

12 Q Okay. And you say if it said that you told, that
13 Jeremy told you that you told Jeremy, Jesse, that you saw
14 him throw something in the fire, start the fire --

15 A I didn't --

16 Q You say they got that, that would be wrong.

17 A That's wrong. It was Jermany.

18 Q Okay. Not your son, Jesse.

19 A And I told Jesse I saw him help, because Jesse was
20 standing. And Jesse have blood, what I mean. He had to
21 help him. That's what I mean.

22 Q But how did he help start the fires?

23 A Because he was standing. I seen him standing over
24 there. I know my son.

25 Q Well, just standing there doesn't mean he did anything

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 wrong, does it?

2 A I mean, I don't know if he was in there before I saw
3 him coming out, or I didn't even see him coming out. I
4 just saw him walking around there and then throw it.

5 Q Jesse your son, or Jeremy?

6 A No. Jermany.

7 Q All right.

8 MR. WEATHERFORD: Let me get this marked for
9 identification.

10 MR. MORIN: Your Honor, if he's going to ask her
11 anything about a photograph I ask that he be required to
12 put it in so we can see what it is.

13 THE COURT: Well, I'll have to see what the question
14 is first.

15 (Photograph marked Defendant's Exhibit No. 4 for
16 Identification.)

17 THE COURT: You don't want to introduce it, Mr.
18 Weatherford? You just want to talk about it?

19 MR. WEATHERFORD: I just want to ask her if she sees
20 her house in this picture. If that's not permissible, I
21 won't do it. But we've got the diagram there. I'm just
22 trying to clarify.

23 THE COURT: Well, what I'm saying is if you're not
24 going to introduce it, what difference does it make if she
25 sees it in there?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 MR. WEATHERFORD: Well, I might introduce it when, if
2 I present the evidence --

3 THE COURT: Do you object to it coming in?

4 MR. MORIN: I don't know. I don't object to him
5 putting it in.

6 THE COURT: Okay.

7 MR. MORIN: I just ask that he put it in if he's going
8 to ask her a question about it.

9 MR. WEATHERFORD: I don't intend to put any evidence
10 in until the state rests.

11 THE COURT: Oh, well. Okay. Well, there's no point
12 in asking her about it.

13 MR. WEATHERFORD: All right. Well.

14 THE COURT: You can recall her if you need to. Let's
15 get through with the cross-examination first.

16 MR. WEATHERFORD: All right.

17 Q Did you ever tell anybody that Eric Powell, Shannon's
18 husband, stole your money and your bank card?

19 A I don't know his name then.

20 Q Well, do you know Shannon?

21 A Yes, I do.

22 Q And does this guy come and go with Shannon?

23 A And I said that's Shannon's husband.

24 Q Okay. And is he the one that you said took your money
25 and your stuff?

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 A No. That's -- he must have did, yes, because that's
2 when he was, yeah.

3 Q Well, are these the people that come and take you and
4 haul you around some, Shannon and Eric?

5 A Sometimes, and I had to pay them.

6 Q And you paid them in Klonopin, didn't you?

7 A No, uh-uh.

8 Q You deny ever paying Sharron -- Eric and Sharron to
9 haul you around and paying them in Klonopin?

10 A That's right. I deny it. But they took my pills that
11 day.

12 Q Okay. They took your Klonopin.

13 A Well, I know Jeremy didn't because he was sitting and
14 talking to me and trying to, you know, but, anyhow, that
15 boy. What's his name?

16 Q Is it Eric, the one that comes with Shannon?

17 A Yeah, Eric. He's the one going through my stuff, and
18 he took my pill bottle and my Klonopins. And he took my,
19 my credit card, my I. D., my food stamp card and my, and my
20 bank card. And I had. And then my, there was another
21 card. It was a P. N. S. card, Bank of America, where I can
22 get in my savings where I can get my money. It was gone.
23 Everything was gone.

24 It was in a little zip-up gray billfold. That's where
25 I kept it, right beside of my bed under my mattress. It

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 was gone, disappeared. And I went all upset, started
2 crying and tore everything just about trying to find it.

3 That's when the next day papa carried me. And I went
4 and had it canceled. And they told me, yes, they tried to
5 use it and tried to think of my number.

6 Q After this fire did you talk to Alberto any about what
7 had happened?

8 A Yes, I did.

9 Q Did you tell him that anybody had threatened you?

10 A Yes, I did.

11 Q Did, did you and he --

12 A He was there when he, he was there with me when Jeremy
13 came to my window like that. And he was there when he said
14 that when my son heard them saying that they, if I say
15 anything I shouldn't say anything, that I be sorry.

16 Q All right. And he didn't go tell anybody.

17 A Who?

18 Q Alberto didn't go tell anybody you had been
19 threatened.

20 A Not, no, but --

21 Q Alberto didn't go tell anybody --

22 A Until.

23 Q -- what had happened, who had burned the house down or
24 that you knew who burned it down and killed Juan.

25 A Uh-uh.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 Q During the week after the fire before you went to the
2 police did you and Alberto talk about this situation?

3 A Uh-uh.

4 Q Did you and Alberto talk about what you were going to
5 put in this statement?

6 A Uh-uh.

7 Q So.

8 A No, sir. I told the police where Alberto lived. I
9 told the police, where his phone number and everything. I
10 told the police that.

11 Q So after the fire you and Alberto cleared out. You
12 left; Alberto left.

13 A I still was seeing him, but we didn't mention nothing
14 about that, because.

15 Q Yeah, but you didn't continue to live there.

16 A No. But I didn't live there. I lived with my son.
17 And Alberto came to see me at my son's house.

18 Q But you were so scared you had to move from a place
19 you had been living for two years.

20 A Yes.

21 Q But you still didn't tell the police or ask them for
22 protection.

23 A Do what, sir?

24 Q You say you know who, who killed, who killed Juan, but
25 you didn't tell anybody for a week, but you told Alberto.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

- 1 A Alberto knows. Alberto seen the fire.
- 2 Q He saw the same thing you saw?
- 3 A Yeah, he saw the same I saw.
- 4 Q Okay. And he didn't tell anybody.
- 5 A Until I told the police, and the police talked to
- 6 them.
- 7 Q Okay. But before you told the police you told your
- 8 son, the other son?
- 9 A Yes, I did.
- 10 Q And you told your doctor.
- 11 A Yes.
- 12 Q And you told, did you tell anybody in the hospital?
- 13 A No.
- 14 MR. MORIN: Asked and answered.
- 15 THE COURT: Sustained.
- 16 Q Did you talk to anybody else after the fire before you
- 17 talked to the police?
- 18 A I'm -- yeah. I talked to my son.
- 19 Q The other son.
- 20 A My oldest one, the one I live with, Darren Lee.
- 21 Q You're already told us that. But other than that,
- 22 anybody else you talked to about --
- 23 A No, sir.
- 24 Q -- what you were going to tell the police?
- 25 A No, sir.

Hazel Lee Willis
Cross-examination by Mr. Weatherford

1 Q Did the policemen ask you why you waited a week before
2 you ever came forward?

3 A Yes, they did.

4 Q What did you tell them?

5 A I told them I was afraid of my life.

6 Q Why were you afraid?

7 A And I was afraid of my grandbabies.

8 Q When you went down there and made this statement were
9 you still afraid?

10 A Yes.

11 Q Any more afraid than you were the day after the fire?

12 A Yes. And I'm afraid now.

13 Q Any more afraid than you were two days or three days
14 or four days or five days? Why this day?

15 A Because I have nightmares still.

16 MR. MORIN: Objection. She's answered the
17 why-she-went-down-there.

18 THE COURT: Sustained.

19 MR. WEATHERFORD: That's all.

20 MR. MORIN: I have no questions, Your Honor. I ask
21 that she be excused.

22 THE COURT: Thank you. You may step down.

23 Ladies and gentlemen, we're going to recess.

24 As I told you before lunch, you can't talk about the
25 case with any family members or anyone else. You can't

1 even discuss it among yourselves until deliberations take
2 place. So no discussions during the overnight recess.

3 Don't permit yourselves to be exposed to any type of
4 media coverage, whether it be television or radio or
5 newspaper. You have to avoid it. No exposure to any of
6 that type of coverage should there be any.

7 Don't conduct any research; don't do your own
8 investigation into any issue.

9 Do have a good evening. Please report to your jury
10 room at 9:30 in the morning, at 9:30 in the morning. Have
11 a good evening.

12 (The following takes place outside the presence of the
13 jury.)

14 THE COURT: Court is in recess until 9:30 in the
15 morning.

16 END OF PROCEEDINGS DECEMBER 5, 2007
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1 (Proceedings December 6, 2007)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. What matters do we have to
5 address before the jury is brought in?

6 MR. WEATHERFORD: Your Honor, I would like to make a
7 proffer for the record.

8 The witnesses have been sequestered. And my client --
9 Hazel Willis got off the witness stand and went by me and
10 was going out the courtroom. My client looked over my
11 shoulder and saw Nakia Gossett, a codefendant, and another
12 witness embrace and talk to Hazel Willis. I have no
13 knowledge of what they were talking about.

14 We didn't overhear any conversation, but we did see
15 them talking. And I think when somebody, when two
16 witnesses who are sequestered, are seen in the courtroom
17 talking, as I said, I don't know what they would say. And
18 I am sure if I called them they would deny saying they were
19 talking about the case. But I just want to put on the
20 record. And for the purposes of this I would like to call
21 my client. He seen it. I didn't.

22 THE COURT: Call anybody you need to show somebody has
23 violated the sequestration order.

24 MR. WEATHERFORD: Well, I'll do the best I can in
25 order to know.

Jeremy Phillips (In-camera)
Direct examination by Mr. Weatherford

1 THE COURT: All right. Call your first witness.

2 MR. WEATHERFORD: Jeremy.

3 JEREMY PHILLIPS, having been
4 first duly sworn, testified as follows:

5 THE COURT: What's the problem?

6 MR. MORIN: Ms. Gossett is sitting in the courtroom.
7 She's my first witness, but I will have her step out for
8 this.

9 THE COURT: All right. She'll need to.

10 All right. Mr. Weatherford.

11 DIRECT EXAMINATION BY MR. WEATHERFORD

12 Q Your name is Jeremy Phillips.

13 A Yes, sir.

14 Q You are the defendant in this case.

15 A Yes, sir.

16 Q You were sitting here with me yesterday while Hazel
17 Willis testified.

18 A Yes, sir.

19 Q And did you see anything occur after she got off the
20 witness stand when she went by the defense table there?

21 A Yes, sir.

22 Q What did you see?

23 A As soon as she walked through the little swinging door
24 there behind the defense table, Nakia Gossett met her down
25 here about the second or third row back where Nakia's

Nakia Gossett. (In-camera)
Direct examination by Mr. Weatherford

1 mother and her lover was sitting at, on that row. And they
2 all hugged and started talking. And I didn't really hear.
3 I didn't really hear too much of what they was saying. I
4 just see them all standing there talking. And I pointed
5 out to you that shouldn't they be separated. And you went
6 out looking for Mr. Morin.

7 Q All right. That's all.

8 MR. MORIN: I have no questions.

9 THE COURT: Step down. Next witness.

10 THE WITNESS: Thank you, sir.

11 MR. WEATHERFORD: Call Nakia Gossett.

12 NAKIA GOSSETT, having been
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. WEATHERFORD

15 Q Your name is Nakia Gossett.

16 A Yes, sir.

17 Q You are a codefendant in this case.

18 A Yes, sir.

19 Q And has anybody told you that you have been
20 sequestered as a witness?

21 A Yes, sir.

22 Q Did they tell you what that meant?

23 A Yes, sir.

24 Q What did they tell you?

25 A That I couldn't talk about the case or talk with other

Nakia Gossett (In-camera)
Direct examination by Mr. Weatherford

- 1 witnesses.
- 2 Q Okay. And after Hazel Willis' testimony yesterday did
- 3 you come into the courtroom?
- 4 A I did.
- 5 Q And did you embrace Hazel Willis?
- 6 A I hugged her, yeah.
- 7 Q Did you talk with her on the way out the door?
- 8 A She asked me if I could get her a ride home.
- 9 Q Didn't talk about anything else?
- 10 A No, not the case.
- 11 Q There was some conversation between the two of you.
- 12 A She asked me if I'd get her a ride home, and I told
- 13 her my mama had a 2-seater, that I couldn't, but I would
- 14 try to find her a way home. And that's whenever you come
- 15 out there.
- 16 Q All right. You didn't. So according to you the only
- 17 thing that she said was asking you to find her a ride home?
- 18 A Yes, sir.
- 19 Q She didn't have one?
- 20 A No, sir. And I didn't ask all of the details. I
- 21 mean, that was it.
- 22 Q All right.
- 23 MR. MORIN: No questions.
- 24 THE COURT: Step down.
- 25 Next witness.

1 MR. WEATHERFORD: That's all, Your Honor.

2 THE COURT: You don't want to call Ms. Willis?

3 MR. WEATHERFORD: Is she here?

4 THE COURT: Ms. Hazel Willis isn't here?

5 MR. MORIN: No, sir.

6 THE COURT: Do you want to send for her so you can put
7 her up?

8 MR. WEATHERFORD: No, sir.

9 THE COURT: Anybody else?

10 MR. WEATHERFORD: No, sir.

11 THE COURT: All right. Now, what do you want to do
12 with it?

13 MR. WEATHERFORD: I would move for a mistrial or in
14 the alternative to exclude the testimony of Nakia Gossett.

15 THE COURT: On what grounds?

16 MR. WEATHERFORD: Well, I don't think I'm held by her
17 version of what the conversation was.

18 THE COURT: You can put up any version you want to if
19 you have a witness.

20 MR. WEATHERFORD: I don't know what they said. I just
21 know they were talking.

22 THE COURT: All right. And I heard the testimony.
23 And the testimony was she asked her about getting a ride
24 home.

25 Do you perceive that to be a violation of the

1 sequestration order of not discussing the case with any
2 witness?

3 MR. WEATHERFORD: I perceive a conversation between
4 any sequestered witnesses as a violation of that order --
5 conversation. It shouldn't occur.

6 THE COURT: Well, that wasn't what was ordered. What
7 was ordered is that witnesses are not to discuss their
8 testimony with other witnesses in the case. The testimony
9 (sic) wasn't that no witness can have no contact with any
10 person at the courthouse.

11 What else would you like to put on the record?

12 MR. WEATHERFORD: That's all.

13 THE COURT: All right. Motion for a mistrial is
14 denied; motion to exclude the testimony of Ms. Gossett is
15 denied.

16 Bring the jury in, please.

17 (The following takes place in the presence of the
18 jury.)

19 THE COURT: Good morning, ladies and gentlemen.

20 As you know, when we recessed yesterday the state was
21 still in the midst of their presentation of evidence. So
22 we'll continue with that presentation this morning.

23 Before I do that let me ask, inquire of the panel, if
24 anyone has failed to follow the instruction given. And
25 that is has any juror had any discussions about the case,

Nakia Moss Gossett
Direct examination by Mr. Morin

1 been exposed to any discussions of the case or been exposed
2 to any type of media coverage relating to the case, or have
3 conducted any research or done your own investigation into
4 any issue that has arisen during the case? If you have
5 failed to comply with that instruction, I'm going to ask
6 that you raise your right hand.

7 (Whereupon, all jurors responded in the negative.)

8 THE COURT: All jurors have responded in the negative.
9 Mr. Morin.

10 MR. MORIN: The state calls Nakia Gossett.

11 NAKIA MOSS GOSSETT, having
12 been first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. MORIN

14 Q Ma'am, would you state your name for the jury, please?

15 A Nakia Moss Gossett.

16 Q Ms. Gossett, do you know Jeremy Phillips?

17 A I do.

18 Q Is he in the courtroom now?

19 A Yes, sir.

20 Q Where is he?

21 A He's the defendant.

22 Q Okay. How do you know Jeremy Phillips?

23 A We was boyfriend and girlfriend.

24 Q How long have you known him?

25 A I have known him since May of last year.

Nakia Moss Gossett
Direct examination by Mr. Morin

- 1 Q May of 2006?
- 2 A Yes, sir.
- 3 Q Did you know Juan Roman?
- 4 A I did.
- 5 Q And how did you know him?
- 6 A I worked with him at Town Grill.
- 7 Q Okay. Do you know where his last residence was?
- 8 A Yes, I do.
- 9 Q Where?
- 10 A On Oakstone Road.
- 11 Q Nakia, do you remember August 30th of 2006?
- 12 A I do.
- 13 Q Can you tell us what you remember about August the
- 14 30th of 2006?
- 15 A I remember that -- where do you want me to start?
- 16 Q I want you to start. Did you see Jeremy that day?
- 17 A I sure did.
- 18 Q Well, why don't you start with when you saw Jeremy on
- 19 August the 30th of 2006?
- 20 A Well, I stayed with Jeremy at nights. And we had been
- 21 down to Juan's. And we had had some beer. And we'd been
- 22 back and forth between Juan and Hazel's house.
- 23 Q All right. Now, Juan and Hazel. How close were their
- 24 houses?
- 25 A Pretty close. I don't know about feet-wise, but, I

Nakia Moss Gossett
Direct examination by Mr. Morin

- 1 mean, it was real close as far as that goes.
- 2 Q About what time was that, daytime or nighttime?
- 3 A Well, it was during the day. It was light outside.
- 4 Q Okay.
- 5 A And Juan had gave Jesse a D. V. D. player.
- 6 Q Jesse who?
- 7 A Jesse Willis.
- 8 Q Okay.
- 9 A And we was going to -- Jesse was working with this
- 10 guy, Gregg. And he was going to get some money the next
- 11 day. And so Juan had let Jesse like borrow the D. V. D.
- 12 player. And we was going to get a quarter bag of weed with
- 13 it.
- 14 Q A quarter bag of what?
- 15 A Of weed, of marijuana.
- 16 Q Okay.
- 17 A And, well, we never did get it. But Juan had owed
- 18 Alberto some beer, and Alberto just drank Budweiser in a
- 19 bottle. And Jeremy and Jesse was supposed to have went
- 20 back down there to get some beer.
- 21 Q Light time or dark time?
- 22 A It was, it was dark time now.
- 23 Q All right.
- 24 A And --
- 25 Q Where were you?

Nakia Moss Gossett
Direct examination by Mr. Morin

- 1 A I was with Hazel.
- 2 Q Who else was there?
- 3 A Alberto.
- 4 Q Okay.
- 5 A And they was gone. And they was gone, you know, for I
6 would say 20 or 30 minutes maybe. I mean, they was gone
7 for, you know, longer than they was supposed to be gone.
8 And so I walked down there.
- 9 Q Walked down from where to where?
- 10 A From Hazel's to Juan's.
- 11 Q Okay.
- 12 A And Juan lived in this old trailer, and the windows
13 was down low. And he didn't -- he must have just moved in
14 there. And he didn't have no curtains up or anything. And
15 I looked in the window.
- 16 Q What window did you look in?
- 17 A In the kitchen window.
- 18 Q All right. Now, Nakia, can you see this rough sketch?
- 19 A Yes, sir.
- 20 Q If this is Juan's trailer and this is the hitch, where
21 is the kitchen?
- 22 A Right there at the hitch.
- 23 Q Right there at the hitch?
- 24 A Yes, sir.
- 25 Q Okay. And there's a window by the hitch?

Nakia Moss Gossett
Direct examination by Mr. Morin

1 A Yes, sir.

2 Q All right. And you looked in that window?

3 A Yes, sir. And I seen Jeremy on one side and Jesse on
4 the other side. And Juan was in the floor. And they was
5 blood everywhere. And I didn't go in. And as far as I
6 know they didn't see me.

7 And Jeremy was telling Jesse to come on, you know what
8 I mean. And I turned around, and I run back to Hazel's.
9 And I told Hazel, I said, they have beat that man to death.
10 And I think that she thought that, you know, I was
11 exaggerating until Jesse come in and Jesse was covered in
12 blood and --

13 (Pause for train.)

14 Q Okay. Go ahead.

15 A Jesse was covered in blood. And Jeremy never did come
16 in. He called me out there. And he told me that I needed
17 to help get Jesse cleaned up. And Jeremy had blood on his.
18 He didn't have no shirt on. And he had -- I could see he
19 had blood. Jesse had a lot. Jesse even, he had blood on
20 his, on his head. And it was just splattered everywhere.
21 And so Jeremy went. I'm, I'm guessing. I don't know for
22 sure.

23 Q All right. Let's don't guess if you don't know for
24 sure.

25 A Okay, okay.

Nakia Moss Gossett
Direct examination by Mr. Morin

- 1 Q But you do know Jeremy.
- 2 A Yes.
- 3 Q And he had blood on him.
- 4 A Yes, sir.
- 5 Q And Jeremy told you to do what?
- 6 A He told me to help get Jesse cleaned up.
- 7 Q Do you know why he told you that?
- 8 A Because he knowed Jesse was slow.
- 9 Q Okay. Well, what did you do?
- 10 A I went. Jesse, Jesse wanted a belt. Juan had had a
- 11 belt and some boots. And Jesse went and he got the belt.
- 12 Q Went where?
- 13 A He went to Juan's house.
- 14 Q Did you see him go there?
- 15 A Yes, I did.
- 16 Q Did you see him go in the house?
- 17 A Well, I didn't know because the front door is around.
- 18 But he come with a belt, so I know that he went in.
- 19 Q Okay.
- 20 A And, and then me and him went up there in front of
- 21 Jeremy's house. And I got the hose pipe out and I went in
- 22 Jeremy's house and got a bar of soap and he stripped down
- 23 to his boxers.
- 24 Q Did Jeremy live on Oakstone Road too?
- 25 A Yes, he did.

Nakia Moss Gossett
Direct examination by Mr. Morin

- 1 Q Do you know what that number was there?
- 2 A No.
- 3 Q Okay. Was it far from --
- 4 A No, no. It's all right there together.
- 5 Q Okay.
- 6 A They some woods in between Hazel's and Jesse's and
- 7 Jeremy's house. I mean, you just got to walk a little path
- 8 and --
- 9 Q Okay. Now, you got a hosepipe.
- 10 A Got a hosepipe.
- 11 Q Why didn't you go inside?
- 12 A Jeremy don't have no running water in his house.
- 13 Q Okay. Where did the hosepipe get hooked up to?
- 14 A His, Jeremy's, grandpa had a -- I don't know -- where
- 15 he worked on cars. And he had a big camper thing there.
- 16 And they was always a hosepipe right there.
- 17 Q Okay.
- 18 A Sometimes Jeremy would hook the hosepipe up under his
- 19 house and you could take a shower, but it was a cold
- 20 shower. It was never, you know, no hot water.
- 21 Q All right. And you went into Jeremy's house?
- 22 A And I got the bar of soap.
- 23 Q All right. And you came back out?
- 24 A I did.
- 25 Q What happened next?

Nakia Moss Gossett
Direct examination by Mr. Morin

1 A I washed. Jesse stripped down to his boxers, and I, I
2 held the hosepipe and he had the bar of soap and we washed
3 the blood off of him.

4 Q All right. After Jesse got -- now, Jesse was standing
5 outside, and he's all wet. Where did Jesse go next?

6 A Well, about that, while, while we was still washing
7 him Jeremy come up. And Jeremy wanted his clothes that
8 Jesse had had on and his boots that he had had on. And
9 Jeremy said he was going to go burn them.

10 And so me and Jesse went in the house, and Jesse dried
11 off. And he put on some of Jeremy's stuff. He had
12 Jeremy's boots on. And Jeremy come back and --

13 Q All right. Well, now, when Jesse went in the house,
14 he was all wet, right?

15 A Yes.

16 Q Did he put on the clothes wet?

17 A No. He dried off.

18 Q What did he dry off with?

19 A They was a towel.

20 Q Okay. Do you know where -- what he did with the towel
21 when he got done drying off?

22 A It probably was in the dirty clothes in Jeremy's front
23 room.

24 Q Tell me about the dirty clothes in Jeremy's front
25 room.

Nakia Moss Gossett
Direct examination by Mr. Morin

- 1 A He had a basket of dirty clothes right there.
- 2 Q What color was the basket, do you remember?
- 3 A Seems like it was blue maybe.
- 4 Q Okay. And that's where the towel went, you think?
- 5 A Yes.
- 6 Q Okay. Now, Jesse has put on new clothes. You're in
- 7 Jeremy's house with Jesse.
- 8 A Yes.
- 9 Q When was the next time you saw Jeremy?
- 10 A He come back a few minutes later, and he was talking
- 11 about going to move Juan's body, because, I mean, he looked
- 12 dead. I mean, they was, they was so much blood, I mean. I
- 13 wouldn't have thought he was alive either. And then I
- 14 said, no, don't do that. And then that's when he decided
- 15 he was just going to burn the trailer down.
- 16 Q Now, wait a minute. What did you mean, he decides?
- 17 What did he say?
- 18 A He said he guessed he'd burn it down.
- 19 Q Jesse or Jeremy?
- 20 A Jeremy.
- 21 Q Okay. He said I guess I'll burn it down.
- 22 A Yes, sir.
- 23 Q Then what did he do?
- 24 A He went out the door, and he told me and Jesse to stay
- 25 in there. And Jesse was right behind him. He told, he

Nakia Moss Gossett
Direct examination by Mr. Morin

1 told Jesse to stay in there, but Jesse wouldn't. He went
2 with him.

3 Q All right. And what did you do?

4 A I stayed in the trailer.

5 Q Okay. What was the next time you saw him?

6 A It had been about ten or 15 minutes. And I went
7 outside, and I went to the end of Jeremy's trailer. And I
8 seen the fire, and I seen them running back. And my daddy
9 was pulling up at the same time. And my daddy told me that
10 he had --

11 Q Well, where did Jeremy go? Did you see Jeremy coming
12 back?

13 A Yes, I seen Jeremy coming back, and he was holding a
14 can.

15 Q What kind of can?

16 A I don't -- a gas can.

17 Q Do you know where he put the gas can?

18 A I don't.

19 Q All right. So he comes, comes back towards, or did
20 you see him go in the house? Where did you see him go?

21 A Me and Jesse went with my daddy and Jeremy stayed
22 there. He said he would be down there in a few minutes.
23 So I don't know, you know, what he did.

24 Q All right. Did he have -- well, did he live out there
25 somewhere?

Nakia Moss Gossett
Direct examination by Mr. Morin

1 A Yeah. My daddy lived at the end of the road on 29 and
2 Oakstone.

3 Q Okay. After that, Nakia -- that happened on the 30th.

4 A Yes, sir.

5 Q Did you report that to the police?

6 A I didn't.

7 Q Did you ever tell the police what happened?

8 A Not until after I went to jail.

9 Q Why didn't you tell anybody?

10 A Because I loved Jeremy.

11 Q Did you give a statement to the police? How many
12 statements to the police did you give?

13 A I gave two the night that I got arrested and they
14 interrogated me. And I gave Jeremy an alibi.

15 Q Well, tell the jury what it is you told, told the
16 police that night.

17 A I told them that Jeremy was with me at my daddy's
18 house and that, that we wasn't nowhere around.

19 Q Now, did you write a statement, or did they write it
20 for you?

21 A They wrote it for me, and I signed it.

22 Q Did they give you a copy of it?

23 A Yes, sir.

24 Q Do you have the copy of it?

25 A No. I slid it to Jeremy under the holding-cell door

Nakia Moss Gossett
Direct examination by Mr. Morin

- 1 so he could.
- 2 Q Why did you do that?
- 3 A So he could read it and give the same story I had gave
- 4 for him.
- 5 Q Are you charged in this case?
- 6 A Yes, sir.
- 7 Q What are you charged with?
- 8 A I'm charged with murder and arson and strong arm
- 9 robbery.
- 10 Q Those charges are pending?
- 11 A Yes, sir.
- 12 Q Has any promises been made to you about testifying?
- 13 A No, sir.
- 14 Q Now, you gave a second statement to the police.
- 15 A I did.
- 16 Q Why did you do that?
- 17 A They had called me back over there three days after I
- 18 had been in jail. And I still was giving Jeremy an alibi.
- 19 And Mike Fowlkes looked at me, and he said, "Nakia," he
- 20 said, "what are you going to do whenever your three kids
- 21 grow up and they say, 'Mama, why did you choose a man over
- 22 me?'" And he wasn't lying. I was giving my life up for
- 23 this boy. And, and so I told the truth. I told what
- 24 happened.
- 25 Q Where are your children now?

Nakia Moss Gossett
Direct examination by Mr. Morin

- 1 A They're at Myrtle Beach with my sister-in-law.
- 2 Q You're out on bond, aren't you?
- 3 A Yes, sir.
- 4 Q Why aren't they with you?
- 5 A Because I got to go to court and I might go to prison.
- 6 And I don't want -- they're stable now and they have
- 7 learned, you know, to live life without me. And I don't
- 8 want to take that from them.
- 9 Q Did Jeremy ever tell you why he did all of this?
- 10 A No. I asked him why, and he said he really didn't
- 11 know.
- 12 We was, we was laying in bed that night, and I asked
- 13 him because I was having real bad issues about it. I just
- 14 didn't understand what had happened because we had all just
- 15 been, you know, we had all just been hanging out. And I
- 16 said, "Jeremy," I said, "let me ask you something and I'll
- 17 leave you alone." And he said what. And I said, "What if
- 18 somebody did that to Colby," because he's got a little boy.
- 19 I said, "What you would do?" And he looked at me, and he
- 20 said he was just a spick anyway. And that was that.
- 21 Q Nakia, when you looked in that window was there any
- 22 lights on inside that building?
- 23 A There might have been a light from the T. V., and the
- 24 kitchen light.
- 25 Q Could you see Juan lying on the floor?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A I sure could.
- 2 Q Do you know it was him?
- 3 A I know it was him.
- 4 Q And how long had you known Jesse?
- 5 A I'd, I had met Jesse in May too.
- 6 Q And you knew the two, the difference between Jeremy
7 and Jesse.
- 8 A Oh, yes, sir.
- 9 Q When you say you saw them coming back in the fire when
10 you were at Jeremy's house supposed to be waiting, you said
11 Jeremy was carrying a gas can.
- 12 A Yes, sir.
- 13 Q How do you know it wasn't Jesse?
- 14 A Because Jeremy's a lot taller than Jesse.
- 15 Q How much did you have to drink that night?
- 16 A I had had maybe three or four beers, not a lot. I'm
17 not a beer drinker as far as that goes.
- 18 Q Please answer any questions Mr. Weatherford may have.
- 19 CROSS-EXAMINATION
- 20 BY MR. WEATHERFORD
- 21 Q Ms. Gossett, how old are you?
- 22 A I'm 28.
- 23 Q And you've got three, three children, or two?
- 24 A I've got three children.
- 25 Q What's their names and ages?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Katlan is nine; Kureston is eight; and Trey is seven.
2 Q And where do they live?
3 A They're at Myrtle Beach with my sister-in-law.
4 Q How long have they been down there?
5 A They've been down there since they got out of school
6 the year before last. They had went down there that
7 summer. And that's when I met Jeremy. They go down there
8 every summer. I've always had my kids. And they go down
9 there every summer, and they went down there that summer.
10 And I met Jeremy and got in trouble.
11 Q So the summer that you and Jeremy were together you
12 didn't have the children.
13 A Right.
14 Q And you met. What do you do for a living?
15 A Well, I worked at Town Grill whenever I was with
16 Jeremy.
17 Q So at the time this occurred you were working.
18 A Yes, sir.
19 Q How did you get back and forth to work?
20 A My daddy.
21 Q What hours did you work?
22 A I worked second shift.
23 Q Well, what hours would that be?
24 A From about 4:00 to 10:00.
25 Q What hours was your daddy working?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 A Well, my daddy was on first shift then.

2 On July the 12th I went to jail for two bench
3 warrants. I had had driving under suspension and I had had
4 malicious damage to personal property where my exhusband,
5 he had destroyed my trailer, and the lease was in my name.
6 And so I had went to jail for 40 days. And whenever I got
7 out of jail, I got out of jail on August the 20th. And I
8 hadn't got no job whenever that had happened.

9 Q So you only got out of jail a few days before this all
10 occurred.

11 A Sixteen days, 16 days.

12 Q How would you describe your relationship with Jeremy?

13 A Well, I thought it was good.

14 Q I mean, did y'all have a sexual relationship?

15 A Yes.

16 Q Did you live with Jeremy?

17 A Sort of, kinda. I mean, I would go. I would go to my
18 daddy's during the day, but I usually would spend the night
19 with Jeremy overnight.

20 Q Where was Jeremy's trailer in relation to Juan's and
21 Hazel's?

22 A Well, it was woods on, I guess, on the right.

23 THE COURT: You can step down and draw it on there if
24 you need to.

25 (Whereupon, the witness left the stand.)

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 A They's some woods right here and woods right here.

2 And Jeremy's trailer was back here. His grandpa lived
3 right in front of him and his Aunt Gracey and them lived
4 right there beside Juan's trailer.

5 Q Is there, is there kind of a path through the woods
6 over here to Hazel's?

7 A Yes, sir. There is two paths. There is one at the,
8 where, more in front of Hazel's trailer. And then in
9 between Hazel and Juan's trailer to the left there's a
10 well. And there's another little path that way.

11 Q Well, is there a driveway here somewhere?

12 A It's, it's like gravel, yeah. That's the driveway,
13 and it's like gravel.

14 Q To get -- does it come on this side of Juan's, over
15 here on this side of Hazel's?

16 A Yes.

17 Q Would this, would this be the front of Hazel's?

18 A That would be her front porch right there where your
19 pen is.

20 Q Okay. On the left side.

21 A Yes, sir.

22 Q Right like that sort of?

23 A Yes, sir.

24 (Whereupon, the witness returned to the stand.)

25 Q And Jeremy lived on his grandpop's property?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Yes, sir, in the back.
- 2 Q What's his name?
- 3 A Leonard Gallman.
- 4 Q Okay. And did Leonard like you being around there?
- 5 A Well, I really didn't, we didn't ever, I didn't ever
- 6 talk to his grandma and grandpa. I mean, I talked to his
- 7 grandpa a couple of times, but I really never met his
- 8 grandma, because she didn't like girls like that, you know
- 9 what I mean, staying with him, is what he told me. Now, I
- 10 mean, I never heard her say that. That's what he said.
- 11 Q All right. So he kind of hid you from them.
- 12 A Yes.
- 13 Q There's a lot of talk about going back and forth to
- 14 Hazel's and Juan's and so forth. What was kind of the
- 15 daily routine at that, at that time of day, I mean, at that
- 16 time? Were any of you working?
- 17 A No.
- 18 Q You weren't working; Jesse wasn't working. Was
- 19 Jeremy?
- 20 A Jesse was working with this guy, Gregg, who I -- Gregg
- 21 paints houses or does something like that. And Jesse would
- 22 go work with him. But as far as a steady job, no, didn't
- 23 none of us have one.
- 24 Q Well, did any of y'all drink or take drugs?
- 25 A We drank and we took pills and we smoked marijuana.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q All right. Who all would be we?
2 A Me and Jeremy and Jesse. Hazel drank and she took her
3 prescription medicine but --
4 Q What was her prescription medicine?
5 A I think she got Klonopins.
6 Q Did ever sell any of them?
7 A Yeah.
8 Q Who did she sell them to?
9 A She would sell them to people like Shannon, and just
10 people. Everybody knowed that Hazel's house, you know, you
11 could go there and really just be easy and not have to
12 worry about nothing and could do what you wanted to do.
13 Q Drink, take pills, smoke dope, anything like that.
14 A Yes, sir.
15 Q Even get some pills from Hazel if you needed them.
16 A Yes, sir.
17 Q And Shannon and Eric would come and get pills from
18 Hazel.
19 A Yes, sir.
20 Q Did Shannon and Eric come and drive Hazel around, back
21 and forth to the liquor and beer store?
22 A They did.
23 Q And she paid them with --
24 A She sure did.
25 Q -- pills.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Well, I don't know that she would pay them with pills.
2 She -- everybody took advantage of Hazel. I mean,
3 everybody did, me included.
- 4 Q By doing what?
- 5 A Just because everybody knowed that she was slow and
6 didn't catch on. And she wanted everybody to like her so
7 much that she would pay them, you know what I mean. She
8 would give them money or buy them beer. She bought Jeremy
9 cigarettes and beer every day, every day.
- 10 Q Did you smoke cigarettes?
- 11 A No. I don't smoke cigarettes.
- 12 Q Jeremy did.
- 13 A Yes.
- 14 Q All right. Do you remember when Juan moved in?
- 15 A No. I was in jail whenever he moved in. Whenever I
16 went to jail a girl named Julie Rice and her two daughters
17 lived there. And whenever I got out of jail Juan had done
18 moved into that trailer.
- 19 Q So he was in there by August the 20th.
- 20 A Yes, sir.
- 21 Q So you're saying he was there about ten days before.
- 22 A I don't know how many days before. Well, yeah, ten
23 days before he, he got killed, yes, sir.
- 24 Q All right. And did you, did you ever go down to his
25 place?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A I went down there with Jeremy.
- 2 Q Did y'all drink beer in the yard or go inside or what?
- 3 A On the porch, and we went inside one time. And I've
- 4 never been past his living room or kitchen.
- 5 Q What was the occasion for going in there?
- 6 A To drink and just hang out. We didn't have anything
- 7 else to do. We didn't have no job or no nothing.
- 8 Q Nobody was looking for a job.
- 9 A No.
- 10 Q Well, how did you get the money to drink on?
- 11 A Hazel. Hazel would buy beer.
- 12 Q So Hazel was supplying all of y'all with beer, liquor
- 13 and drugs.
- 14 A Yes, sir.
- 15 Q So that's why you were hanging around at Hazel's a
- 16 lot.
- 17 A Well, they wasn't nowhere else to hang out at.
- 18 Q All right. And she participated in the drinking and
- 19 the taking pills and so forth.
- 20 A Yes, sir.
- 21 Q And Jesse, was he on like some kind of stronger drug
- 22 like crack or meth?
- 23 A I had heard that he did, but I've seen Jesse do meth
- 24 before, but I had never seen him do crack or nothing like
- 25 that.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q Well, do you know if Jesse -- did he live with Hazel?
- 2 A He lived with her, but she'd get mad at him and he'd
- 3 go stay with Gregg. Gregg had a camper outside in his
- 4 front yard. And Jesse would go and sleep in that camper.
- 5 Q Would she ever call the cops on Jesse to your
- 6 knowledge?
- 7 A She would, she would.
- 8 Q About how often?
- 9 A Well, she called them on him one time that I know of.
- 10 I mean, I didn't know him but about three or four months
- 11 before all of this happened. But I know she called them on
- 12 him one time because he had pawned her T. V.
- 13 Q So he was prone to stealing stuff from her.
- 14 A Yeah. Or she had been at Alberto's for about a week.
- 15 And she come home and he had pawned her T. V.
- 16 Q Now, Alberto, that was, that was Hazel's boyfriend?
- 17 A Boyfriend.
- 18 Q And he was Hispanic?
- 19 A Yes, he was, yeah.
- 20 Q And did he, did he live with her or did he have a
- 21 separate place, or how did that --
- 22 A He had an apartment in Lyman, and they would like go
- 23 stay with him a week, and then they would come over there
- 24 and stay a week.
- 25 Whenever I first met them he put up sheetrock in

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 houses. Jeremy and Jesse both worked with him. And I
2 think they would get on the job and they would drink too
3 much. And his bossman had ended up letting him go there at
4 the end. He didn't have no job.

5 Q Well, how long had, had you been in that neighborhood?

6 A Since the end of May, well, the middle of May.

7 Q Where did you live before that?

8 A I lived, I lived at Open Air. I had a trailer at Open
9 Air. And before that --

10 Q In Blacksburg?

11 A Yes, sir. And before that I had lived out at Oakdale
12 for two years. And that's the trailer that my exhusband
13 tore up. And they ended up kicking me out about it.

14 Q Is that Oakdale Road the same road?

15 A It's right off of Oakstone. It's right off of
16 Oakstone.

17 Q Oakdale and Oakstone run into Highway 29.

18 A Yes, sir.

19 Q And the very -- did your daddy live there?

20 A No. I lived. My daddy lived on 29 down there on
21 Oakstone.

22 Q The coroner of Oakstone and 29.

23 A Yes, sir.

24 Q He had a trailer there.

25 A Yes, sir.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 Q And did you live with him?

2 A At the time being, I did.

3 Q Okay. But most nights you spent with Jeremy when you
4 were not in jail.

5 A Yes, sir.

6 Q Tell me what -- do you remember anything about the
7 night before the 29th?

8 A I had, I really don't remember that as far as that
9 goes. I had took two totem poles that night and Jeremy --

10 Q What's a totem pole?

11 A A Xanax, but it's a, it's not a regular Xanax. It's
12 like twice. It's more milligrams, I guess. And, and
13 Jeremy had to carry me home that night. I don't remember
14 that night.

15 But he had told me that he had come -- that my friend
16 Crystal had let me out at the top of the driveway up there
17 in front of Juan's. And she said as soon as I got out I
18 fell, that that's how messed up I was. And she said that
19 Juan was coming out.

20 And Crystal lived with me in Open Air. She knowed
21 that I knowed Juan. And she said Juan was coming out. And
22 she said that she seen Jesse and Jeremy coming up from
23 Hazel's house and that, you know, they went on, and because
24 me and her boyfriend had gotten into it that night. And so
25 they went on, you know. She said that Juan was coming out

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 and telling me that he was going to get me a job back at
2 Town Grill. And Jeremy said whenever he come up there --

3 Q You don't remember any of that.

4 A I don't remember that.

5 Q Who is this telling you that?

6 A My friend Crystal told me that. She told me that I
7 fell as soon as I got out of the car.

8 Q All right. As far as what happened after, after you
9 fell out of the car, did they leave?

10 A Yeah, they left.

11 Q Crystal and her -- who is her boyfriend?

12 A A boy named Jimmy Foster.

13 Q All right. Crystal and Jimmy let you out, and you
14 fell down, and then how do you know about what happened
15 after that? You don't remember?

16 A Because I don't remember. Jeremy told me that
17 whenever he come up to Juan's that Juan had his arm around
18 me. And he, Jeremy, said he carried me home, and he said
19 he went back down there and he hit Juan.

20 Well, Juan didn't know Jeremy's name. Jeremy always
21 wore a straw hat. And he just knowed the boy in the straw
22 hate. And as far as I know he had called the cops out
23 there that night but they --

24 Q Who had?

25 A Juan had, I guess, or somebody had. But the cops and

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 the ambulance had come out there to Juan's that night.

2 Q Do you remember that or did somebody just tell you
3 that?

4 A Jeremy told me that. And-but the next day Juan and
5 Jeremy had made up, or, I mean, they was talking maybe
6 because Juan, Juan did drink a lot. He did drink a lot.
7 And maybe, you know, he just didn't put two and two
8 together. I don't know. But I know that they had made up
9 that next day, that they wasn't no hard feelings.

10 Q All right. Do you know anything about Juan going to
11 the hospital in an ambulance that night?

12 A No, I don't know about that.

13 Q All right. The next day, the 30th, now, what -- you
14 said they had made up. Tell me. Tell me how you know
15 that.

16 A Because we was at Juan's house and Jeremy was drinking
17 Juan's beer.

18 Q Inside or outside?

19 A We was inside.

20 Q All right. About what time was that?

21 A I would say about 6:00 or 7:00 o'clock.

22 Q In the afternoon?

23 A Yes, sir.

24 Q Anything happen before that?

25 A I mean, we had, Juan had been down there at Hazel's

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 drinking, but we went up to Juan's to get the D. V. D.
2 player so that we could get a bag of weed.

3 Q All right. Tell me how that came about.

4 A Jesse. Me -- Jesse wanted a bag of weed. And he
5 asked Juan because he knowed that the guy who we got weed
6 from, he knowed that he would take the D. V. D. player and
7 give him a quarter bag of weed.

8 Q Who would? Who is that?

9 A A guy named Robert. I don't know his last name. I
10 had just met him through Jeremy.

11 Q All right. The night before, do you know anything
12 about or did anybody tell you anything about a wallet and
13 some other stuff missing from --

14 A I heard that his, I heard that Juan's, wallet got gone
15 but then he found it.

16 Q What about his cell phone?

17 A He had his cell phone the night that he died because
18 we used it --

19 Q Now --

20 A -- to try to call Robert.

21 Q Who is we?

22 A Me and Jeremy and Jesse.

23 Q All right. The part about giving the D. V. D. to try
24 to go get some weed, now, who was there and where was that?

25 A I think we was at Hazel's whenever it all come about,

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 but we had to go to --

2 Q How did that, how did that come about? Did Juan come
3 up there with his D. V. D. and say can somebody get some
4 weed?

5 A No, no. Jesse asked him if he could, because he had
6 two D. V. D. players. And Jesse asked him could he borrow
7 one of them until the next day because he was going to go
8 to work with Gregg and get some money.

9 Q So they were going to take the D. V. D. and get some
10 marijuana with it?

11 A Yes, sir.

12 Q And so Juan, he gave a D. V. D. to Jesse?

13 A Yes, sir. It was black.

14 Q Do you know what kind it was?

15 A It, it popped up, like the top popped up and you put
16 the D. V. D. It was a funny looking D. V. D. player. I've
17 never seen one before like that.

18 Q Do you know the name?

19 A No.

20 Q Like Duraband or something?

21 A No.

22 Q Okay. Now, Juan gave him the D. V. D. to try to get
23 some pot. And you made a call.

24 A Yes, sir.

25 Q To this Robert guy.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Yes, sir.
- 2 Q Do you remember his number?
- 3 A I don't remember his number.
- 4 Q How did you know his number at the time?
- 5 A I knowed it at the time.
- 6 Q So you called that number from whose phone?
- 7 A From Juan's cell phone.
- 8 Q And that was, you were at Juan's or at Hazel's when
- 9 he --
- 10 A We left Juan's after we got the D. V. D. player, and
- 11 we went back to Hazel's. And I had Juan's cell phone
- 12 because he told me that I could take it and use it because
- 13 I couldn't get no answer.
- 14 Q Okay. So, well, how many times did you call Robert?
- 15 A Probably three or four times.
- 16 Q And this was on the 30th?
- 17 A Yes, sir.
- 18 Q All of y'all trying to get some marijuana.
- 19 A Yes, sir.
- 20 Q And about what time of day was that?
- 21 A It was done dark then.
- 22 Q All right. This was in August, so it's Daylight
- 23 Savings Time. It doesn't get dark until, what, 8:00 or
- 24 9:00 o'clock?
- 25 A Yeah, it was 8:00 or 8:30 or 9:00 o'clock.

Nakia Moss Gossett
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1 Q Well, do you remember anything earlier about anybody
2 going to get some beer for Juan or for Alberto?

3 A I know that Juan was supposed to go get some beer,
4 but, I mean, I didn't see him leave or anything like that.

5 Q Do you know of anybody giving him any money to go get
6 beer?

7 A He had money.

8 Q Was he supposed to go get some beer for Alberto?

9 A Yes.

10 Q And did he?

11 A No.

12 Q At any time while you were in the house at Hazel's
13 either this day or the day before was Juan trying to hit on
14 Hazel?

15 A Not that I know of.

16 Q You don't remember Juan and Alberto getting in an
17 argument while you were in there?

18 A No, sir.

19 Q All right. Did you ever get any marijuana for the D.
20 V. D.?

21 A No, sir.

22 Q What became of the D. V. D.?

23 A On the 1st when Hazel got paid Eric and Jeremy went in
24 there, and I was standing on the back porch and --

25 Q This is Eric Powell.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Eric Powell.
- 2 Q That goes with Shannon.
- 3 A Yes. And Eric got the D. V. D. player, and he handed
- 4 it to me and I handed it to Shannon and she put in the
- 5 trunk of her car.
- 6 Q Why was that?
- 7 A Because he wanted the D. V. D. player.
- 8 Q Who did?
- 9 A Eric did.
- 10 Q Did they pay for it?
- 11 A No.
- 12 Q So Eric, I mean, Jesse just gave Eric Juan's D. V. D.
- 13 A He didn't give it to him. Jesse wasn't -- because
- 14 that was after all of that had happened. And Jesse wasn't
- 15 there that day, and Eric just took it.
- 16 Q All what had happened? This was after the fire?
- 17 A Yes. This was on the 1st. Because Hazel can't read
- 18 and write, and I go, I used to go, with her to pay her
- 19 bills and cash her check and all of that.
- 20 This was this night because Jeremy -- and I knowed her
- 21 A. T. M. number. And Jeremy and Eric, I told them that she
- 22 had some money, and they wanted it. So they went in there
- 23 to get her purse.
- 24 And Jeremy had kissed her that night, and I seen him.
- 25 And I stepped off the back porch because I didn't want to

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 see no more because I knowed what I was seeing. And I
2 knowed that I loved this boy and he was sitting there doing
3 that just to get her. She kept everything in a little
4 pouch.

5 Q So the night after the fire Jeremy and Eric took stuff
6 from Hazel.

7 A Yes, sir.

8 Q All right. Well, let's go back to -- I'm still trying
9 to get the events on the 30th in order. We were, I think,
10 about 9:00 o'clock. Just go on from there.

11 A Well, whenever we took the phone back up to Hazel's to
12 use, I don't know what conversation happened with Jeremy
13 and Alberto. But Jeremy was going to go back down there
14 and get Alberto some of Juan's beer. Juan drunk Coors
15 Light in a can. And so they was going to go get some beer
16 for Alberto.

17 And they was gone, and they was gone. So I walked up
18 there. And I don't know. I don't know why I looked in
19 that window, but something just told me to look in that
20 window. And I seen them. They was beating him and they
21 was kicking him. Both of them.

22 Q So you walked from, from Hazel's and looked in this
23 window.

24 A Yes, sir.

25 Q How close did you get?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 A I got close.

2 Q Right there?

3 A You didn't have to stand on -- I didn't have to stand
4 on that hitch, but I seen everything I needed to see.

5 Q All right. And where were they in the house?

6 A They were in the kitchen.

7 Q In the kitchen?

8 A In the kitchen.

9 Q And what did you see?

10 A I seen Juan laying in the floor and I seen Jeremy.

11 Jeremy was closest to the door. And Jesse was closest to
12 the kitchen window. They was on each side of him.

13 Q And kind of step down here and put a little mark where
14 you saw Juan laying.

15 (Whereupon, the witness left the stand.)

16 A Okay. This is the front door right here.

17 Q Yeah.

18 A Okay. He was laying right in here, because he had a
19 couch that let out into a bed right here. That's where he
20 slept, I guess. But he was laying over here in the floor.
21 Jeremy was here and Jesse was there.

22 Q All right. He was laying in the floor.

23 A Yes, sir.

24 Q Not on the bed or anything.

25 A No. He wasn't on the bed.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 (Whereupon, the witness returned to the stand.)

2 Q And, and who did you see do exactly what?

3 A I seen, I seen both of them. They was kicking him.

4 And Jeremy come from around Juan, and he was going to the
5 door. And he said come on, Jesse, that's enough. And I
6 turned and I run back and I told Hazel.

7 Q All right. When they left to go down there were
8 either one of them mad?

9 A No.

10 Q Was either one of them messed up on drugs?

11 A I mean, we had been drinking, but Jeremy can drink. I
12 mean, he wasn't drunk or nothing like that, because I've
13 seen him. He can drink. And, I mean, Jesse ain't, I don't
14 think Jesse might drink a beer or so, but he don't
15 drink-drink like Jeremy does.

16 Q He just does drugs.

17 A Yes.

18 Q All right. Well, after you saw them do that, you go
19 back to Hazel's.

20 A And I told her, I said, they've beat that man to
21 death. And I think she thought that I was just saying that
22 until Jesse come in the, in the front door.

23 Q Well, about how long, or what time was it that Jesse
24 came in the front door?

25 A I would say within two or three minutes after me

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 coming back.

2 Q Which would have put it about what time? You said
3 they were gone a while.

4 A Maybe 9:30.

5 Q Okay. So they went down there, were gone 20 or 30
6 minutes, came back.

7 A Yes.

8 Q And when they -- Jesse came in first.

9 A Yes. Jeremy never come in. He stayed outside and
10 called me outside.

11 Q All right. Well, let's talk about Jesse first. When
12 he came in, what did he look like? What did he say?

13 A He had blood all over his face, and because it looked,
14 it looked like that they had to hit him with an object or
15 something, because as much blood. Jesse was covered in
16 blood.

17 Q You didn't see.

18 A I asked Jeremy did they hit him with something and he
19 said, no, just their fists.

20 Q All right. So you're just making that assumption, but
21 you didn't see nobody hit him.

22 A No, yeah, no.

23 Q All right.

24 A And Hazel fell on her knees as soon as, as soon as
25 Jesse come in the door and she seen him. I guess she

Nakia Moss Gossett
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- 1 knowned that's her son. And she knowed that, you know,
2 something bad had happened. And she just fell on her
3 knees. And she just started screaming.
- 4 Q Now, you had already told her that they had beat him
5 up.
- 6 A Yes.
- 7 Q All right. What kind of clothes was he wearing?
- 8 A Jesse? Jesse had on some pants and like a short
9 sleeve button-up shirt, but he didn't have it buttoned. It
10 was like, you know, he just was wearing it. It was
11 unbuttoned. It was hot.
- 12 Q Like a shirt, like this kind of shirt?
- 13 A Yeah, but it was short sleeves.
- 14 Q Not a T-shirt.
- 15 A No, it wasn't no T-shirt.
- 16 Q And had sleeves on it.
- 17 A It didn't have sleeves. It had short sleeves.
- 18 Q Yeah, short sleeves.
- 19 A Yeah.
- 20 Q But not cutoff sleeves or not a --
- 21 A It, it might, it might have had the sleeves pulled
22 off. He had a lot of his shirts like that. I can't
23 remember exactly.
- 24 Q Do you remember what color it was?
- 25 A Seems like it was checked.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q And so he had blood on his clothes and hisself.
- 2 A Yes.
- 3 Q Do you know what kind of footwear he was wearing?
- 4 A Steel-toed boots.
- 5 Q Do you know where he got them?
- 6 A That's what, that's what he wore. That's what Jeremy
- 7 wore. They wore them boots.
- 8 Q Steel-toed boots?
- 9 A Yes, sir.
- 10 Q What did they look like, like work boots or something?
- 11 A Yeah.
- 12 Q Or military boots?
- 13 A They are like military work boots, yes, sir. They
- 14 come up almost to your knees, you know, and you lace them
- 15 up.
- 16 Q Were they brown or tan or black?
- 17 A Jesse had black boots.
- 18 Q All right. And so he came up there. He had the black
- 19 boots, black steel-toed boots. Was it long pants?
- 20 A Yes, sir.
- 21 Q What color were they?
- 22 A They were blue jeans.
- 23 Q Blue jeans?
- 24 A Yes, sir.
- 25 Q And some kind of shirt.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Now, then you said you -- Jeremy stayed outside. And
2 you went out there?
- 3 A Yes, sir.
- 4 Q What, what did you see when you got out there?
- 5 A Jeremy had blood on him.
- 6 Q What was he wearing?
- 7 A He was wearing, I can't remember if it was blue jeans
8 or shorts. But he had the boots on.
- 9 Q What kind of boots, the same?
- 10 A Yes, sir.
- 11 Q Tied?
- 12 A I'm wanting to say he had shorts on. But, I mean, I
13 don't, I don't remember as far as that goes. I know he had
14 blue jeans on, blue jean material.
- 15 Q Okay. And what kind of -- did he have a shirt on?
- 16 A No.
- 17 Q He wasn't wearing overalls?
- 18 A Whenever he took a shower he put overalls on.
- 19 Q After he got cleaned up.
- 20 A Yes, sir.
- 21 Q But when he had -- did he have blood on him?
- 22 A Yes, he did.
- 23 Q Did he have blood on his clothes?
- 24 A Yes, he did.
- 25 Q Did I ask you about his shirt?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A I told you he didn't have no shirt on.
- 2 Q No shirt. Just maybe shorts and boots.
- 3 A Yes.
- 4 Q And was there blood on his pants or whatever he was
- 5 wearing?
- 6 A Yes, sir.
- 7 Q And was there any blood on the boots?
- 8 A Yes, sir.
- 9 Q Was there blood on Jesse's boots?
- 10 A Yes, sir.
- 11 Q All right. Were they similar type boots?
- 12 A Yes, sir.
- 13 Q Not cowboy boots.
- 14 A No, not cowboy boots.
- 15 Q You went outside then. Did Jesse stay inside?
- 16 A Yes, he stayed inside until I told him to come on.
- 17 Him and his mama was -- she just couldn't believe it. And
- 18 I was talking to Jeremy. And Jeremy told me to help Jesse
- 19 get cleaned up.
- 20 Q Well, did anybody call the law? I mean, you say
- 21 somebody had been beat and he was laying down there in his
- 22 trailer on the floor, I guess, is that right?
- 23 A Yeah.
- 24 Q And did anybody think -- I mean, people called cops
- 25 out there a lot, didn't they, for various and sundry

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 things?
- 2 A Yes, sir.
- 3 Q So it's not unusual for anybody to call the cops about
- 4 little things.
- 5 A Right.
- 6 Q Well, did anybody call the cops about somebody beating
- 7 up Juan?
- 8 A No. We didn't call the cops.
- 9 Q Why not?
- 10 A It just happened so fast. I would give my right arm
- 11 to go back and call the cops.
- 12 Q Well, no. Let's talk about the cops.
- 13 A But I don't. I mean, we, we didn't call the cops.
- 14 Q Hazel called the cops on her own son a lot, and they
- 15 were out there a lot for various and sundry reasons. And
- 16 nobody bothers to call them when, when this guy gets beat
- 17 almost to death or to death, whatever you thought.
- 18 A Nobody called the cops.
- 19 Q Why?
- 20 A I didn't call the cops because I loved Jeremy.
- 21 Q You had a phone to call the weed dealer.
- 22 A Yes.
- 23 Q But you didn't care about Juan. You know, he could
- 24 have been alive. Somebody could have come out there and
- 25 saved him, an ambulance or something. Did you ever think

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 about that?

2 A Yeah. I think about it all the time.

3 Q Well, why didn't you try to call somebody then?

4 A I don't know.

5 Q Were you, were you in that trailer with Jeremy and,
6 and Jesse kicking on --

7 A No, sir.

8 Q -- Juan?

9 A No, sir, I was not.

10 Q All right. Now, after you got the two of them out of
11 there, then what happened with the blood and stuff?

12 A Jeremy went and got cleaned, and I took --

13 Q Where did he go?

14 A I don't know for sure. I'm thinking to his grandpa's
15 pool house because that's where he always took showers at
16 most of the time.

17 Q Okay. So he just disappeared.

18 A Yeah.

19 Q And did he take any clothes with him?

20 A No, he didn't. He had clothes. I mean, I don't know
21 if he went to the trailer before, before he went to shower
22 or not, but I know a lot of times he would get up in the
23 morning and go on to the pool house and get --

24 Q I'm trying to get your recollection of what happened
25 this night. Now, where were -- the three of you left

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Hazel's.
- 2 A Yes.
- 3 Q And then when did the three of you separate?
- 4 A As soon, as soon as Jesse come out the door, Jeremy
- 5 went on his way. And Jesse went down there to get that
- 6 belt and another D. V. D. player from Juan's.
- 7 Q So, and where did you go?
- 8 A I stood right there and waited on Jesse.
- 9 Q Did you walk down to Juan's with him?
- 10 A No, I didn't.
- 11 Q You just stood up here?
- 12 A Well, I stood in the middle where that well is that I
- 13 told you about that pathway. I stood right there.
- 14 Q All right. I'm going to show you Exhibit No. 11.
- 15 Does that look like the back of Juan's trailer?
- 16 A Yes. That's the back.
- 17 Q That gas tank thing is.
- 18 A Yes, sir.
- 19 Q Okay. And that would be. And there's a big tree
- 20 right there. That would be kind of right in this area?
- 21 A Yes, sir.
- 22 Q And so from there about where were you standing?
- 23 A On the left side of the driveway. The well was over
- 24 there on the left side of the driveway.
- 25 Q Over here?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 A Oh, no. On the other side closest to me.

2 Q Over here.

3 MR. MORIN: I would ask to let him have her step down.

4 Q Well, just, yeah. That would work better.

5 (Whereupon, the witness left the stand.)

6 A The well was right here in between them two houses.

7 And there was a path on this side of the well. And I stood
8 right here and waited on Jesse.

9 Q Did he tell you what he was going to do?

10 A Yes. He told me that he was going to get that belt.

11 Q At that time did he have the boots that belonged to
12 Juan?

13 A I think that whenever they come up that he had the
14 boots.

15 Q Originally?

16 A Originally.

17 Q So when he came in Hazel's bloody he had boots with
18 him?

19 A Yes, sir.

20 Q Cowboy boots?

21 A Yeah, they was cowboy boots. They was snake skin.

22 Q How would you describe them? Did you see them?

23 A Yes, sir, I seen them.

24 Q What color were they?

25 A I don't remember what color. Juan was proud of them

Nakia Moss Gossett
Crcss-examination by Mr. Weatherford

1 though. He showed them off, and he had a belt that like
2 matched it. But he hadn't, he hadn't ever wore them as far
3 as I know.

4 Q And the boots and the belt were the same color?

5 A Just about it.

6 Q Which was what color?

7 A It may have been a gray color. I don't, I don't
8 remember.

9 Q All right. So now you think that when Jesse came in
10 the house the first time he had the boots with him.

11 A Yes, sir.

12 Q And then when you all three went and left Hazel's,
13 Jeremy disappears. And you go over here and stand by the
14 well. And Jeremy, I mean, Jesse says he's going back in
15 there to get the belt.

16 A Yes.

17 Q And so he goes in Juan's house?

18 A Yes, sir.

19 Q I guess, did he go in the front door or go around
20 toward the front?

21 A He went around to the front door.

22 Q You couldn't see him go in.

23 A No.

24 Q And did you look in the window and see what he did?

25 A No. I couldn't then. I mean, I wasn't standing up

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 there at the trailer.
- 2 Q You weren't curious that time about what was going on
- 3 in there.
- 4 A No.
- 5 Q And so Jesse went in that trailer by himself.
- 6 A Yes, sir.
- 7 Q And you don't know what he did while he was in there.
- 8 A He got them, that belt, and that D. V. D. player.
- 9 Q Well, he came out with it.
- 10 A Yes.
- 11 Q But you don't know what he did while he was in there.
- 12 A No.
- 13 Q You don't know if he kicked or hit Juan any more.
- 14 A No. I don't know that.
- 15 Q You don't know if he poured any gasoline or any
- 16 kerosene or anything that might have been, lighter fluid
- 17 that might have been around there, on anything in there.
- 18 A No. I don't know for sure.
- 19 Q So you wouldn't know that.
- 20 A No.
- 21 Q All you know for sure is that he went in there by
- 22 himself.
- 23 A Yes, sir.
- 24 Q How long was he in there?
- 25 A He wasn't in there long.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q And you didn't look to see if Juan had gotten up.
2 A No.
3 Q Or moved around or anything.
4 A No.
5 Q When you did see Juan laying on the floor did you see
6 him moving or anything?
7 A He was unconscious. He couldn't move. He couldn't
8 defend hisself.
9 Q Well, I just asked if you saw him move.
10 A No.
11 Q Do you know if he was still in that condition when
12 Jesse went back in there?
13 A I don't know for sure.
14 Q All right. Jesse comes out with a belt and another D.
15 V. D. player.
16 A Yes, sir.
17 Q And then what?
18 A And then me and him go up there to wash him off.
19 Q All right. You went over to Jeremy's.
20 A Yes, sir.
21 Q Through, through the woods.
22 A On that path.
23 Q On the path?
24 A Yes.
25 Q And you used, what did you use to wash him off?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 A It was a bar of green soap Jeremy had in there in his
2 bathtub, and then the hosepipe.

3 Q Where was the hosepipe?

4 A It was outside connected to Jeremy's grandpa's
5 building.

6 Q All right. Would you step down and kind of show me
7 where that was?

8 (Whereupon, the witness left the stand.)

9 Q Now, you got Jeremy's trailer just a little -- isn't
10 that the little black thing there?

11 A Yeah, that's Jeremy's trailer right there. And the
12 building is right here. The hosepipe is right here.

13 Q And what about the pool house you're talking about?

14 A It's up here, and his grandpa lives in this big old
15 house right here.

16 Q Okay. And so you went over there to wash Jesse off
17 with the hosepipe --

18 A Yes, sir.

19 Q -- and a bar of soap. And he took his clothes off
20 down to his --

21 A Down to his boxers.

22 (Whereupon, the witness returned to the stand.)

23 Q And did you have any towels or rags or anything?

24 A No.

25 Q All right. So you washed him off.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Yes, sir.
- 2 Q Did you get the blood off of him?
- 3 A Yes, sir.
- 4 Q Out there at the hosepipe.
- 5 A Yes, sir.
- 6 Q And what about his clothes?
- 7 A We put them to the side, and Jeremy come and got them.
- 8 Q Where did you put them based on that diagram?
- 9 A Right beside where we was at.
- 10 Q Right beside the hosepipe?
- 11 A Yes, sir.
- 12 Q And while you were standing there Jeremy came up and
- 13 got the clothes?
- 14 A Yes, sir.
- 15 Q What was Jeremy wearing?
- 16 A Jeremy had done changed into some overalls, but Jeremy
- 17 had put -- and I didn't know this till the next day, but
- 18 Jeremy put his pants and them boots in his grandpa's
- 19 swimming pool overnight and let them set. And the next day
- 20 he cleaned the pool and covered it.
- 21 Q How do you know that?
- 22 A Because I watched him clean the pool and I seen his
- 23 stuff.
- 24 Q In the pool.
- 25 A I seen him get it out, yes, sir.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 Q So that would be his boots and his pants.

2 A Yes, sir.

3 Q But let's get back on the night. So he came up. And
4 he had changed clothes. And you and -- you and Jesse were,
5 were standing there. And he had already been washed off
6 standing there wet in his, in his underwear.

7 A And we went in the house, and he got some of Jeremy's
8 clothes.

9 Q Okay. And you, you said something about a towel.

10 A They was a towel in the front room.

11 Q What did anybody do with the towel?

12 A He dried off.

13 Q Jesse did?

14 A Jesse did, yeah. Jeremy was already clothed again.

15 Q So what kind of -- so when he dried off was there any
16 blood? I guess you'd already washed the blood off of him.

17 A Yes.

18 Q So there wasn't any blood on him.

19 A No.

20 Q What kind of towel was it?

21 A I don't remember what kind of towel it was.

22 Q Well, some towels are white, some have flowers on
23 them, some have designs of things.

24 A Well, they was a lot going on that night. I do not
25 remember the kind of towel it was.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q All right. But as far as you know there would have
2 been no blood on that towel.
- 3 A Right.
- 4 Q And you said that towel was put where?
- 5 A In the living room. He had a basket of dirty clothes
6 that was right there in the living room.
- 7 Q And that towel so far as you know with no blood on it
8 was put in that basket.
- 9 A Yes, sir.
- 10 Q Was there anything else in the basket?
- 11 A There was my clothes and Jeremy's clothes.
- 12 Q Dirty clothes.
- 13 A Yes, sir.
- 14 Q From other times.
- 15 A Yes, sir.
- 16 Q But nothing connected with Juan or his blood --
- 17 A No.
- 18 Q -- or anything like that.
- 19 A No, sir.
- 20 Q Did that basket kind of stay in the same position?
- 21 A Yes, sir.
- 22 Q All right. When the three of you -- you went back to
23 Jeremy's.
- 24 A Yes, sir.
- 25 Q All right. Then what?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Jeremy was gone to burn the clothes.
- 2 Q Well, tell me all about that.
- 3 A I know he grabbed the clothes up, and he was gone.
- 4 And whenever he come back he didn't have the clothes.
- 5 Q Well, does Jeremy have one of those metal trash
- 6 barrels behind his house where he burns trash?
- 7 A He's got a lot, yeah, and in the front of his house
- 8 he's got all kind of metal barrels that's stacked up on
- 9 each other too.
- 10 Q But does he have a place where he burns stuff?
- 11 A Yes, sir.
- 12 Q Out behind his house?
- 13 A It's like out to the side on the front, I think.
- 14 Q All right. Does his grandpa have a pit where they
- 15 burn things too?
- 16 A I don't know. He in the back yard, they, he would, he
- 17 had, it was a pile, and it looked like stuff had been
- 18 burnt, but as far as me ever seeing it being burned, I
- 19 hadn't never seen it.
- 20 Q Well, that night did you see anything burning in that
- 21 barrel, burn barrel?
- 22 A No, sir.
- 23 Q All right. Jesse took the, I mean, Jeremy took the
- 24 clothes, left. About what time was this?
- 25 A After 10:00.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q Okay. And then what?
- 2 A When he come back I'm, I'm, I think that he thought
3 that Juan was dead too. And he was talking about moving
4 his body. And I told him don't do that. And then he said
5 he would just burn it down. And he left out.
- 6 Q So he left again.
- 7 A Yes, sir.
- 8 Q So he left one time with the clothes.
- 9 A Yes, sir.
- 10 Q What about the boots? Did he have any? Did he
11 have --
- 12 A He had the boots with him.
- 13 Q Jesse's boots?
- 14 A Yes. But, now, after, after the fact, he had said
15 that he didn't burn Jesse's boots, that he had set them in,
16 in one of the barrels in the front of the, in the front of
17 the house. So, I mean, I don't know if he burned them or
18 not because he had told me afterwards that he didn't burn
19 the boots.
- 20 Q But he left with them.
- 21 A Yes, sir.
- 22 Q And the clothes.
- 23 A Yes, sir.
- 24 Q Both of which had blood on them.
- 25 A Yes, sir.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q And he came back after about 20 minutes.
- 2 A He probably wasn't gone that long.
- 3 Q And then he started talking about the fire.
- 4 A Yes, sir.
- 5 Q And after talking about the fire, then what?
- 6 A He left out and he told--
- 7 Q By himself.
- 8 A Yes. He told me and Jesse to stay. And as soon as he
- 9 was out the door Jesse went out the door.
- 10 Q Did you see where either one of them went or what
- 11 either one of them did?
- 12 A No, no. The next time I seen them I had walked out
- 13 beside his house. And I seen the fire, and I seen both of
- 14 them running up there.
- 15 Q So you don't know if they, if the fire was set by
- 16 either one or both of them as far as what you saw.
- 17 A I don't know who lit the fire, but I know they went
- 18 down there to start it. They said that's what he was going
- 19 to do.
- 20 Q And have you told people that Jesse is the one that
- 21 started the fire?
- 22 A I told them that I didn't know. I don't know.
- 23 Q All right. After the fire got started, what happened?
- 24 A My daddy had come. And me and Jesse went with my
- 25 daddy, and Jeremy stayed there and said he would be down

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 there at my daddy's house in a little while.

2 Q Is that when your daddy came off after work?

3 A Yes, sir.

4 Q What time did he get off work?

5 A He got off at 11:00 o'clock. So he probably was there
6 15 or 20 minutes after 11:00.

7 Q All right. So you saw the fire before your daddy got
8 there.

9 A Right. My daddy was pulling up. And my daddy said,
10 "Nakia, I seen, I seen Jesse running from that fire." He
11 said, "I want to go down there and see if Juan's down
12 there." I said, "Daddy, you seeing stuff." I said, "Juan
13 ain't there." I said, "Juan's gone to the store to get
14 some beer." And then he kept on. He wanted to go down
15 there and try to save Juan, and I wouldn't let him. And so
16 me and daddy and Jesse went down to my daddy's house.

17 Q All right. What about Juan going to get some beer?
18 How did you know anything about that?

19 A Well, whenever, whenever the fire, whenever the fire
20 trucks and all come, I went out there. And Charles
21 Scruggs, he was the landlord. He had told me that he had
22 done took Juan to get beer three times that day, that he
23 knowed Juan had done drank three cases of beer that day.

24 Q And is that why you told your daddy that he had gone
25 to get beer?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A No. I told my daddy that just because I didn't want
2 him to go down there and try to save Juan. I lied to him.
- 3 Q Okay. And this was about -- your daddy had got off
4 work at what, 11:00 o'clock?
- 5 A 11:00 o'clock, yes, sir.
- 6 Q So he came and picked you up about 11:15.
- 7 A Yes, sir.
- 8 Q And where did he, where did he find you?
- 9 A I was standing out in the yard.
- 10 Q Whose yard?
- 11 A Jeremy's yard. As soon as I come out and I seen that
12 fire, I seen my daddy was pulling down, down the road.
- 13 Q Down in the driveway?
- 14 A Yes, sir.
- 15 Q You kind of got to go down a little dirt road to get
16 back there to Jeremy's.
- 17 A Yeah. You got to pass his grandpa's house, and then
18 his house is right there.
- 19 Q And was it, was that the daily custom, he'd come to
20 Jeremy's to pick you up?
- 21 A Yeah, because my daddy, he had a real bad pill habit.
22 And he had did the title loan thing to his Jeep. And he
23 was scared they was going to repossess it. And so he would
24 always come up there, and me and Jeremy would carry him
25 home. And we would let the Jeep stay at Jeremy's house.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 That way he would still have a vehicle.
- 2 Q How did you carry him home?
- 3 A I didn't carry him home that night.
- 4 Q Well, you just said you and Jeremy -- he would leave
- 5 his vehicle there and you and Jeremy would carry him home.
- 6 A Yeah. Usually Jeremy would drive, because I had just
- 7 went to jail for driving under suspension. And I wouldn't
- 8 drive any more.
- 9 Q What did he drive?
- 10 A My daddy drove a Jeep Cherokee.
- 11 Q No. But he left the Jeep there hiding it from the
- 12 finance company.
- 13 A We, we would drive my daddy down and drop him off and
- 14 bring the Jeep up there to Jeremy's house.
- 15 Q Okay. All right. And how would he get it the next
- 16 day when he was going to work?
- 17 A He would either walk up there or we'd go back down
- 18 there and get him.
- 19 Q So you saw the fire standing over here at the well, is
- 20 that right?
- 21 A No. I didn't go down as far as the well. I went to
- 22 the end of Jeremy's trailer, and I seen them running up,
- 23 and I seen my daddy.
- 24 Q And you saw the fire.
- 25 A Yes, sir.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q At about the time your daddy drove up.
- 2 A Yes. It had just started.
- 3 Q And, and when he came up to get you the fire had
- 4 already started going to where you could see it from
- 5 Jeremy's house.
- 6 A Yes, sir.
- 7 Q And so you and Jesse went down to your daddy's house.
- 8 A Yes, sir.
- 9 Q Did he leave the Jeep up there at Jeremy's like
- 10 normal?
- 11 A No, no.
- 12 Q Why not?
- 13 A He took it because of everything that was going on. I
- 14 went down there and I was going to cook for him because he
- 15 was hungry, and then I was going to come back up to
- 16 Jeremy's.
- 17 Q In the Jeep.
- 18 A Yes, sir.
- 19 Q But you had just been put in jail for driving.
- 20 A Yes, sir. I knowed Jeremy would be down there by that
- 21 time.
- 22 Q Okay. So Jeremy didn't go with you?
- 23 A No. He didn't.
- 24 Q Any reason?
- 25 A Can he read?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q Any reason he didn't go?
- 2 A Oh, any reason. No. Jeremy would always disappear
3 for a time, and I didn't ask questions or nothing. I mean,
4 he did his thing.
- 5 Q So in a little while he came on down there to your
6 daddy's.
- 7 A Yes, sir.
- 8 Q And by then had the fire trucks got there?
- 9 A They had -- whenever he got there they -- he come up
10 maybe ten minutes after we got there. And the fire trucks
11 had gotten out there. And me and my daddy and Jesse went
12 to go see what was going on. And Jeremy stayed down there.
13 And my daddy didn't go all the way up there. He just went
14 like to the top of his driveway. And Jeremy come on up
15 later.
- 16 Q That night after you saw Juan being beat did you call
17 anybody and tell them other than Hazel? Did you call
18 Shannon and tell her that?
- 19 A No, sir.
- 20 Q From Jeremy, I mean, from Juan's phone?
- 21 A No, sir.
- 22 Q And tell her that --
- 23 A No, sir.
- 24 Q -- they had beat him up?
- 25 A No, sir.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q Did you call her from that? Did you ever make any
2 phone calls from that phone that turned out to be Juan's?
3 A I called, which Jeremy kept that phone for about a
4 week after it happened. And, I mean, I don't remember as
5 far as I might have called Robert a couple of times after
6 that. But that's it. Not Shannon or nobody.
7 Q Did you, did you go around town the next day or the
8 next few days telling other people that Jeremy was the one
9 that beat up Juan?
10 A No, sir.
11 Q Did you go to the Town Grill and tell anybody?
12 A No, sir.
13 Q Did you go to the grocery store and tell anybody?
14 A I didn't tell nobody.
15 Q Did you go to the liquor store and tell anybody?
16 A No, sir.
17 Q Did you go to anybody's house and tell anybody?
18 A No.
19 Q Did you call anybody and tell anybody?
20 A No, sir.
21 Q And especially the police.
22 A Especially the police.
23 Q What went on the week after the fire?
24 A Well, we did our normal routine, just nothing, nothing
25 special as far as that goes.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 I mean, I -- my feelings sort of changed for Jeremy,
2 but, I mean, I still loved him. And I had told him that he
3 was going to go to jail. And he said, he said, and I told
4 him I was going to go to jail. And he promised me I
5 wouldn't go to jail. He said, "You ain't did nothing,
6 Nakia." I said we going go to jail, we going to go to
7 jail.

8 He said as long as we stick together, he said Hazel
9 and Jesse both -- he would call them retarded. I called
10 them slow, but he'd call them retarded. He said we can
11 beat them, we can beat them as long as we stick together.
12 And that's what I did, because, I mean, it was ruled no
13 arson. I mean, they had gotten away with it. But then
14 Hazel went, and she told what happened.

15 Q So no police were out there investigating anything.

16 A Well, I mean, they, they come out there the next
17 couple of days. But, I mean, as far as foul play, I don't
18 think that they was thinking that it was foul play.
19 Everybody just thought he was drunk and went to bed with a
20 cigarette in his hand.

21 Q Well, that's what I'm asking. Were the police going
22 around taking statements and having people come down there?

23 A Well, the day we got arrested.

24 Q No. I'm talking about the week before that.

25 A I don't know that they was taking statements. I know

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 the day I got arrested they had went and took some
2 statements, but they was coming out --

3 Q But before that, the whole week after the fire.

4 A They was coming out and looking at it.

5 Q Just looking at the fire.

6 A Yes, sir.

7 Q But did they do any -- did they leave an officer there
8 to keep the people from messing around?

9 A No. They put that yellow tape up.

10 Q But, but that's all.

11 A I mean, they might have stayed that night that it
12 happened. But the days after that I never seen, you know,
13 nobody just staying there guarding it or anything.

14 Q All right. For six or seven days after the fire there
15 was nothing there but that yellow tape night and day.

16 A Right, right.

17 Q And that area, is it well-lit?

18 A No.

19 Q It's dark.

20 A Yeah.

21 Q And you couldn't -- it was dark. You couldn't see
22 anybody messing around in there if they didn't want you to
23 see them, could you?

24 A No.

25 Q So for a week anybody could have gone in there and

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 done anything they wanted to to the fire scene.
- 2 A Yes, sir.
- 3 Q And so everything that has happened since you got
- 4 arrested was because Hazel went down there and told
- 5 something.
- 6 A That's how it all got started.
- 7 Q Okay. Did Hazel right after the fire, did she move
- 8 out?
- 9 A She went and stayed with her son. She did that -- I
- 10 think the day after the 1st, the 2nd, the day after all of
- 11 her stuff got gone, she called her oldest son to come and
- 12 get her. And she didn't come back. I mean, she would come
- 13 back and get some clothes and all, but she didn't come back
- 14 and stay.
- 15 Q Alberto left too.
- 16 A Yes, sir.
- 17 Q All of that before you got arrested.
- 18 A Yes, sir.
- 19 Q I asked you if you called anybody and told them that
- 20 Jesse or Jeremy did this. Did you go tell anybody?
- 21 A No, sir.
- 22 Q Did you tell anybody that Jesse did it?
- 23 A No, sir. He went, Jesse went. And Jesse was telling
- 24 people. And Jeremy told him, he said, you don't never say
- 25 that. He said you don't need to tell nobody that. And me

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 and Jeremy always denied it. Whenever people would come
2 and ask us, we would always deny it.

3 Q Well, who would come and ask you?

4 A Gregg asked us. He said that Jesse was talking about
5 it and telling everybody. And we told him that Jesse was
6 just messed up.

7 Q What was he doing, going around bragging about it?

8 A Yes, sir.

9 Q Saying that he did it?

10 A Saying that they did it.

11 Q Well, who did he tell that that you know of?

12 A I know he told Gregg that because Gregg had asked.

13 Q Gregg who?

14 A Gregg. I don't know his last name. He lives right
15 there on 29. I used to know his last name. I don't know
16 his last name.

17 Q Well, how do you know that he told Gregg?

18 A Because Gregg knowed about it. He knowed details. He
19 knowed details that just anybody wouldn't know, you know.

20 Q When did you talk to Gregg?

21 A A couple of days afterwards we went up there.

22 Q And he lived on 29. Is that the place where the
23 little camper --

24 A Yes, sir.

25 Q Where Jesse would stay sometime?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Yes, sir, right beside my daddy.
- 2 Q Just before you -- if you're coming from Gaffney, just
- 3 before you get to Oakstone?
- 4 A Yes, sir, on the left.
- 5 Q So this Gregg that you don't know his name came up
- 6 there and was talking to who?
- 7 A We went to Gregg's to smoke a joint.
- 8 Q We?
- 9 A Me and Jeremy.
- 10 Q And what did he say?
- 11 A He said that Jesse was going around telling everybody
- 12 that they was the ones who killed Juan.
- 13 Q They, not him.
- 14 A Right.
- 15 Q Anybody else you know of that Jesse told?
- 16 A No.
- 17 Q Do you know of any reason why he would do that?
- 18 A Because he's -- he was, he was happy about it, I
- 19 guess. I mean, he felt like he had did something.
- 20 Q Jesse did.
- 21 A Yeah.
- 22 Q So he was kind of proud of what he had done.
- 23 A I guess so.
- 24 Q And went around telling people.
- 25 All right. You mentioned you gave two statements.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Yes, sir.
- 2 Q You got arrested when?
- 3 A On September the 6th of '06.
- 4 Q And was Jeremy arrested at the same time?
- 5 A He was.
- 6 Q All right. Both of y'all were arrested in the trailer
- 7 that Jesse, I mean, Jeremy's trailer.
- 8 A Yes. They come through the window on us.
- 9 Q Okay. Was there anything unusual about the clothes
- 10 basket? Was it still there in the house?
- 11 A It still was there.
- 12 Q Did you notice anything? Was that towel still in
- 13 there?
- 14 A I didn't pay no attention. I'm pretty sure that it
- 15 was, I mean.
- 16 Q For the whole week after the fire was the clothes
- 17 basket there?
- 18 A Yes, sir.
- 19 Q And was anything so far as you know put in or taken
- 20 out?
- 21 A Not taken out. Probably added to.
- 22 Q Did you ever see a towel with blood on it in that
- 23 basket?
- 24 A They was a towel with blood on it, but it wasn't, it
- 25 wasn't from Juan.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q It was from you.
- 2 A Yes, sir.
- 3 Q All right. When you, when you were arrested the first
4 time you made a statement to the police.
- 5 A Yes, sir.
- 6 Q And when you made that statement did you sign a waiver
7 of rights?
- 8 A I signed a thing saying it was voluntary, it was a
9 voluntary statement.
- 10 Q Okay. They told you when you signed it --
- 11 A Yeah, I waived my rights.
- 12 Q -- before you gave your statement.
- 13 A Yes, sir.
- 14 Q They told you you had a right to remain silent and
15 anything you said could be used against you and you had a
16 right to talk to a lawyer and if you couldn't afford a
17 lawyer you would be appointed one and you have the right to
18 stop answering questions at any time.
- 19 A Yes, sir.
- 20 Q And you checked all of those boxes.
- 21 A Yes, sir.
- 22 Q You can read and write, can't you?
- 23 A Yes, sir.
- 24 Q All right. And then the next thing was a waiver. You
25 waived your rights that they just explained to you. You

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 said that's all right, I want to go ahead and talk to you.

2 A Yes, sir.

3 Q And you signed that.

4 A Yes, sir.

5 Q And then the last thing on the, on the page was a
6 statement that said you were telling the truth.

7 A Yes, sir.

8 Q And you swore to tell the truth in that statement.

9 A I did.

10 Q That first statement. And you, you signed your name
11 in front of a notary public:

12 A Yes, sir.

13 Q Is that right?. You took an oath to tell the truth.

14 A Yes, sir.

15 Q And in that first statement you made you pretty much
16 gave Jeremy an alibi.

17 A Yes, sir.

18 Q You didn't tell them anything like what you've told us
19 in here in court today.

20 A I didn't.

21 Q You said Jeremy was at your house.

22 A Yes, sir.

23 Q Nothing about the blood or the beating or anything
24 like that, or nothing about the fire.

25 A No, sir.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 Q And then you signed that statement as being the sworn
2 truth.

3 A Yes, sir.

4 Q And then what happened after you made this first
5 statement? Did you stay in jail?

6 A Yeah, I stayed in jail.

7 Q Did they come and serve some warrants on you then?

8 A No, sir.

9 Q First you were charged with what?

10 A They brought me in on my daddy's illegal cable, I
11 mean, illegal power hookup, is what they brought me in on.

12 Q So when you made this first statement all you were
13 charged with was stealing power.

14 A Yes, sir.

15 Q And then after that did you get served with a warrant
16 charging you with murder?

17 A Yes, sir.

18 Q And arson first degree?

19 A Yes, sir.

20 Q And strong arm robbery?

21 A Yes, sir.

22 Q And after that did you talk to the detectives again?

23 A I talked to them before that.

24 Q Before you got the warrant?

25 A Yes, sir.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 Q Well, when did you get the warrants in relation?

2 A I got the warrants on a Friday afternoon, and I went
3 and I told the truth that Friday morning.

4 Q All right. Did they -- who did you talk to on Friday
5 when you made, the two days later when you made, another
6 statement?

7 A I think it's Tracy Fowler.

8 Q And did he have a statement from Jesse with him and
9 show you?

10 A I, no, he didn't show it to me.

11 Q Have you ever told anybody or written anything saying
12 that he had a statement with him before and showed you
13 before you changed your story?

14 A No, sir. He, he had told me that one of the boys had
15 said that I was, I helped them kick Juan. And I told him,
16 no, that that was not true. But, I mean, as far as whose
17 statement it was or showing me a statement or anything like
18 that, that never happened.

19 Q Did you ever, did you ever say or write that you were
20 matching your statement to the one they had showed you?

21 A No, sir.

22 Q Did you write Jeremy a letter on September the 8th?

23 A I probably did.

24 Q And did you tell him in that letter that they came and
25 got you for questioning again and they had Juan's D. V. D.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 player and had phone records and Jesse said I helped you
2 beat him up and they read me part of Jesse's statement and
3 it wasn't good? Did you --

4 A They read me part of a statement, but they did not
5 tell me whose statement it was. And I knowed it was
6 Jesse's, because I knowed Jeremy wasn't going to never
7 admit to it.

8 Q So you did write him a letter on the same day you made
9 the second statement.

10 A Yes, sir.

11 Q You wrote him a letter. And you told him that they
12 had showed you Juan's D. V. D. player.

13 A Yeah. They showed me Juan's D. V. D. player.

14 Q Do you know which one it was?

15 A No. It was, it wasn't the black one that Eric had.
16 It was one. But Jeremy had one like that too at his
17 trailer. And I told them that I didn't know if that was
18 Jeremy's or Juan's, because I didn't know which was which.
19 They looked alike.

20 Q Well, and you said they told you, being the detectives
21 told you, that Jesse said you helped give him up.

22 A They didn't say Jesse. They said that one of the
23 boy's statements said. I said Jesse because I knowed it
24 was Jesse, but it wasn't because the detective had told me
25 or showed me that. It was because I knowed.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 Q Okay. So the detective said one of the two boys said
2 you helped beat up Juan.
- 3 A Yes, sir. >
- 4 Q And you assumed that was Jesse.
- 5 A Yes, sir.
- 6 Q And so you put that in your letter that it was Jesse.
- 7 A Yes, sir.
- 8 Q All right. You wrote another letter to him. It
9 doesn't have a date, so I can't refer to the date. But is
10 that a letter you wrote to Jeremy?
- 11 A Yes.
- 12 Q And in that letter did you tell him Tracy Fowler had
13 come to see you again?
- 14 A I --
- 15 Q You can look at it if you want to.
- 16 A All right. If it says it, then I did.
- 17 Q Well, the first paragraph there is what I'm talking
18 about. You wrote, did you not, that Tracy Fowler paid you
19 a visit today?
- 20 A Uh-huh.
- 21 Q Well, was that true? Talking about a statement you
22 had written a couple of weeks ago.
- 23 A No, it wasn't true. I just told him that.
- 24 Q All right. So you're just making up stuff telling
25 Jeremy now.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Yeah.
- 2 Q The one you professed to love with all of your heart.
- 3 A He wouldn't tell the truth.
- 4 Q Well, I know. But you were writing him love letters
- 5 almost every day.
- 6 A I did, and he wrote me love letters too.
- 7 Q Right.
- 8 A And, I mean, I love him. I love him today. But what
- 9 he did was wrong.
- 10 Q But you told him a lie in the letter that you said
- 11 Tracy Fowler came to see you, that the statement you wrote
- 12 was phony and forced you to make a decision between,
- 13 basically between, him and your kids. You told him that
- 14 Tracy Fowler did that. But that was a lie?
- 15 A Tracy Fowler didn't tell me that my statement was
- 16 phony. I told Jeremy that.
- 17 Q Okay. And did Tracy Fowler ever come and talk to you
- 18 and put you in a position of making a choice between Jeremy
- 19 and your children?
- 20 A No, sir; no, sir. Whenever I went that Friday and
- 21 Mike Fowlkes looked at me and told me that I was choosing a
- 22 man over my kids, that was right.
- 23 Q He told you what?
- 24 A He told me that I was picking a man over my kids.
- 25 Q That was on the 8th.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Yes.
- 2 Q Before you made this statement on the 8th.
- 3 A Yes.
- 4 Q And so how would, how would that mean you're picking
- 5 him over your children?
- 6 A Because I'm lying for him. I'm, I, I went to jail.
- 7 I've, I've been in jail for a year, a year without my kids,
- 8 because I thought that I could stick with him and he would
- 9 get out of it. And it don't work like that.
- 10 Q So you decided that your best way out of it is to
- 11 testify against Jeremy.
- 12 A I decided the best way out of it was to tell the
- 13 truth.
- 14 Q Well, I know. Which time were you telling? When did
- 15 you decide to all of a sudden start telling the truth?
- 16 A What I said today is the truth.
- 17 Q That's when you decided to try to help yourself get
- 18 out of this trap, isn't it?
- 19 A No.
- 20 Q Aren't you trying to help yourself right now get your
- 21 charges reduced or help yourself in some way?
- 22 A No, sir. I deserve to be punished for what I did, and
- 23 I, I can accept that.
- 24 Q For the rest of your life?
- 25 A Well, if that's what it takes. I should have called

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 the cops then.
- 2 Q All right. Have you been promised anything by the
3 prosecution to testify?
- 4 A No, sir, nothing.
- 5 Q Have you talked to anybody about your testimony going,
6 helping you in some way?
- 7 A I said I wanted it to, but I ain't never. Ain't
8 nobody never told me anything like that.
- 9 Q All right. Now, you've got a lawyer.
- 10 A Yes, sir.
- 11 Q And has the lawyer talked to the solicitor about
12 making you some kind of deal?
- 13 A No, sir.
- 14 Q So you're telling me that your testimony here today is
15 not based on any kind of deal or promise or help of
16 leniency. It's just from the bottom of your heart.
- 17 A Yes, sir.
- 18 Q You've got to tell the truth.
- 19 A Yes, sir.
- 20 Q All right. This is -- do you recognize? Well, first,
21 let me ask you. I'm referring to this letter. If you need
22 to refer to it, you can.
- 23 A Okay.
- 24 Q But let me ask you.
- 25 MR. MORIN: Your Honor, may I see the letter before

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 she refers to it?

2 THE COURT: Yes.

3 Q Is that your writing?

4 A Yes, sir.

5 Q All right. I have to ask the question first.

6 All right. On the 14th, or did you write a letter and
7 date it October the 14th, and in that letter tell Jeremy
8 that, "Mike Fowlkes has asked me what I'm going to do when
9 my children look at me and ask why I chose a man over them."
10 And that's according to you on the 14th of October. That's
11 after your statement on the 8th. "He had the D. V. D.
12 player and cell phone records. Jesse's statement said I
13 beat Juan along with both of them." Do you remember that?

14 A Yes, sir.

15 Q All right. You told Jeremy that.

16 A Yes, sir.

17 Q And the, and the very next page you said Jesse started
18 the fire, didn't you?

19 A Yeah. I did say that.

20 Q Well, was that another lie?

21 A I don't know who started the fire. I didn't know. It
22 wasn't a lie. But I don't know.

23 Q But you testified Jeremy started the fire, they both
24 started the fire. But in your letter to Jeremy -- and you
25 didn't think anybody would ever see that, did you?

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 A Oh, I knowed he was giving them to you.
- 2 Q That was after, later you found that out.
- 3 A Yeah.
- 4 Q But at the time you wrote that letter you didn't know
- 5 that.
- 6 A No.
- 7 Q And at the time you wrote that letter you made the
- 8 statement that Jesse started the fire, not both of them and
- 9 not Jeremy, but Jesse.
- 10 A Yeah.
- 11 Q Did Mike Fowlkes ever tell you if you had told them
- 12 the night that you were arrested what happened that you
- 13 would have been scot-free?
- 14 A No.
- 15 Q Did you write that in this letter?
- 16 A I don't know.
- 17 Q Well, look near the end of the letter and see if that
- 18 refreshes your memory.
- 19 A The night that I got arrested.
- 20 Q Well, the question was did you tell, did you write in
- 21 that letter that Mike Fowlkes told you the night that you
- 22 were arrested if you told them what you're telling now
- 23 you'd have been scot-free?
- 24 A Yeah, I told him that.
- 25 Q All right. Is that what you're hoping you'll do, is

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 get scot-free?

2 A I know I won't get scot-free.

3 Q Well, do you, do you think you're going to get life in
4 prison?

5 A I'm looking at life in prison.

6 Q Well, what do you think you're going to get?

7 A I don't know.

8 Q Do you think you're going to get something less than
9 life?

10 A No. I know my life is rernt (sic).

11 Q But you did write that if you'd told them that
12 night --

13 A Yes.

14 Q The detective told you that night or something on the
15 14th. You wrote that he told you if you had told the truth
16 that night you wouldn't have been charged.

17 A Yes, sir.

18 Q All right. Do you remember writing a letter on or
19 about November the 8th where you told Jeremy it's every man
20 for himself?

21 A Yeah.

22 Q All right. And so that's what you're doing here
23 today, is every man for himself. You're trying to help
24 yourself, and to the heck with everybody else.

25 A No. It ain't like that.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 Q Except your kids.

2 A It ain't like that.

3 Q You're doing this for you because you want to be with
4 your kids.

5 A I'm doing it because it needs to be done. The truth
6 needs to be told.

7 Q And you're doing it because you're scared. Has that
8 got anything to do with it?

9 A No. I ain't scared.

10 Q At the end after Christmas before the first of the
11 year, about December the 28th, did you write Jeremy a
12 letter and tell him that you didn't see any light at the
13 end of the tunnel and you were going to make a new draft of
14 your statement and then send him a copy of what the new
15 draft was?

16 A I sure did because he sent me a letter telling me what
17 to say. And I sent him. I, I wrote a letter and sent it
18 to him so he would be happy and leave me alone about it.

19 Q In the letter that you wrote on the 28th did you
20 mention anything about what you just told us that you were
21 going to do, write a letter back like he wanted you to?

22 A No. I didn't tell him that.

23 Q So from reading these letters, somebody that didn't
24 know wouldn't know anything about what you just said.

25 A Right. Until he wrote me and told me.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 Q Reading these letters, all anybody would know is that
2 you wrote and told him that you were. And you said you
3 were sent this, to the detectives.

4 A I told him that.

5 Q And you told him that you were pressured into the
6 statement, "That I had talked to Jesse and saw Jesse's
7 statement. I was scared I would never see my children
8 again. And I matched my statement with his. Y'all kept
9 telling me what happened and kept speculating what, when
10 that was and what happened. I couldn't have been further
11 from the truth. Me and Jeremy was at my dad's."

12 MR. MORIN: Objection.

13 Q Is that -- did you write that to him?

14 A I did.

15 Q But all of that was lies.

16 A You read the letter that he wrote me and told me what
17 to say --

18 Q What other?

19 A -- from James Taylor. He acted like he was James
20 Taylor.

21 Q Well, who is this James Taylor?

22 A That was an alias he used whenever I was in jail on
23 them bench warrants. He had warrants on him. And he used
24 the name James Taylor to come and see me. So he like wrote
25 it in a third person or first person, whichever one it is,

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

- 1 and told me what to say and told me what to do. And I did
2 it to him just so he would leave me alone about it.
- 3 Q All right. Did he come to visit you in jail?
- 4 A Yes, sir, every Monday.
- 5 Q Would, would September, I mean, July --
- 6 MR. MORIN: Objection, objection.
- 7 THE COURT: What?
- 8 MR. WEATHERFORD: Let me just --
- 9 MR. MORIN: I don't have a copy of the documents he's
10 trying to show her and I don't know what he's referring to.
- 11 Q Did he come to visit you on July the 31st when you
12 were in jail?
- 13 A If it was a Monday, he did.
- 14 Q And did he come to visit you on August the 7th while
15 you were in jail?
- 16 A He come every Monday except the first Monday, because
17 my daddy come to see if they was going to check I. D.'s so
18 he knowed if he could come under that name or not.
- 19 Q And when, when somebody has to come to see you, they
20 have to sign in, don't they?
- 21 A Yes, sir.
- 22 Q And who is James or Jamie Taylor?
- 23 A He said it was his friend, I think, that was dead.
- 24 Q Do you know how he spelled Jamie Taylor?
- 25 A No. I don't remember if he used Jamie or James.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 Q Well, now, the letter you were talking about from this
2 James or Jamie Taylor, you got that?

3 A I had it. I gave it to the detectives.

4 Q Do you, did you ever know anybody named Joseph Smith?

5 A I know he was a boy in jail, but I didn't know him
6 personally.

7 Q Okay. And is this the letter that you're taking about
8 that he wrote under the pseudonym James Taylor?

9 A Yes, sir.

10 Q And that's the letter you say caused you to write the
11 letter on the 28th.

12 A Yes, sir.

13 Q And, and can you look how on -- this letter came to
14 you in the jail.

15 A Yes, sir.

16 Q And how did they, how did he spell James?

17 A J-A-M-E-S.

18 Q How did he spell Taylor?

19 A T-A-L-O-R.

20 Q The sign-up sheets --

21 MR. MORIN: Objection.

22 Q Well, have you ever -- mark them for identification.
23 Have you ever seen --

24 MR. MORIN: Objection.

25 THE COURT: I'm not going to show them to her. I'm

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 just going to ask her if she's ever seen them.

2 A I ain't never seen the sign-in sheet.

3 Q Okay. But you have seen this letter here.

4 A Yes, sir.

5 Q All right.

6 MR. WEATHERFORD: Well, let me mark it for
7 identification.

8 THE COURT: Do you want to introduce it?

9 MR. WEATHERFORD: No, sir.

10 THE COURT: You just want to mark it for
11 identification?

12 MR. WEATHERFORD: I may introduce it later.

13 THE COURT: Okay.

14 (Letter marked Defendant's Exhibit No. 5 for
15 Identification.)

16 THE COURT: Have you got any other questions of this
17 witness?

18 MR. WEATHERFORD: Yes, sir. I'm just getting some
19 more.

20 THE COURT: Why don't you bring that bottle up here
21 with you so you'll have it?

22 Q After we had a bond hearing on the 17th of July and
23 that's when you found out he'd given me your letters --

24 A No. I found out from him in January at that bond
25 hearing. He told me that he gave you, he told me that he

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 gave you his letters to show that me and him had a
2 relationship instead of me and Jesse because that you
3 thought it was me and Jesse who had the relationship, is
4 what he told me on the bus over here.

5 Q While you were in jail and writing him letters weren't
6 you hoping for, or write in the letters that you hoped for
7 just a little time or time served or probation or something
8 like that?

9 A Because I figured whenever all the evidence come in it
10 would prove I didn't kill that man.

11 Q But that's, that's what your purpose, is what you
12 wanted and what you are trying, hoping to get.

13 A That's what everybody hopes.

14 Q All right. That's why you're sitting up there now,
15 right?

16 A No.

17 Q Did you write and tell him that you had seen Jesse's
18 statement and that Jesse's statement was lies?

19 A I know Jesse had said that I was with them whenever
20 they beat him, and I knowed it was Jesse's statement, but I
21 did not see Jesse's statement.

22 Q So your statement was he had lied from the get-go.

23 A Who, Jesse?

24 Q Uh-huh.

25 A Yeah, Jesse lied from the get-go because I was not

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 there whenever they beat him.

2 Q And you even told him in that, in the letter on the
3 24th, that you knew that your lawyer and his lawyer were
4 going to try to pit y'all against each other.

5 A Yeah.

6 Q Which is what you're doing now.

7 A No, it ain't. I'm, I'm just telling what I know. I
8 don't know all the details, but I do know some of them.

9 Q On March the 20th did you write him and in part of
10 what you wrote say that you're innocent and you don't know
11 who did what?

12 A I don't know who started the fire. I don't know.

13 Q Okay. All right. And then later on one of your
14 friends that was in jail with you got 140 years, and you
15 wrote him something about that. What did you write about
16 that?

17 A I was trying to get him to tell the truth and get a
18 plea bargain instead of acting like he's not innocent
19 (sic).

20 Q So you thought the best way, since a friend of yours
21 got 140 years, you didn't think that was right, did you?

22 A No, because she, she wasn't. She just drove the car.

23 Q And if she'd, if she'd pled guilty or if you'd pled
24 guilty or if y'all all pled guilty you think you would have
25 come out a lot better than 140 years.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 A If they offered me a plea bargain, I would take it, no
2 matter what it was.

3 Q Well, they're going to as soon as you get through
4 testifying as soon as this case is over. You know that,
5 don't you?

6 MR. MORIN: Objection. I think she's answered that
7 question three times.

8 THE COURT: I think she has too. Do you have some
9 evidence to the contrary, Mr. Weatherford?

10 MR. WEATHERFORD: No, sir.

11 THE COURT: Because you're testifying to it.

12 MR. WEATHERFORD: I was just talking about her letter.
13 That's all.

14 THE COURT: No, sir. You were expressing an opinion,
15 I believe.

16 MR. WEATHERFORD: All right.

17 Q Well, Ms. Gossett, how, how do we know which one of
18 your stories or sworn statements or statements to the man
19 you profess to love, how do we know which one of them is
20 the truth?

21 A I made two statements. The first one was a lie and
22 the second one I told the truth.

23 Q Well, it didn't bother you to tell a lie the first
24 time?

25 A It bothered me, but he told me that -- he told as long

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 as we stuck together that they didn't have no physical
2 evidence on him.

3 Q So it wasn't until you found out that they had some
4 information based on Hazel's statement and some other
5 information that you decided to change your story.

6 A No. It wasn't until I found out that he wasn't going
7 to tell, he wasn't going to admit up to nothing and say
8 Nakia wasn't there. So I told them what happened.

9 Q Well, that was two days later.

10 A It was. It was three. Yeah. It was two days later.

11 Q And you didn't know anything about what Jeremy had
12 said or done.

13 A I know Jeremy. I know he's not going to admit to it.

14 Q But you knew that they had some evidence, and that's
15 why you changed the story, because Mike Fowlkes came and
16 talked to you.

17 MR. MORIN: Objection. He's asked this question and
18 she's already explained that.

19 THE COURT: Sustained.

20 Q All right. What I was asking you is how do we know
21 which one to believe.

22 A Because I'm telling y'all the truth.

23 Q You didn't come out and tell the truth --

24 A No, I didn't.

25 Q -- when you had the opportunity.

Nakia Moss Gossett
Cross-examination by Mr. Weatherford

1 A No, I didn't because I loved him.

2 MR. MORIN: Objection. He's asked this question and
3 she's answered it.

4 THE COURT: Sustained.

5 MR. WEATHERFORD: All right. Just a second.

6 THE COURT: Have you got any redirect?

7 MR. MORIN: I have.

8 MR. WEATHERFORD: Could I speak with my client before
9 I'm ready to quit?

10 THE COURT: Yes, sir.

11 (Pause.)

12 Q Just one thing. Did you say that you could stand or
13 that you were at Jesse's, I mean, Jeremy's trailer and
14 could see Juan's trailer, could see the fire?

15 A I could see the fire.

16 Q From where, were you standing?

17 A At the end of Jeremy's trailer down there by his
18 grandpa's building.

19 Q Right. That would be somewhere right in here?

20 A Yes, sir. His trailer, it would be that blue mark.

21 Q Well, I know none of this is to scale. But, but you
22 were kind of standing in front of his trailer between the
23 building -- behind the building?

24 A I was up right there where that hosepipe is, on up a
25 little bit more. Right there.

Nakia Moss Gossett
Redirect examination by Mr. Morin

1 Q Right there.

2 A Yes, sir.

3 Q And you could see all the way over to Juan's trailer
4 and see the fire.

5 A Yes, sir.

6 Q All right. That's all.

7 REDIRECT EXAMINATION

8 BY MR. MORIN

9 Q Nakia --

10 A Yes.

11 Q -- you gave the second statement two days after you
12 got arrested.

13 A Yes, sir.

14 Q Were you served with warrants for murder and arson
15 before or after you gave the statement?

16 A After.

17 Q Nakia, from the time you got arrested until the time
18 you gave that statement did you ever see Hazel Willis?

19 A No. Yesterday is the first time I've seen Hazel since
20 I got arrested.

21 MR. MORIN: I have no further questions.

22 THE COURT: You may step down.

23 MR. MORIN: I ask this witness be excused.

24 THE COURT: She may.

25 MR. WEATHERFORD: I have no objection.

Shannon Denise Powell
Direct examination by Mr. Morin

1 (Whereupon, the witness was excused.)

2 THE COURT: All right. Ladies and gentlemen, we'll
3 take a short break.

4 I'll ask you to please go to your jury room. Do not
5 discuss the case. I'll bring you back after that break.

6 (The following takes place outside the presence of the
7 jury.)

8 THE COURT: Court's in recess for ten minutes.

9 (Whereupon, a recess was taken.)

10 THE COURT: Bring the jury in, please.

11 (The following takes place in the presence of the
12 jury.)

13 THE COURT: All right. Mr. Morin.

14 MR. MORIN: At this time, Your Honor, the state would
15 call Shannon Denise Powell.

16 SHANNON DENISE POWELL, having
17 been first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. MORIN

19 Q Ma'am, would you state your name for the jury?

20 A Shannon Denise Powell.

21 Q Ms. Powell, do you know Jeremy Phillips?

22 A Yes, sir.

23 Q How do you know Jeremy Phillips? When did you first
24 meet him?

25 A I met him in 2001. He was my best friend for five

Shannon Denise Powell
Direct examination by Mr. Morin

- 1 years.
- 2 Q Okay. Do you have any children?
- 3 A Yes. I have two boys.
- 4 Q How old are they?
- 5 A Five and three.
- 6 Q Do they know Jeremy?
- 7 A Very well.
- 8 Q How do they know him very well?
- 9 A Well, when their father went to prison Jeremy kind of
- 10 stepped in and helped be a father figure for them. They
- 11 loved him.
- 12 Q Okay. Back in August of 2006, did you know Jeremy
- 13 then?
- 14 A Yes.
- 15 Q Do you know where Jeremy was staying then?
- 16 A Yes.
- 17 Q Where was he staying?
- 18 A In a trailer behind his grandpa's.
- 19 Q Okay. Did you know Juan Roman?
- 20 A Just from Town Grill where he worked.
- 21 Q How did you know him from Town Grill?
- 22 A I worked with him.
- 23 Q Okay. How about Hazel Willis, did you know her?
- 24 A Yes, sir.
- 25 Q Did you know where Hazel lived?

Shannon Denise Powell
Direct examination by Mr. Morin

- 1 A Yes, sir.
- 2 Q Where did Hazel live?
- 3 A Behind the trailer that got burnt.
- 4 Q Behind where?
- 5 A Behind the trailer that got burnt.
- 6 Q The trailer that got burnt?
- 7 A Yes. She was in the trailer behind that one.
- 8 Q Okay. Do you know who lived in the trailer that got
- 9 burned?
- 10 A I do now.
- 11 Q All right.
- 12 A I didn't know his name at the time.
- 13 Q Okay.
- 14 A I never associated with him at the time.
- 15 Q Okay. Now, did you go down there at any time after
- 16 the fire?
- 17 A The next day, yes, sir.
- 18 Q The next day after the fire?
- 19 A Yes, sir.
- 20 Q Where did you go?
- 21 A I went to Jeremy's because they wouldn't let me pull
- 22 my car down there because the fire investigators were
- 23 there. And I left my car at Jeremy's, and I walked down
- 24 there and talked to --
- 25 Q Walked down where?

Shannon Denise Powell
Direct examination by Mr. Morin

- 1 A To Hazel's house through the woods.
- 2 Q Did you see Jeremy there?
- 3 A Yes.
- 4 Q Did you talk to Jeremy?
- 5 A Yes.
- 6 Q Tell me about your conversation with Jeremy. Where
- 7 was it?
- 8 A It was at Hazel's trailer, outside Hazel's trailer.
- 9 He was bragging about what he did.
- 10 Q Where?
- 11 A Outside Hazel's trailer, beside it.
- 12 Q Who else was there?
- 13 A Everybody was there. Me, Eric, Nakia, Jesse, Hazel.
- 14 Q Okay. Jeremy, now.
- 15 A Uh-huh.
- 16 Q Do you know Jesse Willis?
- 17 A Yes, through Jeremy. I met Jesse through Jeremy. I
- 18 met Hazel through Jeremy.
- 19 Q So Jeremy introduced you to the Willises.
- 20 A Yes. I didn't know them before, beforehand.
- 21 Q Okay. And, and you say Jeremy was bragging.
- 22 A Yeah.
- 23 Q That man right there?
- 24 A Yeah.
- 25 Q Ma'am?

Shannon Denise Powell
Direct examination by Mr. Morin

- 1 A Yes.
- 2 Q What was he saying?
- 3 A That, that he did it. That was his first words to me.
- 4 Q Did he tell everybody or just you?
- 5 A Well, at first it was just me, but he was bragging to
- 6 everybody about it.
- 7 Q All right. Tell us the first, just you. How did that
- 8 come about?
- 9 A Well, me and him had always been close and telling
- 10 everything to each other. And he told me what went on.
- 11 Q Where? Where was he when he told you what went on?
- 12 A Outside Hazel's trailer, outside, the side of the
- 13 trailer.
- 14 Q On the side of the trailer.
- 15 A Yes.
- 16 Q Were there other people there?
- 17 A They were around in front of the trailer or in the
- 18 trailer. They wasn't around me and Jeremy.
- 19 Q All right. Now, you're on the side of the trailer
- 20 with Jeremy.
- 21 A Yes.
- 22 Q What does he say? What did he say?
- 23 A The first words was cus, I did it, because he always
- 24 called me cus. And I said you did what. And he said I did
- 25 it. And then he like nodded his head toward the trailer up

Shannon Denise Powell
Direct examination by Mr. Morin

- 1 there. And then he continued to tell me what was going on,
2 what had happened.
- 3 Q All right. Continued to tell you what had happened.
- 4 A Yeah.
- 5 Q What did he tell you?
- 6 A He told me that he had went in and Nakia was messing
7 around with the victim or whatever and he commenced to
8 beating him up, hitting him in the throat because he was
9 with his girlfriend at the time and told me how he put
10 gasoline on him.
- 11 Q How did he tell you?
- 12 A He told me that he took pipe and put it in his mouth.
- 13 Q He took a what?
- 14 A A P. V. C. pipe.
- 15 Q Uh-huh.
- 16 A And put it in his mouth and poured gasoline down it
17 and all over him. And I guess he said that he threw a
18 match and burnt it up.
- 19 Q He told you that the day after the fire.
- 20 A Yeah. He was like bragging about it like it was, you
21 know, something he was proud of. But he wasn't just
22 bragging to me. You know, he was bragging to everybody.
23 After me and him got done talking, you know, we went back
24 around to the trailer where everybody else was at. And, I
25 mean, he commenced to bragging about it.

Shannon Denise Powell
Direct examination by Mr. Morin

- 1 Q Okay. Did you ever get anything in your possession
2 that belonged to the victim?
- 3 A Yes, sir.
- 4 Q What did you get?
- 5 A A D. V. D. player.
- 6 Q How did you get it?
- 7 A Jesse handed it to me out of Hazel's window.
- 8 Q When?
- 9 A The night after the fire.
- 10 Q Jesse gave you a D. V. D. player.
- 11 A Uh-huh.
- 12 Q And where did you put it?
- 13 A No. It was the night before the fire, is when I got
14 that D. V. D. player.
- 15 Q You got it the night before the fire.
- 16 A Yes, out the window, yes.
- 17 Q Okay. And what did you do with that D. V. D. player?
- 18 A I put it in the trunk of my Cadillac.
- 19 Q And --
- 20 A I was holding it for Jesse --
- 21 Q Okay, now.
- 22 A -- because he wanted me to hold it so he could get
23 some weed with it.
- 24 Q Now, on August 31st when Jeremy told you he did it,
25 what? Did you call the police?

Shannon Denise Powell
Direct examination by Mr. Morin

- 1 A No, sir.
- 2 Q Why didn't you?
- 3 A I was scared. I didn't, I didn't really take him
4 seriously because he was always a kidder. I really didn't
5 take him seriously, you know. I didn't. I just didn't go
6 to the police.
- 7 Q Did you ever hear him say anything to Hazel?
- 8 A No.
- 9 Q Okay.
- 10 A Other than for her not to say anything. She has told
11 me that he --
- 12 Q No. Don't tell me what she told you. I just want to
13 know if you heard him tell Hazel anything.
- 14 A Okay.
- 15 Q You didn't hear anything?
- 16 A No.
- 17 Q Okay. Did you ever tell the police what you said here
18 today?
- 19 A Yes.
- 20 Q How long after the fire was it that you told them
21 that?
- 22 A Not, I'm not, exactly sure of the dates, but I'm sure
23 it wasn't long. Maybe a week after it happened.
- 24 Q Did you go to the police or did they come to you?
- 25 A They came to me. They got my number from the victim's

Shannon Denise Powell
Direct examination by Mr. Morin

1 cell phone that they called me from that night.

2 Q If the police hadn't come to you would you have ever
3 come and told them?

4 A Honestly, no, I wouldn't have.

5 Q When the police came to see you, what did you do with
6 the D. V. D. player?

7 A I gave it back to them.

8 Q Now, when Jeremy told you about how he did it, did he
9 just tell you, or did he show you or anything like that?

10 A The only thing that he showed me was how he put the
11 pipe in the victim's mouth.

12 Q How did he show you?

13 A By opening, you know, with his hands.

14 Q Did he touch your face or his face?

15 A He was touching my face.

16 Q Did he tell you why he did this with the P. V. C.
17 pipe?

18 A Why?

19 Q Yes.

20 A Yes. To get rid of dental records.

21 Q To get rid of what?

22 A Dental records.

23 Q And did he in any way describe what happened after he
24 set Mr. Roman on fire?

25 A Describe how, I mean?

Shannon Denise Powell
Direct examination by Mr. Morin

- 1 Q Did he say anything about what it looked like?
- 2 A No.
- 3 Q He didn't?
- 4 A No, unless you're talking about the Roman candle
- 5 thing.
- 6 Q What Roman candle thing?
- 7 A In my statement where he said his head went off like a
- 8 Roman candle.
- 9 Q Who said that?
- 10 A Jeremy.
- 11 Q Are you sure it was Jeremy and not Jesse?
- 12 THE COURT: Excuse me just a minute. Use that
- 13 microphone, please.
- 14 THE WITNESS: I'm sorry.
- 15 Q You need to talk up just a little louder.
- 16 A Okay.
- 17 Q All right. Jeremy said --
- 18 A Okay. I'm not sure if it was Jeremy or Jesse to be
- 19 honest, yes.
- 20 Q All right. But as far as -- you're sure that it was
- 21 Jeremy that said he did it, is that right?
- 22 A Yeah. They all. Him and Jesse and all three said
- 23 they did it.
- 24 Q And it was Jeremy that touched your face to show you
- 25 about --

Shannon Denise Powell
Cross-examination by Mr. Weatherford

1 A Yes.

2 Q Answer any questions Mr. Weatherford may have.

3 CROSS-EXAMINATION

4 BY MR. WEATHERFORD

5 Q You just said that all three of them told you that
6 they did it.

7 A Well, when me and my husband was up there it was like
8 they were kidding about like when I said did y'all do it,
9 and they said all three, all three of us did it. But they
10 were like joking. So I didn't take it seriously at the
11 time.

12 Q And joking or not, that was what was said.

13 A Yes.

14 Q And all three of them said they did individually.

15 A Yes.

16 Q Okay. Now, were you there any before the fire?

17 A I had went down there earlier that day.

18 Q What time?

19 A I seen Jeremy every day. I don't know. It was after.
20 It was -- I usually go, I usually went to his house in the
21 mornings when I got up and spent time with him during the
22 days.

23 Q Jeremy?

24 A Yes.

25 Q You and Jeremy, you said, been your best friend. It

Shannon Denise Powell
Cross-examination by Mr. Weatherford

1 was a little more than that, wasn't it? Wasn't it a sexual
2 relationship?

3 A Me and him had a sexual relationship twice. We had
4 sex twice.

5 Q In all of that time?

6 A Yes, sir.

7 Q What was your --

8 A We had a relationship, yes, we did.

9 Q What was your, what's your work history?

10 A My club history? Is that what you're referring to?

11 Q Well, if that's part of it. What is it?

12 A I was a stripper.

13 Q Okay. Where?

14 A At Nikita's.

15 Q And is that the only thing you did for a living?

16 A I waitressed. I've worked in Greenville as a
17 stripper. I've -- most of my work history has been in the
18 clubs.

19 Q Do you have children?

20 A Yes. I have two children.

21 Q And do you have custody of them now?

22 A Yes, sir, I do.

23 Q Have you lost custody of them?

24 A In the past.

25 Q Why?

Shannon Denise Powell
Cross-examination by Mr. Weatherford

1 A Drug use.

2 Q What kind of drugs do you like?

3 A When I lost my children I was addicted to
4 methamphetamines.

5 Q And you're not on anything now?

6 A No. I've been clean and sober for eight months.

7 Q All right. Well, during this time that the fire
8 occurred, that's not a time when you were clean and sober.
9 That's more than eight months ago.

10 A Yeah, no. I was smoking marijuana, yes, and taking.

11 Q And what else did you say you were doing, meth?

12 A No, I wasn't doing meth then. I hadn't done meth
13 since they took my kids away two years ago. I haven't
14 touched meth since they took my kids away two years ago.

15 Q All right. Well, what, what were you doing going over
16 there every day?

17 A Because he was my best friend.

18 Q Did you go to Hazel's every day?

19 A If Jeremy was down there, yeah.

20 Q Did you haul Hazel around to get beer or liquor?

21 A Yeah, I gave them rides.

22 Q Did you ever get any, any of her pills from her, her
23 Klonopin or anything?

24 A At times probably.

25 Q Sometimes she'd pay you for the ride with pills,

Shannon Denise Powell
Cross-examination by Mr. Weatherford

- 1 wouldn't she?
- 2 A Honestly, yes, she would.
- 3 Q Okay.
- 4 A Like I said, Jeremy was my best friend. I hung out
5 with him every day all day long. He was the only friend I
6 had.
- 7 Q All right. Now, let's, the day of the 30th, you went
8 over to Jesse or Jeremy and Hazel's trailer or somewhere in
9 there.
- 10 A Uh-huh.
- 11 Q And I believe you said that Jeremy and Nakia were
12 taking Xanax and messed up. Now, was that the --
- 13 A I did not see them taking Xanaxes. I saw them
14 drinking. I didn't see them taking Xanaxes but --
- 15 Q But you put that in your statement.
- 16 A Huh?
- 17 Q You put that in your statement.
- 18 A Yes. They, they were messed up that night.
- 19 Q What time did you go over there?
- 20 A It, it was in the morning when I went, the morning of
21 the fire.
- 22 Q All right. And that's when you say that both of them
23 were --
- 24 A They wasn't messed up that morning, no. I mean, they
25 were just, they were just waking up then.

Shannon Denise Powell
Cross-examination by Mr. Weatherford

- 1 THE COURT: Use that microphone, please.
- 2 THE WITNESS: All right.
- 3 Q Okay. I'm just trying to get the sequence of what
- 4 happened.
- 5 A Yes.
- 6 Q So let's start with that morning, the 30th.
- 7 A Okay, okay.
- 8 Q You went over there.
- 9 A Yes, sir.
- 10 Q And what, what, why did you go over there and what
- 11 happened? Who was there, around or what? Just kind of
- 12 take me through the day.
- 13 A Well, I, to be honest with you, I went over there to
- 14 smoke some weed with Jeremy and Nakia because they were
- 15 dating and they were living together. And I went over
- 16 there to smoke with them. And we just, we hung out and
- 17 talked, you know, about various things. And we sat there
- 18 and smoked weed in his trailer before.
- 19 Q Now, that was about what time?
- 20 A I usually didn't leave my house until about 11:30 or
- 21 12:00 o'clock. So around in there.
- 22 Q All right. And did you -- was Eric with you?
- 23 A No.
- 24 Q Who is Eric?
- 25 A Eric's my husband now.

Shannon Denise Powell
Cross-examination by Mr. Weatherford

- 1 Q Are y'all married?
- 2 A Yes.
- 3 Q Okay. You got a formal wedding certificate.
- 4 A Yes.
- 5 Q Okay. Now, you went over there and smoked some
- 6 marijuana. Did you leave?
- 7 A I was in and out that day.
- 8 Q Was Eric ever with you?
- 9 A Eric was not with me then living because I had my own
- 10 trailer on the same road as him. And Eric wasn't. We
- 11 wasn't dating then. We was dating, but we wasn't living
- 12 together. He wasn't with me all the time. He wasn't with
- 13 me that morning, no. I went later on and picked him up.
- 14 Q All right. So you left and went and got him and came
- 15 back?
- 16 A Yeah. And that's where we hung out partying.
- 17 Q And when you came back, what did you do?
- 18 A What do you mean, what did I do?
- 19 Q Well, you went and got Eric about what time?
- 20 A I don't know the times. It's been so long ago now, I
- 21 don't know.
- 22 Q You brought him back.
- 23 A Yeah. We come back over there.
- 24 Q And then did you leave again?
- 25 A Yes. We left probably about -- we didn't stay long.

Shannon Denise Powell
Cross-examination by Mr. Weatherford

- 1 Me and Eric didn't stay long. But I don't know what time
2 it was when we left.
- 3 Q All right. Well, this is the day of the fire, is that
4 right?
- 5 A Yes.
- 6 Q All right. And the last time you were over there --
7 I'm just trying to get --
- 8 A Was the night before.
- 9 Q On the day of the fire --
- 10 A Uh-huh.
- 11 Q -- what was the last time you were over there?
- 12 A What time? Is that what you're asking?
- 13 Q Yeah.
- 14 A It had to be afternoon. Around 3:00, I guess.
- 15 Q All right. And you left about 3:00.
- 16 A Yeah. I mean, I don't know that for sure, but that's
17 approximately.
- 18 Q Okay. And after that did Nakia ever call you on the,
19 on the phone?
- 20 A Yes.
- 21 Q And what phone number was your number?
- 22 A I believe it was 978-5465.
- 23 Q And she called you from what number?
- 24 A Oh, I don't know the number she called from.
- 25 Q Was it a number you didn't recognize?

Shannon Denise Powell
Cross-examination by Mr. Weatherford

- 1 A Yes, sir.
- 2 Q And what did she tell you?
- 3 A They wanted to ride to the store and to get some weed.
- 4 Q And what did you tell them?
- 5 A I told them no, because Eric had to go to work the
6 next morning.
- 7 Q All right. So that was all you knew about until after
8 the fire.
- 9 A Yes.
- 10 Q Now, after the fire you said you and Eric went over to
11 Hazel's.
- 12 A Jeremy's. I parked my car at Jeremy's, and then we
13 went to Hazel's.
- 14 Q Okay. And all of you were standing around.
- 15 A We was back and forth between Jeremy's trailer and
16 Hazel's trailer.
- 17 Q All right. Who all was there?
- 18 A Jesse, Nakia, myself, Eric, Jeremy, Hazel. Well,
19 Hazel might have went and stayed with her sister. I don't
20 know if she was there or not.
- 21 Q All right. And do you remember making a sworn
22 statement --
- 23 A Yes.
- 24 Q -- to the police officers? And that's after they
25 located you because of the phone number.

Shannon Denise Powell
Cross-examination by Mr. Weatherford

1 A Yes.

2 Q And that's the only reason you made the statement.

3 A Yes, sir.

4 Q Okay. And when you made the statement you said when
5 you all congregated there at Hazel's, Jesse's mom's --

6 A Uh-huh.

7 Q -- that you and Jeremy went around to the side of the
8 trailer.

9 A Yes, sir.

10 Q And that while you were around there to the side -- I
11 assume that was where nobody else could hear.

12 A Yes, sir.

13 Q And he was telling you, because you and he always told
14 each other everything.

15 A We were tight. Yeah, we were tight.

16 Q All right. So he took you around to the side of the
17 trailer. And he asked you what? What was the conversation
18 around there?

19 A Well, like I said, I don't really remember the whole
20 conversation, but basically he told me that, he said, cus,
21 I did it. And I said you did what. And he said the
22 trailer, I did it. And I said why. And he said because he
23 was f'ing with my girl. And he continued on telling me
24 what had happened.

25 Q All right. And when you were describing what

Shannon Denise Powell
Cross-examination by Mr. Weatherford

- 1 happened, you mentioned something about some steel-toed
2 boots.
- 3 A Uh-huh.
- 4 Q Do you know what he said happened to them?
- 5 A I believe all the clothes and shoes were burnt.
- 6 Q Did he mention that they were burned in a burn barrel
7 trash can thing or in the fire with Juan?
- 8 A I'm not sure. I wasn't around when they were burning
9 the clothes.
- 10 Q Did he say anything about them being burned?
- 11 A No.
- 12 Q Where did you get that information?
- 13 A Nakia is the one that told me they burnt the clothes.
- 14 Q Okay. Jeremy didn't tell you.
- 15 A Uh-uh.
- 16 Q All right. And he told you that he put the P. C. V.
17 pipe in the mouth and poured gasoline in it.
- 18 A Uh-huh.
- 19 Q Is that right?
- 20 A Yes.
- 21 Q And in your, in your statement you said he threw a
22 cigarette inside and his head blew up like a Roman candle.
- 23 A Yeah. He, he -- yes. The Roman candle was a very,
24 very unique phrase that he used a lot when he was talking
25 about it.

Shannon Denise Powell
Cross-examination by Mr. Weatherford

1 Q Well, Jesse used that a lot too.

2 A Yeah.

3 Q Because he --

4 A That's, that's, yeah.

5 Q That's the end of that movie "Wherefore Art Thou" or
6 something.

7 A I don't know about no movie, but yeah. Jesse, Jesse
8 said it a lot too. So I can't swear that Jeremy said it.

9 Q But in your statement that you gave on the 11th of
10 September you said he threw a cigarette inside.

11 A Well, I don't know what he threw in there, but I know,
12 you know, he threw something.

13 Q Well, today you said a match.

14 A Yeah. Like I said, I don't know what. He never
15 expressed how he actually caught the place on fire.

16 Q Well, you do admit that when you first gave your
17 statement to the police you said it was a cigarette.

18 A Yes.

19 Q And what do you say it was today?

20 A Well, like you said, I said a match, but if it's in my
21 statement a cigarette, then that's what it was.

22 Q So I'll let you look. I just want to know what.
23 After looking at that, what did you, what are you
24 testifying to today?

25 A What are you asking me, now?

Shannon Denise Powell
Cross-examination by Mr. Weatherford

- 1 Q Well, I'm asking you about the cigarette or the match.
2 A Yeah.
3 Q And that's down at the bottom if you need to on page
4 three.
5 A Yes.
6 Q So?
7 A That's correct.
8 Q So he told you he threw a cigarette in there, is that
9 right?
10 A Yes.
11 Q Okay. Not a match.
12 A Not a match, no, sir.
13 Q And in your statement on the next page you say that
14 y'all walked back around to where everybody was and then
15 you and Eric left.
16 A Uh-huh.
17 Q Wasn't any conversation according to this, the way I
18 read this statement, after you and he got back around
19 there.
20 A Well, I'm sure we, everybody was talking. I mean, it
21 wasn't silent. I don't remember what was said but...
22 Q Well, you say Jesse told you that after you got back
23 around there that Jeremy had burned the clothes that had
24 blood on them. And then you said let's go, and you and
25 Eric left.

Shannon Denise Powell
Cross-examination by Mr. Weatherford

- 1 A Yeah. I told Eric let's go.
- 2 Q So there was no conversation after y'all walked back
3 around the trailer after Jesse told you about burning the
4 clothes.
- 5 A Uh-huh.
- 6 Q So Eric wouldn't have had a chance to hear what was
7 said to you by Jeremy.
- 8 A Not, not at that time, no.
- 9 Q Okay. And he said he had stolen a T. V.
- 10 A T. V., a D. V. D. player.
- 11 Q Well, the T. V. is what I'm asking you about. You
12 specifically remember he said he stole a T. V. from Juan's.
- 13 A Uh-huh.
- 14 Q Have you ever been in Juan's?
- 15 A I was, I live, I lived, I walked in there when Julie
16 lived in there but not when Juan lived there.
- 17 Q Okay.
- 18 A I didn't know Juan.
- 19 Q All right. And then the way you got possession of the
20 D. V. D. player that ultimately turned out to be Juan's?
- 21 A Uh-huh.
- 22 Q How did you get that?
- 23 A It was handed to me by Jesse out Hazel's window.
- 24 Q So Jesse had the D. V. D. that turned out to be
25 Juan's.

Shannon Denise Powell
Redirect examination by Mr. Morin

- 1 A Uh-huh.
- 2 Q And it was in your trunk.
- 3 A Yes, in my Cadillac.
- 4 Q And why did he give you the D. V. D.?
- 5 A To hold for him. He said he was going to either pawn
- 6 it or trade it for some weed.
- 7 Q Okay. And how long was it? Ultimately the police got
- 8 that D. V. D. out of your trunk?
- 9 A Yes. They come down to my grandmother's house and got
- 10 it.
- 11 Q So was that the same day that you made the statement?
- 12 A Yes.
- 13 Q So you had the D. V. D. And you say Jesse gave it to
- 14 you.
- 15 A Uh-huh.
- 16 Q And you say that Jeremy told you that he stole the T.
- 17 V. out of, out of Juan's house.
- 18 A Yes, sir.
- 19 Q All right. Just a second, please.
- 20 (Pause.)
- 21 Q All right. Thank you.
- 22 REDIRECT EXAMINATION
- 23 BY MR. MORIN
- 24 Q Sharon, I just need to ask you one question. You
- 25 don't still have a copy of your statement up there. You

Jimmy Henson
Direct examination by Mr. Morin

1 do.

2 Okay. Can you, can you tell me if when Jeremy made the
3 statements about what he did, can you tell me how he acted?
4 Was he sad? How did he look?

5 A Mixed emotions.

6 Q Okay. Did he laugh?

7 A I guess he was laughing to cover up, you know.

8 MR. WEATHERFORD: Your Honor, I would object. I don't
9 think that's proper redirect.

10 MR. MORIN: I have no further questions, Your Honor.

11 THE COURT: Okay. Step down.

12 MR. MORIN: May I approach?

13 THE COURT: Yes.

14 (Bench conference held off the record in the presence
15 of the jury but out of the hearing of the jury.)

16 THE COURT: Who is the next one?

17 MR. MORIN: Jimmy Henson.

18 JIMMY HENSON, having been
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. MORIN

21 Q Sir, can you state your name for the jury, please?

22 A Jimmy Henson.

23 Q Where do you work, sir?

24 A Cherokee County Sheriff's Office.

25 Q What are your duties there, sir?

Jimmy Henson

Direct examination by Mr. Morin

- 1 A Crime scene investigator and evidence officer.
- 2 Q Okay. Were you employed as such in August of 2006?
- 3 A Yes, I was.
- 4 Q Did you have the occasion to execute a search warrant
- 5 at [REDACTED]? Did you participate in the execution
- 6 of the search warrant?
- 7 A Yes, sir, I did.
- 8 Q Did you collect evidence there?
- 9 A Yes, sir, I did.
- 10 Q Tell me a little bit about -- well, tell me the things
- 11 that you collected there. Do you have a list of them?
- 12 A Yes, sir.
- 13 Q Tell me what you collected.
- 14 A I collected one Siberhome D. V. D. 300 player; one
- 15 Apex digital D. V. C. D. M. P. three player; five white
- 16 socks with stains; one white towel with stains; one
- 17 washcloth with stains; one sleeveless T-shirt with stains;
- 18 one white plastic clothes basket; one towel with stains;
- 19 one tissue with stains; one plastic, white plastic, bag;
- 20 one white towel stained.
- 21 Q Okay. Now, those items, were they inside the
- 22 residence, or outside?
- 23 A Yes, they was.
- 24 Q Which one?
- 25 A Inside the residence.

Jimmy Henson
Direct examination by Mr. Morin

- 1 Q Okay. Anything else you collected inside?
- 2 A Not inside the residence.
- 3 Q Do you have -- now, you say that you collected. I
- 4 think I heard you list several towels, or two, is that
- 5 correct?
- 6 A I believe it was three.
- 7 Q All right. Tell me about where you got the towels.
- 8 A My evidence number two, white towel stains, came from
- 9 the white clothes basket that was setting at the foot of
- 10 the bed in the living room.
- 11 Q Okay. Do you have that item --
- 12 A Yes, sir.
- 13 Q -- in your possession?
- 14 A Yes, sir, I do.
- 15 Q Is it with you or is it over here?
- 16 A It's in that.
- 17 MR. MORIN: I ask that he step down to get that item.
- 18 THE COURT: He may.
- 19 (Whereupon, the witness left the stand.)
- 20 A Which did you say it was, five?
- 21 Q Number two, I think.
- 22 A Number two?
- 23 Q Uh-huh.
- 24 (Whereupon, the witness returned to the stand.)
- 25 Q All right. This item that you have here in front of

Jimmy Henson
Direct examination by Mr. Morin

- 1 you --
- 2 A Yes, sir.
- 3 Q -- can you tell me again? What is that item?
- 4 A It's my evidence item number two.
- 5 Q Okay. Where did it come from?
- 6 A Evidence item number two, one white towel with stains,
- 7 came from a white plastic clothes basket.
- 8 Q And that was located where?
- 9 A At the foot of the bed in the living room.
- 10 Q All right. On [REDACTED].
- 11 A Yes, sir.
- 12 Q Is that correct?
- 13 A Yes, sir.
- 14 Q Now, there's some paper here. Did you put this paper
- 15 around it?
- 16 A Yes, sir, I did.
- 17 Q All right.
- 18 (Towel marked State's Exhibit No. 17 for
- 19 Identification.)
- 20 MR. WEATHERFORD: I've seen it.
- 21 MR. MORIN: Your Honor, at this time we move State's
- 22 No., Exhibit No., 17 into evidence.
- 23 MR. WEATHERFORD: No objection.
- 24 (Towel marked State's Exhibit No. 17.)
- 25 THE COURT: You're going to need to put that in

Jimmy Henson
Direct examination by Mr. Morin

1 something.

2 MR. MORIN: Yes, sir. I'm going to have to get
3 something.

4 Q Officer Henson, after you collected this piece of
5 evidence and put it in that paper, what did you do with it?

6 A After I collected the evidence from the scene I bring
7 it back to the sheriff's office lab, package it. That's
8 when I put the paper around it, each individual item, and
9 secure it in a package and decide whether it's going to go
10 into the sheriff's office evidence vault, go to the
11 sheriff's office lab or to the SLED laboratory.

12 Q Do you know where this item went?

13 A It went to the SLED laboratory.

14 Q Who took it down there?

15 A I did.

16 Q Okay. When you took it down there, what did you do
17 with it? Who did you give it to?

18 A I logged it into SLED evidence at the laboratory to a
19 Coronda M. Williams.

20 Q Okay. And did you request anything when you sent it
21 down there?

22 A Yes, sir.

23 Q What did you request?

24 A I went to evidence processing. I checked for any D.
25 N. A. or any trace evidence.

Jimmy Henson
Cross-examination by Mr. Weatherford

1 Q Okay.

2 MR. MORIN: If I may have just a moment, Your Honor.

3 (Pause.)

4 Q Please answer any questions Mr. Weatherford may have.

5 CROSS-EXAMINATION

6 BY MR. WEATHERFORD

7 Q Officer Henson, did you bring your gloves with you?

8 A No, sir, I didn't.

9 Q Well, I want somebody to hold up that towel. Do you
10 think we could do that?

11 A You can get somebody to run and get some, or I'll run
12 and get them.

13 Q Well, I need to see what's on the towel.

14 (Whereupon, gloves were provided to the witness.)

15 A These are kind of small.

16 Q What I want you to do is hold the towel up and show
17 the front and back of it, or the front of it.

18 A Okay. We'll get that.

19 (Whereupon, the witness left the stand.)

20 Q The back of it is just pretty clear, right? The front
21 of it, well, that's upside down. Will you turn it right
22 side up? What's that say on there? Jeff Gordon, number
23 24? Burning the track, 24. It's a Jeff Gordon type towel.

24 A Yes, sir.

25 Q And the circle cut out, two circles cut out, were done

Jimmy Henson
Cross-examination by Mr. Weatherford

1 down there at SLED?

2 A SLED lab, yes, sir.

3 Q Okay. You didn't do that.

4 A No, sir.

5 Q Okay. All right. That's all on that one.

6 (Whereupon, the witness returned to the stand.)

7 Q Are you the one that actually went in the house and
8 took the stuff?

9 A Myself, Detective Captain Mike Fowlkes and Detective
10 Joy Guyton went into the house.

11 Q All right. And a number of things were taken that had
12 either -- how did you decide what you are to take or going
13 to take to have processed for evidence?

14 A Once I get into a crime scene a lot of experience goes
15 into it on what to take as evidence. Any potential
16 evidence, I'll collect. It may turn out to be part of
17 evidence, may turn out not to be.

18 Q I understand. But what calls your attention to it?
19 Which? Why do you pick one thing and not another?

20 A That has stains on it at that particular time.

21 Q Most of the socks and washcloths and other things you
22 took from the house had some kind of stain on it?

23 A Had some kind of stain on it, yes, sir.

24 Q And they were all sent to be analyzed for D. N. A.

25 A Yes, they was.

Jimmy Henson
Cross-examination by Mr. Weatherford

1 Q And then some, some stuff were taken out of what's
2 called a burn barrel out back?

3 A Yes, sir.

4 Q Did you do that?

5 A Yes, sir, I did.

6 Q All right. What kind of thing? Just give me a list
7 of the things that were taken out of the house and then a
8 list of the things that were taken out of the burn barrel.

9 A The list of things taken out of the house was a
10 Siberhome D. V. D. 300 player and Apex digital D. V. C. D.
11 M. three player; five white socks with stains; one white
12 towel with stains; one washcloth with stains; one
13 sleeveless T-shirt with stains; one white plastic clothes
14 basket; one towel with stains; one tissue with stains. And
15 these came from a white plastic bag setting on the bed.
16 One white towel that was stained from the bathroom floor.

17 Outside the residence in a metal barrel where some
18 items had been burned. One burned belt buckle; one burned
19 denim jean plants leg; one burned ladies' panties; one
20 burned red cloth; a lump of unknown burn substance; a
21 burned white T-shirt; a burned Fruit of the Loom underwear;
22 and one burned heal from footwear.

23 Q Did you mention ladies' panties in that list?

24 A Yes, sir.

25 Q Okay. Now, they were in, what kind of a thing were

Jimmy Henson
Cross-examination by Mr. Weatherford

- 1 they in, the stuff from the outside?
- 2 A The stuff from the outside?
- 3 Q The outside.
- 4 A It was in a, a metal barrel.
- 5 Q Like a trash can people burn trash in?
- 6 A Yes, sir, yeah, yes, sir.
- 7 Q And so there was some remains of things that had been
- 8 burned in there.
- 9 A Yes, there was.
- 10 Q And the things you listed from the burn barrel are
- 11 what was retrieved from there.
- 12 A Yes. It came out of, out of the burn barrel.
- 13 Q The underwear, the men's underwear, what kind was it?
- 14 A From the burn barrel was one Fruit of the Loom
- 15 underwear.
- 16 Q Is that the brief type or boxer type?
- 17 A I believe that was the brief type.
- 18 Q Okay. And you got some brown Carolina boots. Where
- 19 did they come from?
- 20 A On September the 11th Detective Tim Clark gave me one
- 21 pair of brown Carolina boots. I got them from Detective
- 22 Clark.
- 23 Q And then the Duraband D. V. D., it's the only one that
- 24 was sent to SLED?
- 25 A Yes, sir. I believe you're right.

Jimmy Henson
Cross-examination by Mr. Weatherford

1 Q And why was it sent and the other two weren't?

2 A The Duraband D. V. D. player was sent to evidence
3 processing at SLED to retrieve any fingerprints or D. N. A.
4 samples off of it.

5 Q And I just was wondering why it went and the other two
6 didn't.

7 A When I've got evidence like that I'll talk to the
8 detectives that's on the case. They'll let me know whether
9 one piece of evidence needs to go or one piece of evidence,
10 you know, no reason to send it to SLED.

11 This particular piece of evidence, they asked me to
12 send it to SLED. The other two, they said there was no use
13 to send it.

14 Q All right. But the Duraband that was sent, is that
15 the one that was retrieved from Shannon Powell's car and
16 brought to you by a detective?

17 A I'm not sure. All I can tell you, Tim Clark,
18 Detective Tim Clark, gave it to me.

19 Q Okay. You don't know where he got it.

20 A Not really, no, sir.

21 Q But you didn't get it out of the house.

22 A No, sir.

23 Q The other two you got out of the house.

24 A Yes, sir.

25 Q And they were nothing suspicious about them.

Janice Bryson
Direct examination by Mr. Morin

- 1 A No, sir.
- 2 Q It's only the Duraband that was given to you by Tim
3 Clark that was sent to SLED.
- 4 A Yes, sir.
- 5 Q Did you notice any kind of marks or smudges or any
6 kind of looks like blood or anything on the Duraband?
- 7 A If I remember correctly, I thought that there may have
8 been some blood spots on it.
- 9 Q Okay. And the brown boots, where did they come from,
10 your number 17?
- 11 A The brown boots is what Detective Clark gave to me.
- 12 Q Do you know where he got them?
- 13 A No, sir, I do not know.
- 14 Q All right. Thank you, Jimmy.
- 15 MR. MORIN: That's all the questions I have of this
16 witness.
- 17 THE COURT: You may step down.
- 18 MR. MORIN: Janice Bryson.
- 19 JANICE BRYSON, having been
20 first duly sworn, testified as follows:
- 21 DIRECT EXAMINATION BY MR. MORIN
- 22 Q Ma'am, would you state your name for the jury?
- 23 A My name is Janice Bryson.
- 24 Q Where do you work, ma'am?
- 25 A South Carolina Law Enforcement Division.

Janice Bryson
Direct examination by Mr. Morin

1 Q And what's your job there?

2 A I'm a forensic evidence technician in the evidence
3 processing department.

4 Q Okay. As part of your job what do you exactly -- can
5 you give us a general of what you do?

6 A Whenever items of evidence are submitted to the lab
7 with a request to look for hair, fiber, blood or semen it's
8 my responsibility to collect the evidence to make sure that
9 it's sent to the appropriate department.

10 Q Okay. I'm going to show you this item. I don't have.
11 There's some gloves there if you want -- and ask if you
12 can.

13 Now, this is State's Item No. 17. Can you tell me if
14 you have ever come in contact with that item?

15 A Yes, sir. I have.

16 Q How do you know?

17 A These are my initials, the SLED lab number, the SLED
18 item number and the day that I processed the evidence.

19 Q Okay. Can you tell me what you did with this item?

20 A The request when it was submitted to the lab was to
21 look for blood, and I processed this item for blood.

22 Q Okay.

23 (Bag with cuttings marked State's Exhibit No. 18 for
24 Identification.)

25 Q Now, when you say you processed that item for blood,

Janice Bryson
Direct examination by Mr. Morin

- 1 did you find anything?
- 2 A Yes, sir, I did. I took two cuttings that were
3 positive for the presumptive test of blood.
- 4 Q Have you brought those with you?
- 5 A The cuttings, yes, sir.
- 6 Q Let me show you. I have had it marked for
7 identification as State's No. 18. The cuttings are in
8 here?
- 9 A That's correct.
- 10 Q Now, there are several envelopes in there.
- 11 A Right.
- 12 Q How many cuttings did you take from this?
- 13 A From the towel I took two cuttings.
- 14 Q Okay. So there were other cuttings in this sealed
15 bag, but they're each in one of these envelopes.
- 16 A That's correct.
- 17 MR. WEATHERFORD: No objection.
- 18 MR. MORIN: Move State's Exhibit No. 18, which is a
19 bag with cuttings.
- 20 THE COURT: It's admitted.
- 21 (Bag with cuttings marked State's Exhibit No. 18.)
- 22 Q So on the item that's before you, you took two
23 cuttings.
- 24 A That's correct.
- 25 Q And what were those cuttings? What did you find for

Janice Bryson
Direct examination by Mr. Morin

1 those cuttings?

2 A They were positive for the presumptive test of blood.

3 Q And what exactly did you do for the presumptive test?

4 How do you do that?

5 A It's a 3-step chemical test that will allow me to see
6 a chemical color change if that stain is potentially blood.
7 If it comes up positive I know to cut that area and send it
8 to the D. N. A. department for further testing.

9 Q Now, when you cut it did you make a -- do you know, do
10 your records reflect, whether or not you mark on the towel
11 itself?

12 A Yes, sir. I always initial the towel and give the
13 cuttings a subitem from the parent item.

14 Q Do you know, without looking at it, or we can look at
15 it, but do you know what the numbers were?

16 A Yes, sir. The towel was item 10, 10.1 and 10.2.

17 Q Those are the numbers that SLED gave it?

18 A That's correct.

19 Q And the cuttings, what did you do with them after you
20 put them in these bags?

21 A I seal the heat-sealed pouch, initial and date it.
22 And I took it to the evidence log-in department for them to
23 place in the D. N. A. box.

24 Q Okay. Please answer any questions Mr. Weatherford may
25 have.

Janice Bryson
Cross-examination by Mr. Weatherford

1 CROSS-EXAMINATION

2 BY MR. WEATHERFORD

3 Q That towel there -- what was your last name? I didn't
4 catch it. I'm sorry.

5 A Bryson, B-R-Y-S-O-N.

6 Q All right. And did you get all of the things that
7 Detective Henson sent down there or brought down there, all
8 of them in a same group?

9 A Yes, sir, I did.

10 Q Okay. And that list of things, or from that group you
11 took cuttings from a number of different things.

12 A Yes, sir, I did.

13 Q I think there was five socks, three towels, a
14 short-sleeve shirt. Have you got a list of the things that
15 you took cuttings from after it got down to you?

16 A Yes, sir, I do.

17 Q Would you read them off, please?

18 A Item nine were five pair of socks; 9.2, I took two
19 cuttings that were positive for the presumptive test of
20 blood. The other four socks, they were negative for the
21 presumptive test of blood.

22 And item ten, I processed the towel. I took two
23 cuttings for blood.

24 Item 11 was a washcloth. I took one cutting that was
25 positive for the presumptive test of blood.

Janice Bryson
Cross-examination by Mr. Weatherford

1 Item 12 is a sleeveless T-shirt. I took two cuttings
2 for blood.

3 Item 13 was a towel. I took two cuttings that were
4 positive for blood.

5 Item 14 was a tissue. And I sent that item to the D.
6 N. A. department.

7 Item 15 was another towel. I took one cutting from
8 that.

9 Item 16 was a portion of a pants leg. It was negative
10 for phenol or for the presumptive test of blood.

11 Item 17 was a portion of panties, and it was negative
12 for the presumptive test of blood.

13 Item 18 was a piece of pink slash red cloth. It was
14 negative.

15 Item 20 was portion of a T-shirt, and it was negative
16 for the presumptive test of blood.

17 Item 21 is a portion of men's underwear, and there
18 were two areas that were negative for the presumptive test
19 of blood.

20 Item 23 were a pair of boots. I took three swabs that
21 were positive for the presumptive test of blood.

22 Item 24 was a D. V. D. player. I took two swabs that
23 was positive for the presumptive test.

24 And item 28 was a white plastic bag with logo "thank
25 you" in red, and there were no apparent bloodstains

Janice Bryson
Cross-examination by Mr. Weatherford

1 present.

2 Q The things that were negative came out, looks to me
3 like came out, of the burn barrel or what's described as
4 burn.

5 A Yes, sir. They were partially burned.

6 Q Does partially burning destroy any existence of blood
7 or D. N. A.?

8 A You would have to ask the D. N. A. analyst that
9 question.

10 Q Okay. You were only checking for blood?

11 A Yes, sir.

12 Q Can you get D. N. A. from other things?

13 A Yes, sir, you can.

14 Q What all kind of things? Are you or is the D. N. A.
15 guy better?

16 A The D. N. A. analyst would be the better person to
17 answer it.

18 Q So the only things you were looking for was blood.

19 A Yes, sir.

20 Q All right. And if you find any, then you send it on
21 to the D. N. A.

22 A That's correct.

23 Q All right. And so do you know how many cuttings?
24 This is all the stuff tested positive for blood?

25 A Yes, sir.

Lillie Smalls Gallman
Direct examination by Mr. Morin

- 1 Q And do you know how many different things are in here?
- 2 A Not without counting them, no, sir.
- 3 Q But from, from that evidence you saw and did a
- 4 screening test for blood on that many different things.
- 5 A Yes, sir.
- 6 Q From these list of items that were taken.
- 7 A That's correct.
- 8 Q Okay. And I think you said something was processed
- 9 for fingerprints.
- 10 A No, sir.
- 11 Q Or did you? Do you know anything about that?
- 12 A No, sir.
- 13 Q You wouldn't have anything to do with that.
- 14 A No, sir.
- 15 Q All right. Thank you, ma'am.
- 16 MR. MORIN: That's all the questions I have of this
- 17 witness. I ask that she be excused.
- 18 THE COURT: You may step down and you may be excused.
- 19 Thank you.
- 20 (Whereupon, the witness was excused.)
- 21 LILLIE SMALLS GALLMAN, having
- 22 been first duly sworn, testified as follows:
- 23 DIRECT EXAMINATION BY MR. MORIN
- 24 Q Let me get this out of your way. Would you state your
- 25 name for the jury, please?

Lillie Smalls Gallman
Direct examination by Mr. Morin

1 A Lillie Smalls Gallman.

2 Q Ms. Gallman, where do you work?

3 A I work with the South Carolina Law Enforcement
4 Division.

5 Q And what is your job there?

6 A I'm a forensic D. N. A. analyst.

7 Q And how long have you been working there?

8 A Since January of 1990.

9 Q All right. Can you tell us a little bit about your
10 education and training and background with regard to D. N.
11 A. analysis?

12 A I have a degree in biology from the University of
13 South Carolina.

14 Once I received my degree I continued working at the
15 university as a forensic, I'm sorry, excuse me, as a
16 genetic analyzer. My job was to work with D. N. A. I did
17 sequencing and cloning of D. N. A.

18 I began working for the South Carolina Law Enforcement
19 Division, as I said, in January of 1990 as a forensic D. N.
20 A. analyst.

21 Since that time I've attended the F. B. I.'s D. N. A.
22 school, both the beginners and the advanced school. I've
23 also taken advanced genetic courses that enable me to do my
24 job.

25 I've also been trained by serologists in the area of

Lillie Smalls Gallman
Direct examination by Mr. Morin

1 serology to be able to process evidence which leads into
2 doing D. N. A. on the evidence.

3 I've also attended the South Carolina Criminal Justice
4 Academy to become a certified police officer.

5 Q Okay. Have you been qualified as a D. N. A. expert in
6 court before?

7 A Yes, I have.

8 MR. MORIN: Your Honor, at this time we move
9 Ms. Gallman as an expert in D. N. A. analysis.

10 MR. WEATHERFORD: No objection.

11 THE COURT: She is so qualified.

12 Q Ms. Gallman, did you have the occasion, and for your
13 reference I'm going to show you State's No. 18. Did you
14 have the occasion to examine the items that are in that?

15 A Yes, I did.

16 Q All right. And there's been introduced a piece of
17 evidence that's labeled 10.1 and 10.2.

18 First of all, can you tell me how you know you examined
19 that?

20 A Well, for one I think I received it from Jan Bryson
21 whose, who processes our evidence for us. And also once I
22 got through with my analysis I sealed the evidence bag.
23 And there's my initials on the package.

24 Q Okay. Can you tell me if you examined items 10.1 and
25 10.2?

Lillie Smalls Gallman
Direct examination by Mr. Morin

1 Well, first of all, did you have any blood standards
2 involved in this case?

3 A Yes, I did.

4 Q Did you have a blood standard from Juan Roman?

5 A Yes, I did.

6 Q All right. And with regards to items 10.1 and 10.2,
7 can you tell me if you got any evidence or what your, what
8 your analysis showed in, with regard to 10.1 and 10.2?

9 A Okay. I developed a D. N. A. profile from the
10 standard from Juan Romance (sic) and also a D. N. A.
11 profile from items 10.1 and 10.2.

12 Q All right. What was the results of your analysis?

13 A I'm going to read from my report. And my report
14 states that the D. N. A. profile developed from items 10.1
15 and 10.2 matches the D. N. A. profile of Juan Roman.

16 And we also are required once we establish that we
17 have a match to apply a statistic, statistical value, to
18 that match. And it goes on to say that the probability of
19 randomly selecting an unrelated individual having a D. N.
20 A. profile matching these items is approximy (sic),
21 approximately one in 810 trillion.

22 Q 810 trillion.

23 A That's correct.

24 Q So the D. N. A. by comparing 10.1 and 10.2 to Mr.
25 Roman, you can say that that's his blood.

Lillie Smalls Gallman
Cross-examination by Mr. Weatherford

1 A Yes. Based on my report it matches.

2 Q Okay.

3 A The two D. N. A. profiles match.

4 Q Please answer any questions Mr. Weatherford may have.

5 CROSS-EXAMINATION

6 BY MR. WEATHERFORD

7 Q Ms. Gallman, you examined all of the things in this
8 exhibit here, right, all these?

9 A Yes, I did.

10 Q All right. And is it fair to say from your testimony
11 that the only one of all of those items that you examined,
12 the only one that had any of Juan Roman's blood on it was
13 that towel, ten point?

14 A Well, the towel and the swabs from the D. V. D.
15 player.

16 Q Okay. The Duraband D. V. D. player? I didn't
17 understand you.

18 A Say that again.

19 Q Dur D-U-R -- Duraband D. V. D. player.

20 A All I have it listed as is swabs from the D. V. D.
21 player.

22 Q Okay. All right. You only had one D. V. D. player
23 down there.

24 A That's correct.

25 Q Okay. And that was item number 24.

Lillie Smalls Gallman
Cross-examination by Mr. Weatherford

1 A Yes.

2 Q And the towel was item number ten.

3 A That's correct.

4 Q All right. And on the item number ten, the towel, did
5 you find anybody else's D. N. A. on that towel?

6 A Not the cuttings that I had. They only matched him on
7 that particular item.

8 Q And on the item, on the D. V. D. player, what were
9 your findings?

10 A That -- and I am reading from the report again. That
11 the partial D. N. A. profile developed from item 24.1,
12 which is swab from the D. V. D. player, also matches the
13 swab of Juan Roman.

14 Q What does a partial D. V. D., I mean, D. N. A. profile
15 mean?

16 A It means that when you look at 16 areas on the
17 chromosome, when you have a small amount of D. N. A.
18 there's a probability that you will not get a complete D.
19 N. A. profile because you have only a small quantity of D.
20 N. A. And at that time it's called a partial D. N. A.
21 profile. And it is based on the fact that I did not get a
22 complete profile from all six areas that we look at on the
23 chromosome.

24 Q When you get a partial can you use any of those
25 statistics like you did on the towel, the trillion and

Lillie Smalls Gallman
Cross-examination by Mr. Weatherford

1 something?

2 A Yes, I can.

3 Q What, what, what's the percentage on that?

4 A I don't know. I didn't calculate it.

5 Q Okay. Well, does that eliminate anybody else, the D.
6 N. A., the partial D. N. A. profile on this, on this D. V.
7 D. player?

8 A When I say it also matches him, it's the same as
9 saying that it's in the group with 10.1 and 10.2. It does
10 not match anyone else's D. N. A. profile.

11 Q All right. I guess I am saying could it have been
12 anybody else's blood.

13 A Let's, let's say that I submitted a statistical value
14 for 24.1. It would read the same way as the probability of
15 randomly selecting an unrelated individual having a D. N.
16 A. profile matching this item. And then I would give the
17 statistical value for that.

18 Q I'm not even sure I understand what that means. Does
19 it mean it's got the same 10 trillion or 18 trillion to one
20 that you --

21 A No. As I said, we look at 16 areas on the chromosome.
22 And with the 24.1 swab from the D. V. D. player there was
23 not the same amount of D. N. A. there as it was for the
24 items coming from the towel. And in cases like that
25 there's the possibility that you won't get a profile from

Lillie Smalls Gallman
Cross-examination by Mr. Weatherford

1 each one of the areas on the chromosome. And when that
2 happens we call it a partial D. N. A. profile as opposed to
3 a complete D. N. A. profile.

4 Q But are you telling me, is that Juan Roman's blood?

5 A Yes, I, yes.

6 Q That's all I want to know.

7 A That's what I'm saying, that it's not any different
8 from item 10.1 and 10.2. It's just that I don't have as
9 many areas on the chromosome.

10 Q Okay.

11 A And its statistical value would be different.

12 Q Was the, was the D. V. D. player tested for
13 fingerprints?

14 A I wouldn't know. I work in the D. N. A. department,
15 not latent prints.

16 Q Okay. That would be somebody else that would have to
17 tell us if it had any fingerprints on it.

18 A That's correct.

19 Q Okay. You didn't actually see the D. V. D. player or
20 the towel. You just saw the swabs.

21 A I received the cuttings from the towel and the swab
22 from the D. V. D. player.

23 Q Okay. Now, what did you find on all the other stuff
24 that you analyzed?

25 A Okay. I received a number of cuttings and swabs.

Lillie Smalls Gallman
Cross-examination by Mr. Weatherford

1 Let's start with I received cuttings from socks. I
2 don't know who the sock belonged to.

3 As I said, the cutting from the towel, a cutting from
4 the washcloth, from the sleeveless T-shirt, from another
5 towel, a tissue which was listed as a tissue with red
6 stain, another towel, and cutting from the right shoelace
7 of the boot, swab from the right shoe, right boot, swab
8 from left lace of the boot, and also the swab from the D.
9 V. D. player.

10 Items I have -- there's quite a few. So y'all please
11 bear with me.

12 Items nine which is a cutting from the sock. I had
13 two cuttings from item number nine which were listed as
14 9.2.1 and 9.2.2.

15 And also item number 11, I had one cutting from a
16 white, a washcloth which was listed 11.1.

17 Item 12, two cuttings, 12.1 and 12.2, which is from
18 the sleeveless t-shirt.

19 Item 13, cutting from a towel I listed as items 13.1
20 and 13.2.

21 Item 23, which is a, from the boot. So item 23.1 and
22 23.2.

23 All of the items that I mentioned so far are mixtures
24 of at least two individuals, and the major contributor to
25 this mixture matched the D. N. A. profile of Nakia Gossett.

Lillie Smalls Gallman
Cross-examination by Mr. Weatherford

1 And Jeremy Phillips cannot be excluded as a minor
2 contributor to this mix, to these mixtures. I'm reading
3 all of this from my report. Okay.

4 Q All right. And is anybody excluded from those items?

5 A Juan Roman is excluded as a contributor to these
6 mixtures.

7 Q So there's nobody. But major is Nakia Gossett; did
8 not eliminate Jeremy Phillips; but did eliminate Juan Roman
9 on all of those items.

10 A Those items that I list just, just now, yes, yes.

11 Q All right.

12 A Okay. Then item number -- let's go back to item
13 number 14, which is the tissue with red stain. There was
14 blood indicated on there. So the red stain was analyzed as
15 being blood. And that matches Nakia Gossett.

16 Q That was a tissue?

17 A Yes, tissue with red stains.

18 Q All right.

19 A Okay. The next item, item number 15.1, which is the
20 cutting from another towel, is a mixture of at least two
21 individuals. The D. N. A. profile of the major contributor
22 to this mixture matches the D. N. A. profile of Jeremy
23 Phillips. And I gave a statistical value to that as
24 approximately one in 13 million. Nakia Gossett cannot be
25 excluded as a minor contributor to this mixture, and Juan

Lillie Smalls Gallman
Cross-examination by Mr. Weatherford

- 1 Roman is excluded as a contributor to this mixture.
- 2 The only other item that I have not talked about is
- 3 item number 23.3 which is a swab from the left shoelace off
- 4 the boot. That's a mixture of at least three individuals.
- 5 Nakia Gossett and Jeremy Phillips cannot be excluded as
- 6 contributors to this mixture, and Juan Roman is excluded as
- 7 a contributor to this mixture.
- 8 Q So Juan Roman is excluded from everything except this
- 9 towel and the D. V. D. player swabs.
- 10 A That is correct based on my testing.
- 11 Q Okay. Everything else is either, is either Nakia
- 12 Gossett or, or Jeremy Phillips.
- 13 A Yes, based on my results.
- 14 Q Okay. And there were some items that were sent that
- 15 were partially burned. Did you have anything to do with
- 16 them? Bluejean pant leg, ladies' panties, red cloth,
- 17 burned unknown substance and T-shirt burned, Fruit of the
- 18 Loom underwear, that stuff?
- 19 A No. Only the items that I mentioned are the ones that
- 20 I tested.
- 21 Q All right. Do you know what happened to those items
- 22 that came out of the -- that are listed as partially
- 23 burned?
- 24 A No, I do not.
- 25 Q If an item such as this towel were partially burned,

Lillie Smalls Gallman
Cross-examination by Mr. Weatherford

1 would that destroy D. N. A.?

2 A It depends on what, to what extent it was burned and
3 how it was stored. You've got a lot of things that come
4 into play when you say that. I can't say for sure without
5 testing them.

6 Q How long will D. N. A. stay on an item?

7 A Forever.

8 Q Okay.

9 A But it depends on what condition that item is stored
10 under. If it's dry, you get a longer period of time. If
11 it's wet, you have the environment acting on it, and it
12 could, could be destroyed by bacteria.

13 Q All right. But if somebody were trying to destroy
14 something that had blood on it and put it in a fire and it
15 got partially burned, would you be likely if it had blood
16 still on the unburned part, likely to be able to --

17 A I can't say. It all depends on how burned it was and
18 what kind of conditions it was under.

19 Q But nothing that was partially burned was submitted to
20 you for D. N. A.

21 A I only received these cuttings. I don't know if any
22 of these items were partially burned prior. I don't know.
23 But I only received these cuttings.

24 Q If somebody's had a blood transfusion or a bone marrow
25 transplant, does that affect D. N. A.?

Lillie Smalls Gallman
Cross-examination by Mr. Weatherford

1 A It could, but depending on when it happened.
2 Everything always depends on what's the condition, so I
3 can't say.

4 Q But some outside things can, can affect D. N. A.

5 A Yes.

6 Q Okay. Thank you.

7 MR. MORIN: That's all the questions I have. I ask
8 that Ms. Gallman be excused.

9 THE COURT: You may step down.

10 (Whereupon, the witness was excused.)

11 THE COURT: Ladies and gentlemen, we're going to
12 recess for lunch.

13 Remember the caution previously given you. No
14 discussions, no exposure to discussions or media coverage
15 that relates to the case.

16 Please report back to your jury room at 2:15 this
17 afternoon, 2:15. Have a good lunch.

18 (The following takes place outside the presence of the
19 jury.)

20 THE COURT: Court is in recess until 2:15.

21 (Whereupon, a recess was taken.)

22 THE COURT: All right. Who is the state's next
23 witness?

24 MR. MORIN: The state is going to rest, Your Honor.

25 THE COURT: All right. Mr. Weatherford, have you got

Motion

1 some motions?

2 MR. WEATHERFORD: Yes, sir.

3 Your Honor, I'd move for a directed verdict on both
4 charges. According to the fire expert from SLED, he
5 contradicts all three witnesses who indicated my client
6 might have had anything to do with the fire.

7 Shannon Powell says that Jeremy told her he started it
8 with, by throwing a cigarette in the pipe. That was
9 contradicted by the fire expert. He said you couldn't
10 start that fire with a cigarette, it had to be an open
11 flame.

12 The other witness, Ms. Willis, testified she saw him
13 throw something, some kind of flame, in the bedroom window.
14 And even, I mean even, if you believe that, there's no --
15 that's 20 feet from where the body was. There's no pour
16 pattern or burn pattern from the kitchen on that end to
17 where the body was found. So that testimony is
18 contradicted by the scientific evidence of the expert.

19 Nakia Gossett does not know who started the fire. She
20 said one thing and another. But basically in the final
21 analysis she did not know who or didn't see who started the
22 fire.

23 One time she says in her statement, says Jesse. And
24 then she tried to change it in court to Jeremy. But-and
25 she's even got the body placed in the wrong place unless he

Motion

1 got up and moved himself or somebody got up and moved him.

2 So, Your Honor, I submit to the Court that there's
3 more than a reasonable doubt about all of the state's
4 evidence about who started the fire. And the fire caused
5 the death. So I think that's more than sufficient
6 reasonable doubt. And certainly the state has not proved
7 guilt beyond that doubt.

8 THE COURT: All right. Mr. Morin.

9 MR. MORIN: I think in light -- in viewing the
10 evidence in the light most favorable to the state we have
11 carried our burden.

12 THE COURT: All right. Well, there is sufficient
13 evidence to establish each of the essential elements of the
14 crimes of murder and of arson in the first degree and the
15 identity of the defendant as the person who committed those
16 offenses. Whether or not the evidence supporting each of
17 those elements is credible is for the jury's determination.

18 So your motion for a directed verdict on each of the
19 indictments is denied.

20 Any other matters we need to address before the jury
21 is brought in?

22 MR. MORIN: The state is ready.

23 THE COURT: All right. You've discussed with your
24 client his right to testify or not?

25 MR. WEATHERFORD: Yes, sir, I have.

1 THE COURT: And what does he indicate to you he wishes
2 to do?

3 MR. WEATHERFORD: He intends to testify.

4 THE COURT: All right. Mr. Phillips, do you
5 understand you have an absolute right to remain silent if
6 you wish to?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And of course you also have a right to
9 testify if you wish to. It's your decision. Do you
10 understand that?

11 THE DEFENDANT: Yes, sir, I do.

12 THE COURT: And Mr. Weatherford's explained the
13 advantages and disadvantages of testifying and of not
14 testifying?

15 THE DEFENDANT: Yes, sir, he sure has.

16 THE COURT: And you appreciate what those are?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And you've made the decision to testify?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And that's a decision that you made of
21 your own free will and accord?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Nobody has forced you into it or pressured
24 you into it?

25 THE DEFENDANT: No, sir.

Kim Scruggs
Direct examination by Mr. Weatherford

1 THE COURT: And you're satisfied with your decision?

2 THE DEFENDANT: Yes, sir, I am.

3 THE COURT: Okay. All right. Bring the jury in,
4 please.

5 (The following takes place in the presence of the
6 jury.)

7 THE COURT: Good afternoon, ladies and gentlemen.

8 As you know, when we recessed the state was still
9 presenting their case. So we'll continue with that this
10 afternoon.

11 Mr. Morin.

12 MR. MORIN: Your Honor, at this time the state rests.

13 THE COURT: All right. That's all of the testimony or
14 evidence to be offered by the state, at least in their case
15 in chief.

16 So we'll now proceed with any to be offered by the
17 defense.

18 Mr. Weatherford.

19 MR. WEATHERFORD: Kim Scruggs.

20 KIM SCRUGGS, having been first
21 duly sworn, testified as follows:

22 THE COURT: Is she on the witness list?

23 MR. WEATHERFORD: Well, she is a substitute for
24 Barbara Means.

25 THE COURT: Okay.

Kim Scruggs
Direct examination by Mr. Weatherford

1 DIRECT EXAMINATION BY MR. WEATHERFORD

2 Q All right. Your name is Kim Scruggs?

3 A Yes.

4 Q And you work at Upstate Carolina Medical Center.

5 A I do.

6 Q And you're the custodian of records.

7 A Yes.

8 Q All right. And pursuant to subpoena have you got the
9 records of Juan Roman for August the 29th?

10 A Yes.

11 Q All right. And is that them there?

12 A Yes.

13 Q And is that a copy of the official records that are
14 kept in the normal course of business at the Upstate
15 Carolina Medical Center?

16 A Yes.

17 Q All right.

18 MR. WEATHERFORD: Your Honor, I would offer these.

19 MR. MORIN: No objection.

20 THE COURT: They are admitted.

21 (Upstate Carolina Medical Center records marked
22 Defendant's Exhibit No. 6.)

23 Q All right. And I just want you to read, I guess, this
24 page four or segment four, this section right here. If you
25 would, just read that out loud.

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 A Okay. "Brief assessment.. Presents intoxicated.
2 States when he is asleep his nose bleeds.. States he is
3 here to have blood drawn so he won't bleed. States he has
4 too much blood. States nosebleed since this morning.
5 Feels dizzy and states drank 18 beers since this morning.
6 Smokes one pack per day for 17 years. Denies drug use."

7 Q Thank you, ma'am. Answer any questions the solicitor
8 has. And leave that paper here when you go.

9 MR. MORIN: I have no questions.

10 THE COURT: Thank you. You may step down.

11 MR. WEATHERFORD: Thank you, ma'am.

12 May she be excused?

13 THE COURT: She may.

14 (Whereupon, the witness was excused.)

15 MR. WEATHERFORD: All right. Jeremy.

16 JEREMY PHILLIPS, having been
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION BY MR. WEATHERFORD

19 Q State your name for the record.

20 A I'm Jeremy Phillips.

21 Q And you are the, one of the, defendants in this case.

22 A Yes, sir. I am the defendant in this case.

23 Q And you understand what you're charged with.

24 A Yes, sir. I'm charged with murder, arson and strong
25 arm robbery.

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

- 1 THE COURT: Pull that closer to you, please.
- 2 THE WITNESS: Is that better?
- 3 Q All right. And how old are you, Jeremy?
- 4 A I'm 29.
- 5 Q And where did you -- do you live here in Cherokee
- 6 County?
- 7 A Yes, sir, I live in Cherokee County.
- 8 Q How long have you lived here?
- 9 A My whole life, sir.
- 10 Q How old are you now?
- 11 A I'm 29.
- 12 Q And all right. Did you, did you go to school here in
- 13 Cherokee County, or Spartanburg County?
- 14 A I went to school in Cherokee County until I was in the
- 15 6th grade. And then my 7th grade year I went to
- 16 Spartanburg County school.
- 17 Q Did you live on Oakstone Road?
- 18 A Yes, sir.
- 19 Q Who did you live with?
- 20 A At the time of my schooling?
- 21 Q Yeah.
- 22 A My mother and father.
- 23 Q What are their names?
- 24 A Keith and Norma Lynn Phillips.
- 25 Q Are they both still alive?

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

- 1 A Yes, sir.
- 2 Q Still live here.
- 3 A Yes, sir. My mama is the associate administrative
4 director over schooling at Spartanburg First Baptist
5 Church. My daddy is one of their interim pastors, and he
6 also, he works at -- I can't, I can't recall the name of
7 the new chemical plant they built up there. They changed
8 name since I've been in here. It used to be Concept. Now
9 they've changed it. He's the manager over that.
- 10 Q All right. Now, you graduated. You went to high
11 school in Spartanburg?
- 12 A Yes, sir.
- 13 Q Did you graduate?
- 14 A I graduated from Broome High School in '96.
- 15 Q All right. What did you do after that?
- 16 A I left and went to the military in January of '97.
- 17 Q What, what military did you go into?
- 18 A U. S. Army.
- 19 Q Any particular branch?
- 20 A I went, I went to the Army, but I went to the 82nd
21 Airborne. I volunteered to go to Airborne Corp. My whole
22 family is pilots, and they flew their whole life. My
23 grandpa owns the franchise for 2-10, 2-20. He builds
24 experimental aircraft, ultralight aircraft. And I've been
25 around planes my whole life. And I just got -- and it's

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

- 1 just second nature to the whole family. And I took it up
2 in the Army.
- 3 Q Well, so in the Army you actually jumped out of planes
4 and became a qualified airborne?
- 5 A Yes, sir; yes, sir.
- 6 Q Is that the ones that have the little wings on them?
- 7 A Yes, sir.
- 8 Q All right. So you earned your wings.
- 9 A Yes, sir, I did.
- 10 Q How many jumps did you make?
- 11 A It's -- I have two different log records, but if I'm
12 not mistaken it was 61 or 62. There was a discrepancy on
13 it. I mean, one of my logs wasn't jumped. It was either
14 one way or the other. It may have been 61 or 62, or 62 and
15 63. I can't say specifically.
- 16 Q All right. And what, after you went through jump
17 school, what did, what did you get assigned to do while you
18 were in the Army?
- 19 A My M. R. S. was 77 Fox, which was supplying transport.
20 I got stationed at Fort Bragg.
- 21 Q Did you ever go to any combat action?
- 22 A No, sir, no combat.
- 23 Q Where did you do your -- how long were you in?
- 24 A Three years.
- 25 Q And where did you do your 3-year tour of duty?

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 A Well, the first, I believe it was the first, six and a
2 half months, six months or so, I was in training. And then
3 the rest of it was done at Fort Bragg in Fayetteville.

4 Q All right. And what did you do there at Fort Bragg?

5 A Basically, I was assigned to a S. N. T. platoon, which
6 was supply and transport. Mainly drove a truck around,
7 took troops back and forth to designated places. And I
8 worked with the quartermasters, which is an organization or
9 a group that just supplied different things, you know, all
10 types of different things. Mainly transported different
11 types of supplies.

12 Q All right. And when you got out what kind of
13 discharge did you get?

14 A I had an honorable discharge.

15 Q All right. And did you do your inactive reserve time?

16 A Yes, sir.

17 Q All right. And have you received your honorable
18 discharge?

19 A Yes, sir. As a matter of fact, I went back to the
20 reserves while my reenlistment was still open.

21 The way they do it, you sign up. I signed up for a
22 3-year tour. And they put you on inactive reserve up to an
23 8-year, 8-year-limit. So the next five years I was on an
24 inactive status.

25 Q Meaning you could have been called back.

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 A Yes, sir. I could have been called back at any time.

2 And then about the last six months I was on that
3 status, see, that's your reenlistment window, they consider
4 it. So a liaison will come out and find you and try to get
5 you to go back in before your eight years runs up.

6 I went back, and I reenlisted in the reserve unit, but
7 I never reenlisted as in my time. I just went ahead and
8 started reporting on the weekends back to the reserve unit
9 at Spartanburg up there at Westgate, the combat engineers.
10 They just mainly built bridges, homes. They worked mainly
11 like with HUD and stuff and built stuff, which I never had
12 no training or nothing with them because I was only with
13 them for six months before my reenlistment window run out.
14 And then I was out of it. That was February before I come
15 in here.

16 Q Okay. Have you got any kind of criminal record?

17 A No, sir. I've got a simple possession ticket for
18 marijuana that happened years ago.

19 Q But nothing else.

20 A No, sir. Nothing at all.

21 Q What had you done since you got out of the Army?

22 A I worked different places, mainly construction,
23 different contractors, millwright work, rigging work,
24 anything hands-on.

25 I ain't no pencil person or no desk person. You know,

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 anything I can get my hands on, I can do. But as anybody
2 knows with different type of contracting work, it just
3 changes. You know, it varies. You'll work one job here
4 for six months and then they'll to a shut down or
5 something. And then you'll go somewheres else and work. I
6 worked all types of different jobs.

7 Q All right. What were you doing the summer of last
8 year?

9 A I was working part time with this one guy. The name
10 of his business was the Cleaning Crew. He installed
11 gutters and vinyl siding and stuff. But he had a full
12 crew. I mainly just helped him when he didn't have help.

13 But the majority of the time I worked with my grandpa,
14 being I was living behind his house. You know, after I had
15 my trailer set up back there, I was living behind his
16 house. I worked for him. I kept up the church yard, the
17 softball field.

18 He's two runways where he flies his planes in and out.
19 There's six houses in the neighborhood. I keep up all of
20 their grass, you know, vacuum the pool, kind of like a
21 little neighborhood maintenance man, so to speak, about
22 anything.

23 Q When you're going towards Cowpens on 29 just before
24 you get to the bridge there's a little grass airstrip
25 there. Has he got anything to do with that?

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 A Yes, sir. Well, that's actually, that's his best
2 friend, Mr. Bill Wilkins. Right beside the church at
3 Oakdale Baptist Church, the runway actually meets the
4 church yard there. My grandpa donated them the church yard
5 and the property and all back in, I think, the 50's.

6 Q Your grandpa is who?

7 A Leonard Gallman. He used to own Curry Studio down
8 here on the corner across from Ingles for many years. He
9 just closed it down a couple of years ago when he decided
10 to retire.

11 Q Okay. I think your mother worked down there.

12 A Yeah, she, she run it. He owed it. He was the owner,
13 but she was the president or whatever, so to speak.

14 Q All right. Before we get to talking about this
15 location and so forth I'd like for you to come down here
16 and draw and see if you can do a little bit better than
17 those drawings. Kind of draw the road and the houses and
18 where everybody is. And then I'll let you tell us when you
19 get it drawn.

20 A All right.

21 (Whereupon, the witness left the stand.)

22 Q But just draw it first. Don't say anything. Just
23 tell me when you're through.

24 A Okay.

25 (Pause.)

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 A Okay.

2 Q Okay. Now, I don't know what ever happened to the
3 yardstick. Stand over here on this side and kind of tell
4 the jury what is what.

5 A All right. This is 29 headed towards the direction of
6 Cowpens. This is Oakstone Road going here. I left the
7 road off there a little bit. I've got a long driveway goes
8 down here down on the other side my house, a little stretch
9 there, which comes all the way out and goes all the way
10 around and comes out on 29 but it goes into another man's
11 yard and you've got to drive through his yard --

12 THE COURT: Excuse me just a minute.

13 The court reporter is having difficulty in
14 understanding what you're saying. So let me suggest you
15 move that chart out in the middle and that you stand on the
16 side that you're on. And turn so that the court reporter
17 is able to see your face and she can see. You can see her
18 and she can see you. That way she can --

19 MR. WEATHERFORD: About where I am?

20 THE COURT: That's fine as long as all the jurors can
21 see it. No. You need to stay over here so she can see his
22 face.

23 MR. WEATHERFORD: Okay.

24 A This is 29 comes --

25 THE COURT: She's got to be able to see your face. If

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 you can't see her face, she can't see yours.

2 THE WITNESS: I agree.

3 Q Can you see her now?

4 A Yes, sir.

5 This is 29 coming toward Cowpens. This is Oakstone
6 Road. This is the road we all lived on.

7 The first residence on the left is where Nakia's dad
8 was renting a trailer from this man here, Cavern Spencer.

9 The next home is, it was, it was actually the
10 landlord's home. It was his exwife's home. She had just
11 previously died, and she left it to her grandson Zack.

12 And then the next place was Juan and Hazel's which was
13 owned by Zack's grandfather, Charles Scruggs. And there
14 was a long driveway going down by Hazel's down in a hole
15 deeper than this room just right off the road, real steep,
16 a real steep drop down into a hole. The driveway was
17 steep. Most people parked on the road and stuff going in
18 there.

19 Q Hazel's or Juan's?

20 A Hazel's and Juan's was on the same driveway. They was
21 both lower than the road level. It was way low. And it
22 was kind of a dip down in there. And there was two
23 trailers down there.

24 Q Lower than the Oakdale Road or lower than the
25 driveway?

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

- 1 A Yes, sir. Lower than Oakstone.
- 2 Q Right. Oakstone. I keep getting it confused with
- 3 Oakdale.
- 4 A That's all right.
- 5 Q Where is Oakdale Road? I've heard.
- 6 A Oakdale is a, it's a horseshoe. I'm out of room
- 7 there. It goes on to the end of the road. And then
- 8 Oakdale comes on down around down here and runs right back
- 9 into 29.
- 10 Q All right. But that's got nothing to do with any --
- 11 A No, sir.
- 12 Q So Oakstone is the only one we're talking about.
- 13 A Yes, sir; yes, sir. Well, I don't know if it's got
- 14 nothing to do with it.
- 15 Q Well, I mean.
- 16 A Ms. Willis testified that her son lived on Oakdale
- 17 Road, but he lives -- the road makes a horseshoe. This
- 18 road veers into it like this. Oakdale. You can continue.
- 19 It goes way on down the road. There's another mile or so.
- 20 It's a little dirt road. It runs into a trailer park.
- 21 THE COURT: Slow down, please.
- 22 THE WITNESS: Okay.
- 23 A Her, her son lived about a mile on down, down the road
- 24 past the end of this road where the intersection is.
- 25 Q All right. That's her other son.

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 A Yes, sir, her other son, Darren Lee Willis.

2 Q All right. Go ahead.

3 A This is my Aunt Grace's house, which is on the other
4 side of the graveway from Juan's. There's, she's got a big
5 open back yard and there's a bunch of trees there. And
6 then through the trees is my trailer, which is located
7 behind my grandpa's barn, which is located behind his
8 house. He's got a pool house right here and a pool. And
9 then there's a barn behind it, probably just guesstimating
10 60 to 70 yards down the driveway to where my trailer would
11 be at.

12 Q Okay. All right. You can go back to your seat.

13 A Thank you, sir.

14 (Whereupon, the witness returned to the stand.)

15 Q All right. Tell us about your relationship. I guess
16 Shannon came first.

17 A I knew Shannon for a while, a few years I'd say. I
18 used to know her husband. Me and him graduated together.
19 We went to school together.

20 Q Eric?

21 A No, sir. She claimed it to be her husband, the one,
22 the father of her two children.

23 Q What was his?

24 A His name is Chance Edwards.

25 Q Okay.

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 A Yes, sir. I believe he just got out of prison.

2 Q All right. What kind of relationship did you have
3 with her?

4 A On and off, you know, just, we was, we was fairly
5 decent friends. She'd pop up for two or three months at a
6 time and come back, insistent, about every day, you know,
7 for a couple of years, three years maybe. And then she'd
8 disappear for two or three months at a time.

9 You know, she had. She would do good for a little
10 while, and then she'd get strung out and go to smoking
11 crack or meth and run around with all of them strippers
12 acting crazy. She'd get fired or laid off or lose her
13 place to live or something and it'd shock her back into
14 reality, so to speak, and she'd pop up. She'd hang around.
15 She was all right. She was a pretty good girl when it come
16 to, come to just being a friend or whatever unless she was
17 on dope or whatever. It went in spurts.

18 Q Did y'all have a sexual relationship?

19 A Yes, sir, from time to time, yes, sir, pretty regular
20 throughout the whole thing, I mean, from, you know, day
21 one. You know, that's kindly what caused her -- me and her
22 to be introduced, you know, is sex pretty much.

23 Q And what about when you were going with Nakia? Were
24 you still seeing Shannon sometimes?

25 A Yes, sir; yes, sir, pretty regular. Nakia spoke of,

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 you know, me disappearing and she letting me do my own
2 thing. I'm pretty sure that's what she was referring to.
3 You know, she knew what was going on, but she didn't really
4 raise too much Cain about it. She'd bring it up every now
5 and then and argue and holler, but that was about it.

6 Q All right. And then what about Nakia? How did you
7 find, meet her or whatever?

8 A To be honest with you, I couldn't tell you the exact
9 dates, probably around April or May or something like that,
10 three or four months before I come in here.

11 She was standing down at the end of the road down
12 there at her daddy's house. My neighbor, Hazel's son,
13 Jesse, he was dating her.

14 And I made the comment. I seen her out there in a
15 bathing suit or something, and I made the comment about he
16 was running around with this crazy whore. And he went and
17 told her.

18 So she come to confront me to argue with me about it
19 or whatever. And she was mad because I called her a whore.
20 And that's kindly how we got to start talking. And so that
21 was about it.

22 Jesse got locked up for beating up his mama and
23 stealing her D. V. D. player and T. V. And when he went to
24 jail she started staying around with me all the time. One
25 thing led to another. And she stayed with me pretty

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 regular from then on out until we come in here.

2 Q What about, about Hazel and Jesse? What do you know
3 or what was your relationship with them?

4 A They was just my neighbors. Jesse was a all right
5 little kid. I mean, they was mean to him down there. I
6 kindly, you know, took up with him a little bit because
7 they was mean to him. His mama constantly had, you know,
8 all kinds of different boyfriends.

9 Q Hazel?

10 A Yes, sir. She had all types of different boyfriends
11 pretty regular in and out all the time.

12 He'd go to Lyman. She'd have -- Jesse said they was
13 crack dealers, these black guys, down there every now and
14 then. And when they'd come around he'd usually come and
15 stay with me, or, you know, he'd try to keep out from down
16 there.

17 He got beat up a few times down there. He said a
18 couple of Mexicans jumped him down there, Alberto's
19 friends, him and Alberto's friends.

20 He had previously -- her last boyfriend, which was
21 another Mexican, Francisco, he beat him pretty bad. He
22 beat him up real bad. And that's what caused the end of
23 that relationship between him and Hazel.

24 Q Hazel's boyfriend beat up Jesse?

25 A No, sir. Jesse beat him up.

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 Q Jesse beat up?

2 A Jesse beat up Francisco pretty bad, sent him to the
3 hospital, yes, sir, beat him up pretty bad, you know.

4 Q Do you know why, what that was about?

5 A Said he threatened his mama. I don't know. I wasn't
6 down there. I just seen the guy when he come back, because
7 Hazel come to my house and said he's coming back to pack up
8 his clothes and stuff, I wish you'd come down there with me
9 while he was down there packing his clothes.

10 MR. MORIN: Objection.

11 Q All right. Let's go on.

12 THE COURT: You need to stand if you want to make an
13 objection.

14 THE WITNESS: Sir?

15 THE COURT: I told the solicitor he needed to stand if
16 he wished to make an objection.

17 MR. WEATHERFORD: I'll move on.

18 Q All right. Up until -- do you remember when Juan
19 moved in there?

20 A I couldn't tell you exact, exact time when Juan come
21 around or come about.

22 I remember these two guys, Tommy and James Smith, that
23 Charles Scruggs had, you know, done their handy work or
24 whatever. They's, they both just got out of prison for
25 child molesting or something.

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 MR. MORIN: Objection.

2 THE COURT: Sustained.

3 Q All right.

4 A These two guys he had doing their handiwork was down
5 there.

6 Q At Juan's trailer.

7 A At Juan's trailer.

8 Q But nobody lived in it?

9 A It was either the time -- I believe they was down
10 there for the reason being that either he had just moved
11 in --

12 MR. MORIN: Objection.

13 A -- or he was moving in.

14 THE COURT: What's your objection?

15 MR. MORIN: That calls for hearsay, Your Honor. He
16 didn't say what he said but --

17 A Mr. --

18 THE COURT: Just a minute.

19 Understand the things that you can testify to are
20 things that you know of your own personal knowledge, not
21 what you learned from somebody else.

22 THE WITNESS: Okay.

23 THE COURT: If somebody else has that information,
24 they'll have to come to court and testify.

25 THE WITNESS: Okay.

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 THE COURT: You can testify as to what you know or you
2 observed or what you perceived, not what somebody else did.

3 THE WITNESS: Okay.

4 Q Did you go down to that trailer that Juan eventually
5 was living in that burned up and do some work down there
6 before he moved in?

7 A Yes, sir, when Ms. Julie Bailey lived there. They
8 called her name as Julie Rice earlier on the stand today,
9 but her name was Julie Bailey. Her boyfriend's last name
10 was Rice.

11 Q All right. What kind of work did you do?

12 A I just done some plumbing work. They had a joint well
13 and --

14 Q With who?

15 A With Hazel and Juan's trailer, had a joint well. They
16 both run off the same well pump.

17 Q Who owned the two?

18 A Charles Scruggs. And he was -- I mean, I ain't
19 putting him down. He was a bad -- he was a bad landlord.
20 He was slack. They, they'd go out of water, you know,
21 something tear up. He'd never fix it. They went for about
22 a week without water.

23 And Julie had some young'uns down there, is really the
24 main reason I done it. I mean, I went and give \$40 for a
25 contact switch to go in the well. I fixed the well before

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 that.

2 And when I got the well pump back on -- it kept losing
3 prime. And the reason it kept losing prime was because
4 there was an open pipe under Julie's house where it was
5 rusted up at, and it was leaking. It kept losing prime,
6 which, in turn, caused the contact switch to burn up
7 because it was kicking on and off. But that was the only
8 reason I was down there, was to fix that well pump, because
9 they went for days without water.

10 Q All right. And how long was that before they moved
11 out and Juan moved in?

12 A I'm going to say two to three weeks roughly. That's
13 a, that's a guess. That ain't no factual nothing.

14 Q Did you go in that trailer back then?

15 A Yes, sir, I had to, yes, sir. Her boyfriend, he had
16 tore the whole floor out of the bathroom. I mean, it was a
17 mess. It was a mess. I had to replumb everything.

18 Q All right. Are you familiar with the interior of
19 Juan's trailer?

20 A Yes, sir. My cousin also used to live in it back
21 years ago. He was the first resident in it, as a matter of
22 fact. And that was many years ago.

23 Q Do you agree with the designation on this end where
24 the tongue is is the kitchen?

25 A Yes, sir.

Jeremy Richard Phillips
Direct examination by Mr. Weatherford

1 Q And there was some kind of window on that end?

2 A Yes, sir. There's a window all the way across the
3 whole end. And it was a small slat window. It's like
4 different panes, kinda like you see windows where you, you
5 roll them out and they just turn out a little bit. And
6 it's maybe three and a half to four inches, you know, wide
7 windows all the way across the end, probably five or six of
8 them maybe.

9 Q All the way across this end?

10 A Yes, sir.

11 Q And were they from the ground up, or what?

12 A No, sir, it's from probably chest-high up. You
13 probably couldn't have reached the top of it, but you'd
14 have been awfully close to it. Probably down to about
15 chest high.

16 Q And were they, were they the glass, pieces of glass
17 going across?

18 A Yes, sir; yes, sir. If I remember correctly, there
19 was like that rippled or dimpled glass, kinda like smoked
20 looking or whatever.

21 Q Hard to see through.

22 A Yes, sir. I'm not for positive. I don't hold me to
23 that. But if I remember correctly, yes, sir.

24 Q All right. And do you agree that the kitchen area was
25 down here, the stove, refrigerator and things like that?

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- 1 A That's right, yes, sir.
- 2 Q All right. And then the other two bedrooms were down
3 here on this end?
- 4 A The bedrooms -- can I get up?
- 5 Q Yes, if you need to.
- 6 (Whereupon, the witness left the stand.)
- 7 A Was kind of laid out like you come in the front door,
8 of course to a smaller scale, but you come in the front
9 door, say, here. And then, you know, there was, there was
10 no wall or separation between the kitchen and the living
11 room. And it was kind of like this here. And there was a
12 hallway down through here. There was a door here. And
13 this is a bedroom. And then it comes on back in here to
14 this hallway. And this whole end opened up. And this is a
15 bedroom. And right here there's a small bath.
- 16 Q Is that the only bath in there?
- 17 A Yes, sir.
- 18 Q All right. And how far would you estimate it is from
19 the, this end over here where the windows were and the
20 tongue to, say, this wall here?
- 21 A To the wall, well, the trailer was -- the reports I
22 got say the trailer was 48-foot, and it was 28-foot to that
23 wall.
- 24 Q So from here to here was about 28 feet?
- 25 A Yes, sir. And the pictures, the pictures show that

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1 it's a little over half way to where that wall would have
2 been.

3 Q After Juan moved in there did you ever go inside that?

4 A No, sir. I never went inside the house.

5 Q So you don't know what he had where.

6 A No, sir. I don't have a clue.

7 Q Well, did you go in the yard? Did you ever meet Juan?
8 Tell us.

9 A Yes, sir. I met him maybe a couple or three times,
10 three or four times maybe, yes, sir.

11 Q And how, how did that, what do you remember about it?

12 A Well, I was all over the neighborhood, like I said.
13 You know, I was, I was all around the neighborhood cutting
14 grass and doing things.

15 You know, my uncle lived across the road from Juan. A
16 great aunt lived on one side, and then Nakia lived down
17 past them. And then between my house and Nakia's house,
18 which I made a regular trip, you know, back and forth, you
19 know, I'd pass through Juan's. And we kinda had, you know,
20 like a little path across my Aunt Grace's back yard, you
21 know, down toward the road. And it'd come out right there
22 in Juan's driveway and go up the driveway. If I would have
23 been prepared I could have probably got you some aerial
24 photographs of it. I wish I would have. I just, I didn't
25 think they'd be necessary.

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1 Q So your grandpa, the combination of the photos, took
2 you up in an airplane to do that?

3 A Yes, sir; yes, sir. That's mainly all he still does
4 is like photo restorations, like taking old pictures that
5 you can't even see and fixing them and aerial photographs
6 when it comes to the photography part. He's closed his
7 studio and lab down here now. He does it at home.

8 The digital stuff kind of took over from all the old,
9 regular old, paper pictures and all. He said he wasn't
10 making no money, so he retired.

11 Q All right. Well, did you ever have any conversation
12 with Juan or anything?

13 A Yes, sir. I spoke to him a few times just merely as
14 an acquaintance, you know, I mean, not like he was my
15 friend or my buddy or nothing else.

16 But I believe it was, I believe it was the day before
17 the fire. Don't hold me to the exact, exact date or
18 whatever because I wasn't prepared. I wasn't prepared for
19 none of this. I wasn't trying to keep up with no dates or
20 times or nothing like that. I wasn't expecting none of
21 this in a million years.

22 But I believe it was the day before me and Nakia was
23 walking either from my house to her house, or her house to
24 my house, whichever one it was. We made that trip pretty
25 regular, and we seen, we seen --

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1 Q So you went by Juan's and Hazel's on your way?

2 A Yes, sir.

3 Q And then out to your house.

4 A Yes, sir.

5 Q All right.

6 A And we seen him. He was sitting out in the yard and
7 had a little, little cooler he was sitting on and a little
8 metal bucket with some beer in it. He offered us a beer.

9 We stood there maybe five or ten minutes. I'm just
10 guessing at a time. We stood there maybe five or ten
11 minutes. They talked. And, you know, we left.

12 He was mainly more concerned about wanting to know
13 about where Alberto was or what he had done or whatever at
14 that time if I recall the actual conversation of what we
15 was talking about.

16 Q Any other contact with you?

17 A That night probably about, I don't know, I want to say
18 roughly 10:00 or 11:00 o'clock, I don't know. I couldn't
19 tell you the exact time.

20 Nakia had done got trashed that night down there at
21 Hazel's, and she was already up at the trailer. She was
22 asleep. And Hazel, Alberto and Jesse come knocking on my
23 trailer door. I was in the bed.

24 And Hazel wanted to know. She asked me if I had got
25 that man's wallet. The man said his wallet was missing.

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1 And I told her no or whatever.

2 And I could hear him outside. He was at my Aunt
3 Grace's. You see where the little trees are. She's got an
4 open back yard right there. And he was probably about half
5 way across my Aunt Grace's yard, and he was out in the
6 yard. He was hollering where are y'all, where are y'all,
7 because, I mean, it's from where he was standing, you
8 wouldn't have been able to even see the street at all.

9 Q Is there any light out there, street lights or
10 anything?

11 A There's, there's one street light up on the other side
12 of my grandpa's barn kinda and towards the driveway side.
13 And in front of it there's one street light. But, no,
14 there's no other type of light nowhere around there.

15 Q Well, on a dark night is it dark out there?

16 A Yes, sir, pitch black, pitch black. You'll bump into
17 trees if you ain't careful.

18 Q Are there trees in the area?

19 A Yes, sir.

20 Q Pretty wooded?

21 A I ain't going to say pretty wooded, but, yes, sir,
22 there's trees, I guess. It's clear between the trees, but
23 there's trees all over the place there.

24 You can't just take an open look and see a clear
25 picture or nothing from right around in that area. I mean,

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1 I believe if you'd show me the pictures I could show you
2 the background of from my trailer to where Hazel's trailer
3 is. And you could see her trailer through little spots
4 through the trees. But, I mean, it's not.

5 Q Well, look through these and see if, if you see any.
6 If so, hand them to me and I'll get them marked.

7 A Okay. All three of these here.

8 Q All right. Wait just a minute. And while we're doing
9 it do you want to -- all right. Let me mark these three.
10 Those have already been entered. Just look at any of those
11 and see if they also show anything you're talking about.

12 A No, sir, none of these pictures are in relation to my
13 house, no, sir.

14 Q All right.

15 (Photographs marked Defendant's Exhibits Nos. 7, 8 and
16 9 for Identification.)

17 MR. WEATHERFORD: I would move these into evidence,
18 Your Honor.

19 MR. MORIN: No objection.

20 THE COURT: Those three exhibits are 7, 8 and 9?

21 MR. WEATHERFORD: Yes, sir.

22 (Photographs marked Defendant's Exhibits Nos. 7, 8 and
23 9.)

24 Q All right. Let me show you Exhibit 7 there. And tell
25 me what you see.

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- 1 A All right. Standing out --
- 2 Q In fact, come down here. Can you reference what:
- 3 you're seeing on this diagram?
- 4 (Whereupon, the witness left the stand.)
- 5 A Yes, sir. Just seeing this barely see here through
- 6 the trees. And this is the tongue of my trailer here.
- 7 This is it right here. And this is just showing that
- 8 you're looking through the trees. And down here is where
- 9 Hazel's. And there's no, no trees for Hazel's except only
- 10 little spots, which this picture don't show none of the
- 11 little spots. You can see it on one, one of the other
- 12 pictures.
- 13 Q So you're referring to the top photo there.
- 14 A Yes, sir, just the top one.
- 15 Q All right. And No. 8 here, what?
- 16 A Same view looking down through there. But I don't
- 17 know how they done it different or whatever. But you can
- 18 see it's a different angle, a different approach to it.
- 19 You can barely see Hazel's trailer right there.
- 20 Q That little white speck --
- 21 A Yes, sir.
- 22 Q -- between the barrel and the tree?
- 23 A Not the, not the lower white speck there but the white
- 24 and the --
- 25 Q Take this red pen and circle there what you're talking

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- 1 about.
- 2 A Okay. And also see it.
- 3 THE COURT REPORTER: I can't hear him.
- 4 Q All right. Say what you just said again.
- 5 A You can just, you can just see the trailer right
- 6 there. I said just across the top of that opening is where
- 7 I marked the red.
- 8 Q All right. And that's the view from your house to
- 9 Hazel's.
- 10 A Yes, sir.
- 11 Q And conversely from hers back to yours.
- 12 A Yes, sir. I am sure.
- 13 Q What about on this one?
- 14 A All right. This is a little better picture of from
- 15 behind --
- 16 Q No. 9.
- 17 A No. 9, yes, sir. This is a little better picture.
- 18 This is standing right, right at the corner right here of
- 19 my trailer shooting pictures straight down towards Hazel's
- 20 house here.
- 21 Q The top one or bottom one?
- 22 A The top one.
- 23 Q All right. And you see her house.
- 24 A You can barely see the white of her trailer through
- 25 that opening in there.

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1 Q All right. Circle or mark that. Don't say anything
2 while you're doing it.

3 A That's kind of what I meant by the wood. It's wooded,
4 but it's open. You know, there's trees everywhere, but
5 it's big trees and they're separated.

6 Q All right. I think you can go back.

7 (Whereupon, the witness returned to the stand.)

8 Q All right. Let's go back to the 29th or let's go to
9 the 29th. What do you remember occurring on that day, the
10 day before the fire?

11 A That was, that was the day that we drank a beer with
12 him out in the yard out there in his driveway.

13 Q About what time was that?

14 A I couldn't give you an exact time.

15 Q Daylight?

16 A Yes, sir; yes, sir, well daylight. I'd say maybe
17 4:00, 5:00 or 6:00 o'clock, something like that, early,
18 earlier before dark, well earlier before dark. I was going
19 to say early afternoon.

20 Q And that was you and Nakia.

21 A Yes, sir.

22 Q And then what happened after that? That was out in
23 his yard?

24 A Yes, sir, out in the driveway. You know, we just
25 spoke, you know, just stood there for a minute and went on

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1 about our business, went on to Hazel's for a little while.
2 I wound up going to the trailer. And I was kind of
3 aggravated at Nakia because she had done got trashed, you
4 know. She was, she was drinking and eating pills. I went
5 on home. Later on she come up there and passed out.

6 Q Did you ever go to Juan's?

7 A No, sir, I did not go back to Juan's at all.

8 Q Did you see her in Juan's house?

9 A No, sir. I never seen her in Juan's. I don't know
10 where this crazy concoction of this story's come up at,
11 but, no, sir, never seen her at Juan's, period, other than
12 with me.

13 Q Well, if he had put his arm around her would it have
14 bothered you?

15 A No, Lord, no. I mean, no, sir; no, sir.

16 Q Anything else that you can recall about the 29th?

17 A No, sir.

18 Q Did you ever remember seeing or hearing any police
19 cars come out there?

20 A No, sir.

21 Q Do you ever remember or see any ambulances come out
22 there?

23 A No, sir; no, sir.

24 Q And you went on --

25 A Now, Hazel -- now, Hazel called the police pretty

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1 regular, you know, I mean. She'd just call the police to
2 call them sometimes, I believe. She, she was really trying
3 to get rid of Jesse, I think. She'd get mad and get pilled
4 up, and she'd call the police on Jesse pretty regular.

5 I even seen her. He come to the house crying one
6 night. And he said go down there, my mama's got the law
7 down there. And she had called the police because he ate
8 all of her french fries. And they just, they asked, they
9 asked me if he could stay with me or whatever that night.

10 I told them I didn't mind, but they still to put on a
11 show for her, they carried him up the road and dropped him
12 out. Later on he walked back down to the house. He went
13 home after she passed out.

14 Q So it wasn't unusual for her to call the police on
15 Jesse.

16 A No, sir. She called the police. If you could get
17 their records, you probably couldn't put them in this box
18 with me, I mean. She called the police all the time.

19 Q Did she bring some things down to your house to keep
20 him from stealing them?

21 A Yes, sir. Well, she done that for probably six or
22 eight months before this ever happened, you know, because
23 he got, he got bad off. He went and stayed with his cousin
24 for about three weeks. He was working at the Kangaroo in
25 Spartanburg and got strung out on crack and wound up.

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1 robbing a cash register and everything else. But he got
2 strung out on crack.

3 And when he come back from living with his cousin he
4 was, he was stealing everything in sight, or from her and
5 his bossman, anyway. He didn't ever really bother nothing
6 of anybody else's, but anybody he could advantage of, he
7 did.

8 Q But she brought stuff down there for you to keep.

9 A Yes, sir.

10 Q Safekeeping.

11 A Yes, sir.

12 Q What kind of stuff did she bring?

13 A Videos, C. D.'s. She'd bring her money, I mean.

14 Q And I've actually got possession of those things.

15 A Yes, sir.

16 Q And they've got Hazel's name on them?

17 A Yes, sir.

18 Q All right. Let's go to the night, day or night, of
19 the fire.

20 A Okay.

21 Q Tell me what you remember about that.

22 A The night of the fire, just a regular old common day
23 around the neighborhood.

24 We had seen Juan again earlier that day, that morning
25 probably. And I couldn't tell you an exact time. As a

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1 matter of fact, Hazel's father, Tim, was pulling in the
2 driveway when we was walking up at Hazel's. And so it had
3 to be. He went to work at 3:00, I believe. He worked the
4 second shift, so.

5 Q You mean Nakia's father.

6 A Yes, sir. So it had to be well before that, because
7 he was taking them to get some beer. He had a blew head
8 gasket on his little Jeep. All, like every couple of miles
9 he had to stop and put water in it. And it was an
10 aggravating old thing.

11 But he, he had the back seat full of gas jugs or water
12 jugs, you know, so he could put water in it. And everybody
13 wanted to ride to the store to get some beer.

14 Juan was out in the yard that morning. That's when he
15 had a bottle of Jose Cuervo. He apologized about the night
16 before and raising Cain and all. And Tim told Alberto --

17 MR. MORIN: Objection.

18 THE COURT: Sustained.

19 A Okay.

20 Q Well, did Tim let Alberto go with them?

21 A No, sir, he did not let Alberto go with them because
22 he said he wouldn't buy him no beer.

23 THE COURT: You can't say what the other person said.
24 I just sustained that objection.

25 THE WITNESS: Okay.

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1 Q But who all went to the store?

2 A Juan, Hazel and Tim.

3 Q All right. And did Alberto get to go?

4 A No, sir.

5 Q Did that make him mad?

6 A Yes, sir, he got mad.

7 Q Did you ever see them come back with the beer?

8 A No, sir.

9 Q All right. What, what happened after that?

10 A After that, it was later on that afternoon that day,
11 we seen him again. It was, I don't know. Me and Nakia was
12 on our way, on our way to her daddy's house. Probably, I
13 don't know. I'm giving a guess. Say 6:00 or 7:00 o'clock.
14 I'm not sure.

15 We went on to her house. And we was down there for a
16 few minutes. And their power and water had been turned
17 off. She had a big pile of dirty, dirty dishes in there.
18 She was about to cook because the power had been bootlegged
19 and hooked back up on -- it was hooked back up.

20 And I walked back up to my grandpa's house because she
21 had a pile of dirty dishes. Instead of carrying all of the
22 dishes up there and washing them, I went up there and got a
23 bunch of jugs of water and carried them back down to her
24 house. That was well before dark that night. I sat down
25 at her house. She started cooking then. And I started

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1 watching "Cat Warming", and I fell asleep.

2 Q All right. What's the next thing you remember?

3 A I woke up to hearing fire trucks. I was in the
4 trailer by myself. There wasn't nobody around.

5 I went out on the front porch, and I seen the fire
6 trucks going up the road. They turned in our road. The
7 truck that actually woke me up had drove past the road and
8 was stopped backing up. That's what woke me up.

9 It turned in our road and went up the road. I run to
10 the top of the hill to the driveway at Nakia's, and I
11 looked up the hill. And I could see the lights from the
12 fire. And the way it sets, the trailer of Juan's is down
13 in a hole. And my Aunt Grace's, it looked like it was my
14 Aunt Grace's house. So I took off running up toward that
15 way. I mean, they was already -- the road was blocked off,
16 people everywhere and the whole works.

17 Q When you were up there did you talk to anybody?

18 A Yes, sir.

19 Q Who did you talk to?

20 A I talked to my Aunt Cindy; I talked to Beverly Mimms;
21 the landlord, Charles. I seen Jesse and Nakia. Everybody
22 was up, the whole neighborhood. I mean, it's a little
23 tightknit neighborhood, you know. I mean, I believe
24 there's 14 houses, 14 or 15 houses.

25 Q Well, what about Jimmy Lamb?

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1 A Jimmy Lamb was there, yes, sir.

2 Q Did you go up and talk to him?

3 A Yes, sir. I talked to him after they got the fire put
4 out and he come back up to the top of the hill.

5 Q Y'all just talking about what had happened or just
6 things in general?

7 A Well, yes, sir. I was asking him what happened with
8 the fire, you know, how it started, what went on, I mean,
9 you know, just common talk you would ask about at a fire,
10 you know.

11 Q Did you eventually get information that a body was in
12 there?

13 A Yes, sir. That was, I don't know. The next time I
14 heard that was the next morning. The following morning
15 when I woke up I was going to vacuum the swimming pool. I
16 seen them down there at the trailer. They had Channel
17 Seven out there, fire trucks. And Jimmy was still out
18 there on the scene. I know Jimmy from school. Me and him
19 was good friends. And I went and talked to Jimmy. And
20 Jimmy said they had found a body in it.

21 Q But that was the next day.

22 A Yes, sir. That was the next morning.

23 Q All right. And after that what happened?

24 A I came in here a week later, a week and a half later,
25 something like that.

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1 Q Well, was there something about a cell phone?

2 A Yes, sir; yes, sir.

3 Q Tell me about that.

4 A In my motion of discoveries and all of that the
5 phone -- I come to find out that the phone that I had
6 bought from Jesse, which Jesse wrote a statement and give
7 me the statement.

8 MR. MORIN: Objection.

9 Q All right. Just tell me how you got the phone. Let's
10 don't worry about Jesse's statement. You tell me how you
11 got it if you did.

12 A I bought, I bought the phone from Jesse Willis.

13 Q When?

14 A The records show that it was the day after the fire.
15 I wasn't exactly sure of the day, but it was the day after
16 the fire.

17 Q You mean the phone records?

18 A Yes, sir. The phone records show that.

19 Q All right. And so how did you come to get it from
20 Jesse?

21 A Jesse was down in his mama's driveway with Eric
22 Powell, Shannon's husband. And he come pulling in the
23 driveway down there. And they walked up, or Eric actually
24 stood in the driveway. Jesse walked up to my house. I was
25 out there working in the garden. And he asked me if I

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1 wanted to buy a cell phone and a D. V. D. player. He had
2 them both. He wanted \$25 a piece for them. Said he was
3 trying to get a quarter bag of pot.

4 Q You don't know -- do you know what kind of D. V. D.
5 player it was?

6 A I do now, but I didn't then.

7 Q Well, which one was it?

8 A It was the one with the little lid. It was strange
9 looking. The top popped open on it. I mean, it wasn't
10 like a regular old D. V. D. player you stick a D. V. D. in.
11 The top popped open on it.

12 Q Do you have a D. V. D. at your house?

13 A Yes, sir. I have two D. V. D. players in my house.

14 Q What kind were they?

15 A One of them was a Cyberhome, which I brought across
16 from the Ingles at Zion Hill at the Dollar Store. It was
17 across the road from it at the Dollar Store. Probably four
18 or five months before. If you check the serial numbers or
19 where it was sold from, I'm sure they can tell you that.

20 And the other one was Apex which come from Shannon
21 Sanders. She had moved out. She got evicted from Oakdale,
22 in the trailer park down there. And she had moved a bunch
23 of stuff into the back room at my trailer, and that was one
24 of them.

25 Q Was the one that he had, the Duraband, that was sent

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1 to SLED?

2 A Yes, sir. The Duraband was sent to SLED.

3 Q And that's the one that he was trying to sell you.

4 A Yes, sir, that was the one. I didn't know it then,
5 but come to find out, yes, sir, that was the same one.

6 Q Did you buy either one of them at first?

7 A I didn't, I didn't want neither one of them at first.
8 I didn't really want neither one of them, period,
9 especially with price. But then Jesse come back a few
10 minutes later. He went down to Hazel's. Him and Eric was
11 down there in the driveway.

12 And he come back up there, and he said I only need ten
13 more dollars to get a quarter bag of pot. And I said,
14 well, I'll give you \$10 for the phone but I don't want the
15 D. V. D. player. And I give him \$5 and a bunch of change
16 for the phone.

17 Q Do you know where he got the phone?

18 A No, sir. He told me that he got it --

19 MR. MORIN: Objection.

20 THE COURT: Sustained.

21 Q Did, did you know of Alberto owing him something?

22 A Yes, sir. Alberto --

23 MR. MORIN: Objection.

24 THE COURT: As I've stated, the only information you
25 can provide is information you know of your own personal

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1 knowledge.

2 THE WITNESS: I do. I do, Your Honor.

3 THE COURT: Not something that you learned from
4 someone else.

5 THE WITNESS: Yes, sir. I know.

6 THE COURT: All right. You can answer the question if
7 you know of your own personal knowledge.

8 A Yes, sir. A few weeks previous to this whole incident
9 I was working. Me and Jesse both had went and helped
10 Alberto. He hangs sheetrock, you know, and he had a few
11 contractors, they'd let him do a little work. And he hangs
12 sheetrock.

13 Well, he paid me. He paid me fine. And he didn't pay
14 Jesse. He just give Jesse a little beer money, a little
15 pot money here and there. And he owed Jesse for some more
16 money. Said he had another bigger job coming up and when
17 he got that from that job then he'd pay him.

18 He also told, he also told both of us he was going to
19 buy us them little prepaid cell phones like from -- you can
20 get them at the Dollar Store or anywheres else now like 20
21 bucks, just a little prepaid phone.

22 He had told Jesse and me, which I could have really
23 cared less, but, you know, Jesse thought that was a big
24 deal for him to have a cell phone or whatever. So, you
25 know, he kind of pushed at him. He wanted Alberto to buy

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1 him some boots and a cell phone and then give him his money
2 too.

3 Q All right. So when Jesse came up with the cell phone,
4 what did you think?

5 A I thought it come from Alberto because that's what he
6 told me.

7 Q Did you have any idea that it came from Juan?

8 A No, sir, not a clue.

9 Q You didn't take it from Juan?

10 A No, sir; Lord, no; no, sir.

11 Q But you did after you got it, I guess the day after,
12 you did use it.

13 A Yes, sir.

14 Q And what happened to it?

15 A I don't know. Probably about three or four days later
16 I was out bush hogging the church yard and the softball
17 field. And Nakia and Jesse was at the house. And I come
18 back to get some water or something. I don't know what I
19 come back to get.

20 And my cigarettes was missing. And I got to looking
21 around and the cigarettes and the cell phone and just a few
22 dollars was missing. And I believe Jesse got it, but I'm
23 not sure...

24 Q Okay. Did you talk to Shannon afterwards?

25 A I could have. Yes, sir. I mean, she come around

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1 pretty regular, on a regular basis, I mean, but I couldn't
2 tell you exactly day for day or when was the last day I
3 seen her before I come in here or nothing else.

4 Q Well, this time that Shannon testified about you took
5 her around beside Hazel's house and you told her about
6 killing Juan or setting fire or beating him up or
7 whatever --

8 A No, sir. She's liar. She's trying to cover her
9 association, I believe. That's my personal belief.

10 Q She's the one that ended up with the D. V. D. player.

11 A Yes, sir.

12 Q Do you know who Janice Taylor is?

13 A Yes, sir.

14 Q Who is that?

15 A I signed in under that name when I come to see Nakia
16 on her visits.

17 Q Why?

18 A Because actually Shannon's brother, he's a Cowpens
19 cop. And he had told me that Jeremy Phillips, which he
20 believed to me, had warrants for an outstanding ticket and
21 checks. But come to find out there was a Jeremy Anthony
22 Phillips. I'm Jeremy Richard Phillips. I just thought I
23 had a warrant for a check because I'd wrote one to Brown's
24 store that was kind of iffy, but I wasn't sure. But I
25 thought I had a warrant for it, but I didn't. I didn't

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1 have no warrants.

2 Q And when you went to visit her -- let's see.

3 MR. WEATHERFORD: Mark these.

4 (Jail records marked Defendant's Exhibits Nos. 10
5 through 12 for Identification.)

6 Q Can you identify what they are?

7 A Yes, sir.

8 Q They're exhibits, I mean.

9 A It's a record where you sign the paper to have a
10 visit.

11 MR. WEATHERFORD: All right. That's 10, 11 and 12 I'd
12 move into evidence.

13 MR. MORIN: No objection.

14 THE COURT: They are admitted.

15 (Jail records marked Defendant's Exhibits Nos. 10
16 through 12.)

17 Q I've highlighted the dates and the place where the
18 name Jamie Taylor appears. Do you recognize that?

19 A Yes, sir.

20 Q Is that your writing?

21 A Yes, sir, it is.

22 Q And that name Jamie Taylor is -- what did you say?
23 Who is that? Is that a real person?

24 A No, sir. I don't know where she come up with my dead
25 friend or whatever. I don't know. That's just Jamie

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1 Taylor.

2 Q Something you made up.

3 A Well, when I was little they used to call me Opey
4 Taylor. And my grandma, she, she my great-grandma, she
5 always got confused and called me Jamie instead of Jeremy.
6 So I was just Jamie Taylor.

7 Q And how did you spell that name?

8 A J-A-M-I-E T-A-Y-L-O-R.

9 Q All right. And then there's this letter that's been
10 referred to. I think Nakia said you wrote her a letter and
11 told her what to do and that's why she made that statement
12 that somebody, some of the detectives, had pressured her
13 into signing her, signing her statement or something. And
14 she referred to this letter that was signed by James
15 Taylor.

16 MR. MORIN: Your Honor, may I approach on this?

17 THE COURT: Yes.

18 (Bench conference held off the record in the presence
19 of the jury but out of the hearing of the jury.)

20 Q Did you ever write any letter to Nakia and sign it
21 James Taylor?

22 A No, sir, I did not.

23 Q After -- you were arrested on what day?

24 A I was brought in on the night of the 6th.

25 Q And was, was Jesse Willis arrested at the same time?

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- 1 A No, sir.
- 2 Q Was he arrested some other, later?
- 3 A I seen him come into booking the next day, late
4 afternoon.
- 5 Q That would have been September the 7th.
- 6 A Yes, sir.
- 7 Q And did he ever write you a letter while he was in
8 jail claiming that he was solely responsible for this?
- 9 MR. MORIN: Objection.
- 10 THE COURT: Sustained.
- 11 MR. WEATHERFORD: Well, I would like to proffer this.
- 12 MR. MORIN: I would object.
- 13 THE COURT: Let me ask the jury to please go to your
14 room. And I'll address this issue and bring you right
15 back.
- 16 (The following takes place outside the presence of the
17 jury.)
- 18 Q All right.
- 19 MR. WEATHERFORD: This yellow piece of paper, I guess
20 we need to mark it court's.
- 21 (Letter marked Court's Exhibit No. 1.)
- 22 Q This is Court's Exhibit No. 1. Can you tell me what
23 that is?
- 24 A Yes, sir. This is a paper that Jesse Willis gave me.
25 It's dated September the 9th.

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1 Q Gave it to you personally?

2 A Yes, sir, slid it under the door.

3 When you're brought into the jail with big charges
4 like ours, they usually just put you straight in lockup
5 instead of taking you to a unit, which we're separated in
6 units. But they put us in -- it's the same unit which all
7 the lockup cells are in. They let you out for an hour
8 where you can walk around. And, you know, you can go to
9 anybody's door.

10 Q All right.

11 MR. WEATHERFORD: And while we're at it, I'll get this
12 marked.

13 (Inmate request form marked Court's Exhibit No. 2.)

14 MR. WEATHERFORD: Court's Exhibit No. 2, I think, has
15 been provided from discovery.

16 Q Have you ever seen that?

17 A No, sir.

18 Q All right. Exhibit No. 1 though says that he is the
19 one solely responsible for Juan's death.

20 A Yes, sir. It says he confesses to everything and
21 confesses to selling me the phone the day afterward.

22 Q And he voluntarily gave you that piece of paper.

23 A Yes, sir. You can roll back the cameras in there in
24 the unit and see that.

25 Q Did he from time to time -- did you ever get to talk

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1 to him?

2 A When?

3 Q While he was in jail.

4 A No, sir. Just when we was in lockup together on two
5 different instances.

6 Q And so you don't know what he said other than what
7 other people told you he was saying.

8 A Yes, sir, mainly. I was in lockup with him two
9 different instances. The first time, I believe it was ten
10 days after we come in here, and then later on, a few months
11 later, I seen him down there.

12 Q All right.

13 MR. WEATHERFORD: Your Honor, I would move that in
14 under third-party guilt if nothing else.

15 MR. MORIN: They're hearsay statements. They're
16 absolutely, I mean, they're classic out-of-court
17 statements. If we believe that they came from Mr. Willis
18 at all, they're out-of-court statements. They go to the
19 truth of the matter asserted. And they're not admissible.
20 There is no exception.

21 MR. WEATHERFORD: Well, Your Honor, I think that's
22 analogist to the situation in the Riddle case where they
23 had a statement like that which they withheld from the
24 defendant. And they granted a new trial based on the fact
25 that a statement similar to that was withheld.

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1 THE COURT: Well, that statement isn't being withheld.

2 I assume that was provided to you, was it not?

3 MR. MORIN: I didn't even have it. I have a copy of
4 it. The state never had it. He got it. Give it to him.

5 MR. WEATHERFORD: The one on the yellow paper. It's
6 personally handed to him by the codefendant.

7 THE WITNESS: Yes, sir.

8 THE COURT: I sustain the objection.

9 MR. WEATHERFORD: All right.

10 THE COURT: Excuse me?

11 THE WITNESS: Sir? I didn't say nothing, sir.

12 THE COURT: When I make a ruling in a case if you
13 respond by laughing and giggling again --

14 THE WITNESS: I didn't laugh, sir.

15 THE COURT: Don't interrupt me when I'm talking.

16 You will be held in contempt of court. Do you
17 understand that?

18 THE WITNESS: Yes, sir. I understand.

19 THE COURT: If you can't behave yourself and act
20 properly while you're on the stand, you need to get down
21 from the stand and have a seat at your table.

22 THE WITNESS: Yes, sir.

23 MR. WEATHERFORD: That's going to be all the questions
24 I have.

25 THE COURT: Bring the jury back.