

VOL. 1

STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM RICHLAND COUNTY
The Honorable L. Casey Manning, Circuit Court Judge

S.C. Supreme Court

SHARON L. SMITH, 030885,

, RESPONDENT

v.

STATE OF SOUTH CAROLINA,

PETITIONER.

APPENDIX

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ORIGINAL

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) COURT OF GENERAL SESSIONS
) 03-GS-40-3439

State of South Carolina

vs.

Sharon L. Smith,

Defendant.

)
)
) TRANSCRIPT OF RECORD
) (Trial)
)
)

June 20, 21, 22, 23, 2005
Columbia, South Carolina

BEFORE:

THE HONORABLE REGINALD I. LLOYD, JUDGE; and a jury.

APPEARANCES:

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TODD WAGONER, ASSISTANT SOLICITOR
Attorneys for the State

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Monday, June 20, 2005

1
2 **THE COURT:** Counsel, I understand that there is
3 a Jackson hearing, and that's the only pre-trial. Is
4 that right?

5 **MS. SAMPSON:** I believe so. I don't know if you
6 want me to go ahead. He hasn't called the case, but
7 if you want to do that, and then I have something to
8 put on the record I guess.

9 **THE COURT:** Yes, ma'am.

10 **MR. MEADORS:** If it please the Court. The State
11 will now call the State of South Carolina vs. Sharon
12 Smith, Richland County true billed indictment
13 2003-GS-40-3439. The Defendant, Sharon Smith, is
14 charged with murder.

15 **THE COURT:** Thank you, Mr. Meadors.

16 **MS. SAMPSON:** Your Honor, if I may?

17 **THE COURT:** Yes, ma'am.

18 **MS. SAMPSON:** Before we do the Jackson vs. Denno
19 I just wanted to renew any discovery request that was
20 filed. I have been getting discovery up until
21 probably two minutes ago. So I assume that I have
22 everything. I was handed a copy of some Enterprise
23 records. My understanding, Mr. Meadors says he does
24 not intend to use those. I was also given a copy of
25 the DHEC patient care form for EMS when they came to

1 the scene. The victim was dead on arrival, so they
2 did not transport him or anything. But I did not
3 have this until this morning. Therefore, I would
4 request that neither the DHEC form nor the Enterprise
5 Rental forms be allowed to be introduced in this case
6 since I just got them today.

7 Now, the pictures I just -- I did also just
8 receive pictures, but I'm not objecting to those. I
9 did know they existed, and I had seen -- some of
10 these are just different angles of the same thing.
11 So I'm not objecting to the pictures that I did just
12 receive today. But I would object to the information
13 that I just received as far as the DHEC forms that
14 I've already outlined.

15 **THE COURT:** Mr. Meadors.

16 **MR. MEADORS:** Your Honor, I don't think I had to
17 turn this Enterprise over to her. I got these --
18 it's just, I think our victim was coming back and
19 they wouldn't let him extend his lease at Enterprise
20 over the phone, so he had to come back in person.
21 These just show that he had rented a car from
22 Enterprise. I don't know if I'm planning on
23 introducing them or not. I'd like Your Honor to
24 withhold whether or not they can come in to see if
25 they might be relevant at some point. But I don't

1 plan on using them at this point. I just got them
2 and I turned them over as soon as I got them.

3 **THE COURT:** We'll take it up if it becomes an
4 issue.

5 **MS. SAMPSON:** And what about the DHEC form, Your
6 Honor?

7 **MR. MEADORS:** I'm sorry. The DHEC form, Your
8 Honor, we discussed it with her last week. I did
9 have it. I didn't actually get it to her today. I
10 have Fortner on standby who is basically going to
11 come by and testify if we decide to call him about
12 his responding. There isn't really anything on here
13 devastating either way. But ...

14 **THE COURT:** This is the EMS?

15 **MR. MEADORS:** The EMS, DHEC patient form just
16 saying he responded.

17 **MS. SAMPSON:** My only concern, Your Honor, is if
18 he does call him I would like to have time just to
19 question him, because I didn't know his name. I'm
20 not blaming anybody. I just didn't know -- I guess I
21 should have called him and figured out through EMS
22 who responded to this particular location. But since
23 he was dead on arrival, I assumed they weren't going
24 to call anyone because we aren't contesting that at
25 all.

1 **MR. MEADORS:** And we may not. There's a Fortne
2 this week and a Fortner next week in a case, State v
3 Harris, Jr. And those Fortners got kind of mixed up
4 But we did provide it to them as soon as we could.

5 **THE COURT:** What we'll do is, if it becomes an
6 issue we'll deal with the Enterprise Rental form.
7 The DHEC form, certainly if they decide to call him,
8 Ms. Sampson, I'll let you have a chance to examine
9 the witness, and then we'll take up the motion then
10 at that time.

11 **MS. SAMPSON:** Thank you, Your Honor.

12 **MR. MEADORS:** Did you want to do the pre-trial
13 after we picked the jury?

14 **THE COURT:** Yeah. I think we probably -- as I
15 understand from counsel of both sides, it's not going
16 to be lengthy. We could probably pick the jury and
17 then do the Jackson hearing. I never swear them in
18 until after we finish all those matters.

19 **MS. SAMPSON:** It does not matter. I just don't
20 think the Jackson is going to be that long if you
21 wanted to do it now so the jury wouldn't have to sit
22 back in the jury room for 20 minutes while we do
23 Jackson. But it's up to you. I don't --

24 **THE COURT:** Well, I'd actually -- once we get
25 them seated, it's actually easier to deal with them

1 so we can cut the rest of the panel loose downstairs.
2 Let's go ahead and pick the jury and then we'll do
3 the Jackson matter. Let me ask if either side has
4 any special requests on Voir Dire?

5 **MR. MEADORS:** No, sir, we don't.

6 **MS. SAMPSON:** I don't know what you normally
7 charge or ask. I would just request that you ask if
8 anybody has been a victim of a crime of violence that
9 includes a weapon, since this is a case involving a
10 weapon. That would be my only addition to what you
11 normally ask for.

12 **MR. MEADORS:** And I know Your Honor asks if
13 anybody knows or is close personal friends with
14 anybody in the Solicitor's Office or the Public
15 Defender's Office. That's just a standard question.

16 **THE COURT:** I'll do that. And obviously,
17 counsel, as to the issue of a crime of violence, if
18 anybody stands up, we'll bring them down one at a
19 time. All right then. We'll bring the panel up and
20 begin the trial.

21 **MR. MEADORS:** Thank you, Your Honor.

22 **THE COURT:** Thank you, counsel.

23 (Pause)

24 **THE BAILIFF:** The jury panel is all present,
25 Your Honor.

1 **THE COURT:** Thank you, sir. Good afternoon,
2 ladies and gentlemen. I hope you all had a good
3 lunch. I know you all went through qualification
4 this morning. Ladies and gentlemen, we're actually
5 going to pick a jury for a criminal trial. We have
6 both civil and criminal court going on this week, and
7 this case that will be heard very shortly in this
8 courtroom will be a criminal case. I'll explain a
9 little bit more to you all about the charge against
10 the defendant very shortly.

11 Let me just explain to you the process a little
12 bit. It's pretty much like what you all did this
13 morning in the qualifications, except the questions
14 am going to ask you are more designed to this --
15 excuse me, everyone -- to this particular case. If
16 I can get my voice, I'll be able to tell you all about
17 it.

18 If I ask a question, ladies and gentlemen, in
19 this process and it applies to you or you think it
20 applies to you, if you will please stand and give me
21 your name. I'll come back to you all one at a time
22 If you'll give me your name and your juror number is
23 you remember it. Even if you stand more than once,
24 if you'll do that every time you stand so the court
25 reporter can make an accurate record, I'll come back

1 and ask you some follow-up questions about that
2 subject matter.

3 Ladies and gentlemen, most of these questions,
4 the first few questions anyway, are going to be
5 designed to find out if you know any of the people
6 who are likely or potential participants in this
7 case, including the lawyers and potential witnesses
8 in this case. And by those questions, ladies and
9 gentlemen, I will be seeking to find out if anybody
10 is related to any of these people. And by "related"
11 by mean if you are now related or if you've ever been
12 related.

13 For example, if anybody ever got a divorce in
14 your family and so you may now no longer consider
15 yourselves directly related; but if you've ever been
16 related, if you will please stand as I ask those
17 questions.

18 Secondly, ladies and gentlemen, I'm going to ask
19 if you know any of these individuals. By knowing
20 them I mean in any capacity whatsoever. That might
21 be that you were at one time nextdoor neighbors, you
22 lived in the same neighborhood, you go work out at
23 the same gym, you used to work with each other, you
24 have had a long-standing relationship in terms of
25 friendships or anything like that. If you know of

15

1 these people in any way whatsoever, if you will
2 please stand as I get to each one individually.

3 Other than that, ladies and gentlemen, most of
4 the questions are going to be self explanatory. If
5 you do not understand a question, just raise your
6 hand and I will come back to you and see if I can
7 clarify it a little bit more for you.

8 After we get through the jury qualification
9 process where I'm asking these questions, then we'll
10 go into what's called striking the jury. It just
11 means we're picking the jury. And if you'll follow
12 at that point the clerk's instructions, we'll bring
13 you up here one at a time and get a jury seated this
14 afternoon.

15 We intend to start this afternoon, ladies and
16 gentlemen. And once I get you selected I've got a
17 short matter of law to take up outside of the jury's
18 presence, and then we'll bring you back out and get
19 started this afternoon in this case.

20 Now, ladies and gentlemen, the defendant in thi
21 case is Ms. Sharon Smith, and she is charged under
22 the indictment with the crime of murder. And I
23 always tell jurors at this point, a jury panel at
24 this point and remind the jury that's actually
25 selected at the conclusion of the case that the fact

1 that someone has been arrested, charged and even
2 indicted is not evidence. It should not be
3 considered by you as evidence on the question of
4 guilt or innocence on the charge in the indictment.

5 The indictment is just the form that brings this
6 case to this court, ladies and gentlemen. But I'll
7 explain to you as we go through the selection process
8 a little bit more about that charge in this
9 particular case and just to give you some more
10 information about it.

11 Before we actually begin the process, ladies and
12 gentlemen, I'm going to ask if you all will stand and
13 the clerk is going to give you a short oath, and then
14 we'll be ready to get started on the questioning
15 process.

16 **THE CLERK:** Ladies and gentlemen of the jury
17 panel, if you'd please raise your right hand. After
18 my statement please acknowledge by answering "yes".
19 Do you swear or affirm that you shall true answer
20 make to all sets of questions as may be directed to
21 you by the Court or by the clerk thereof; you shall
22 seek the truth, the whole truth, and nothing but the
23 truth, so help you God?

24 (Jurors answer affirmatively)

25 **THE CLERK:** Thank you, ladies and gentlemen.

1 **THE COURT:** Thank you, Madam Clerk. Thank you,
2 ladies and gentlemen. Ladies and gentlemen, as I
3 said, the indictment charges the defendant,
4 Ms. Sharon Smith, with the crime of murder. I'm
5 going to introduce you first to the defendant. I'm
6 going to ask if she'll stand and face the jury panel.
7 This is Ms. Sharon Smith. And I would ask if any
8 member of the jury panel is related by blood or
9 marriage or otherwise believes they know in any
10 capacity Ms. Sharon Smith; if you will, please stand.
11 Thank you, ma'am.

12 Ladies and gentlemen, Ms. Smith is represented
13 by Ms. April Sampson and Ms. Debra Ahrens, and
14 they're standing in front of you at this time. And
15 would ask if any member of the jury panel is related
16 by blood, marriage or otherwise knows in any capacity
17 either Ms. Sampson or Ms. Ahrens or if you believe
18 that you either yourself or somebody you know has
19 been represented by these two attorneys; if you will
20 please stand. Thank you, counsel.

21 Ladies and gentlemen, the State of South
22 Carolina is represented by Mr. John Meadors and
23 Mr. Todd Wagoner. They're representing the Fifth
24 Circuit Solicitor's Office in this case, the Fifth
25 Circuit being comprised of Richland and Kershaw

1 Counties. And again, I would ask if any member of
2 the jury panel is related by blood, marriage or
3 otherwise knows in any capacity either Mr. Meadors or
4 Mr. Wagoner; if you will, please stand.

5 Ladies and gentlemen, I'm going to call out a
6 list of potential witnesses in this case. These are
7 potential witnesses. All or some of them may be
8 called during the course of this trial. If you let
9 me get through the list, if any of these witnesses
10 are present, they'll stand in front of you; but then
11 once I get through the end of that list I'll come
12 back and ask the same question, if anybody is related
13 by blood, marriage or knows any of these potential
14 witnesses. But if you'll just wait until the very
15 end as we get through the list.

16 Marvin Fortner with the Richland County EMS;
17 Lieutenant Gibson of the Columbia Police Department;
18 Corporal Hall with the Columbia Police Department;
19 Dr. Clay Nichols with Palmetto Richland Memorial
20 Hospital; George Nichols with BellSouth; M. F.
21 O'Grady-Watts with the Columbia Police Department;
22 Officer Paige with the Columbia Police Department;
23 Donald Parker, Patrice Parks, Jim Potash, W. C. Rose
24 of the Columbia Police Department; Judy Spells with
25 the 911, Richland County 911; Sergeant Thornton with

1 the Columbia Police Department. Thank you, sir.
2 Andrew S. Wilson with the Columbia Police Department.
3 Thank you, sir. Eddie Fogle and Sandy Kammer.

4 **MR. MEADORS:** Kamer (phonetic).

5 **THE COURT:** Kamer (phonetic). K-A-M-M-E-R.

6 And, ma'am, you were standing in the back. Did I
7 call your name? Yes, ma'am. Your name.

8 **UNKNOWN PERSON:** Yes, sir.

9 **THE COURT:** What's your name?

10 **MS. PARKS:** Patrice Parks.

11 **THE COURT:** What's your name?

12 **MS. PARKS:** Patrice Parks.

13 **THE COURT:** Okay. If you'll stand, Ms. Parks.

14 I'm sorry, ladies and gentlemen. Ms. Parks is
15 standing in the back, Ms. Patrice Parks.

16 **THE BAILIFF:** You have one here, too, Your
17 Honor, in the brown.

18 **THE COURT:** Oh, okay. I'm sorry. Did I miss
19 you, too, sir? What was your name?

20 **MR. FOGLE:** Eddie Fogle.

21 **THE COURT:** Mr. Fogle. All right, ladies and
22 gentlemen, standing in the back as well. Thank you,
23 sir.

24 **MR. MEADORS:** Your Honor, Investigator Mark
25 Vinson got left off as well.

1 **THE COURT:** Okay. And Investigator Mark Vinson
2 of the Columbia Police Department. Thank you, sir.
3 All right. Ladies and gentlemen, if any member of
4 the jury panel is related by blood, marriage or
5 believes that they know any of these potential
6 witnesses in any capacity whatsoever; if you will,
7 please stand. We'll start in the front and work our
8 way back.

9 **JUROR:** Judge Lloyd, I'm Bradley Anderson with
10 the Columbia Fire Department, and I know several of
11 the police officers. I also know the representative
12 with EMS you mentioned. And I know Ms. Spells with
13 the 911 Center.

14 **THE COURT:** And I know, Chief, that you work
15 with all of these departments in your capacity. Let
16 me ask you, would you be able to set aside your
17 outside knowledge or interaction with these
18 individuals and try this case purely based on what
19 you hear here in court?

20 **JUROR:** I believe I could, sir.

21 **THE COURT:** You would have no problem with
22 deciding the verdict in this case based purely on the
23 evidence and testimony presented during the trial and
24 the charge on the law?

25 **JUROR:** I think I'd be all right.

1 **THE COURT:** And would the fact that you know any
2 of these individuals that I've called out in any way
3 factor into whether you would be more inclined or
4 less inclined to believe their testimony?

5 **JUROR:** Well, I do know several of them rather
6 well. So I don't know how that might weigh in.

7 **THE COURT:** Do you have much interaction with
8 those individuals?

9 **JUROR:** Yes, I do.

10 **THE COURT:** Is it mostly work-wise?

11 **JUROR:** Yes, sir.

12 **THE COURT:** Any of it social in any way?

13 **JUROR:** Yes. One or two on a social level as
14 well.

15 **THE COURT:** Which two would that be?

16 **JUROR:** Ms. Spell invites us to various parties
17 that she has. And I believe Jim Potash also attends
18 those occasions.

19 **THE COURT:** Let me ask you if you believe you
20 could though weigh the evidence and their testimony
21 just like you would any other witness?

22 **JUROR:** I believe I could, yes.

23 **THE COURT:** Okay. Thank you, Chief. Yes, sir.

24 **JUROR:** I know Clay Nichols is partners with my
25 dad in the pathology department at Richland, and I

1 also know him socially.

2 **THE COURT:** And your name?

3 **JUROR:** Ed Catalano.

4 **THE COURT:** Okay. Do you believe you could set
5 aside -- you say he is actually partners with your
6 dad?

7 **JUROR:** (Nods head affirmatively).

8 **THE COURT:** Do you believe you could set aside
9 that relationship, sir, if he was called to testify
10 and view this evidence purely based on what you know
11 here in court and treat his testimony just like any
12 other witness?

13 **JUROR:** I'd probably be more inclined to believe
14 his testimony.

15 **THE COURT:** You don't believe you could evaluate
16 his testimony purely based on what you hear here?

17 **JUROR:** I'd like to think I could, but ...

18 **THE COURT:** You do have some honest doubt about
19 whether you could do that?

20 **JUROR:** Yes, sir.

21 **THE COURT:** And I appreciate your honesty for
22 that. That's why we go through this process, is to
23 make sure that both the State and the defendant have
24 a fair trial. And I'm going to set you aside on this
25 particular case, sir. Okay. If you'll just have a

1 seat there, we'll let everybody go at one time. But
2 I appreciate your honesty.

3 All right. Ladies and gentlemen, let me ask if
4 anybody on the jury panel is either related to or
5 knows anyone, has any kind of social relationship
6 with anyone who either works in law enforcement. And
7 that's any kind of law enforcement agency: State,
8 federal, local law enforcement, military law
9 enforcement, any corrections institute, the
10 Solicitor's Office; any type of law enforcement
11 related entity or anyone who works for a criminal
12 defense firm or a public defender's office.

13 Anyone related by blood, marriage or knows
14 anybody socially who works in those capacities or
15 yourself have ever been employed in those capacities;
16 if you will, please stand. Okay. We'll start on the
17 front row and we'll work our way back. Yes, ma'am.

18 **JUROR:** My name is Francena Pressley, and my
19 husband is a retired worker from the South Carolina
20 Department of Corrections.

21 **THE COURT:** He is actually retired now?

22 **JUROR:** Yes. He's retired.

23 **THE COURT:** Let me ask you, ma'am, given the
24 nature of this being a criminal trial, do you believe
25 you could set aside²⁴ the fact that your husband did

1 work in corrections and view the evidence fairly for
2 the State and the defendant in this case?

3 JUROR: Yes.

4 THE COURT: Would you have any hesitation about
5 being able to weigh the testimony and evidence fairly
6 to both sides?

7 JUROR: (Shakes head negatively).

8 THE COURT: Okay. Thank you, ma'am. Yes,
9 ma'am.

10 JUROR: My name is Hope Derrick. My
11 brother-in-law is Chip Truitt who used to work in the
12 Solicitor's Office here and he is now a criminal
13 defense attorney in private practice. I also work
14 for Congressman Clyburn and deal with law enforcement
15 in my job.

16 THE COURT: Let me ask you, ma'am; as to both of
17 those issues, would you be able to set that aside and
18 view this case and decide this case if you were on
19 the jury purely based on what you hear here in court
20 and taking the charge on the law that I would give
21 you?

22 JUROR: I think I can. Yes, sir.

23 THE COURT: Any hesitation in your mind at all?

24 JUROR: No, sir.

25 THE COURT: Thank you, ma'am. Yes, sir.

1 **JUROR:** Yes, sir. My name is Steven Turner. My
2 uncle is retired. He just passed away this past
3 year. He was retired from the governor's mansion.
4 He was a guard out there for about 20 years.

5 **THE COURT:** Did he tell you any good stories?
6 You don't have to answer that.

7 **JUROR:** No, sir.

8 **THE COURT:** Let me ask you, sir, would you be
9 able to set aside the fact that he was in law
10 enforcement and view this case fairly for both the
11 defendant and the State?

12 **JUROR:** Yes, sir. I believe so.

13 **THE COURT:** Thank you, sir. Yes, sir.

14 **JUROR:** I didn't know if I needed to stand up.

15 **THE COURT:** Oh. You don't need to stand up.
16 Yes, sir.

17 (Reporter's Note: Juror Catalano who was
18 previously excused)

19 **JUROR:** My name is Andrew Simmons. My best
20 friend's step dad is George Wise, a policeman for the
21 Columbia Police Department.

22 **THE COURT:** This is your best friend's dad?

23 **JUROR:** Yes, sir. Step dad.

24 **THE COURT:** Do you yourself have much
25 interaction with the Columbia Police Department?

1 JUROR: Well, I'm over there just about every
2 day, every other day.

3 THE COURT: Is that in a work capacity?

4 JUROR: I'm friends with -- can you repeat that?
5 I didn't hear you.

6 THE COURT: I was just asking if that was a work
7 capacity. You went down there voluntarily, right?

8 JUROR: No. I'm over there.

9 THE COURT: I mean, they didn't drag you down
10 there?

11 JUROR: No.

12 THE COURT: But you're over there a lot?

13 JUROR: Yes, sir.

14 THE COURT: You don't recognize any of the
15 officers' names that I called out?

16 JUROR: No, sir.

17 THE COURT: Given what you've told me, sir,
18 would you be able to set aside your contact with the
19 Columbia Police Department and the relationship that
20 you have with them and view this evidence fairly to
21 both sides?

22 JUROR: Yes, sir.

23 THE COURT: Any hesitation in your mind at all
24 that you could decide this case --

25 JUROR: No, sir.

1 **THE COURT:** -- setting aside those issues and
2 view it totally on what you hear in terms of the
3 evidence?

4 **JUROR:** No, sir.

5 **THE COURT:** Thank you, sir. Yes, sir.

6 **JUROR:** My name is Stephen Burn. My son is an
7 attorney in the Lexington County Solicitor's Office.
8 And other than that, that's ...

9 **THE COURT:** Okay. Let me ask you, sir; the fact
10 that your son does work in a prosecutor's office,
11 would you be able to set aside that relationship and
12 experience that he has and that you would obviously
13 gain through conversations with him and view this
14 case fairly for both sides?

15 **JUROR:** Yes, I believe I can.

16 **THE COURT:** You have no problem taking the
17 charge on the law which is to presume the defendant
18 is innocent unless and until the State meets its
19 burden of proof?

20 **JUROR:** That would not be a problem.

21 **THE COURT:** Thank you, sir. Yes, sir.

22 **JUROR:** I'm Morgan Rogers, and my cousin's
23 husband is a law enforcement officer in Wade County,
24 North Carolina.

25 **THE COURT:** 28 ay. The same question, sir.

1 Would that in any way factor into your weighing of
2 the evidence and testimony that would be presented in
3 this case?

4 JUROR: No, Your Honor.

5 THE COURT: You would be able to set that aside
6 and view the cases fairly for both sides?

7 JUROR: Yes, sir.

8 THE COURT: Thank you, sir. Yes, ma'am.

9 JUROR: I'm Holly Andrews, juror number 7. I
10 have two members of our church that I know socially
11 that work in a correctional facility on Broad River
12 Road.

13 THE COURT: And again, ma'am; likewise, would
14 you be able to set that aside and view the evidence
15 and testimony fairly for both the State and the
16 defendant?

17 JUROR: Yes, sir.

18 THE COURT: Thank you, ma'am.

19 JUROR: Pat James, juror number 93. And I also
20 know several lawyers through the church and know them
21 socially, and I just wanted to make that clear.

22 THE COURT: Okay. Are these prosecutors or
23 criminal defense lawyers or both?

24 JUROR: They may be. They have been.

25 THE COURT: 29 Given the ones that you know, ma'am,

1 and in your experiences with them, would that in any
2 way factor into your being able to fairly weigh the
3 evidence and testimony for both sides?

4 JUROR: No. It would not factor in.

5 THE COURT: You would be able to give both the
6 State and the defendant a fair trial?

7 JUROR: Yes, sir.

8 THE COURT: Thank you, ma'am. Yes, ma'am.

9 JUROR: I'm Sandra Sills, juror number 167. And
10 my son-in-law is a parole officer for Lexington
11 County. I don't know anybody here.

12 THE COURT: Okay. And this is your son-in-law?

13 JUROR: (Nods head affirmatively).

14 THE COURT: Would you be able to set that
15 relationship aside, ma'am, and those things that you
16 would obviously hear through him and try this case if
17 you were on the jury fairly for both the State and
18 the defense?

19 JUROR: Yes, sir.

20 THE COURT: Thank you, ma'am. Yes, sir.

21 JUROR: I'm Murray Hudson, no. 84. I know the
22 Richland County Coroner, Gary Watts, and several
23 members of his staff. I work with them on a
24 professional level dealing with causes of death.

25 THE COURT: May. Do you work with any of the

1 law enforcement agencies in that capacity?

2 JUROR: No, sir. I'm deputy epidemiologist with
3 DHEC. I'm charge of the vital statistics.

4 THE COURT: In this case, sir, would you be able
5 to set aside any -- and just so that everybody knows,
6 very often the Coroner's Office does work with law
7 enforcement in helping them solve crimes. Would you
8 be able to set aside that relationship, sir, and
9 decide this case purely based on what you hear here
10 in the courtroom in terms of the evidence and
11 testimony and the charge on the law that I would give
12 you?

13 JUROR: Yes, Your Honor.

14 THE COURT: Thank you, sir. Yes, ma'am.

15 JUROR: Hi. I'm Veronica Maybrum, juror number
16 118. Now, this has been a while back but I still
17 want to let you know. I used to be a correctional
18 officer at the Women's Correctional Center, but I
19 have not been there since 1985.

20 THE COURT: Okay. Having previously been
21 employed in that field though, ma'am, would you be
22 able to set aside those experiences or anything that
23 you would have garnered through those experiences and be
24 fair to both the State and the defense?

25 JUROR: Yes, I think I can.

1 **THE COURT:** Any doubt in your mind that you
2 couldn't be fair to either side, to both sides
3 rather?

4 **JUROR:** No doubt. I am here first.

5 **THE COURT:** Thank you, ma'am. All right.
6 Ladies and gentlemen, the indictment in this case
7 alleges that Ms. Smith here in Richland County on or
8 about May 11th of 2003 did willfully and with malice
9 a forethought kill the victim in this case, Charles
10 Gibson, by means of stabbing the victim with a knife.

11 I would ask first if any member of the jury
12 panel believes that they have any personal knowledge
13 or believe that they have heard any facts about this
14 case prior to coming here today? Anybody believe
15 they know anything about this case?

16 I didn't ask earlier. Does anybody in the jury
17 panel believe that they are either related by blood,
18 marriage or otherwise would know the victim in this
19 case, Mr. Charles Gibson, in any capacity?

20 Okay. Ladies and gentlemen, if you'll listen to
21 this question. If anybody stands at this question,
22 what I'm going to do is line you up along that wall
23 over there and I'm going to bring you down one at a
24 time with just the lawyers and myself present in
25 front of the court³² reporter so that she can take down

1 what we're talking about. But I don't want to talk
2 about this in front of the entire jury panel.

3 But I would ask if any member of the jury panel,
4 either themselves or somebody you're related to or very
5 close friends with, has ever been themselves the
6 victim of a crime of violence that involved a weapon.
7 Anybody, either themselves or somebody you're related
8 to or friends with, been the victim of a crime of
9 violence that involved a weapon?

10 If you all will please stand if anybody has that
11 situation. Yes, sir. If you all will line up on
12 this wall right here, I'll bring you down one at a
13 time with counsel.

14 (Whereupon, the following sidebar conferences
15 are had) .

16 **THE COURT:** Yes, sir. I just ask if you'll
17 state your name.

18 **JUROR:** My name is Charles Millender.

19 **THE COURT:** Yes, sir.

20 **JUROR:** I have a -- my wife's brother was
21 involved in an incident where it appeared it was a
22 murder/suicide, but it was never proven.

23 **THE COURT:** Okay. Was that here in Richland
24 County?

25 **JUROR:** No³³ it wasn't. It was in North

1 Carolina.

2 THE COURT: Okay. Let me ask you, sir; having
3 gone through that experience, would that in any way
4 factor into your listening to the testimony and
5 evidence in this case? Having heard what I read from
6 the indictment in this case does involve allegations
7 of a murder, do you believe that that experience that
8 you went through would factor into your ability to
9 weigh the evidence?

10 JUROR: Actually, I don't. However, I have
11 another difficulty.

12 THE COURT: Okay. Yes, sir.

13 JUROR: I have been involved with police
14 officers for the City of Columbia and have observed
15 they did not tell the truth. And I have a pretty
16 strong aversion to that.

17 THE COURT: Is that something you've gone
18 through yourself?

19 JUROR: Yes.

20 THE COURT: Okay. Let me ask you, sir --

21 JUROR: This has been years ago, but it's
22 never -- it's not something that you forget.

23 THE COURT: Okay. You don't believe you could
24 set aside your experience with those particular
25 officers that yo³⁴ were dealing with and weigh this

1 evidence fairly?

2 JUROR: I hesitate to think that I really could
3 Because, you know, if I'm weighing two people and I
4 have to judge who is telling the truth, I think I
5 might have to ...

6 THE COURT: Okay. And that's fair enough. I
7 appreciate your honesty about that. Anything
8 further, counsel?

9 MS. SAMPSON: (Shakes head negatively).

10 MR. MEADORS: (Shakes head negatively).

11 THE COURT: I'm going to set you aside on this
12 particular case. We may get you on another jury.

13 JUROR: Okay. Where should I go?

14 THE COURT: I appreciate your honesty more than
15 anything. Both sides deserve a fair trial, and I
16 appreciate your being honest about that.

17 JUROR: Should I go back?

18 THE COURT: Just have a seat back there and
19 we'll let you go. Yes, ma'am.

20 JUROR: Oh. My nephew was shot and killed.

21 THE COURT: Okay. You're Ms. James, Patsy
22 James?

23 JUROR: Patsy James.

24 THE COURT: Your nephew was?

25 JUROR: Mm³⁵mm (affirmative).

1 THE COURT: Was that here in Richland County?

2 JUROR: No, it was not. It was years ago in
3 Missouri.

4 THE COURT: Okay. Let me ask you, ma'am; having
5 gone through that experience and given the nature of
6 this case, would that in any way bother you in terms
7 of being able to be fair to both sides?

8 JUROR: No, it wouldn't bother me.

9 THE COURT: You'd still be able to view this
10 case purely based on the evidence and testimony?

11 JUROR: That's correct.

12 THE COURT: Thank you, ma'am.

13 JUROR: Mm-hmm (affirmative).

14 THE COURT: Yes, ma'am. If you'll just state
15 your name.

16 JUROR: Dell Sawyer.

17 THE COURT: Yes, ma'am.

18 JUROR: About 20 years ago I guess I was held
19 up. Me and a friend of mine were held up with a gun.

20 THE COURT: Was that here in Richland County?

21 JUROR: Yes.

22 THE COURT: Was that person ever caught?

23 JUROR: No.

24 THE COURT: Do you know which agency
25 investigated that? Was it Richland County or

1 Columbia?

2 JUROR: Columbia.

3 THE COURT: Columbia Police Department? First
4 let me ask you, are there any feelings you have as a
5 party from that experience in dealing with the
6 Columbia Police Department that would factor into how
7 you weigh the testimony and evidence in this case?

8 JUROR: No, sir.

9 THE COURT: There are no hard feelings or
10 positive, particularly positive feelings one way or
11 the other such that you wouldn't be able to fairly
12 view the evidence and testimony?

13 JUROR: No, sir.

14 THE COURT: And you believe you could set aside
15 that experience that you had with the robbery and
16 weigh this evidence fairly for the defendant as well
17 as the State?

18 JUROR: Yes, sir.

19 THE COURT: Thank you, ma'am. I appreciate
20 that. Yes, ma'am. Your name?

21 JUROR: Yes. Erica Thomas, juror number 181.

22 THE COURT: Okay. Yes, ma'am.

23 JUROR: One of my best friends was shot out at
24 nightclub back in 2000.

25 THE COURT: Okay. And that was here in Richland

1 County?

2 JUROR: Mm-hmm (affirmative). Off of Broad
3 River.

4 THE COURT: I'm sorry?

5 JUROR: Off of Broad River.

6 THE COURT: Broad River? Did the Sheriff's
7 Department investigate that?

8 JUROR: Mm-hmm (affirmative). And they were
9 convicted.

10 THE COURT: Okay. Was it prosecuted here in
11 this courtroom?

12 JUROR: Mm-hmm (affirmative).

13 THE COURT: Did you participate at all in that
14 trial?

15 JUROR: No.

16 THE COURT: Did you observe it in any way?

17 JUROR: No.

18 THE COURT: Do you have any feelings about that
19 experience with your friend or the whole process of
20 that person being caught and prosecuted that you
21 would not be able to set aside and view this evidence
22 fairly for both sides?

23 JUROR: No.

24 THE COURT: You'd be able to give both sides a
25 fair trial?

1 **JUROR:** Mm-hmm (affirmative).

2 **THE COURT:** Thank you, ma'am. Yes, sir. Your
3 name, sir.

4 **JUROR:** I had a cousin charged with burglary.

5 **THE COURT:** Let me get your name first.

6 **JUROR:** Juror number 178, Mondrell Sumter.

7 **THE COURT:** Okay. Yes, sir.

8 **JUROR:** I had a cousin charged with murder.

9 **THE COURT:** You had a cousin charged with
10 murder?

11 **JUROR:** Mm-hmm (affirmative).

12 **THE COURT:** How long ago was that?

13 **JUROR:** It was like '92; '91, '92.

14 **THE COURT:** Was that here in Richland County?

15 **JUROR:** Yes, sir. Well, no. It happened in
16 West Columbia.

17 **THE COURT:** West Columbia. Was it prosecuted
18 over here or in Lexington?

19 **JUROR:** I think Lexington.

20 **THE COURT:** Okay. Let me ask you; given that
21 experience with your cousin, do you hold any feeling
22 for or against the State or for or against defendant
23 such that you wouldn't be able to give both a fair
24 trial in this case?

25 **JUROR:** Na39

1 THE COURT: Was he convicted or --

2 JUROR: Yeah.

3 THE COURT: Okay. And you have no particular
4 animosity against law enforcement or the State?

5 JUROR: (Shakes head negatively).

6 THE COURT: I just need you to say yes or no.

7 JUROR: No, I don't.

8 THE COURT: Okay. And you have no particular
9 animosity towards defense lawyers?

10 JUROR: Nah.

11 THE COURT: Okay. Thank you, sir.

12 JUROR: All right.

13 THE COURT: Yes, sir.

14 JUROR: Yes, sir. Steven Turner.

15 THE COURT: Yes, sir.

16 JUROR: I almost forgot. Back in '71 I was
17 robbed at gun point at Missouri Insulation. But it's
18 a long time ago obviously.

19 THE COURT: Let me ask you; was the person ever
20 caught?

21 JUROR: I believe they did. I wasn't there when
22 they caught them because I had been transferred to
23 another state already.

24 THE COURT: Okay. So do you know what ever
25 happened? Was it ever prosecuted?

1 JUROR: No. I never heard the outcome. I was
2 in the military back then.

3 THE COURT: Having gone through that experience,
4 does it cause you to have any particular feelings for
5 or against either the State, including our law
6 enforcement and prosecution, or for or against
7 defendants or --

8 JUROR: No, sir.

9 THE COURT: -- lawyers who represent them?

10 JUROR: I don't think so.

11 THE COURT: And you'd be able to fairly weigh
12 this evidence for both sides?

13 JUROR: I would hope that I could; yes, sir.

14 THE COURT: But nothing about that experience --

15 JUROR: No.

16 THE COURT: -- would --

17 JUROR: Nothing would bother me.

18 THE COURT: Okay. Thank you, sir.

19 JUROR: I'm Carolyn Simmons.

20 THE COURT: Yes, ma'am.

21 JUROR: Clarification.

22 THE COURT: Yes, ma'am.

23 JUROR: Do you consider the hand a weapon?

24 THE COURT: Sure.

25 JUROR: Ok. 41.

1 THE COURT: Yes, ma'am.

2 JUROR: Then I personally have been a victim.
3 And I have a great niece who was recently killed by
4 her father. And they're waiting for his trial in
5 Texas.

6 THE COURT: As it relates to your matter first,
7 was that here in Richland County?

8 JUROR: Yes, it was.

9 THE COURT: Was anybody ever arrested and
10 prosecuted?

11 JUROR: Yes, he was.

12 THE COURT: Was he prosecuted for that?

13 JUROR: Yes, he was.

14 THE COURT: Was that done by the Fifth Circuit
15 Solicitor's Office?

16 JUROR: I think so.

17 THE COURT: Did you attend any of the --

18 JUROR: Yes, I did.

19 THE COURT: -- proceedings?

20 JUROR: Well, there was just one hearing, a
21 sentencing. He agreed to a plea.

22 THE COURT: Okay.

23 JUROR: And it was CDVHAN.

24 THE COURT: Given that experience, ma'am, does
25 that cause you in 42'y way to --

1 **JUROR:** I would rather not serve this week.

2 **THE COURT:** Okay. Why is that?

3 **JUROR:** The time that this was supposed to be
4 happening with her, I was in Sister Care. So I
5 wouldn't be fair.

6 **THE COURT:** Okay. Based on your experience you
7 don't believe you could set aside that?

8 **JUROR:** Right. No.

9 **THE COURT:** All right. Well, we'll set you
10 aside on this particular case. We'll leave you on
11 the panel. We might pick you on something else.

12 **JUROR:** Fine.

13 **THE COURT:** But I'll set you aside on this
14 particular case.

15 **JUROR:** Thank you.

16 **THE COURT:** Thank you, ma'am.

17 **MR. MEADORS:** Your Honor, there's just two
18 answers about Mr. Sumter and Ms. -- what's her last
19 name? Anyway. Would Your Honor consider
20 Ms. Simmons, asking if anybody's family members have
21 been charged with armed robbery? Two of those
22 actually came up and said it.

23 **MS. SAMPSON:** I'm sorry.

24 **COURT REPORTER:** I can't hear, Your Honor. I
25 can't hear what 43r. Meadors is saying.

1 **THE COURT:** It doesn't matter.

2 **COURT REPORTER:** It doesn't matter? Okay.

3 (Whereupon, a bench conference is had)

4 **THE COURT:** Thank you, ladies and gentlemen.

5 Ladies and gentlemen, let me also ask if any member
6 of the jury panel, either themselves -- and again I'm
7 going to bring you back up one at a time. If you
8 already answered this question as a part of the last
9 one, you don't have to come back up. But is there
10 anybody in the jury panel, either themselves or a
11 family member or a very close personal friend ever
12 been arrested for, charged with, or have you been
13 convicted of any violent crime? Anybody arrested,
14 charged with or convicted of?

15 That obviously includes anybody who may have
16 been accused of a crime and not convicted. But has
17 anybody, either themselves, their family member or a
18 very close personal friend ever been arrested for,
19 charged with or convicted of a crime of violence
20 involving any weapon?

21 Okay. Again, if you all will line up, I'll
22 bring you down one at a time.

23 (Whereupon, the following sidebar conferences
24 are had).

25 **THE COURT:** L44 me get your name.

1 **JUROR:** Holly Andrews, juror number 7.

2 **THE COURT:** Yes, ma'am.

3 **JUROR:** It was my brother. It was many years
4 ago. It was something with road rage, and he got out
5 and shot a man, a young man in the leg. I don't know
6 what happened. To be honest with you, I can't
7 remember. I don't think he served jail time.

8 **THE COURT:** Was that here in Richland County?

9 **JUROR:** No. It was in Pennsylvania.

10 **THE COURT:** Pennsylvania? Do you believe
11 anything about that experience would factor into your
12 ability to be fair at all?

13 **JUROR:** Absolutely not. I also -- we also do
14 have a lawyer in our church. I don't know what kind
15 of lawyer he is. Because you'd asked before. And my
16 brother had actually been in corrections, like a
17 prison guard. But I don't think anything would
18 affect my judgment.

19 **THE COURT:** None of that would --

20 **JUROR:** No. No, sir.

21 **THE COURT:** -- prevent you from being fair?
22 Great. Thank you, ma'am.

23 **MR. MEADORS:** That's unusual to have a lawyer in
24 a church.

25 **THE COURT:** 45 They're talking about people like

1 Ms. Sampson.

2 JUROR: Yes, sir.

3 THE COURT: Miss ...?

4 JUROR: Dorothy Robinson.

5 THE COURT: Dorothy Robinson. Yes, ma'am.

6 JUROR: My son, he's almost 30, he was in a
7 drive-by, in the car coming from a basketball game,
8 caught a ride home; and these guys -- this guy, one
9 of my neighbors done shot and killed him.

10 THE COURT: Okay. Your son --

11 JUROR: Was riding --

12 THE COURT: -- was in the car with somebody who
13 did a drive by shooting?

14 JUROR: Right.

15 THE COURT: Was he arrested for any of that?

16 JUROR: Yeah. He did something like ten months.

17 THE COURT: Okay. Would any of that factor into
18 your ability to be fair to both the State and the
19 defense in this case?

20 JUROR: No, sir.

21 THE COURT: You'd be able to set aside that
22 experience and be fair to both sides?

23 JUROR: Sure.

24 THE COURT: Okay. Thank you, ma'am. Yes,
25 ma'am. Your name46

1 **JUROR:** Izora Adamson.

2 **THE COURT:** Ms. Adamson. Yes, ma'am.

3 **JUROR:** I have a first cousin who shot his wife,
4 was convicted and has served several years.

5 **THE COURT:** Was that here in Richland County?

6 **JUROR:** It was not.

7 **THE COURT:** Anything about that experience cause
8 you to be unable to be fair to both the State and the
9 defendant in this case?

10 **JUROR:** No.

11 **THE COURT:** You think you could set aside that
12 experience and weigh this evidence fairly for both
13 the State and the defendant?

14 **JUROR:** Yes.

15 **THE COURT:** Thank you, ma'am.

16 **JUROR:** You're welcome.

17 **THE COURT:** Let me ask, counsel --

18 **MR. MEADORS:** What did she say?

19 **MS. SAMPSON:** Her cousin shot and killed his
20 wife.

21 **MR. MEADORS:** Her brother?

22 **MS. SAMPSON:** First cousin.

23 **THE COURT:** First cousin. Does anybody want to
24 raise anything as to the chief, Chief Bradley?

25 **MS. SAMPSON:** Are you asking us to?

1 **THE COURT:** No. I'm just asking. I mean, I
2 think he's fine. But if you all want --

3 **MR. MEADORS:** Is that even an issue? I don't
4 think we'd even have to call Judy Spell at all, quite
5 frankly.

6 **MS. SAMPSON:** I don't think we'll call him
7 either.

8 **MR. MEADORS:** And Potash, I don't think I'm
9 going to call either. So both people he knew, I
10 don't think I'm going to call them.

11 **MS. SAMPSON:** Right now I would say no.

12 **THE COURT:** Okay. I mean, I'll Voir Dire him
13 some more if you all wanted me to. Okay. Thanks.
14 (Whereupon, the sidebar conferences are concluded).

15 **THE COURT:** Okay. Thank you again, ladies and
16 gentlemen. Ladies and gentlemen, let me ask if any
17 member of the jury panel is aware of any reason
18 whatsoever, whether it's related to a question that I
19 have asked you this afternoon or something that's
20 just in the back of your mind and you've not already
21 been excused, is there anybody who knows of any
22 reason whatsoever they could not give both the State
23 of South Carolina and the defendant, Ms. Sharon
24 Smith, a fair trial in this case, deciding this
25 verdict purely based on what you hear here in court,

1 the evidence and testimony presented here as well as
2 the charge on the law that I would give you at the
3 end of the case?

4 Is there anybody aware of anything that might
5 prevent you from being able to do that or might cause
6 you to factor in other issues that are not a part of
7 this trial in weighing the evidence and testimony?

8 All right. Thank you, ladies and gentlemen.
9 Counsel, anything else as to Voir Dire?

10 **MR. MEADORS:** Nothing from the State.

11 **MS. SAMPSON:** Nothing from the defense, Your
12 Honor.

13 **THE COURT:** Thank you, counsel. Ladies and
14 gentlemen, at this point we're going to begin the
15 jury selection process. As I said, if you'll listen
16 to Madam Clerk, she's going to give you some
17 instructions. If you'll follow those instructions
18 we'll begin the seating of the jury. Counsel, we'll
19 do the 12 and I'll give you two alternates.

20 **THE CLERK:** Ladies and Gentlemen of the Jury
21 Panel, as I call your name, if you'll come to the
22 microphone in the center of the courtroom bringing
23 any personal belongings with you and state your name
24 and your occupation. Number 181, Erica Thomas.

25 (Black fem49)

1 **JUROR:** Hi. My name is Erica Thomas, juror
2 number 181. I am a student part time and working for
3 the Salvation Army as a volunteer coordinator.

4 **THE CLERK:** What says the State?

5 **MR. MEADORS:** Please present Ms. Thomas.

6 **THE CLERK:** What says the defense?

7 **MS. SAMPSON:** Please seat Ms. Thomas.

8 **THE CLERK:** Please have a seat in the jury box.
9 Number 53, Natalie Epperson.

10 (White female)

11 **JUROR:** My name is Natalie Epperson. I am a
12 student and I work at Bart Fireside.

13 **THE CLERK:** What says the State?

14 **MR. MEADORS:** Please present Ms. Epperson.

15 **THE CLERK:** What says the defense?

16 **MS. SAMPSON:** Please seat Ms. Epperson.

17 **THE CLERK:** Please have a seat in the jury box.
18 Number 80, James Hayes.

19 (Black male)

20 **JUROR:** My name is James Hayes. I work for the
21 Department of Defense as a network engineer.

22 **THE CLERK:** What says the State?

23 **MR. MEADORS:** Please present Mr. Hayes.

24 **THE CLERK:** What says the defense?

25 **MS. SAMPSON:** 50 Please excuse Mr. Hayes.

1 **THE CLERK:** Please have seat in the back of the
2 courtroom. Number 163, Dell Sawyer.

3 (White female)

4 **JUROR:** My name is Dell Sawyer and I'm an
5 administrative assistant for a distributor.

6 **THE CLERK:** What says the State?

7 **MR. MEADORS:** Please present Ms. Sawyer.

8 **THE CLERK:** What says the defense?

9 **MS. SAMPSON:** Please seat Ms. Sawyer.

10 **THE CLERK:** Please have seat in the jury box.
11 Number 158, Robert Rippy.

12 (White male)

13 **JUROR:** I'm Robert Rippy. I'm a salesman at RC
14 Equipment.

15 **THE CLERK:** What says the State?

16 **MR. MEADORS:** Please present Mr. Rippy.

17 **THE CLERK:** What says the defense?

18 **MS. SAMPSON:** Please seat Mr. Rippy.

19 **THE CLERK:** Please have a seat in the jury box.
20 Number 84, Murray Hudson.

21 (White male)

22 **JUROR:** I'm Murray Hudson, juror number 84. I'
23 an epidemiologist with DHEC.

24 **THE CLERK:** What says the State?

25 **MR. MEADO:** 51 Please present Mr. Hudson.

1 **THE CLERK:** What says the defense?

2 **MS. SAMPSON:** Please excuse Mr. Hudson.

3 **THE CLERK:** Please have seat in the back of the
4 courtroom. Number 111, Alyce Leech.

5 (White female)

6 **JUROR:** I'm Alyce Leech. I'm a retired school
7 teacher.

8 **THE CLERK:** What says the State?

9 **MR. MEADORS:** Please present Ms. Leech.

10 **THE CLERK:** What says the defense?

11 **MS. SAMPSON:** Please excuse Ms. Leech.

12 **THE CLERK:** Please have seat in the back of the
13 courtroom. Number 74, Nancy Grooves (sic).

14 **JUROR:** Groves.

15 **THE CLERK:** Groves. Excuse me.

16 (White female)

17 **JUROR:** Nancy Groves. I'm a dental hygienist.

18 **THE CLERK:** What says the State?

19 **MR. MEADORS:** Please present Ms. Groves.

20 **THE CLERK:** What says the defense?

21 **MS. SAMPSON:** Please seat Ms. Groves.

22 **THE CLERK:** Please have a seat in the jury box.
23 Number 6, William Anderson.

24 (White male)

25 **JUROR:** I'm Bradley Anderson. I'm a fire chief

1 here in Columbia.

2 THE CLERK: What says the State?

3 MR. MEADORS: Please present Chief Anderson.

4 THE CLERK: What says the defense?

5 MS. SAMPSON: Please excuse Mr. Anderson.

6 THE CLERK: Please have a seat in the back of
7 the courtroom. Number 41, Hope Derrick.

8 (White female)

9 JUROR: I'm Hope Derrick. I am a communications
10 director for Congressman Jim Clyburn.

11 THE CLERK: What says the State?

12 MR. MEADORS: Please present Ms. Derrick.

13 THE CLERK: What says the defense?

14 MS. SAMPSON: Please seat Ms. Derrick.

15 THE CLERK: Please have a seat in the jury box.
16 Number 167, Sandra Sills.

17 (White female)

18 JUROR: Sandra Sills. I'm a dental assistant.

19 THE CLERK: What says the State?

20 MR. MEADORS: Please present Ms. Sills.

21 THE CLERK: What says the defense?

22 MS. SAMPSON: Please excuse Ms. Sills.

23 THE CLERK: Please have a seat in the back of
24 the courtroom. Number 205, Izora Adamson.

25 (Black female)

1 **JUROR:** Izora Adamson, Bible assistant, Allen
2 University, pastor of Rock Hill AME Church in
3 Winnsboro.

4 **THE CLERK:** What says the State?

5 **MR. MEADORS:** Please excuse Ms. Adamson.

6 **THE CLERK:** Please have a seat in the back of
7 the courtroom. Number 148, Francena Pressley.

8 (Black female)

9 **JUROR:** I am Francena Pressley. I'm a child
10 development teacher.

11 **THE CLERK:** What says the State?

12 **MR. MEADORS:** Please present Ms. Pressley.

13 **THE CLERK:** What says the defense?

14 **MS. SAMPSON:** Please seat Ms. Pressley.

15 **THE CLERK:** Please have a seat in the jury box.
16 Number 93, Patsy James.

17 (White female)

18 **JUROR:** Pat James, juror number 93. I'm a
19 homemaker.

20 **THE CLERK:** What says the State?

21 **MR. MEADORS:** Please present Ms. James.

22 **THE CLERK:** What says the defense?

23 **MS. SAMPSON:** Please excuse Ms. James.

24 **THE CLERK:** Please have a seat in the back of
25 the courtroom. Number 178, Mondrell Sumter.

1 (Black male)

2 **JUROR:** My name is Mondrell Sumter, and I'm
3 employed at Columbia Rochester System.

4 **THE CLERK:** What says the State?

5 **MR. MEADORS:** Please present Mr. Sumter.

6 **THE CLERK:** What says the defense?

7 **MS. SAMPSON:** Please seat Mr. Sumter.

8 **THE CLERK:** Please have a seat in the jury box.
9 Number 186, Steven Turner.

10 (White male)

11 **JUROR:** Steven Turner, Air Force/ROTC instructor
12 in high school.

13 **THE CLERK:** What says the State?

14 **MR. MEADORS:** Please present Mr. Turner.

15 **THE CLERK:** What says the defense?

16 **MS. SAMPSON:** Please excuse Mr. Turner.

17 **THE CLERK:** Please have a seat in the back of
18 the courtroom. Number 26, Felicia Brown.

19 (Black female)

20 **JUROR:** Felicia Brown, warehouse manager of
21 Sam's Warehouse.

22 **THE CLERK:** What says the State?

23 **MR. MEADORS:** Please present Ms. Brown.

24 **THE CLERK:** What says the defense?

25 **MS. SAMPSON** 55 Please seat Ms. Brown.

1 **THE CLERK:** Please have a seat in the jury box.

2 Number 132, Mary Monroe.

3 (White female)

4 **JUROR:** Mary Monroe, office manager.

5 **THE CLERK:** What says the State?

6 **MR. MEADORS:** Please present Ms. Monroe.

7 **THE CLERK:** What says the defense?

8 **MS. SAMPSON:** Please seat Ms. Monroe.

9 **THE CLERK:** Please have a seat in the jury box.

10 Number 168, Andrew Simmons.

11 (White male)

12 **JUROR:** Hi. My name is Andrew Simmons and I'm a
13 full-time student.

14 **THE CLERK:** What says the State?

15 **MR. MEADORS:** Please present Mr. Simmons.

16 **THE CLERK:** What says the defense?

17 **MS. SAMPSON:** Please excuse Mr. Simmons.

18 **THE CLERK:** Please have a seat at the back of
19 the courtroom. Number 150, Meredith Raley.

20 **JUROR:** Reely (phonetic).

21 **THE CLERK:** Reely (phonetic). Sorry.

22 (White female)

23 **JUROR:** I am Meredith Raley. I'm a college
24 student.

25 **THE CLERK:** 56 at says the State?

1 **MR. MEADORS:** Please present Ms. Raley.

2 **THE CLERK:** What says the defense?

3 **MS. SAMPSON:** Please seat Ms. Raley.

4 **THE CLERK:** Please have a seat in the jury box.
5 Number 130, Sally Mitchell.

6 (Black female)

7 **JUROR:** I'm juror number 130. My name is Sally
8 Mitchell. I'm a retired banker and I now substitute
9 teach in District One.

10 **THE CLERK:** What says the State?

11 **MR. MEADORS:** Please excuse Ms. Mitchell.

12 **THE CLERK:** Please have a seat in the back of
13 the courtroom. Number 68, Bethany Gragg.

14 (White female)

15 **JUROR:** I am Bethany Gragg. I'm a real estate
16 paralegal.

17 **THE CLERK:** What says the State?

18 **MR. MEADORS:** Please present Ms. Gragg.

19 **THE CLERK:** What says the defense?

20 **MS. SAMPSON:** Please seat Ms. Gragg.

21 **THE CLERK:** Please have a seat in the jury box.
22 Number 145, Mark Pleasant.

23 (White male)

24 **JUROR:** I'm Mark Pleasant. I'm a planner with
25 the South Carolina Department of Transportation.

1 **THE CLERK:** What says the State?

2 **MR. MEADORS:** Please present Mr. Pleasant.

3 **THE CLERK:** What says the defense?

4 **MS. SAMPSON:** Please seat Mr. Pleasant.

5 **THE CLERK:** Please have a seat in the jury box.

6 Number 151, Rita Raley.

7 **JUROR:** Rita Raley, elementary school teacher.

8 (White female)

9 **THE CLERK:** What says the State?

10 **MR. MEADORS:** Please present Ms. Raley.

11 **MS. SAMPSON:** Your Honor, may we approach?

12 **THE COURT:** Yes, ma'am.

13 (Whereupon, a bench conference is had)

14 **THE COURT:** Ma'am, I'm sorry. I didn't realize
15 that there were family members in the jury panel.
16 Let me ask you, and I'll ask your daughter as well,
17 do you believe that you could set aside the fact that
18 you are related to another juror in this case if you
19 were selected and weigh the evidence and testimony
20 independent of your daughter?

21 **JUROR:** Yes.

22 **THE COURT:** And should even your opinions differ
23 on the evidence and testimony, you believe that you
24 would listen fairly to all the other jurors,
25 including your daughter, but maintain your own

1 convictions about this case?

2 *JUROR:* Yes, I do.

3 *THE COURT:* And your daughter is -- yes, ma'am.
4 Your name again, ma'am?

5 *JUROR:* Meredith.

6 *THE COURT:* I'm going to ask you the same
7 questions. Would you be able to set aside the fact
8 that your mother is on this jury as well and weigh
9 the evidence fairly for both sides and be able to
10 stand by your own conversations no matter?

11 *JUROR:* Yes, sir.

12 *THE COURT:* Would the fact that she is a member
13 of this jury in any way in your affect your ability
14 to stand by your own true feelings about the evidence
15 and testimony?

16 *JUROR:* I don't think so.

17 *THE COURT:* You'd be able to listen to all the
18 other members of the jury panel independent of the
19 fact that your mother is also a member of this jury?

20 *JUROR:* Yes.

21 *THE COURT:* Counsel, anything further?

22 *MR. MEADORS:* No, sir.

23 *MS. SAMPSON:* And my understanding is
24 Mr. Meadors has already accepted Ms. Raley, and I
25 would accept. 59

1 **THE COURT:** Okay. Thank you, ma'am.

2 **THE CLERK:** Please have a seat in the jury box.

3 **THE COURT:** All right, counsel. Anything as to
4 the jury selection?

5 **MR. MEADORS:** Nothing from the State.

6 **MS. SAMPSON:** Nothing from the defendant.

7 **THE COURT:** All right. Ladies and gentlemen who
8 were selected on the jury, you're not going to be
9 sworn just yet. I'm going to send you back. The
10 bailiff is going to show you the jury room that
11 you'll be using during this case. I'm going to send
12 you back there. They should have some snacks or
13 coffee or something back there for you.

14 It's going to take a little bit of time, not
15 very long but a little bit of time because I'm going
16 to dismiss your brothers and sisters out here who
17 were not selected and send them back down and also I
18 also have to take up a very short matter of law that
19 I have to do outside of your presence.

20 After we finish those matters we'll bring you
21 back out here, get you all sworn, and we'll get this
22 case started this afternoon before we break. Let me
23 ask; I don't anticipate this is going to be any kind
24 of problem during the course of this trial, but does
25 anybody have any issues as far as daycare or anything

1 like that that we may have to deal with? Yes, ma'am.

2 **JUROR:** Yeah. I have two young children in
3 daycare. So they have to be picked up by 6.

4 **THE COURT:** By 6:00. That's fine. How old are
5 they?

6 **JUROR:** Five and seven.

7 **THE COURT:** We should have you out of here just
8 fine. If they can't, Ms. Coates here says she's
9 looking for a little extra work and will be happy to
10 babysit. But we should not run into any time
11 problems. I do not anticipate -- ladies and
12 gentlemen, I'm going to ask if you all will follow
13 the bailiff to the jury room, and we'll bring you
14 back out shortly.

15 (Jury out at 3:48 p.m.)

16 **THE COURT:** Thank you, sir. Ladies and
17 gentlemen who were not selected, Pat, do we need the
18 downstairs?

19 **THE CLERK:** They need to just go back
20 downstairs.

21 **THE COURT:** We're going to send you back
22 downstairs. I appreciate your patience as we went
23 through this process. We may be picking other juror
24 this week. They'll all be pretty much going in the
25 same way. We appreciate your willingness and good

1 nature about serving this week. And if the chief ---
2 Chief, you all don't get a pass. That's just
3 evidence, ladies and gentlemen, nobody gets out of
4 jury duty. Even the fire chief doesn't get out of
5 it.

6 **JUROR:** I was hoping, but ...

7 **THE COURT:** We appreciate your service this
8 week, folks, and we'll hopefully see you all later on
9 this week. But you all go back downstairs. They'll
10 give you instructions about what to do for today and
11 tomorrow.

12 **MS. SAMPSON:** Your Honor.

13 **THE COURT:** Yes, ma'am.

14 **MS. SAMPSON:** Something for the record. I
15 received a note that I need to call my daycare. Can
16 I ask for a ten-minute recess just to try to figure
17 out what that's about?

18 **THE COURT:** Yes, ma'am. We'll come back and do
19 that. After you do that we'll do the Jackson hearing
20 and then we'll get you all started.

21 **MS. SAMPSON:** I'm sorry.

22 **THE COURT:** We'll stand down for about ten
23 minutes or so.

24 (Whereupon, a break is taken)

25 **THE COURT:** 62: you ready to proceed?

1 MR. MEADORS: May it please the Court?

2 THE COURT: Yes, sir.

3 MR. MEADORS: Your Honor, at this time the State
4 would call Agent Scott Wilson.

5 THE COURT: Yes, sir. If you'll just come
6 around, we'll swear you and let you take the witness
7 stand.

8 ANDREW S. WILSON, after being duly sworn,
9 testifies as follows:

10 THE CLERK: Thank you. Please have a seat in
11 the witness stand and state your full name for the
12 record.

13 WITNESS: Andrew Scott Wilson.

14 DIRECT EXAMINATION

15 BY MR. MEADORS

16 Q Good afternoon, Officer. I'm going to ask you some
17 questions right now specifically about the time you
18 had to talk with the defendant, Sharon Smith. Okay?

19 A Yes, sir.

20 Q On May 11th, 2003. And did you come in contact with
21 her at 4107 Mildred Street?

22 A Yes, I did.

23 Q Here in Columbia?

24 A Yes, I did.

25 Q And you had responded to that house as a result of a

1 stabbing?

2 A Yes.

3 Q That came over the intercom?

4 A Dispatch.

5 Q Or dispatch. All right. As a result of that you
6 went to there. Did you have an occasion to see
7 Sharon Smith?

8 A Yes, I did.

9 Q Now, initially will you tell the judge as you came up
10 to 4107 Mildred Street, what's the first contact you
11 had with the defendant, Sharon Smith? What did you
12 say to her?

13 A Well, if I may refer to my notes for exact --

14 Q Sure.

15 A As I arrived on the scene I went around to the side
16 of the house to enter from the back. I was met by
17 Ms. Smith at which time I tried to determine who,
18 what, when, where, and how. Who was there? Who had
19 the knife? Who did it? I believe my statement to
20 her was; oh, I asked her who did it and where were
21 they. She stated, "I did it." And at that time she
22 led me to the back bedroom where the victim was.

23 Q So you when you first got there you go through one,
24 two, three, as far as who did it, where are they?
25 Correct? That's j64t your practice and your habit?

1 A Correct.

2 Q And at this point she said, "I did it." Correct?

3 A Correct.

4 Q And you put that in parentheses in your incident
5 report?

6 A Yes, I did.

7 Q Now, after that admission, if you will, did you go i
8 the house and find the body of the deceased, Charles
9 Gibson?

10 A Yes.

11 Q After that did you have an occasion to talk to the
12 defendant, Sharon Smith, any more?

13 A Immediately following that I Mirandized Ms. Smith at
14 which time I asked her if she wanted to talk to me
15 and she stated no.

16 Q Where did you talk to her in the house specifically
17 at 4107 Mildred?

18 A In the den.

19 Q Who else was present there?

20 A I believe it was Mr. Parker, Mr. Donald Parker.

21 Q That, as we learned later, was the step dad, correct

22 A Correct.

23 Q Was he there when you got to the residence at 4107
24 Mildred?

25 A Yes. He was tl65 first person I came in contact with

1 Q So she tells you she did -- you go see the body back
2 in the living room or the den?

3 A The den.

4 Q At that point you read her her rights?

5 A Yes.

6 Q Would you read the judge here today as you read them
7 to the defendant, Sharon Smith, on May 11th, 2003,
8 please?

9 A Okay. "You have the right to remain silent.
10 Anything you say can and will be used against you in
11 a court of law. You have the right to talk to an
12 attorney and to have him or her present with you
13 while you are being questioned. If you cannot afford
14 to hire an attorney, one will be appointed to you
15 before questioning if you wish. You can exercise at
16 any time these rights and not answer any questions or
17 make any statements. Do you understand these rights
18 I have explained to you? Having these rights in
19 mind, do you wish to talk to us now?"

20 Q And you read them kind of fast then. Did you go a
21 little slower?

22 A Correct.

23 Q As you went through each one of the rights,
24 specifically, Officer, did she tell you, I understand
25 this?

1 A I don't recall at this time, but I do know at the end
2 of it she did understand and stated so.

3 Q She said she understood her rights?

4 A Yes.

5 Q And at that time she said, no, I don't want to talk.
6 Correct?

7 A Correct.

8 Q Let me see your -- I made a copy. I'm going to mark
9 it. You don't have another one of these, do you?

10 A Yes, I do.

11 Q Can we have this one?

12 A Yes, you may.

13 (WHEREUPON, State's Exhibit No. 1 is marked for
14 identification.)

15 (WHEREUPON, State's Exhibit No. 2 is marked for
16 identification.)

17 (WHEREUPON, State's Exhibit No. 3 is marked for
18 identification.)

19 (WHEREUPON, State's Exhibit No. 4 is marked for
20 identification.)

21 (WHEREUPON, State's Exhibit No. 5 is marked for
22 identification.)

23 (WHEREUPON, State's Exhibit No. 6 is marked for
24 identification.)

25 Q Thank you for y67r card. And you read these with:

1 "Having these rights in mind, do you wish to talk to
2 us now?" Correct?

3 A Correct.

4 Q Now, as you're reading each one of these through,
5 Officer, did the defendant appear to understand you
6 as you were reading?

7 A Yes, she did.

8 Q How far was she from you?

9 A She was sitting down from what I recall and I was
10 standing over here at the time.

11 Q Was she in custody or handcuffs at that time?

12 A I believe she was, yes.

13 Q Did you threaten her or coerce her?

14 A No, I did not.

15 Q Did you promise her anything?

16 A No, I did not.

17 Q And she indicated to you, I understand these rights?

18 A Yes.

19 Q And she also indicated to you, I don't want to talk
20 to you?

21 A Correct.

22 Q Which clearly, did it tell you she didn't want to
23 talk to you and verbally told you she didn't want to
24 talk to you?

25 A Correct.

1 Q After that you say she's handcuffed in the den?

2 A Yes, sir.

3 Q What happened after that?

4 A After that I got on the radio to verify that my
5 supervisor, Sergeant Thornton, and the watch
6 commander, Lieutenant Gibson, were in route. And
7 they arrived shortly thereafter.

8 Q Is this the sergeant right here?

9 A Yes.

10 Q And back in the third row is Lieutenant Gibson?

11 A Yes, it is.

12 Q Did the defendant initiate any conversation with you
13 after she'd said -- your testimony is she understood
14 her rights and said, no, I don't want to talk to you
15 Did she initiate a conversation with you after that?

16 A Yes. Shortly after that, yes, she did.

17 Q And in your notes do you reflect approximately how
18 long?

19 A Approximately ten minutes.

20 Q And after approximately ten minutes, specifically,
21 what did she tell you?

22 A I need to refer back to my notes real quick. After
23 approximately ten minutes she stated that she wanted
24 to say what happened.

25 Q And did you say okay, tell me?

1 **A** Yes.

2 **Q** All right. And referring to your notes, if you will,
3 please tell the judge what she told you?

4 **A** She stated that she had come to that location to
5 confront the victim, Mr. Gibson, about being out with
6 another woman the night before.

7 **Q** If you'd just read it like you wrote it might be the
8 easiest. If you would just read it verbatim, if you
9 would?

10 **A** Okay. "Subject 1 stated that she came to the
11 location in the vehicle on page No. 2 to confront the
12 victim about being out with another woman last night.
13 Upon arrival the subject struck the vehicle listed on
14 page 3 with the vehicle she was driving. Subject 1
15 got out of the vehicle and was met at the back door
16 by the victim. The victim was upset about subject
17 striking the victim's vehicle."

18 **Q** And when you say subject 1 all on here -- I don't
19 think His Honor has a copy of this -- subject 1 is
20 Sharon Smith, correct?

21 **A** Yes, it is.

22 **Q** Okay. Go ahead. "Met at the back door by the
23 victim" I believe is where you left off.

24 **A** "Subject 1 said he had a knife in his hand. She
25 believed he had been cooking. Subject 1 and victim

1 then got into a verbal altercation which led to a
2 physical altercation in the den. Subject 1 stated
3 that the victim stepped back and stated, you 'stabbed
4 me, you stabbed me', at which time the victim walked
5 to the rear bedroom and the subject followed.
6 Subject stated she saw blood on the victim's chest.
7 The subject states the victim said, 'call an
8 ambulance' and then he fell on the floor. Subject
9 states she then called 911."

10 Q And at any time during that process after she said,
11 hey, I do want to tell you what happened, did you
12 threaten her, coerce her?

13 A No, I did not.

14 Q Promise her anything?

15 A No, I did not.

16 Q Hold out any hope of reward?

17 A No, I did not.

18 Q Did she appear to you, "she" being the defendant,
19 Sharon Smith, to be under the influence of any
20 alcohol, narcotic, any drug?

21 A No, she did not.

22 Q Did you have any trouble understanding her words?

23 A No, I didn't.

24 Q Were her responses appropriate to your questions? If
25 you'd ask her something, would she respond --

1 A Yes, she would.

2 Q -- based on your experience and training
3 appropriately?

4 A Yes.

5 Q Now, had Sergeant Thornton arrived at that time or
6 sometime after that? Or when did the sarge arrive
7 and the lieutenant to the best of your memory?

8 A Shortly after I Mirandized her and verified that the
9 were coming, they arrived within minutes. So from n
10 recollection, I believe he was there when she became
11 forthcoming with all the information.

12 Q So after she had started talking about this ten
13 minutes, Sergeant Thornton arrived?

14 A Right.

15 Q And Lieutenant Gibson at some time relative to that,
16 too?

17 A Yes.

18 Q What time is that as best can you tell looking at
19 your report?

20 A From my notes which I got from dispatch, I was
21 dispatched at 14:07 and arrived at 14:11.

22 Q Tell the judge how you -- specifically when you wrote
23 this oral statement that the defendant, Sharon Smith
24 gave you; when did you put it on paper?

25 A I would have to say within the hour of first

1 arriving.

2 Q At that scene?

3 A Yes.

4 Q You did it before you left?

5 A Yes, I did.

6 Q And again, looking on page 2, if you will, of your
7 supplemental incident report, when it says: "Then
8 asked subject 1 who did it and where were they,
9 subject stated, 'I did it', and you put that in
10 quotations?

11 A Yes, I did.

12 Q And you also put in quotations when she said, "No, I
13 don't want to talk at this time." Is that correct?
14 Look on page 3.

15 A Correct.

16 Q And then she gave you this narrative that you added
17 on this paper at the scene, correct?

18 A Correct.

19 Q Did you have an occasion after that to talk with her
20 any more about the case and the facts?

21 A Not after what she had stated to me, no.

22 Q And is it your practice when this situation -- I
23 mean, you all respond to scenes. That's what you do,
24 right?

25 A Yes.

1 Q It's not unusual for you to be the first one on the
2 scene, correct?

3 A Correct.

4 Q And that's why you ask those litany of questions,
5 right? Who, what, when, where?

6 A Correct.

7 Q Is it your habit to read these if you come in contact
8 with somebody or you gain information as you did here
9 that this might be a suspect?

10 A Yes, it is.

11 Q As soon as you realized that there was a body and
12 this may be a suspect, that's when you read these
13 rights, correct?

14 A Yes, sir.

15 Q And her demeanor, describe it for the judge?

16 A From what I can recall at the time, she was calm; did
17 seem upset but relatively calm.

18 Q And would you point out to the Court the person that
19 told you "I did it" and then told you that they got
20 in an altercation ten minutes after reading her her
21 rights and about being out with another woman? Is
22 that person who told you that information in this
23 courtroom?

24 A Yes, she is.

25 Q Would you please point her out for the judge?

1 A Sitting in the middle of that table.

2 Q Beside Ms. Sampson and Ms. Ahrens?

3 A Yes.

4 MR. MEADORS: We'd like the record to so
5 reflect. That's all we have. Thank you.

6 THE COURT: Thank you. Ms. Ahrens.

7 MS. AHRENS: May it please the Court. Your
8 Honor, just very briefly.

9 CROSS EXAMINATION

10 BY MS. AHRENS

11 Q Deputy Wilson. Officer Wilson?

12 A Officer Wilson.

13 Q Good afternoon. Debra Ahrens from the Public
14 Defender's Office. Just a few questions. I just
15 want to make sure; the notes that you're referring
16 to, are you referring to a four-page incident report?
17 Is that what you have before you?

18 A Yes, I am.

19 Q Okay. And is that the extent of your notes in this
20 case?

21 A Yes, it is.

22 Q I believe you testified on direct that you think you
23 made those about an hour after the arrival on the
24 scene?

25 A Approximately. Yes.

1 Q Okay. Did you take any sort of contemporaneous note
2 as you were having conversations with Ms. Smith?

3 A I did.

4 Q Okay. And are those notes in the incident report, or
5 was that a separate sheet of paper?

6 A It was on a separate sheet of paper. What I wrote
7 down on here was from those notes.

8 Q And do you have available a written form that the
9 defendant could sign indicating that they'd been read
10 their Miranda rights?

11 A Yes, we do.

12 Q Did Ms. Smith on this occasion sign one of those
13 forms?

14 A No, she did not.

15 Q Okay. And when you arrived at the door, there were
16 two subjects actually standing in the door. Is that
17 correct?

18 A Correct. Well, they weren't standing in the doorway.
19 But, yes, there were two subjects there.

20 Q So when you testified on direct that you were trying
21 to find out the who, what, why, when, and so forth;
22 when you first arrived, you were actually speaking
23 two people at that point. Is that right?

24 A No. I was speaking to Ms. Smith because she
25 approached me first in the backyard, and he was

1 behind her.

2 Q She approached you first in the backyard?

3 A Correct.

4 Q And you didn't take a written statement in this case.
5 Is that right?

6 A Correct.

7 MS. AHRENS: Beg the Court's indulgence for a
8 moment.

9 THE COURT: Yes, ma'am.

10 MS. AHRENS: Your Honor, no further questions.

11 THE COURT: Anything further?

12 REDIRECT EXAMINATION

13 BY MR. MEADORS

14 Q I just need to clear up one thing. Or maybe not one
15 thing. I didn't mean to say that.

16 (WHEREUPON, State's Exhibit No. 7 is marked for
17 identification.)

18 Q When you first got in the house, did you go in the
19 front door?

20 A Yes, I did.

21 Q What happened when you went in the front door?

22 A When I first responded on the scene I parked my car
23 just short of in front of the house parallel with the
24 road, went to the front door which is actually offset
25 on the side. Mr. Parker -- I knocked on the door.

1 Mr. Parker came to the door. I could see him through
2 the window. He could not figure out how to unlock
3 the door and told me to come around to the side. As
4 I went around the house through the I guess carport
5 around to the back is when I was confronted by Ms.
6 Smith and Mr. Parker.

7 Q And would it be fair to say that's at the side or
8 back of the house? Then do you recognize this?

9 A Yes.

10 Q Can you show on here where you went at first and the
11 where you went to the side? Maybe you can't. I
12 don't know.

13 A This would be the front door. I originally came her
14 and knocked on the door. He couldn't open it, said
15 go around to the back. I came around here. And
16 somewhere within this area is when I was met by Ms.
17 Smith and Mr. Parker after they came from here.

18 Q So, would this be the driveway?

19 A Yes, it would.

20 Q When you said a car pulled here, should that be in
21 here somewhere?

22 A Yes.

23 Q You said the den you talked to her -- you talked to
24 her in the den?

25 A Yes.

1 Q Is that on here?

2 A Yes, it is.

3 Q Can you please show the judge?

4 A This room right here.

5 Q So after you look at the body, you all came back and
6 you all were in the den?

7 A Yes.

8 Q Anything frightening about that room?

9 A No, sir.

10 Q Intimidating about the room?

11 A No, sir.

12 Q So she was, I believe you said, sitting down?

13 A Yes.

14 Q And you were standing up. And was her stepfather
15 back there in the room?

16 A Yes, he was.

17 Q That's Mr. Parker?

18 A Yes.

19 Q That's all. Thank you.

20 THE COURT: Anything, counselor?

21 MS. AHRENS: Nothing further, Your Honor.

22 THE COURT: All right. Officer, you may step
23 down. Thank you, sir.

24 MR. MEADORS: Your Honor, the next witness, we
25 may not need to even call him, is Sergeant Thornton

1 who at some point -- I briefly discussed this with
2 counsel -- he came in and remembered the defendant
3 saying -- actually she had reinitiated -- remembers
4 her saying, "I did it." Without going into any other
5 detail, he has no other recollection of anything
6 other than that. We're prepared to call him, but
7 that's the extent of what his testimony would be.

8 **MS. SAMPSON:** My understanding, and of course
9 I've never talked to Officer Thornton, Sergeant
10 Thornton, whatever; I'm not sure what he's called, is
11 that it's the same comment that Officer Wilson is
12 going to testify she made. It's going to be
13 bolstering.

14 **MR. MEADORS:** So, in other words, we don't need
15 to go through the Jackson v. Denno I believe is my
16 point here.

17 **THE COURT:** Yes, sir.

18 **MS. SAMPSON:** No, we don't.

19 **MR. MEADORS:** Investigator Mark Vinson.

20 **MARK VINSON,** after being duly sworn, testifies
21 as follows:

22 **THE CLERK:** Thank you. Please have a seat in
23 the witness stand and state your full name for the
24 record.

25 **WITNESS:** Investigator Mark Vinson, V-I-N-S-O-

1

DIRECT EXAMINATION

2

BY MR. MEADORS

3

Q Good afternoon, Investigator.

4

A Good afternoon.

5

Q I'm going to ask you specifically about the occasion
6 you had to talk with the defendant, Sharon Smith, at
7 this point.

8

A Okay.

9

Q Did you have occasion to talk with her on May 11th,
10 2003?

11

A Yes, I did.

12

Q Do you have notes that reflect the first time you had
13 a conversation with her?

14

A Yes.

15

Q And specifically, what time do your notes reflect
16 that you talked to Ms. Sharon Smith?

17

A I arrived on the scene at 2:40 p.m. that day. I
18 spoke briefly with Sergeant Officer Wilson, then
19 spoke with her.

20

Q Where did you talk to her? Do you remember?

21

A In that, I guess what they call the den area of the
22 house, the back room.

23

Q And at that point were you aware that she had been
24 read her rights?

25

A Yes.

1 Q And that she had initially said no but then initiate
2 a conversation and told them the story?

3 A Yes.

4 Q And did you have occasion to talk to her at that
5 point?

6 A Yes. I again asked her if she had been read her
7 rights and understood them. And she said she did.
8 And I asked her if she was willing to talk to me and
9 she said yes.

10 Q And this was in the same den?

11 A Yes.

12 Q She said she had been read her rights?

13 A Yes, sir. And she understood them. And I asked her
14 if she was willing talk to me and she said yes.

15 Q You have notes reflecting that conversation?

16 A Yes.

17 Q What time was that?

18 A That was at approximately 2:40 p.m.

19 Q Tell the judge what she told you at approximately
20 2:40 a.m.?

21 A At 2:40 p.m.

22 Q P.M. Excuse me.

23 A She told me that she had been living together with
24 Mr. Gibson for approximately a year and they'd been
25 in that house where they were at since September of

1 the previous year. I asked her what happened. She
2 said they were arguing and that the victim apparently
3 was cooking and had a knife in his hand. She said
4 they were tussling and that he told her that she had
5 stabbed him. She said she at first did not think it
6 was serious, said they didn't call. She said she
7 was --

8 Q If you could slow down a little bit, please. Said
9 she did not think it was serious, so they did not
10 call?

11 A Right. She told me she had been called by Patrice
12 Parks and was talking to her when the victim stumbled
13 in there and that Patrice told her to call 911 which
14 she did. While we were at the scene I think it was
15 Officer O'Grady first noticed the pistol that was
16 underneath the victim where he was laying, asked her
17 about the pistol. She said it was a pistol they kept
18 on the nightstand but she said neither one of them
19 had it.

20 Q Neither one of them had --

21 A Had the pistol at any time during the confrontation.
22 She also later admitted that she had changed clothes
23 and that the clothes were in a closet which Officer
24 O'Grady recovered. She was asked if the knife was
25 ever in her hand. She first stated she didn't know.

1 She later said that she had picked the knife up off
2 the floor after the victim had collapsed and put it
3 in the bathroom.

4 Q So initially when you asked her about the knife she
5 said she didn't know if she had it in her hand?

6 A Correct.

7 Q And then she said she picked the knife up off the
8 floor after the victim collapsed and she put it in
9 the bathroom?

10 A Correct.

11 Q Now, did you make any observations about her then?

12 A I did notice she had some smeared blood on her
13 forearms.

14 Q On her forearms?

15 A Right. She was also asked if she had any injuries.
16 She said she did not.

17 Q You said, "Do you have any injuries?" She said no?

18 A Right.

19 Q Is that reflected also in this oral statement that
20 you took of her at Mildred Avenue?

21 A Yes, sir.

22 Q Now, after that did you have an occasion to talk to
23 her again?

24 A Yes, sir. When we finished the crime scene at
25 approximately 5:30 p.m. she was brought down to the

1 crime scene investigations on the second floor where
2 she was again advised of her rights.

3 Q And do you have that? I don't know if I have it.

4 A I've got it.

5 Q You've got it?

6 (WHEREUPON, State's Exhibit No. 8 is marked for
7 identification.)

8 MR. MEADORS: Thank you, Your Honor.

9 Q I want to show you what's marked State's 8 at this
10 point. Investigator, is this the advice of rights
11 you just spoke about?

12 A Yes, sir, it is.

13 Q And on the date -- it's got 1 Justice Square. Is
14 that where you work?

15 A That's the address to the Columbia Police Department;
16 yes, sir.

17 Q And the date is May 11th, 2003?

18 A Yes, it is.

19 Q What's the time?

20 A 5:06 p.m.

21 Q Is this the Advice of Rights form you administered to
22 Sharon Smith?

23 A Yes, it is.

24 Q Please do it as you did that day for the judge?

25 A At first I wrote down the date and time I started,

1 and I also wrote down her occupation in the top right
2 corner, the LPN. I then just read to her verbatim.
3 "Before we ask you any questions you must understand
4 your rights. You have the right to remain silent.
5 Anything you say can be used against you in court.
6 You have the right to talk to a lawyer for advice
7 before we ask you any questions and to have him with
8 you during questioning. If you cannot afford a
9 lawyer, one will be appointed for you before any
10 questioning if you wish. If you decide to answer
11 questions now without a lawyer present you will still
12 have the right to stop answering at any time. You
13 also have the right to stop answering at any time
14 until you talk to a lawyer."

15 Q Let me stop you there. So she's back at the police
16 station. You bring her into whose office?

17 A Actually it's an interview room.

18 Q What floor is that on?

19 A Second floor.

20 Q Who else was in there?

21 A No one.

22 Q Describe the atmosphere in there to His Honor?

23 A It's just -- basically it's an office that has a
24 table in it and several chairs and it has a couple of
25 file cabinets in the back.

1 Q So she is sitting in a chair?

2 A Yes.

3 Q At a table?

4 A Yes.

5 Q You were sitting near her?

6 A Yes. Across the table from her.

7 Q And as you're reading each one of these rights to
8 her, did she indicate to you in any form or fashion
9 that she understood these rights?

10 A I read them all to her. Then I asked her if she
11 understood, and she indicated that she did.

12 Q How did she indicate that? Did she tell you she
13 understood?

14 A By answering yes when I asked her if she understood
15 them.

16 Q Did you have any trouble understanding her --

17 A No, sir.

18 Q -- when she said she understood the rights?

19 A No, sir.

20 Q After she indicated to you she understood them, did
21 you read to her the waiver of rights?

22 A Yes, sir. I went over them.

23 Q Read that as you read it that day?

24 A Like I said, I just read this same thing verbatim.

25 "I have read this statement of my rights. I

1 understand what my rights are. I am willing to make
2 a statement and answer questions. I do not want a
3 lawyer at this time. I understand and know what I a
4 doing. No promises or threats have been made to me,
5 and no pressure or coercion of any kind has been use
6 against me."

7 Then I asked her again if she understood that,
8 gave her an opportunity to look over this. And then
9 I asked her to sign it indicating that she -- I aske
10 her if she was willing to talk to me. She said she
11 was. Then I asked her to sign indicating she
12 understood and was willing to talk to me.

13 Q She signed it?

14 A Yes.

15 Q In your presence?

16 A Yes.

17 Q And your signature is there?

18 A Yes.

19 Q M. W. Vinson?

20 A Yes, sir.

21 Q And that's 17:10, correct?

22 A I finished this form about four minutes after I
23 started.

24 Q After that did you have an occasion to take a writte
25 statement from her?

1 A Yes. I first gave her the opportunity to write the
2 statement down. She just wrote approximately three
3 lines. Then after that I went to questions and
4 answers. I wrote the questions down and I wrote the
5 answer down, the answer she gave me.

6 (WHEREUPON, State's Exhibit No. 9 is marked for
7 identification.)

8 Q I'm going to show you what's been marked State's 9.
9 Is this the statement, written statement or the
10 statement form where you talked to Sharon Lisa Smith?

11 A Yes, sir, it is; back on May 11th, 2003, a four-page
12 statement.

13 Q Okay. And again, the background information that's
14 up there, did she provide that to you?

15 A Yes, sir.

16 Q Where she lives, her phone number?

17 A Yes, sir.

18 Q And did you have any trouble understanding her at
19 that point?

20 A No, sir.

21 Q And if you'd said, what's your birthday, could she
22 respond to it?

23 A Yes, sir.

24 Q So did that tell you that she appeared not to be
25 under the influence of anything?

1 A Correct.

2 Q And did you at any point during the reading of her
3 rights or the waiver of her rights threaten or coerce
4 her?

5 A No, sir.

6 Q In any way?

7 A No, sir.

8 Q Promise her anything?

9 A No, sir.

10 Q Hold out any hope of any kind of reward?

11 A No.

12 Q Now, this first part here on State's 9 is three pages
13 where it looks like different handwriting from the
14 bottom. Is that what she wrote there?

15 A The three lines; yes, sir.

16 Q And then you have the next several pages -- I don't
17 believe we're going to go over the content -- where
18 you asked the questions; she answered them, correct?

19 A Yes, sir.

20 Q And at any point during that process did she tell
21 you, I don't want to talk to you?

22 A No, sir.

23 Q Did she say, give me a lawyer?

24 A No, sir.

25 Q If she had done that, what would you have done?

1 A I would have stopped talking to her.

2 Q And at the bottom of each of these pages, does
3 Ms. Sharon Smith sign and does M. W. Vinson sign?

4 A Yes, sir, she does. And I signed as well.

5 Q On each one of them, right?

6 A Yes, sir. All four pages.

7 Q And is the person who gave you this statement, Sharon
8 Lisa Smith, in the courtroom today?

9 A Yes, she is.

10 Q Please point her out?

11 A She's sitting in the middle of the defense table
12 there between the two lawyers.

13 MR. MEADORS: Your Honor, unless Your Honor
14 would like us to publish this, we'll be happy to if
15 you'd like us to.

16 THE COURT: At this point I don't think it's
17 necessary.

18 MS. SAMPSON: Your Honor, I don't think for a
19 Jackson he needs to publish the contents.

20 MR. MEADORS: I agree.

21 THE COURT: We can deal with it later.

22 MR. MEADORS: That's all. Thank you, sir.
23 Judge, I'm sorry. I forgot one thing. I apologize.

24 Q (By Mr. Meadors) Going back to the house?

25 A Yes.

1 Q Did you get a consent to search for her house?

2 A Yes, I did.

3 Q Have you got that with you?

4 A Yes, sir, I do.

5 Q And this was after she had given you that oral
6 statement at the house?

7 A This is probably actually even before that. After I
8 had just asked her if she had already been advised of
9 her rights, she indicated she had and she understood
10 them. Then I went over the consent to search.

11 Q Have you got that with you?

12 A Yes, sir.

13 THE COURT: State's Exhibit No. 10.

14 (WHEREUPON, State's Exhibit No. 10 is marked for
15 identification.)

16 Q And is this dated May 15th, 2:43?

17 A Yes, it is.

18 Q Had she signed and consented to you all's search of
19 the house where the kitchen knife, photographs and
20 other things were found and/or pictures taken?

21 A Yes, sir.

22 Q And you had actually observed that before you'd
23 gotten this, right?

24 A Yes, sir.

25 Q You all were called to the scene through 911?

1 A Yes, sir.

2 Q Find a dead body. But you went ahead and got a
3 consent to search, correct?

4 A Yes, sir.

5 MR. MEADORS: That's all.

6 THE COURT: Ms. Sampson.

7 MS. SAMPSON: Thank you, Your Honor. May it
8 please the Court.

9 THE COURT: Yes, ma'am.

10 CROSS EXAMINATION

11 BY MS. SAMPSON

12 Q Good afternoon, Investigator.

13 A Good afternoon.

14 Q When you arrived Officer Wilson was already there?

15 A Yes, ma'am.

16 Q And he had already spoken to Ms. Smith?

17 A Yes.

18 Q Do you know if any other officers had spoken to her?

19 A I think the Lieutenant and Sergeant were also already
20 there.

21 Q Do you know if they had spoken with her or they were
22 just there?

23 A I don't know if they had or not.

24 Q I mean, you are the lead investigator, correct?

25 A Yes, ma'am.

1 Q At home when you talked to her, I just went to make
2 sure that I understand. She told you that she'd bee
3 talked to with no problem. I mean, she didn't have
4 any problem talking with them?

5 A Correct.

6 Q And she told you at that point that as best as she
7 can remember Gibson was cooking?

8 A Yes.

9 Q And that he had a knife?

10 A Yes.

11 Q And they had a tussle?

12 A Right.

13 Q And he was stabbed?

14 A Yes.

15 Q Okay. And at first she didn't think it was that
16 serious?

17 A Correct. That's what she told me.

18 Q But then she did call 911 at some point?

19 A Yes.

20 Q And she told you -- you asked her about the gun. Sl
21 didn't bring up the gun, right?

22 A No.

23 Q You all asked her about it?

24 A Yes.

25 Q And she told you that she didn't or as far as she

1 knew, nobody had the gun that day?

2 A Correct.

3 Q And the second statement, you went over with her
4 rights again, right?

5 A Yes, ma'am.

6 Q And she didn't have any problems talking to you
7 again?

8 A No, ma'am.

9 Q And did you ever talk to Mr. Parker? Was he -- I'm
10 sorry. Let me rephrase. Mr. Parker, was he there
11 with you when you were talking to Ms. Smith?

12 A No. He was outside.

13 Q He was outside? Did you speak to him?

14 A Yes, I did.

15 Q And you took a statement from him later?

16 A Yes.

17 Q Or did you do it --

18 A I took it at the scene, probably outside.

19 Q But they weren't present together, making statements
20 together?

21 A No, ma'am.

22 Q And the handwritten notes that you're talking about,
23 are those question and answer; where you asked her a
24 question and she answers it?

25 A On the written statement, yes.

1 Q I'm sorry. On the oral one that was done at the
2 home, you wrote your notes, but she didn't sign that
3 one?

4 A Right. That's just notes of the conversation.

5 Q Are you writing it down as she talks to you, or you
6 write that later?

7 A Just later, shortly thereafter.

8 Q About how long after, do you think?

9 A As soon as possible. Sometimes 15 or 20 minutes;
10 sometimes an hour.

11 Q In this case do you remember?

12 A I don't remember specifically, but as soon as
13 possible.

14 Q And those notes, your notes, not the statement she
15 signed but your notes that you took, were you asking
16 her questions; she was responding or was she just
17 talking?

18 A Both. I mean, I would ask her questions; she would
19 respond. And then ...

20 Q But your notes only reflect answers. They don't
21 reflect questions, do they?

22 A Right. It's just the notes are just basically the
23 gist of the conversation.

24 Q Okay. And then the second statement that you did
25 that's written, it does have questions and answers?

1 A Yes.

2 Q Is that written statement all the questions you asked
3 her and all the answers she gave you?

4 A When we were doing the written portion of the
5 statement, yes.

6 Q And do you do it as you all speak?

7 A Yes.

8 Q And did you give her an opportunity to look at it
9 before she signed it?

10 A Yes, I did.

11 Q And did you read it to her, or did she read it?

12 A I normally would do both. I would read it over, then
13 give her a chance also to look over it.

14 Q In this case did you read it to her?

15 A Yes.

16 Q And she signed each page after you read it, or did
17 she sign each page after you were done with all of --

18 A Once the whole thing was finished, she signed all
19 four.

20 Q Did you tell her she could make any changes or
21 corrections if she wanted to?

22 A Well, I did ask her if the statement was the truth,
23 and she indicated it was.

24 Q But did you ask her did she need to change anything
25 or was anything wrong?

1 A I didn't specifically ask her that, no. I just aske
2 her if it was the truth. She indicated it was.

3 MS. SAMPSON: Beg the Court's indulgence.

4 THE COURT: Yes, ma'am.

5 MS. SAMPSON: No further questions.

6 THE COURT: Thank you, ma'am. Mr. Meadors,
7 anything on redirect?

8 MR. MEADORS: No, sir. Thank you.

9 THE COURT: Investigator, you may step down.
10 Thank you, sir.

11 MR. MEADORS: Your Honor, I believe that's all
12 we have. We have a series; then, Your Honor, the
13 first oral statement, if you will, that's given to
14 Officer Wilson as he arrived on the scene. Do you
15 have anything in reply? I'm sorry.

16 THE COURT: Ms. Sampson, anything from the
17 defense?

18 MS. SAMPSON: Based on what the State has
19 presented, Your Honor, we don't have any objections
20 to the statements coming in.

21 THE COURT: Okay.

22 MR. MEADORS: I'll save my argument. I
23 apologize.

24 THE COURT: I'll find that they're all volunta
25 and admissible, properly Mirandized as applicable t

1 those statements. Anything else we need to take up
2 before the jury comes out?

3 **MS. SAMPSON:** Your Honor, there was a couple of
4 pre-trial issues that we didn't do earlier. We need
5 to settle the record of the defendant and any
6 witnesses. My understanding is there is three lay
7 witnesses. I assume that none of the police officers
8 or any of those particular people have rap sheets.
9 But I do not know if the lay witnesses have rap
10 sheets or not.

11 **MR. MEADORS:** Two of them are here. I'm not
12 sure I'm even going to call them. One of them is
13 shaking their head now. So I'll certainly check on
14 that. I don't think we'll get to those today. We'll
15 get those to you this afternoon or first thing in the
16 morning.

17 **MS. SAMPSON:** And as to the defendant, the only
18 record that we have is a fraudulent check in 1996.

19 **MR. MEADORS:** I have no reason to disagree with
20 that at this point.

21 **MS. SAMPSON:** And that would be the extent of it
22 that we know of for pre-trial. You know, I would
23 just renew my Rule 5. If there is any other evidence
24 that I don't have, I would at this point request it.
25 And if we're to get any, I would object to the

1 introduction.

2 **THE COURT:** Thank you, counsel. We'll bring the
3 jury out then and we'll see if we can get in opening
4 and maybe a witness or two. We'll bring them out,
5 please.

6 (Jury in at 4:42 p.m.)

7 **THE BAILIFF:** Your Honor, the jury is present.

8 **THE COURT:** Thank you, sir. Thank you, ladies
9 and gentlemen. I appreciate your patience on getting
10 you out here. Ladies and gentlemen, we're ready to
11 start. We're still going to try to break around 5:00
12 or so this afternoon. I'm going to try to get in
13 opening statements and maybe a witness or two before
14 we break.

15 Ladies and gentlemen, you're going to first hear
16 opening statements from both sides. Those statements
17 are not evidence. Just like closing arguments, when
18 you hear those, they're not going to be evidence.
19 But you will and should pay very close attention I'm
20 sure to the opening statements from both sides. It
21 is a chance for both sides to give you their arguments
22 to some degree; it's not really argument, but their
23 statements as to what they believe the evidence will
24 show you during the course of the trial.

25 Ladies and gentlemen, after that we'll try to

1 get in a couple of witnesses this afternoon before we
2 break. Before we actually get started I'm going to
3 ask if you all will stand one more time. The clerk
4 is going to give you an oath and swear you in as
5 jurors in this case.

6 **THE CLERK:** Please raise your right hand. After
7 my statement please acknowledge by answering "yes".
8 Do you swear or affirm that you shall well and truly
9 try, and true deliverance make, between the State of
10 South Carolina and the defendant at bar whom you
11 shall have in charge, and the evidence, so help you
12 God?

13 (Jurors answer affirmatively)

14 **THE CLERK:** Thank you. You may be seated.

15 **THE COURT:** Okay. Thank you, Madam Clerk.
16 Thank you, ladies and gentlemen. Counsel for both
17 sides ready to do openings?

18 **MR. WAGONER:** Yes, Your Honor.

19 **THE COURT:** Okay. Mr. Wagoner.

20 **MR. WAGONER:** "I did it." That's one of the
21 first things the defendant, Sharon Smith, stated to
22 Officer Scott Wilson on the afternoon of May 11th,
23 2003, as the body of Charles Gibson lay lifeless in
24 the back bedroom of 4107 Mildred Street in the City
25 of Columbia.

1 Ladies and Gentlemen of the Jury, I'm Todd
2 Wagoner. With me is Deputy Solicitor John Meadors.
3 We represent the Fifth Circuit Solicitor's Office.
4 You can also look at it as we represent the State in
5 this matter. Representing the defendant is April
6 Sampson and Debra Ahrens.

7 This case is about the murder of Charles Gibson
8 His family is seated behind the bar. We ask that you
9 as the jury pay close attention to all of the
10 testimony that you'll hear. We ask that you have an
11 open mind. We ask that you use your common sense,
12 use your sense of reasonableness, because the State's
13 burden in this case is to prove this case beyond a
14 reasonable doubt. Now, that's not beyond any doubt,
15 any possible doubt. It's beyond a doubt that will
16 cause you to hesitate to act.

17 Now, like I said, this is about the murder of
18 Charles Gibson. What is murder? Murder is the
19 unlawful killing of another with malice aforethought
20 Now, malice can be expressed, may be expressed or
21 inferred. In this case the State will ask you to
22 infer malice through the use of a deadly weapon.

23 Early in the morning of May 11, 2003,
24 approximately 3:30 in the morning, Sharon Smith went
25 to 4107 Mildred Street to see if Charles was there.

1 She was there to confront him. She thought that he
2 had been at a club that night. Charles wanted Sharon
3 to stay and talk but she left.

4 Her friend took her to Eddie Fogle's house. She
5 stayed at Eddie Fogle's house. Around 7 a.m. that
6 day, May 11th, 2003, Charles came by Eddie Fogle's
7 house. During the course after this morning he
8 dropped off some of her clothing. You see, you'll
9 hear that Sharon and Charles shared the house at 4107
10 Mildred Street.

11 In the afternoon, close to 2 p.m., Sharon went
12 back to 4107 Mildred Street to confront Charles about
13 him trying to move her out. There was an argument.
14 During the course of this argument Sharon Smith took
15 a knife and stabbed Charles Gibson in the chest,
16 piercing his heart.

17 After she stabbed him she tried to clean up.
18 She took off her bloody dress, placed it in a closet
19 in a different room underneath some other clothing.
20 There was also found a bloody towel in the bathroom.
21 She also picked up the knife, walked to the bathroom.

22 Her stepfather, Daniel Parker, showed up shortly
23 thereafter. When she opened the door -- he knocked
24 on the door -- she was on the phone. She was on the
25 phone with 911. 103 hort time after that Officer

1 Scott Wilson showed up. That's when she said, "I did
2 it."

3 Ladies and Gentlemen of the Jury, I want to
4 thank you in advance for your attention in this
5 matter, and at the close of all the evidence we will
6 ask you to find Sharon Smith guilty of the murder of
7 Charles Gibson.

8 THE COURT: Thank you, Mr. Wagoner. Ms. Ahrens

9 MS. AHRENS: May it please the Court, Your
10 Honor.

11 THE COURT: Yes, ma'am.

12 MS. AHRENS: Good afternoon, ladies and
13 gentlemen. I promise I'm not going to keep you long
14 but I am going to ask you to do something unpleasant
15 I'm going to ask you to think of something very
16 painful that's happened in your life. Maybe it's the
17 loss of a job. Maybe it's the end of a relationship
18 Maybe it's the loss of a loved one.

19 MR. MEADORS: Your Honor, I'm going to object.

20 THE COURT: Counsel, approach.

21 (Whereupon, a bench conference is had)

22 THE COURT: Thank you, counsel. Ms. Ahrens, you
23 may continue.

24 MS. AHRENS: Sorry, ladies and gentlemen. I'm
25 asking you to look about it because I'm asking you

1 to think of the range of emotions that you experience
2 when you experience it and the range of emotions you
3 experience after, after the initial shock, after the
4 initial sadness. What's the next thing that comes?
5 It's the blame. It's the desire to hold someone
6 responsible.

7 And in this case we can't deny that there was a
8 tragedy. Charles Gibson died. And he died a long
9 time before he was meant to. And that's tragic. And
10 a natural human emotion is we want to blame somebody.
11 The State has offered you someone to blame in this
12 case, and the person that they've offered to you is
13 Sharon Smith.

14 You're going hear during this trial Sharon Smith
15 is one name she goes by. Her friends call her Lisa.
16 That's her middle name. So you may hear her referred
17 to as Lisa Smith during this trial. The State is
18 wanting you to hold her responsible for this tragedy,
19 because that's the natural human emotion; you want to
20 hold someone responsible. The problem is in this
21 case Ms. Smith isn't guilty. She's not guilty of
22 murder. Don't forget about human emotion.

23 Now, the State has asked you to listen carefully
24 to all the evidence in this case. And that's exactly
25 why each and every one of you were selected, because

1 we believe that you have the ability to sit, listen
2 to all the evidence in this case and be fair, use
3 both your critical thinking abilities and also your
4 common sense, the things that all of us bring to this
5 courtroom with us. That's what we're asking you to
6 do.

7 Now, the State alluded to the burden of proof
8 that they have in this case: Beyond a reasonable
9 doubt. I don't know if any of you have sat as jurors
10 before. I don't know if you've sat in civil trials
11 where the burden of proof is a preponderance of the
12 evidence. It's a lower standard of proof. Some
13 other cases where the burden of proof might be clear
14 and convincing evidence, a somewhat higher standard
15 of proof.

16 But we deserve the highest standard of proof in
17 our court system for criminal cases: Beyond a
18 reasonable doubt. That's not "maybe guilty", "could
19 be guilty", "probably guilty", "most likely guilty";
20 beyond a reasonable doubt.

21 And when you listen to all the evidence in this
22 case, you're not going to find Sharon Smith guilty of
23 murder. She is not guilty. Thank you.

24 **THE COURT:** Thank you, Ms. Ahrens. State call
25 its first witness106

1 **MR. MEADORS:** May it please the Court, Your
2 Honor. The State calls Officer Scott Wilson.

3 **THE COURT:** Come around. We'll swear you in and
4 let you take the witness stand.

5 **ANDREW S. WILSON,** after being duly sworn,
6 testifies as follows:

7 **THE CLERK:** Thank you. Please have a seat in
8 the witness stand and state your full name for the
9 record.

10 **WITNESS:** Andrew Scott Wilson.

11 **DIRECT EXAMINATION**

12 **BY MR. MEADORS**

13 **Q** Good afternoon, Officer.

14 **A** Good afternoon.

15 **Q** Will you tell these ladies and gentlemen a little bit
16 about yourself, specifically where you're from?

17 **A** A little bit from all over. Grew up as an Army brat,
18 haven't really stayed any place for too long. I've
19 been in Columbia for about ten years now, a little
20 longer. I've been with the police department five
21 years, married, one child.

22 **Q** You're an Army brat. Did you go in the military
23 yourself?

24 **A** Yes, I did. I was in the Marine Corps.

25 **Q** For how long?

1 A Approximately three years.

2 Q Where were you stationed?

3 A California.

4 Q How did you come here?

5 A At the time I was living with my parents who were --
6 my dad was stationed at Ft. Jackson. I joined the
7 military from here, and when you get out they send
8 you back where you were joined from.

9 Q And you settled here?

10 A Correct.

11 Q And I believe you said you've been with the City of
12 Columbia Police Department for five years?

13 A Yes.

14 Q And have you received any specific training by law
15 enforcement?

16 A Yes, I have.

17 Q The Criminal Justice Academy?

18 A Yes.

19 Q Tell these folks about that, please?

20 A Basic law enforcement with the academy, eight weeks :
21 believe it was, prior to being assigned to the north
22 region at which time I went through a field training
23 officer program or field training program which was
24 at that time approximately three months I believe.

25 Q You mentioned t108north region. Does the City of

1 Columbia Police Department divide its areas into
2 regions?

3 A Yes, it does.

4 Q How many do we have?

5 A Right now we have four.

6 Q And the north region covers what part of the county?
7 I know it covers the north part; but, generally, can
8 you define it, the area?

9 A Basically from Laurel Street north to I-20 and then
10 from about from 26 over to Two Notch Road basically.

11 Q And do you have a separate unit? Do you have a
12 separate substation out there for the north region?

13 A Yes, we do.

14 Q Where is that?

15 A It's 3905 Windsor Avenue.

16 Q And is that where you check in, where you go to work?

17 A Yes, it is.

18 Q Now, besides -- have you been on the SWAT team or are
19 you on the SWAT team?

20 A Yes. I've been on the SWAT team since 2003.

21 Q I guess we all know it, but what does a police
22 officer do for the Columbia Police Department?

23 A We do a wide variety of calls. Basically, whoever
24 calls in, we respond to whatever their needs are. We
25 settle disputes, marriage counselors, assist people

1 with directions. You name it.

2 Q And do you all have a fight patrol?

3 A Yes, we do.

4 Q Are you on that, or are you trying to be on that?

5 A Trying to be on that.

6 Q Now, let's go back to May 11th, 2003, Officer. What
7 was your shift then, schedule? What were you
8 working?

9 A I believe we were on day shift then.

10 Q What's that mean?

11 A I'm sorry. That is 5:30 in the morning 'til 6 in the
12 evening.

13 Q And did you have an occasion to respond through
14 dispatch to 4107 Mildred Avenue or Street?

15 A Yes, I did.

16 Q That's in the city limits of Columbia?

17 A Yes, it is.

18 Q Is it in Richland County?

19 A Yes, it is.

20 Q And why did you go there?

21 A I was dispatched. I need to refer to my notes
22 exactly what it was dispatched as. It was dispatched
23 as an assault that had occurred. And we do have
24 computers in our cars in which they send us more
25 information, all on the computer it stated it was a

1 stabbing.

2 Q And I believe you had told me, or it's in these
3 notes, that you responded code 3?

4 A Correct.

5 Q What's that mean?

6 A Lights and sirens; everything activated.

7 Q But as quickly and safely as possible?

8 A Correct.

9 Q I think you had told me that?

10 A Yes.

11 Q Were you the first officer, law enforcement on the
12 scene?

13 A Yes, I was.

14 Q Look at 1 through -- State's 1 through 3. And is
15 that the house you responded to?

16 A Yes, it is.

17 **MR. MEADORS:** Your Honor, we'd offer State's 1
18 through 3, I believe without objection.

19 **MS. AHRENS:** Without objection, Your Honor.

20 **THE COURT:** Thank you, counsel. Without
21 objection 1 through 3 are admitted.

22 (WHEREUPON, State's Exhibit No. 1 is admitted
23 into evidence.)

24 (WHEREUPON, State's Exhibit No. 2-is admitted
25 into evidence.) 111

1 (WHEREUPON, State's Exhibit No. 3 is admitted
2 into evidence.)

3 MR. MEADORS: And I did not ask Your Honor's
4 permission to approach the witness. Your Honor, if I
5 may?

6 THE COURT: Yes, sir.

7 Q (By Mr. Meadors) Looking at State's 1, Officer, is
8 that 4107 Mildred Street?

9 A Yes, it is.

10 Q Tell us how to leave there? If I'm leaving from
11 here, tell me how to get there?

12 A Leaving from here?

13 Q Yes.

14 A If you go straight up Main Street all the way up to
15 the intersection of Main and Monticello, you'll turn
16 left onto Monticello Road, go to the next stop light
17 you will turn left onto Duke Avenue. You will travel
18 down several blocks and turn right on Mildred, and
19 the house will be on the left-hand side.

20 Q And when you got to Mildred, did you have an occasior
21 to go to the front door?

22 A Yes, I did.

23 Q And can you show the jurors where you went?

24 A The front door right there.

25 Q And did you enc112:er anybody at that front door,

1 officer?

2 A Yes, I did.

3 Q Do you remember who that was?

4 A Yes, I do.

5 Q Please tell ladies and gentlemen who that was?

6 A A Donald Parker.

7 Q He was already at the residence when you got there?

8 A Yes, he was.

9 Q Did you through the course of the investigation learn
10 what relationship, if any, Donald Parker had to the
11 defendant, Sharon Lisa Smith?

12 A Yes. I later learned he was a stepfather.

13 Q Stepfather. Were you able to go in the front of
14 State's 1?

15 A No, I was not.

16 Q Why is that?

17 A Upon arrival Mr. Parker was at that door. I could
18 see him through the window. He stated he was unable
19 to unlock the door and told me to go around to the
20 back.

21 Q So he didn't know how to unlock the front door?

22 A Correct.

23 Q So after you couldn't get in the front door, where
24 did you go?

25 A From the front do₁₁₃ went around to the carport area

1 and towards the back.

2 Q And when you went towards the back, State's 1, is
3 there a place where you can go behind the house?

4 A Yes, there is.

5 MR. MEADORS: If I may, Your Honor, I believe we
6 have State's 7. Your Honor, we'd ask this be marked
7 for I.D., without I believe objection. It's not to
8 scale, so we'd just ask for I.D. purposes.

9 THE COURT: Yes, sir.

10 (Previously marked for I.D.)

11 Q (By Mr. Meadors) Do you recognize this?

12 A Yes, I do.

13 Q Can you show the jury, where is the front that you've
14 already talked about?

15 MR. MEADORS: I apologize, Your Honor. Do you
16 want me to get down?

17 THE COURT: That's fine.

18 A This would be the front of the house. This would be
19 the front door.

20 Q So you go around the side here?

21 A Correct.

22 Q And that covered -- what's the word I'm trying to
23 think of?

24 A This would be the carport.

25 Q Carport. It's 114 depicted here?

1 A Correct.

2 Q You went behind here?

3 A Correct.

4 Q Show the jury where, if anywhere, you saw the
5 defendant, Lisa Smith, and anybody else?

6 A It was right here in this area as I came around the
7 corner of the house.

8 Q Who did you see?

9 A I saw Ms. Smith and Mr. Parker.

10 Q Describe to these folks Ms. Smith's demeanor when you
11 saw her, Officer?

12 A From what I can recall, she was upset but relatively
13 calm.

14 Q And you say Mr. Parker was there?

15 A Yes, he was.

16 Q You go to scenes a lot. You like to -- I mean,
17 strike that. I'm sorry. You're the first person at
18 the scene a lot, aren't you?

19 A Yes.

20 Q It wouldn't be unusual for you to be the first law
21 enforcement at the scene?

22 A Correct.

23 Q And do you have a habit -- in this case did you --
24 are there any questions you just asked like right off
25 the bat without ev₁₁₅-- it just comes out of you?

- 1 A Correct.
- 2 Q What was that? What did you do this day?
- 3 A Since I knew I was responding to a stabbing, I asked
- 4 who did it and where they were.
- 5 Q Because you knew through dispatch that a stabbing
- 6 happened there?
- 7 A Correct.
- 8 Q And you are code 3?
- 9 A Correct.
- 10 Q After you said, "Who did it and where are they", tell
- 11 them; what did she tell you? Sharon Lisa Smith?
- 12 A Her statement to me was "I did it."
- 13 Q "I did it"?
- 14 A Correct.
- 15 Q Did you have any trouble understanding that?
- 16 A No, I did not.
- 17 Q And was that in response to your question, "Who did
- 18 it?"
- 19 A Correct.
- 20 Q And "Where were they?"
- 21 A (Nods head affirmatively).
- 22 Q Well, after she told you that, what did you do,
- 23 Officer?
- 24 A I had her lead me to the victim.
- 25 Q And looking at 116:e's 7 again, I mean, it's no

1 mystery there's a body there. Is that where she led
2 you?

3 A Yes, it is.

4 Q Was that a bedroom of the house?

5 A Yes, it was.

6 Q Was Mr. Parker -- did he go back in there also, to
7 that room?

8 A Yes, he did.

9 Q I guess you've got a suspect now. She told you she
10 did it?

11 A Correct.

12 Q You've seen the body?

13 A Correct.

14 Q Describe to the jury; when you went in that bedroom,
15 the body who you all found out later was Charles
16 Gibson. Describe to the jury where the body was, how
17 it was laying?

18 A As I entered the room, he was laying sort of diagonal
19 as I approached on the floor on his back, arms at his
20 side and appeared lifeless.

21 Q Did not appear to be any life in him that you saw?

22 A Correct.

23 Q He was dead?

24 A Correct.

25 Q State's 4 and 5 w¹¹⁷ are marked as I.D. at this

1 point, Your Honor.

2 THE COURT: Yes, sir.

3 Q Does that depict the body of Charles Gibson?

4 A Yes, it does.

5 Q Now, the shirt's torn here. Was it torn when you saw
6 it?

7 A No, it was not.

8 Q There's some stuff on him there. Is that after EMS
9 got through?

10 A Yes, it is.

11 Q But is the position of his body on his back in
12 State's 4 and 5 for I.D. the same as when you saw it?

13 A Yes, it is.

14 Q What did you do next after you saw Mr. Gibson's body?

15 A I then led the -- led Ms. Smith and Mr. Parker back
16 to the den, at which time I placed Ms. Smith into
17 custody, put her into handcuffs and read her her
18 rights.

19 Q And that's what you do, isn't it?

20 A Yes.

21 Q And this would have been after she said "I did it"?

22 A Correct.

23 Q Now, I'm going to show you what's marked State's 6.
24 I believe without objection, Your Honor.

25 MS. AHRENS 118 Without objection, Your Honor.

1 **THE COURT:** Thank you, ma'am. Without
2 objection.

3 (WHEREUPON, State's Exhibit No. 6 is admitted
4 into evidence.)

5 **Q** This is your habit also. You carry a suspect's
6 rights, Miranda warnings?

7 **A** Yes.

8 **Q** And this is pretty worn?

9 **A** Yes.

10 **Q** So you've been using it on the job?

11 **A** Yes.

12 **Q** Did I take this from you earlier?

13 **A** Yes, you did.

14 **Q** And you're fine with me offering it into evidence?

15 **A** Yes.

16 **Q** Did you have an occasion to read State's 6 to Sharon
17 Lisa Smith, the defendant in this case?

18 **A** Yes, I did.

19 **Q** And where do you keep this?

20 **A** My right pocket.

21 **Q** Where were you in State's 7 for I.D. when you left,
22 let's call it the body room or where the body was;
23 where did you take or where did you and Ms. Smith and
24 Mr. Parker go?

25 **A** I took her back to the den here.

1 Q Right here?

2 A Correct.

3 Q Was she sitting at that point, Officer?

4 A Yes, she was.

5 Q And what were you doing?

6 A Standing.

7 Q Tell these folks, what was the atmosphere like? Was
8 it a threatening atmosphere or a --

9 A No, it was not.

10 Q To this point had you had any trouble understanding
11 anything the defendant had told you; I mean,
12 verbally? Did it make sense what she was saying, the
13 words that were coming out?

14 A Yes, she did.

15 Q Did she appear to be under the influence of alcohol
16 or drugs or anything?

17 A No, she did not.

18 Q Did you have an occasion then to read her the rights?

19 A Yes, I did.

20 Q Can you read them to this jury like you read them to
21 the defendant, Sharon Lisa Smith, that day?

22 A Yes, I can.

23 Q If you'll do it like you did that day?

24 A "You have the right to remain silent. You have the
25 right to talk to an attorney and to have him or her

1 present with you while you're being questioned. If
2 you cannot afford to hire an attorney, one will be
3 appointed to represent you before any questioning if
4 you wish. You can decide at any time to exercise
5 these rights and not answer any questions or make any
6 statements. Do you understand these rights as I
7 explained them to you? Having these rights in mind,
8 do you wish to talk to us now?"

9 Q And the first statement she gave you, that's when you
10 came up to the house and said, "What happened", and
11 she just said "I did it." Right?

12 A Correct.

13 Q At that point you didn't know anything?

14 A Correct.

15 Q You read her these rights?

16 A Correct.

17 Q Did you ask her then if she understood them?

18 A Yes.

19 Q That's your practice and custom, isn't it?

20 A Yes.

21 Q Did she indicate she understood her rights?

22 A Yes, she did.

23 Q Did she tell you that?

24 A Yes, she did.

25 Q And did you have 121 trouble understanding her when

1 she told you that?

2 A No, I did not.

3 Q And, in fact, did you have an occasion to ask her if
4 she wanted to talk, Officer?

5 A Yes, I did.

6 Q Tell them what she said?

7 A "No."

8 Q And after she said, "No", what did you do?

9 A I didn't ask her any more questions.

10 Q Now, at this point you're still in the den?

11 A Correct.

12 Q Correct? And did you have an occasion to call
13 anybody else?

14 A Yes, I did.

15 Q Okay. Who did you call?

16 A I called my immediate supervisor, Sergeant Thornton,
17 and the watch commander, Lieutenant Gibson.

18 Q Sergeant will you please stand, please? This is
19 Sergeant Thornton?

20 A Yes, I did.

21 Q You called your Sergeant. Lieutenant, would you
22 mind, Lieutenant Gibson?

23 (Lieutenant Gibson stands)

24 A Yes.

25 Q You called you, 122 perintendent?

1 A Correct.

2 Q Major crime scene. That's what you do, correct?

3 A Correct.

4 Q What happened next?

5 A Approximately ten minutes later she was then
6 forthcoming with what happened. She stated that she
7 wanted to tell us what happened.

8 Q Well, let's be specific. Approximately ten minutes
9 later, what happened?

10 A She told us what happened.

11 Q Did she say, "I want to talk to you"?

12 A Yes.

13 Q She initiated that?

14 A Yes, she did.

15 Q And in your notes, did you put that in here?

16 A Yes, I did.

17 Q Now, where was she at this point? Was she still in
18 the den?

19 A Yes.

20 Q And did you have an occasion then to -- did you let
21 her tell you, say, "Go ahead and tell me"?

22 A Yes.

23 Q Can you please tell the Ladies and Gentlemen of the
24 Jury what the defendant told you after this ten
25 minutes, after she did, "No, I don't want to talk to

1 you", and then she said, "I'll talk to you", what did
2 she tell you?

3 A Would you like me to read it to you word-for-word?

4 Q I'd like you to demonstrate it to them the best way
5 you can.

6 A She stated that she came over there to confront --

7 Q And if you'd take your time. Go slow, please. I'm
8 sorry.

9 A She stated that she had come over there to confront
10 Mr. Gibson about being out with another woman the
11 night before. As she arrived she -- using her car
12 she struck his car that was in the driveway. She
13 said that he came out from the den which is at the
14 back with a knife in his hand. And she also stated
15 that she believed he had been cooking. He was upset
16 about her --

17 Q Can you read it?

18 A Certainly.

19 Q Would you do that?

20 A Certainly.

21 Q Okay. Could you turn back on page 3? After
22 approximately ten minutes she stated she wanted to
23 say what happened?

24 A "After approximately ten minutes the subject stated
25 she wanted to s124 what happened. Subject 1 stated

1 that she came to the listed location" --

2 Q And would subject 1 be Ms. Smith, the defendant?

3 A Yes, it would.

4 Q I'm sorry. I won't interrupt you again.

5 A "Subject 1 stated she came to the listed location in
6 the vehicle on page 2 to confront the victim about
7 being out with another woman last night. Upon
8 arrival subject struck the vehicle on page 3" --

9 Q Which would be Mr. Gibson's vehicle?

10 A Correct. "With the vehicle she was driving. Subject
11 1 got out of the vehicle and was met at the back door
12 by the victim. The victim was upset about subject
13 striking the victim's vehicle. Subject 1 stated the
14 victim had a knife in his hand. She believed he had
15 been cooking. Subject 1 and victim then got into a
16 verbal altercation which led to a physical
17 altercation in the den. Subject 1 stated that the
18 victim stepped back and stated, 'you stabbed me. You
19 stabbed me', at which time the victim walked to the
20 rear bedroom and the subject followed. The subject
21 stated she saw blood on the victim's chest. The
22 subject states the victim said, 'Call an ambulance'
23 and then he fell on the floor. Subject states she
24 then called 911."

25 Q I believe you've (125 in here he was pronounced at

1 2:19 by EMS?

2 A Correct.

3 Q At any time during that colloquy, exchange of
4 information that the defendant was giving you, could
5 you understand her?

6 A Yes, I could.

7 Q Was she volunteering, just telling you what happened?

8 A Yes, she was.

9 Q And were you taking that down as -- tell these folks,
10 when did you do these notes? They're on an incident
11 report form, but when did you take this down?

12 A I took it at the scene approximately an hour later in
13 my vehicle.

14 Q So there at the scene before you left you put this
15 down?

16 A Correct.

17 Q At any time during all of this did she say, "I want
18 lawyer"?

19 A No, she did not.

20 Q "Stop?" Said, "Stop, Scott. I don't want to talk to
21 you any more"?

22 A No, she did not.

23 Q Did you threaten her or coerce her, promise her
24 anything?

25 A No, I did not. 126

1 Q Hold out any hope of reward whatsoever?

2 A No.

3 Q Because if she had said, "Okay, I don't want to talk
4 any more", what would you have done?

5 A I would have stopped.

6 Q Were you -- I think in one of your subject -- do you
7 know whose vehicle she was in when she came over
8 there?

9 A I believe I have her in a '79 Monte Carlo. I don't
10 have the registration, so I don't know exactly whose
11 vehicle it is at this time.

12 Q So you didn't know where she had come from?

13 A Correct.

14 Q All you knew is what you saw at the scene there?

15 A Correct.

16 Q Now, the den, do you remember the den?

17 A Yes, I do.

18 Q Do you remember it being in disarray of any kind?

19 A No, I don't.

20 Q Nothing misplaced in the den that your eyes saw?

21 A Nothing that caught my eye, no.

22 Q Maybe I'm messed up. But the den on here is what?
23 What do you call the den?

24 A I call this the den. This is the room or the doorway
25 that I entered. 127

1 Q After you had taken this -- you call this an oral
2 statement, don't you, that you put down?

3 A Yes.

4 Q It would be fair to say? After you had done that,
5 were your supervisors able to get there, or were they
6 already there? Or did they come at some point after
7 that?

8 A To my recollection they were there before that
9 statement. Or excuse me. I know Sergeant Thornton
10 was. I'm not sure about Lieutenant Gibson.

11 Q Can you tell the Ladies and Gentlemen of the Jury
12 anything about the attire or the dress that the
13 defendant, Sharon -- and I don't mean dress as in
14 dress, but the clothing she was wearing when you got
15 there?

16 A I can't recall exactly what she was wearing at the
17 time.

18 Q Did she tell you anything about any other clothing?

19 A No, she did not.

20 Q Did you see any other clothing?

21 A No, I did not.

22 Q Did you see any blood on her clothes?

23 A No, I didn't.

24 Q Her clothes appeared to be clean to you?

25 A Yes, they did. 128

1 Q Would it be fair to say that you secured the scene?

2 A Yes.

3 Q Can you tell the folks what that means?

4 A I didn't allow anybody else to enter, including Mr.
5 Parker or Ms. Smith, to go any further into the house
6 other than the den where we were at, and no one else
7 entered through there.

8 Q Would that be after they showed you the body or she
9 had showed you the body?

10 A Correct. After they showed me the body.

11 Q In fact, did they stay back there until -- who is the
12 crime scene investigator that came?

13 A Officer O'Grady.

14 Q Did she arrive on the scene and took some of these
15 photographs or took the photographs?

16 A Yes, she did.

17 Q Did you see the knife?

18 A No, I did not.

19 MR. MEADORS: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Pause)

22 Q (By Mr. Meadors) Officer, would you please tell the
23 ladies and gentlemen of this jury, is the person that
24 told you "I did it" and then the person who later
25 told you, "I do want to talk to you" and gave you

1 that oral statement, is that person in the courtroom?

2 A Yes, she is.

3 Q Would you please point her out?

4 A She is sitting at the defense table between the two
5 attorneys.

6 MR. MEADORS: We'd ask the record to so reflect,
7 Your Honor, he pointed out the defendant, Sharon Lisa
8 Smith.

9 THE COURT: Yes, sir.

10 Q (By Mr. Meadors) Thank you, sir. That's all I have.

11 MS. AHRENS: May it please the Court, Your
12 Honor.

13 THE COURT: Ms. Ahrens. Yes, ma'am.

14 CROSS EXAMINATION

15 BY MS. AHRENS

16 Q Good afternoon, Officer Wilson.

17 A Good afternoon.

18 Q Now, these notes you've been referring to throughout
19 your testimony, this is an incident report you're
20 referring to. Is that correct?

21 A Yes, it is.

22 Q Okay. And you did get examined on direct about your
23 training. One of the things you're trained to do,
24 isn't it, to fill out incident reports?

25 A Yes, it is. 130

1 Q Okay. And you're taught that you need to be thorough
2 in those incident reports?

3 A Yes.

4 Q You need to report everything important. Is that
5 correct?

6 A Correct.

7 Q And you need to be accurate in those incident
8 reports. Is that correct?

9 A Correct.

10 Q You need to make sure that whatever is in there is
11 true. Is that right?

12 A Correct.

13 Q And that's because at some point in the future you
14 might be sitting right where you're sitting right
15 now. Is that right?

16 A Correct.

17 Q And other officers are going to rely on that incident
18 report?

19 A Yes.

20 Q Solicitors are going to rely on that incident report?

21 A Yes.

22 Q In fact, even defense attorneys are going to rely to
23 some extent on that incident report. Is that
24 correct?

25 A Correct.

1 Q You were the first responding officer to the scene,
2 correct?

3 A Yes.

4 Q You weren't in point of fact the investigator on this
5 case. Is that correct?

6 A No, I was not.

7 Q You also weren't what's called the I.D. Tech on this
8 case. You didn't collect physical evidence or take
9 photographs. Is that right?

10 A Correct.

11 Q Okay. Do you have that incident report in front of
12 you that you filled out?

13 A Yes, I do.

14 Q Okay. And on that incident report, if you can refer
15 on the first page, you list the incident time as
16 2:07. Is that right?

17 A Correct.

18 Q And you were dispatched in fact at 2:07. Is that
19 right?

20 A Correct.

21 Q And according to this, you arrived at 2:11. Is that
22 right?

23 A Correct.

24 Q Now, there's a space on this incident report to list
25 a departure ti₁₃₂ Is that right?

1 A Right.

2 Q And you don't list a departure time. Is that right?

3 A I'm sorry. On mine it does.

4 Q Oh, it does list one on yours?

5 A Yes.

6 Q Well, a copy that was provided -- may I approach the
7 witness, Your Honor?

8 THE COURT: Yes, ma'am.

9 Q If you could take a look at that. Yours does have a
10 departure time on it?

11 A Yes, it does.

12 Q If you could just take a quick look through that; is
13 there any other difference between the report that's
14 been provided to the State and the report that you
15 have in your hand?

16 A The one I have also has weapon type as a knife and
17 yours does not.

18 Q All right. Your Honor, if I may approach again?

19 THE COURT: Yes, ma'am.

20 Q Now, your incident report actually lists two subjects
21 that you encountered at this residence, correct?

22 A Correct.

23 Q And one of those subjects is Sharon Smith who is
24 seated here in the courtroom, correct?

25 A Correct.

1 Q One of those subjects is Daniel Donald Parker. Is
2 that correct?

3 A Correct.

4 Q And I believe you testified on direct that both of
5 those individuals were present at the house when you
6 arrived. Is that right?

7 A Yes.

8 Q Okay. And your incident report indicates that in
9 fact both of them met you at the side door. Is that
10 correct?

11 A In the -- I believe on the diagram I showed it was
12 out in like, out in the yard, in the general area
13 before the door.

14 Q Okay. But both of them met you at the door. Is that
15 correct?

16 A Correct.

17 Q Okay. If I could ask you to refer to the second page
18 of your incident report. And, Your Honor, if I may
19 approach the witness again?

20 THE COURT: Certainly.

21 Q And actually, I may have asked beforehand. You're
22 relying fairly heavily on the incident report. Is
23 that fair to say?

24 A Correct.

25 Q In terms of your testimony here today?

1 A Yes.

2 Q If you can just read the highlighted portion just
3 with respect to asking Ms. Smith about what happened
4 in this particular case? Did you record a question
5 that you asked her?

6 A Yes.

7 Q Could you read the highlighted portion?

8 A The part you have highlighted states: "Then asked
9 subject 1 who did it and where were they. Subject 1
10 stated, 'I did it.'"

11 Q So that was in response to a question that you asked
12 her. Is that correct?

13 A Correct.

14 Q And there were two people at the house at the time.
15 Right?

16 A Correct.

17 Q Okay. And you didn't take a written statement in
18 this case from Ms. Smith, correct?

19 A Correct.

20 Q Okay. And you've been trained how to take statements
21 from witnesses as well I would expect, correct?

22 A Correct.

23 Q And when you take a written statement from a suspect,
24 one of the things you would have them do is have them
25 read over that statement. Is that correct?

1 A Correct.

2 Q And you would want them to sign the statement. Is
3 that correct?

4 A Correct.

5 Q And the function of that is to make sure that they
6 agree with the statement that you've written out. Is
7 that correct?

8 A Correct.

9 Q You'd also offer them an opportunity to make any
10 corrections that they wanted to make. Is that
11 correct?

12 A Correct.

13 Q The statement that you took from Ms. Smith in this
14 case was an oral statement, correct?

15 A Correct.

16 Q And when you were reading in your incident report up
17 there on the stand, that's a statement that you wrote
18 down that she did not review. Is that correct?

19 A Correct.

20 Q All right. Beg the Court's indulgence for a moment.

21 THE COURT: Certainly.

22 Q Just very briefly. Do you recall the stove in this
23 house?

24 A I didn't have an opportunity to encounter the stove,
25 no.

1 MS. AHRENS: No further questions, Your Honor.

2 THE COURT: Thank you, ma'am.

3 MR. MEADORS: Your Honor, just a few short to
4 follow up.

5 THE COURT: Certainly.

6 REDIRECT EXAMINATION

7 BY MR. MEADORS

8 Q Officer, my copy doesn't have the time part on it
9 either. Can you show me your copy?

10 A Certainly.

11 Q And that says 17:10?

12 A Yes, it does.

13 Q What's that mean? 5:10?

14 A 5:10.

15 Q So you stayed there 'til 5:10?

16 A Correct.

17 Q Weapon type is knife, correct?

18 A Correct.

19 Q Did you have Mr. Parker in handcuffs?

20 A Not that I recall. No, sir.

21 Q So the person you had in handcuffs was the person who
22 said, "I did it"?

23 A Correct.

24 Q Thank you, sir. That's all.

25 THE COURT: Thank you, Mr. Meadors.

1 MS. AHRENS: Just one question.

2 RECROSS EXAMINATION

3 BY MS. AHRENS

4 Q At what point did you put Ms. Smith in handcuffs?

5 A After I led her back from the bedroom from her
6 showing me the victim.

7 Q Thank you.

8 MS. AHRENS: No further questions, Your Honor.

9 THE COURT: Officer, you may step down, sir.

10 Thank you.

11 MR. MEADORS: Lieutenant Gibson.

12 THE COURT: Yes, sir.

13 ROBERT L. GIBSON, after being duly sworn,
14 testifies as follows:

15 THE CLERK: Thank you. Please have a seat on
16 the witness stand and state your full name for the
17 record.

18 WITNESS: My name is Robert Lee Gibson.

19 DIRECT EXAMINATION

20 BY MR. MEADORS

21 Q Lieutenant Gibson, good afternoon.

22 A Good afternoon, sir.

23 Q I've just got a few questions for you. Can you
24 briefly tell -- where are you from?

25 A Right here in Columbia.

1 Q Born and raised here?

2 A Born and raised. That's correct.

3 Q And how long have you been with the Columbia Police
4 Department?

5 A About 27 years now.

6 Q And have you worked in different areas as you've
7 worked yourself up at the Columbia Police Department?

8 A That's correct, sir.

9 Q And where do you work? Different positions in the
10 police department, Lieutenant?

11 A I worked throughout the City, all regions throughout
12 the City of Columbia.

13 Q And now you're in the north region?

14 A Right now I'm in west region.

15 Q West region?

16 A Correct. Yes.

17 Q And on May 11th, 2003, where were you?

18 A May 11th, 2003, of course I was watch commander for
19 the City which operates all the different regions of
20 the city.

21 Q And you got called out to this scene, if you
22 remember, at Mildred; correct, Lieutenant?

23 A That's correct. Yes, sir.

24 Q And that wasn't unusual for the supervisor, the
25 bosses to be called out there, correct?

1 A That's correct.

2 Q And that was in response -- or was it in response --
3 to Officer Wilson's call?

4 A That's correct.

5 Q And Sergeant Thornton also, correct?

6 A Sergeant Thornton was there also.

7 Q And did you have an occasion to go in and look at the
8 body of Charles Gibson?

9 A I did.

10 Q As a result of that, I want to show you what's marked
11 as State's 4 and 5. Was that the position of the
12 body, Lieutenant?

13 A Yes, sir. That's correct.

14 Q Were you able to identify the body immediately?

15 A Yes. I did.

16 Q And how were you able to do that, Lieutenant?

17 A When I entered the residence I spoke with
18 Lieutenant -- I mean; sorry -- Sergeant Thornton who
19 was inside the residence. I asked him the name of
20 the victim. I immediately recognized his name. And
21 I asked where the victim was. I walked back. And of
22 course I was then able to I.D. the victim.

23 Q And Charles Gibson is related to you?

24 A That's correct.

25 Q And he is what 140 ation?

1 A First cousin.

2 Q As a result of that, did you take yourself off the
3 case?

4 A Immediately; yes, I did.

5 Q That's all. Thank you.

6 THE COURT: Thank you, sir.

7 MS. SAMPSON: No questions, Your Honor.

8 THE COURT: Lieutenant, you may step down.

9 Thank you, sir.

10 WITNESS: Thanks.

11 MR. MEADORS: Your Honor, at this time the State
12 calls Sergeant Thornton.

13 SERGEANT THORNTON, after being duly sworn,
14 testifies later:

15 THE CLERK: Thank you. Please have a seat --

16 MS. SAMPSON: Your Honor, may we approach?

17 THE CLERK: -- on the stand.

18 THE COURT: Yes, ma'am.

19 (Whereupon, a bench conference is had)

20 THE COURT: Ladies and Gentlemen of the Jury,
21 we're going to take up a matter of law outside your
22 presence. And in order to do that we're just going
23 to let you all go for the day. We'll bring you back
24 in the morning and resume with the trial. If you can
25 be back in that j₁₄₁ room at 9:30 in the morning

1 we'll be ready to go.

2 At some point tomorrow morning I'm going to
3 appoint a Foreperson for this jury. Your duties
4 won't change during the trial except you'll have the
5 front seat up here, in the front, on the front row
6 here in the corner, and that will be your seat
7 throughout the rest of the trial. I'll explain at
8 the conclusion of the trial your duties during
9 deliberations. But we'll take care of all that stuff
10 tomorrow.

11 Ladies and gentlemen, overnight I just ask that
12 you not talk about any evidence or testimony that
13 you've heard or seen thus far. Actually discussing
14 any of this would be to begin your deliberations, and
15 you're not to do that until all of the testimony and
16 evidence is in, you've heard closing arguments and
17 I've given you the charge on the law. So I just ask
18 that you not talk about the case at all. You all
19 have a safe trip home, and we'll see you all in the
20 morning at 9:30. Thank you all.

21 (Jury out at 5:30 p.m.)

22 **THE COURT:** All right. Counsel, Lieutenant, the
23 reason we left you up there is just to take care of
24 some other matters. I don't know if you want to be
25 heard first, Ms142ampson, or if you'd rather Mr.

1 Meadors go ahead and do the Jackson.

2 MS. SAMPSON: Your Honor, I can just do it all
3 now.

4 THE COURT: Okay.

5 MS. SAMPSON: Earlier my understanding was that
6 Ms. Smith when the officer first arrived says, "I did
7 it." and then at some other point after being
8 Mirandized says, "I did it" and proceeds to tell them
9 what happened.

10 My understanding is that Officer Thornton,
11 Sergeant Thornton -- I don't want to call them by
12 their wrong title -- hears that second "I did it."
13 We're not contesting that. Officer Wilson has
14 already acknowledged that he read her her Miranda and
15 all that, Your Honor.

16 My point is that I feel like it is bolstering.
17 If he's heard the same statement that Officer Wilson
18 has already said she said, I don't feel like we need
19 to hear another officer say she said it when there's
20 not going to be anybody here denying that she said
21 it.

22 But if they feel the need to put him up, I don't
23 want to waive the Jackson hearing because I feel like
24 for Court of Appeals purposes, I don't feel like that
25 I can. That's all¹⁴³ would argue. And even if they

1 get past the Jackson, which I concede they will, that
2 I feel like it's bolstering.

3 THE COURT: I'll allow them to do the Jackson
4 part. Then let me hear the State as to the
5 bolstering issue.

6 MR. MEADORS: Do you want to hear that now or
7 afterwards?

8 THE COURT: I'll let you go ahead and do the
9 Jackson stuff first.

10 DIRECT EXAMINATION

11 BY MR. MEADORS

12 Q Good afternoon.

13 A Good afternoon.

14 Q Sergeant, did you respond to this scene on May 11th,
15 2003?

16 A Yes, I did.

17 Q Mildred -- is it Avenue or Street?

18 A I think it's Avenue.

19 Q And at that point were other police officers already
20 there?

21 A Officer Wilson and I believe Corporal Hall was there
22 already.

23 Q Tell His Honor, as you came into Mildred Avenue, did
24 you have an occasion to see the defendant, Sharon
25 Lisa Smith? 144

1 A Yes, I did.

2 Q And at that point what, if anything, did she say to
3 you?

4 A We were inside in the den where Officer Wilson had
5 her sitting and he informed me that she was
6 Mirandized. And I asked her what happened, and her
7 statement to me was she did it.

8 Q So you asked Officer Wilson, "Has she been
9 Mirandized?"

10 A Mm-hmm (affirmative).

11 Q He said, "She has"?

12 A Yeah.

13 Q He was there present in the den. I think we've
14 described it. And she was there also?

15 A Right.

16 Q So you then asked her what happened?

17 A Mm-hmm (affirmative).

18 Q What did she tell? What do you remember?

19 A All I can remember is she did it. I don't think I
20 went into any more detail beyond that because at that
21 time I believe Lieutenant Gibson was pulling up. I
22 had to brief him and get on the phone to call
23 Investigator Vinson out. But I don't remember any
24 detail other than she said that she did it.

25 Q And at that point 145 she already talked to Officer

1 Wilson?

2 A Yes.

3 Q And you don't have any other -- besides "I did it",
4 any other recollection of what she may have said?

5 A No. Something along the same lines about the
6 argument.

7 Q About the argument?

8 A Yeah. But I don't remember any specifics.

9 Q Did you take any notes either then or later about a
10 conversation with her?

11 A No, I didn't.

12 Q So you had Officer Wilson on the scene and
13 Investigator Vinson was coming?

14 A Mm-hmm (affirmative).

15 Q And when investigators arrive, do they kind of take
16 over investigations?

17 A Exactly. Exactly. They do the detailed
18 interrogation and questioning.

19 Q And is the person that told you "I did it" when she
20 came in in the courtroom?

21 A Yes.

22 Q Can you point her out for His Honor?

23 A She's sitting at the table between the two attorneys

24 Q Did you have any trouble understanding her when she
25 said, "I did it"146

1 A No.

2 Q Did you threaten her?

3 A Absolutely not.

4 Q Did appear to be under the influence of drugs,
5 alcohol, or any other mind altering --

6 A Not in my impression.

7 Q I asked you if you threatened her, didn't I?

8 A Yes.

9 Q And you didn't?

10 A No.

11 Q Thank you. That's all.

12 CROSS EXAMINATION

13 BY MS. SAMPSON

14 Q So when you arrived, you'd already been told she'd
15 been Mirandized?

16 A Mm-hmm (affirmative).

17 Q And you didn't take any notes?

18 A No.

19 Q So what you're telling us is from your recollection?

20 A Yeah.

21 Q And as best you can recollect, she said, "I did it"?

22 A Mm-hmm (affirmative).

23 Q And then she said something about an argument?

24 A Yeah. I don't remember the specifics. I'm sure she
25 told me the same 147Y that she told Officer Wilson

1 about him coming home and she believing that -- they
2 were involved in some kind of argument over a woman.
3 But I don't remember any of the specifics of it.

4 Q You don't remember any of the specifics?

5 A No.

6 Q So what she told you could have been something
7 different from Officer Wilson. You don't remember?

8 A I don't remember the specifics, no.

9 Q So the only thing you do remember specifically is she
10 said "I did it"?

11 A Mm-hmm (affirmative).

12 Q Did you ask her -- you did what?

13 A When I asked her, I don't remember the exact words,
14 but I'm sure I asked her what happened, and she said
15 she did it.

16 Q When you said, "What happened", did you say, "What
17 happened to Mr. Gibson? What happened today? What
18 happened while you were arguing?"

19 A Yeah, with the incident. Probably just said, "What
20 happened?"

21 Q But you don't remember even what you said
22 specifically?

23 A No, not specifically.

24 Q And you don't remember what she says specifically
25 other than "I did it"?

1 **A** Mm-hmm (affirmative).

2 **MS. SAMPSON:** Beg the Court's indulgence.

3 **THE COURT:** Yes, ma'am.

4 **MS. SAMPSON:** No further questions.

5 **THE COURT:** Anything further of this witness?

6 **MR. MEADORS:** Your Honor, that's all we have.

7 **THE COURT:** Sergeant, you may step down now. I
8 still consider you under oath and on the witness
9 stand. You're not to discuss your evidence, your
10 testimony overnight. And we'll bring you back
11 tomorrow. I promoted you I think a little bit ago.
12 I'm sorry.

13 **MR. MEADORS:** Your Honor, as to the bolstering,
14 I don't -- this is another statement to another
15 police officer. In addition -- I'm not saying they
16 shouldn't do this -- but even in their cross of
17 Officer Wilson, they are somewhat attacking his, or
18 are attacking his, credibility as far as the exact
19 content. "Could there have been something else she
20 said", through the questioning of him himself. I'm
21 not saying they shouldn't do that. But they are
22 attacking his credibility there and even just on
23 cross now, on the Sarge saying, "Do you remember
24 anything else?"

25 So this is, 149 State believes, a second or an

1 additional admission by the defendant, that, yeah, I
2 did it. The Sergeant says, "No, I don't have notes
3 but I can remember the gist of it and I can remember
4 her admitting to the crime." So that's why we don't
5 think it's bolstering. It's an additional statement
6 that she had given to Officer Wilson. We
7 respectfully ask Your Honor to consider letting us
8 present it to the jury.

9 THE COURT: Yes, sir. Ms. Sampson.

10 MS. SAMPSON: Your Honor, in light of what he
11 said he heard, I don't even know that it's even
12 bolstering at this point. He can't even remember
13 exactly what she said other than, "I did it." When I
14 asked him specifically the rest of the conversation,
15 he says, "Well, I think she told me what she told
16 Officer Wilson, but I don't even know."

17 And since he just sat here and heard everything
18 Officer Wilson said, I don't think he can honestly
19 say what he heard, whether it was what Wilson just
20 told us or whether it was what Ms. Smith told him
21 back then.

22 So I would respectfully request if he's allowed
23 to talk about anything that she said that it be
24 limited to her saying "I did it" and not to be able
25 to ramble on at 150 what she may or may not have said,

1 especially since he didn't take notes. We don't have
2 any written verification of anything she did or
3 didn't say or what his memory of it was then.

4 At least with Wilson and with Vinson we had a
5 written, what they thought they heard or whatever it
6 may have been that was made at that time or at least
7 shortly thereafter. He didn't do either of those.
8 And he just testified he can't remember specifically
9 what the question was he asked her to even get the
10 response that he got.

11 I'm not sure that should come in at all, but if
12 it does, I would ask respectfully that be limited to
13 just what she said, the "I did it" part, not anything
14 else, because he specifically said, "I can't remember
15 what she said."

16 **MR. MEADORS:** Your Honor, that's all we were
17 trying to offer. Unless she opens the door on
18 something and he can say, "Well; I remember", that
19 would be the only -- but that's all we're asking.
20 We're offering it for the "I did it."

21 **THE COURT:** None of the other stuff?

22 **MR. MEADORS:** No, sir.

23 **THE COURT:** All right. I think it's a different
24 statement to a different officer. I'm going to allow
25 it in. Counsel's 151 presentations, I am going to

1 limit it to just that. Sergeant, I will remind you
2 you're still under oath and still on the witness
3 stand, not to discuss your testimony tonight.

4 MR. MEADORS: Your Honor, could I make the
5 record clear? I won't discuss it with the Sergeant.
6 It's clear that that's all he'd be able to testify to
7 he I did unless the door is open I guess.

8 THE COURT: Yes, sir.

9 MR. MEADORS: Thank you.

10 THE COURT: All right. Well, I guess we'll
11 break for the night then. We'll come back and resume
12 with Sergeant Thornton's tomorrow morning. And
13 anything else before we break for the day?

14 MR. MEADORS: Did you want to discuss charges
15 tonight or tomorrow? We may well get into it
16 tomorrow.

17 MS. SAMPSON: I think that we can at least wait
18 'til lunch to discuss charges. I think we'll get
19 that far.

20 THE COURT: Okay. Ms. Coates had already
21 started pulling together I think standard charges.
22 And, quite honestly, I think she's including more
23 than -- at my instruction is including more than what
24 we may need, but we can easily cut out stuff.

25 MR. MEADORS: 152 In all deference to the Court, an

1 I apologize, but I've said this so many times that I
2 don't want to be lying in the future when I say it.
3 Every murder case I've ever tried where a defendant
4 has been out on bond I have respectfully asked
5 whoever the Honorable judge was if they would
6 consider detaining the defendant. The case has been
7 called. Bond is up. And as it is my practice, and
8 so I can keep doing it, we will respectfully ask the
9 Court to take the defendant into custody at this
10 time.

11 **THE COURT:** Thank you, Mr. Meadors. That was
12 one thing I guess we needed to address before we
13 broke. Ms. Sampson.

14 **MS. SAMPSON:** Your Honor, Ms. Smith has been out
15 on bond. She was arrested on May 11th. She bonded
16 out in June of that same year, about 30 days after,
17 with a \$75,000 bond. I've talked to ABC Bonding.
18 Their client is staying on the bond. She has been
19 out and has come to every court appearance, was here
20 this morning as I asked her to be here at 10:00,
21 stayed until I told her to leave and was back at 1:45
22 when I asked her to be here. Knowing the charges she
23 was facing, she's come. She's sat. I have no doubt
24 in my mind that she will be here tomorrow as
25 requested. She c153 last week and saw me. She's

1 known this was coming. This case has been pending
2 for two years. If she was going to leave, she would
3 have left already. Respectfully, I ask that she be
4 allowed to stay on bond tonight and be back here
5 tomorrow.

6 **THE COURT:** Unlike the situation last week, and
7 normally, particularly on charges like this, I would
8 say I would take the defendant under detention. But
9 unlike that situation, just given the situation of
10 this case and given the length of the defendant being
11 out on bond, and there's been no problem, I
12 anticipate just based on what counsel has said, we're
13 probably going into tomorrow, maybe into Wednesday
14 morning; I feel with counsel's representation that
15 the bond is up, just going to stay on, leave her out.

16 Ms. Smith, I do have to tell you though that
17 should you not be here first thing in the morning and
18 resume your trial, your trial will go on without you
19 Do you understand that?

20 **MS. SAMPSON:** Do you understand?

21 **MS. SMITH:** Mm-hmm (affirmative).

22 **MS. SAMPSON:** Say yes, sir.

23 **MS. SMITH:** Yes, sir.

24 **THE COURT:** Okay. We're going to go on with
25 your trial. A1541ch warrant will be immediately

1 issued for you. Do you understand that?

2 **MS. SMITH:** Yes, sir.

3 **THE COURT:** Okay. Thank you, ma'am. All right.

4 We'll start back then at 9:30 in the morning.

5 Counsel, I'll be back in chambers before then if you

6 all need me for anything.

7 **MS. SAMPSON:** Thank you, Your Honor.

8 **MR. MEADORS:** Thank you very much, Your Honor.

9 (Whereupon, the proceedings are concluded for
10 the day, to be reconvened tomorrow morning)

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Tuesday, June 21, 2005

(WHEREUPON, State's Exhibit No. 11 is marked for identification.)

(WHEREUPON, State's Exhibit No. 12 is marked for identification.)

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24 identification.)

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2 identification.)

3 THE COURT: Counsel, anything we need to take up
4 before we bring our jurors back out?

5 MS. SAMPSON: Your Honor, there is a matter that
6 I guess we need -- I have just talked to Mr. Meadors.
7 My understanding -- and he asked me would I stipulate
8 to this when I was just coming in -- there is
9 BellSouth records of the phone calls that were made
10 from and to the phone line that day. And I agree to
11 stipulate so that he wouldn't have to call the
12 BellSouth person.

13 But in talking to counsel and looking at the
14 records, my only concern -- and I don't even know if
15 he can do this or if we can actually do this, but if
16 you tell me we can't, that's fine -- they're
17 asserting, and I don't think there is any dispute
18 that she called 911. But that call is not on the
19 phone records. I don't know why it's not on the
20 phone records, but it's not.

21 I don't want there to be any argument that she
22 was trying to be deceptive and use another phone or
23 anything like that. There might be some reason why
24 911 call doesn't come up, such as sometimes 911 call
25 don't come up. 162

1 **THE COURT:** I think, Ms. Sampson, if you were in
2 our case last week, you would have learned that I
3 don't think 911 shows up.

4 **MS. SAMPSON:** It may not. And that's my whole
5 argument, Your Honor. A BellSouth representative
6 could probably have told us that if I required them
7 to bring that person in. I just don't want them
8 arguing that there was something subversive.

9 **MR. MEADORS:** Judge, we certainly wouldn't do
10 that. And they don't show up most of the time I
11 think from my experience. And we could even get
12 Investigator Vinson just to testify that the call did
13 come from Mildred Avenue.

14 **MS. SAMPSON:** Then I will stipulate to the
15 BellSouth records coming in. I don't have a problem
16 with that then.

17 **THE COURT:** Is it correct, they can tell that it
18 came from there? The 911 folks can tell it came from
19 there, but it doesn't show up normally I think on the
20 BellSouth --

21 **MS. SAMPSON:** That's my understanding, but I
22 wanted to clarify that today.

23 **MR. MEADORS:** I think, Your Honor, she's exactly
24 right.

25 **THE COURT:** 163:tly.

1 **MS. SAMPSON:** I don't think there is anything
2 else that we need to talk about.

3 **THE COURT:** Do you want to stipulate to that in
4 front of the jury?

5 **MS. SAMPSON:** However Your Honor wants to do it,
6 I'll stipulate for the record. That's fine.

7 **THE COURT:** I'll let you all do that in front of
8 the jury for the record, and I'll explain to them
9 that there's no disagreement.

10 **MS. SAMPSON:** Thank you.

11 **THE COURT:** Some fancy words for that. All
12 right. We'll bring the jury out then.

13 (Jury in at 10:10 a.m.).

14 **THE BAILIFF:** The jury is all present, Your
15 Honor.

16 **THE COURT:** Thank you very much, sir. Thank
17 you, Ladies and Gentlemen of the Jury. I appreciate
18 your patience. There was -- nothing related to this
19 case; there were some other matters we had to take
20 care of in the courtroom, and we had to get them out
21 of here before we could bring you all in. But I
22 appreciate your patience. Thank you for waiting for
23 us. We're ready to continue. And at this point, Mr.
24 Meadors.

25 **MR. MEADOR** 164 May it please the Court?

1 **THE COURT:** Yes, sir.

2 **MR. MEADORS:** Your Honor, at this time the State
3 of South Carolina would call Sergeant Thornton.

4 **THE COURT:** Sergeant Thornton, you were on the
5 witness stand yesterday as we broke and you were
6 sworn in. You're still considered on the stand and
7 under oath from yesterday. Thank you, sir.

8 SERGEANT THORNTON, after being recalled and
9 reminded he is still sworn, testifies as follows:

10 **THE COURT:** Mr. Meadors.

11 **MR. MEADORS:** May it please the Court.

12 **THE COURT:** Yes, sir.

13 DIRECT EXAMINATION

14 **BY MR. MEADORS**

15 Q Good morning, Sergeant Thornton.

16 A Good morning.

17 Q Sergeant, please tell these ladies and gentlemen a
18 little bit about yourself; specifically, where you're
19 from, where you're born and raised?

20 A I live here in Columbia, South Carolina, born and
21 raised. Excuse my voice. I am a street sergeant
22 with the City of Columbia. I have ten officers that
23 I supervise. Officer Wilson was one of them. And we
24 work the north region of town, the north side of
25 town.

1 Q How long have you been in law enforcement, Sergeant?

2 A Twenty years.

3 Q And have you been with the police department the
4 whole time?

5 A Yes, I have.

6 Q Have you held different positions with the Columbia
7 Police Department?

8 A Yes, I have.

9 Q Can you tell these folks what those were?

10 A In addition to working the street, I've worked
11 standard investigations. And I've worked in all of
12 the other areas of town. The City of Columbia is
13 divided up into the north side, south side, Metro
14 side which is downtown, and the newly formed
15 Harbison/Irmo side of town. And I've worked in all
16 of them.

17 Q And how long have you been a Sergeant?

18 A Five years.

19 Q And have you received training at the South Carolina
20 Criminal Justice Academy?

21 A Yes, I have.

22 Q And do you all have periodic training or yearly
23 training you have to go through?

24 A We have annual recertification training.

25 Q Sergeant, do you want some water?

1 A I don't think that's going to help.

2 Q On May 11th, 2003, Sergeant, your office was the
3 north region then, too?

4 A Yes.

5 Q And that's where you all meet in the morning?

6 A Yes.

7 Q And you said you had ten folks underneath you?

8 A Yes.

9 Q And is it unusual for you as the Sergeant to respond
10 to a scene of a major crimes investigation?

11 A A major crime such as a murder, I am required to
12 respond.

13 Q And you got the call to respond to 4107 Mildred
14 Avenue on May 11th, 2003?

15 A Yes, I did.

16 Q And do you remember what time that afternoon you
17 responded?

18 A Actually, I don't. I would have to look at the
19 incident report.

20 Q You're usually not the first officer on the scene?

21 A No.

22 Q And do investigators come in after you; front line,
23 if you will, and take it on from there?

24 A Yes. I would call the investigator.

25 Q And the investigator you called in this case was

1 whom?

2 A Mark Vinson.

3 Q And I believe Lieutenant Gibson was also there?

4 A Yes. He is the watch commander. He is responsible
5 for the operation of the whole City during that
6 particular shift.

7 Q Now, Sergeant, I guess you know this area pretty
8 well?

9 A Pretty well.

10 Q Looking at what's State's 1, do you recognize that as
11 the incident we're talking about?

12 A Yes, I do.

13 Q And, Sergeant, can you tell these folks; when you
14 arrived, I think you said Officer Wilson was already
15 there?

16 A Yes.

17 Q Did you have an occasion to see the defendant, Sharon
18 Lisa Smith?

19 A Yes, I did.

20 Q And do you remember where she was when you saw her?

21 A She was in the den.

22 Q And we've got State's 7, I believe for I.D. Do you
23 recognize this?

24 A Yes.

25 Q And there has been testimony that this was the den.

1 Is that consistent with what you've said?

2 A Mm-hmm (affirmative).

3 Q And is this where you saw --

4 A Yes, it was.

5 Q -- Sharon Lisa Smith? Can you describe her demeanor?
6 Or what did she look like when you saw her?

7 A She was upset. Other than I guess the normal
8 reaction of someone involved in a situation like
9 that, she was fairly normal other than being upset.

10 Q And is it your practice -- you said the officers were
11 already on the scene. Did you inquire as to whether
12 or not she had received; she being Sharon Lisa Smith,
13 her Miranda rights?

14 A Yes.

15 Q Who did you ask that to?

16 A Well, I didn't. Officer Wilson told me he had
17 Mirandized her.

18 Q And after you had that knowledge, did you hear or did
19 you ask her anything or did she say anything to you?

20 A I asked her what happened.

21 Q And what did Sharon Lisa Smith tell you?

22 A She said that she did it.

23 Q And did you know what the call was to the house?

24 A Yes.

25 Q Okay.

1 A It was a stabbing. It went out as an assault. But
2 we had the computers, like Officer Wilson said. In
3 addition, in the comment section of the computer, it
4 had stabbing. I don't know if they put it out over
5 the radio as a stabbing, but he advised me over the
6 radio that it was and that I needed to come.

7 Q And did you have any trouble understanding her when
8 she said "I did it"?

9 A No.

10 Q Did she appear -- I know you said she appeared upset.
11 But did she appear to you to be under the influence
12 of any alcohol, drugs or anything other
13 mind-altering --

14 A No. Not in my opinion.

15 Q -- drugs? Did you take notes?

16 A No.

17 Q After that, did the investigator respond after that?
18 Mark Vinson?

19 A Yes. Shortly after I called him.

20 Q And the cases are turned over to them at that point?

21 A Yes.

22 Q And you didn't -- or did you -- threaten her or
23 coerce her or promise her anything to get her to say
24 that to you?

25 A No.

1 Q Would you please point out the person that told you
2 "I did it" to the jury?

3 A That lady in the middle of the table.

4 MR. MEADORS: We'd ask the record to so reflect.
5 Beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 Q (By Mr. Meadors) Did you go see the body?

8 A Yes, I did.

9 Q And looking at State's 4 and 5 for I.D. at this
10 point, does that appear to be how Mr. Gibson was
11 laying when you saw him?

12 A Yes.

13 MR. MEADORS: Judge, that's all. Thank you very
14 much.

15 THE COURT: Thank you, sir. Ms. Sampson.

16 MS. SAMPSON: Thank you, Your Honor. May it
17 please the Court.

18 THE COURT: Yes, ma'am.

19 CROSS EXAMINATION

20 BY MS. SAMPSON

21 Q Good morning, Sergeant Thornton.

22 A Good morning.

23 Q You said part of your duty as sergeant is to
24 supervise what Officer Wilson does. Would that be
25 fair to say? 171

1 A Yes.

2 Q And so when you came to that call, is that what you
3 were there for?

4 A To ensure that the scene was secured and proper
5 procedures were being followed.

6 Q So it wasn't part of your job to question Ms. Smith?

7 A No.

8 Q And it wasn't part of your job to investigate, take
9 pictures, do any of that?

10 A No.

11 Q And you said you asked her what happened and she said
12 she did it?

13 A Mm-hmm (affirmative).

14 Q Did you ask her, did you stab him?

15 A No.

16 Q Did you ask her, did you murder him?

17 A No.

18 Q Did you ask her, was this an accident?

19 A No.

20 MS. SAMPSON: Beg the Court's indulgence.

21 THE COURT: Okay.

22 MS. SAMPSON: No further questions.

23 THE COURT: Thank you, ma'am.

24 REDIRECT EXAMINATION

25 BY MR. MEADORS

1 Q All she told you was "I did it"?

2 A Yes.

3 Q That's all?

4 A Yes, sir.

5 Q Thank you.

6 MS. SAMPSON: Nothing further.

7 THE COURT: Sir, you may step down. Thank you,
8 sir. If the State will call their next witness.

9 MR. MEADORS: May it please the Court. The
10 State would call Daniel Donald Parker.

11 THE COURT: Mr. Parker, if you'll just come
12 around to the witness stand. We'll swear you in and
13 you can take the witness stand.

14 DANIEL D. PARKER, after being duly sworn,
15 testifies as follows:

16 THE CLERK: Thank you. Please have a seat on in
17 the witness stand and state your full name for the
18 record.

19 WITNESS: Daniel Donald Parker.

20 DIRECT EXAMINATION

21 BY MR. MEADORS

22 Q Good morning, Mr. Parker.

23 A Good morning.

24 Q As I do every witness, and I hope you don't mind, can
25 you tell these folks where you're from?

1 A My home?

2 Q Yes, sir.

3 A At Edisto Island.

4 Q Edisto Island?

5 A South Carolina.

6 Q If you wouldn't mind moving that --

7 A But I'm living in Hopkins.

8 THE COURT: Please slide up a little closer to
9 that microphone so we can probably hear you a little
10 better.

11 MS. SAMPSON: Your Honor, may we?

12 THE COURT: Yes, ma'am.

13 (Pause - attorneys confer)

14 A Mm-hmm (affirmative).

15 Q Are you from Edisto Island?

16 A Yes.

17 Q And how long have you been in the Columbia area?

18 A About six or seven years living up here.

19 Q What do you do, Mr. Parker?

20 A I'm a welder. I work for Joyce Steel Plant.

21 Q And how long have you been doing that?

22 A About six years.

23 Q Now, Mr. Parker, you are the defendant, Sharon Lisa
24 Smith's, stepfather?

25 A Yes.

1 Q When did you marry her mother?

2 A In '87. No. In '97.

3 Q '97. Okay.

4 A Yeah.

5 Q 1997?

6 A Yeah.

7 Q And then you've been living here since?

8 A Yeah.

9 Q And I talked to you last week I think it was?

10 A Yeah.

11 Q The first time we met?

12 A Mm-hmm (affirmative).

13 Q Now, Mr. Parker, you knew the deceased, Charles
14 Gibson?

15 A Yes.

16 Q Did he ever go to Edisto with you?

17 A Yeah, he has.

18 Q And on the day of May 11th, 2003, did you have an
19 occasion to go to 4107 Mildred Avenue?

20 A Yes.

21 Q And had you been there before, Mr. Parker?

22 A Yes.

23 Q And whose residence was that, Mr. Parker?

24 A Pardon me?

25 Q Who lived there? 175

1 A Charles and Lisa.

2 Q Charles and Lisa?

3 A Yeah.

4 Q And how long had they been living there, sir?

5 A It's kind of hard to say. About five months or
6 something like that.

7 THE COURT: Sir, I'm going to ask if you can
8 speak up. That very last juror back there has to be
9 able to hear you. So I'll just ask if you can speak
10 up and keep your voice up a little bit.

11 A It's about five months.

12 Q Okay. Over a couple -- several months, it's fair to
13 say at least?

14 A Probably.

15 Q Yes, sir. And how many times would you say you'd
16 been there, Mr. Parker?

17 A About four or five times, somewhere around in there.
18 Or weekends.

19 Q Okay. It's fair to say you and Mr. Gibson became
20 friends?

21 A Yeah. We did.

22 Q Now, why were you at 4107 Mildred Avenue on May 11th,
23 2003?

24 A He called my house.

25 Q Okay. And with 176 going into what he said; as a

1 result of that phone call, did you go to 4107 Mildred
2 Avenue?

3 A Pardon me?

4 Q As a result of that phone call, did you go to Mildred
5 Avenue?

6 A Yes.

7 Q Okay. And what were you going to get, if anything?

8 A The kids' games.

9 Q Is it fair to say that you were going to get the
10 kids' stuff?

11 A Yes.

12 Q And was this Mother's Day?

13 A Yes.

14 Q May 11th, 2003?

15 A Yes.

16 Q And do you remember what time you got there?

17 A A little after 2:00.

18 Q Okay. Had you already been to church?

19 A Yes.

20 Q Now, tell these folks, where do you live in the
21 Columbia area? You don't have to give the exact
22 address unless you want to.

23 A Hopkins.

24 Q You're in the Hopkins area?

25 A Yes.

1 Q And Mildred Avenue, is it fair to say it's in the
2 north Columbia area?

3 A Yeah. It's in that area.

4 Q Did you go to Mildred Avenue after church?

5 A No. I went back home and changed clothes.

6 Q And then went after that?

7 A Right.

8 Q And did you give anyone a specific time you'd be over
9 there?

10 A No. I told my wife to tell Charles that I'm on my
11 way.

12 Q Now, when you got to Mildred Avenue, Mr. Parker, tell
13 the folks what you saw?

14 A Well, I went around the back door and knocked on it.
15 And Lisa came to the door. She opened it. And I saw
16 a lot of blood on her clothes.

17 Q Could you visually see it on her?

18 A Yeah.

19 Q You called her Lisa. Does she go by Lisa or Sharon
20 or both?

21 A Well, that's the name I normally call her by.

22 Q You saw blood on her. What's the next thing you did
23 or didn't?

24 A I asked her what happened. She told me she stabbed
25 Charles.

1 Q She said she stabbed Charles?

2 A Yes.

3 Q Did she tell you where he was in the residence?

4 A Yes. She says in the bedroom.

5 Q And did you have an occasion to go look at him?

6 A Yes.

7 Q Do you remember which way his body was lying in the
8 room?

9 A It's like straight ahead between the dresser and the
10 bed some way.

11 Q Was he face down or on his back?

12 A On his back.

13 Q And I apologize showing you these. Do you mind
14 looking at these?

15 A Nah.

16 Q 4 and 5 for identification, is that Charles?

17 A Yes.

18 Q Is that how you saw him when you got there?

19 A Yes.

20 Q Did you try to call his name out?

21 A Yeah. I called his name.

22 Q Did he respond to you?

23 A No.

24 Q How long were you there with Lisa before the police
25 came?

1 A I'd say about five or ten minutes or so.

2 Q And that's Lisa, right?

3 A Yes.

4 Q Lisa Smith?

5 A Yes.

6 MR. MEADORS: Beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 Q (By Mr. Meadors) You saw her at the back door?

9 A Yes.

10 Q Okay. And was she on the phone when you saw her?

11 A She was on the phone, yes.

12 Q And do you know who she was talking to?

13 A I asked her who she was talking to. She told me she
14 was talking to the EMS people. She told them to
15 hurry up and get over there, she stabbed her friend.

16 MS. SAMPSON: I'm sorry.

17 THE COURT: I don't believe I could hear the
18 last part of what you were saying, sir.

19 A She said she stabbed her friend.

20 THE COURT: Okay. I really need you to -- the
21 jury cannot hear your testimony at all, sir. You
22 need to speak up. Okay?

23 A She said, "I stabbed my friend."

24 Q That's all. Thank you.

25 THE COURT 180 Thank you, sir. Ms. Sampson?

1 **MS. SAMPSON:** Thank you, Your Honor. If it
2 pleases the Court.

3 **THE COURT:** Sir, I'm just going to ask if you
4 can keep your voice up, either sit a little closer to
5 that microphone or something. The jury really is
6 having a hard time hearing you.

7 CROSS EXAMINATION

8 **BY MS. SAMPSON**

9 **Q** Good morning, Mr. Parker. We have met today earlier,
10 correct?

11 **A** Right.

12 **Q** You've got to speak verbally.

13 **A** Yes.

14 **Q** She's got to take down everything you say.

15 **A** No problem.

16 **Q** Thank you. Now, you said you came over to the house
17 because Mr. Gibson called you and your wife, correct?

18 **A** He called me. He told me to come over to pick the
19 games up.

20 **Q** And was he upset when he called?

21 **A** I really don't know because I didn't answer the
22 phone.

23 **Q** You didn't talk to him?

24 **A** No, ma'am.

25 **Q** Okay. Did you know if he and Lisa had broken up

1 earlier that day?

2 A No. I have no idea.

3 Q So you went over to get the things?

4 A Right.

5 Q And you stated that Lisa came to the door?

6 A Yes.

7 Q Do you remember what she had on?

8 A A dress. I can't remember what color. I'm pretty
9 sure it was brown, I believe.

10 Q She had on a brown dress. And it was bloody?

11 A Yes. It was bloody.

12 Q Was it torn at all?

13 A I really couldn't tell.

14 Q But it did have a lot of blood on it?

15 A Yes.

16 Q What about her? Did she have blood on her? Do you
17 remember?

18 A Just in the front of her.

19 Q Just on the front of her?

20 A Yes.

21 Q Was she upset?

22 A No, not the way I seen her. She was talking on the
23 phone.

24 Q She was on the phone?

25 A Yes. 182

1 Q And when she said she stabbed her friend, she was
2 talking to EMS?

3 A Yes.

4 Q So she told them what she -- what had happened?

5 A Yes.

6 Q Okay. Did you or did Lisa in your presence touch Mr.
7 Gibson?

8 A No. Not really.

9 Q Okay. Could you tell if he was breathing or anything
10 when you got there?

11 A He was breathing a little, but, you know, not much.

12 Q Okay. Did you see Lisa change clothes?

13 A No, I didn't see her when she changed clothes.

14 Q But she did change clothes?

15 A Yes.

16 Q But when you got there she had on a brown dress?

17 A Yes.

18 Q And then later she changed and had on something else?

19 A Yeah.

20 MS. SAMPSON: Beg the Court's indulgence.

21 THE COURT: Yes, ma'am.

22 MS. SAMPSON: No further questions, Your Honor.

23 THE COURT: Thank you, ma'am. Anything on
24 redirect?

25 MR. MEADORS: 183³⁹ the Court's indulgence.

1 THE COURT: Yes, sir.

2 MR. MEADORS: No, sir. Thank you.

3 THE COURT: Sir, you may step off the witness
4 stand. Thank you, sir. Call the next witness.

5 MR. WAGONER: The State would request a brief
6 recess.

7 THE COURT: Yes, sir. Let me ask about the
8 stipulation issue. Do you all want to do that?

9 MR. WAGONER: We're going to address some of
10 the --

11 THE COURT: Okay. That will be fine.

12 MR. MEADORS: Judge, may we approach? I
13 apologize.

14 THE COURT: Yes, sir. No. That's fine.

15 (Whereupon, a bench conference is had)

16 THE COURT: Ladies and gentlemen, I'm going to
17 ask if you can return to the jury room for about five
18 minutes. We need to go over a couple of other issues
19 of law. We'll get that done and bring you back out
20 very shortly. Do not discuss the evidence or
21 testimony you've heard or seen thus far. We'll bring
22 you back out shortly.

23 Ms. Derrick, I'm going to make you the
24 Foreperson of this jury. When you come back out
25 you'll take the front seat to your right. I'll get

1 my right and left straight soon. You don't have to
2 worry about anything other than you'll continue doing
3 what you're doing now. I'll explain your duties at
4 the end when I charge you on the law. Thank you all,
5 ladies and gentlemen.

6 (Jury out at 10:30 a.m.)

7 **THE COURT:** Thank you, sir. Thank you, ladies
8 and gentlemen. We'll stand down for about five
9 minutes.

10 (Whereupon, a break is taken)

11 (WHEREUPON, State's Exhibit No. 84 is marked for
12 identification.)

13 (WHEREUPON, State's Exhibit No. 85 is marked for
14 identification.)

15 (WHEREUPON, State's Exhibit No. 86 is marked for
16 identification.)

17 **MR. MEADORS:** Thank you, Your Honor.

18 **THE COURT:** Yes, sir. Have you and counsel had
19 a chance to go over those photographs?

20 **MR. WAGONER:** Yes, Your Honor. I believe that
21 the defense would not object to evidence State's
22 Exhibits 11, 12, 13, 14, 57, 58, 59.

23 **MS. AHRENS:** That's true, Your Honor. Those are
24 all perfectly fine.

25 **THE COURT:** 185 Y. Do you all want to go ahead

1 and move them in?

2 MR. WAGONER: The State would move those listed
3 items into evidence.

4 THE COURT: 11, 12, 13, 14, 57, 58, 59, without
5 objection they're admitted.

6 (WHEREUPON, State's Exhibit No. 11 is admitted
7 into evidence.)

8 (WHEREUPON, State's Exhibit No. 12 is admitted
9 into evidence.)

10 (WHEREUPON, State's Exhibit No. 13 is admitted
11 into evidence.)

12 (WHEREUPON, State's Exhibit No. 14 is admitted
13 into evidence.)

14 (WHEREUPON, State's Exhibit No. 57 is admitted
15 into evidence.)

16 (WHEREUPON, State's Exhibit No. 58 is admitted
17 into evidence.)

18 (WHEREUPON, State's Exhibit No. 59 is admitted
19 into evidence.)

20 MR. WAGONER: The State was also under the
21 impression that State's Exhibits 15, 16, 17, 18, 19,
22 20, 21, 22, 23, 60, 61, 71, 72 and 73.

23 MS. AHRENS: Your Honor, we're not going to
24 object to the contents of any of those photos. I do
25 think that they¹⁸⁶ have to call the individual who

1 took them just to lay the foundation for them to come
2 in. We're certainly not going to object to any of
3 them being admitted.

4 **THE COURT:** We'll let you do that at the
5 appropriate time then. As to 11, 12, 13, 14, 57, 58,
6 59, you all don't have any objection to me just
7 telling the jury that you all are stipulating to
8 those?

9 **MS. SAMPSON:** When they call the witness.

10 **MR. WAGONER:** We'll still be using those photos.

11 **THE COURT:** You're waiting on the witness to be
12 called on those as well?

13 **MS. AHRENS:** Yes, Your Honor.

14 **THE COURT:** Okay. All right. Anything else
15 before we bring the jury out?

16 **MS. SAMPSON:** We're not sure, Your Honor. We
17 had some objection to some of the photos. And I
18 didn't know if they wanted to do that now, because
19 otherwise we may have to dismiss the jury to have
20 this discussion. But it's their call.

21 **THE COURT:** Okay.

22 **MR. WAGONER:** Beg the Court's indulgence.

23 **THE COURT:** Yes, sir.

24 **MR. MEADORS:** That's been resolved.

25 **THE COURT:** 187Y. Thank you, counsel.

1 **MR. MEADORS:** The State's ready. Thank you.

2 **THE COURT:** Thank you, counsel. All right.

3 We'll bring the jury back out then and let the State
4 calls its next witness.

5 (Jury in at 10:57 a.m.)

6 **THE BAILIFF:** The jury is all present, Your
7 Honor.

8 **THE COURT:** Thank you, sir. Thank you, ladies
9 and gentlemen. We're ready to continue. During the
10 break counsel was able to work out some things by
11 agreement that will prevent us from having to take
12 certain other breaks or dealing with those matters as
13 the trial progresses, and we'll address those as they
14 come up during the rest of the trial. But because of
15 that, it will actually save you all some time. So I
16 appreciate your patience while we worked those
17 matters out. And we're ready to continue at this
18 point. Mr. Waggoner.

19 **MR. WAGONER:** Yes, Your Honor. The State would
20 call forensic investigator O'Grady.

21 MARY F. O'GRADY-WATTS, after being duly sworn,
22 testifies as follows:

23 **THE CLERK:** Thank you. Please have a seat in
24 the witness stand and state your full name for the
25 record.

1 **WITNESS:** Mary Francis O'Grady-Watts.

2 DIRECT EXAMINATION

3 **BY MR. WAGONER**

4 Q How are you doing today?

5 A Okay. How are you?

6 Q Could you explain to the jury where you're from?

7 A Born initially in Lyndhurst, New Jersey; came here in
8 '86 to attend the University of South Carolina;

9 obtained two degrees: One in international studies;
10 the other in -- both Bachelor's; international
11 studies and criminal justice approximately --

12 Q Isn't the criminal justice degree a Bachelor of
13 Science?

14 A Yes. One is. And the Bachelor of Arts is
15 international studies.

16 Q Do you have any higher education other than that?

17 A A Master's degree from Chaplin University in
18 Birmingham, Alabama.

19 Q And where were you employed in 2003?

20 A The Columbia Police Department within the crime scene
21 unit.

22 Q What was your rank there?

23 A It was master patrol officer, but my title was crime
24 scene investigator.

25 Q Now, where are you currently employed?

1 A I am a forensic investigator/staff sergeant with the
2 Aiken County Sheriff's Office.

3 Q Now, as part of your training, do you receive any
4 specialized training?

5 A Consistently. As much as you can get.

6 Q Can you describe it?

7 A You will take initially everything from basic crime
8 scene classes, processing. You'll take latent
9 fingerprint development classes. You'll take
10 photography. You can actually specialize from there
11 on in which is --

12 Q Approximately how many training courses have you
13 taken?

14 A At least ten. We try and take at least one or two a
15 year.

16 Q Do you have any certifications?

17 A Law enforcement, fire, and hazardous materials
18 technician.

19 Q Now, how many crime scenes have you actually been to
20 in the past, approximately?

21 A I used to run about 35 calls a month with the
22 Columbia Police Department. And that varied;
23 everything from auto breakings, burglaries, all the
24 way through major crimes, such as armed robberies,
25 murders, assault with intent to kill. So it varies

1 according to month. But it's about 35 at least calls
2 to run.

3 Q Have you testified in court before?

4 A Yes.

5 Q Have you previously been qualified as an expert?

6 A Yes.

7 MR. WAGONER: Your Honor, I respectfully request
8 that this witness be introduced as an expert in crime
9 scene investigation.

10 MS. AHRENS: Without objection, Your Honor.

11 THE COURT: Without objection, you're so
12 qualified and may testify.

13 WITNESS: Thank you.

14 Q On May 11th, 2003, were you called to a scene at 4107
15 Mildred Street?

16 A Yes, I was.

17 MR. WAGONER: May I approach the witness?

18 THE COURT: Yes, sir.

19 Q (By mr. Wagoner) Showing you State's Exhibit 1 which
20 has already been entered into evidence, is that the
21 house you were called to?

22 A Yes. That is the residence.

23 Q Would you show the jury where you would have entered
24 that house?

25 A I parked a littl191it further from the driveway when

1 I arrived that day. And we actually entered in
2 through the back of the house. You'd actually come
3 up underneath this carpet. There is another patio
4 area to the back, and off of that patio there is the
5 den that you've heard previously talked about. There
6 is a door off of that, and that's where we entered
7 and exited.

8 Q Now, what is the first thing you do when you go to a
9 crime scene such as this?

10 A You will do an initial walk around. Basically what
11 you'll do is you'll take into observance everything
12 that's on that scene. You want to know what's
13 happened, what you're going to do, what equipment you
14 need. So you're actually making almost a mental list
15 of what will be coming within the next hour, two
16 hours or however long it's going to take to process
17 that scene.

18 Q So you do a walk through of the house?

19 A Yes.

20 Q At some point did you do a diagram of the house?

21 A Yes.

22 Q Showing you State's 7 which has been entered for
23 identification purposes only, is this one of the
24 diagrams you did?

25 A There is two. 192 usually do a rough sketch initially

1 Q Did you also do one that was labeled?

2 A Yes. That is one of them.

3 Q I'm showing you State's Exhibit 84 which I believe
4 for right now the defense is not objecting as for
5 I.D. purposes?

6 MS. AHRENS: That's correct, Your Honor.

7 THE COURT: Thank you, Ms. Ahrens.

8 Q Showing you Exhibit 84.

9 A Yes. That's the other sketch I did.

10 Q Can you just -- where did you walk through the house?

11 A Okay. Basically this is going to be the driveway
12 area. Were going to walk in around the house. This
13 is where the patio was. Everybody entered this door
14 which is basically I guess you could say the back
15 door to the den. This is another door that was off
16 the kitchen. Everything that we did, we came in and
17 out of this actual through-way.

18 Walking through the kitchen, you're going to
19 walk in through the hallway. Briefly you get the
20 overview from the first responding officer telling me
21 what's happened, what's where, and then I go from
22 there.

23 So, what I do is I'll go through the kitchen, go
24 down the hallway, kind of look around each room just
25 to see what's observable and then take a peek into

1 each room to see what is actually going to be
2 involved in processing each and every room. So, went
3 down to hallway, looked in each room, bathroom,
4 bedroom, and of course the room where the victim was

5 Q Did you notice anything about the kitchen?

6 A It was very neat and tidy. The house overall was
7 very clean.

8 Q Was there anything open in the kitchen?

9 A Just one door.

10 Q Showing you State's Exhibit 57. May I approach?

11 THE COURT: Yes, sir.

12 Q Did you take that picture?

13 A Yes.

14 Q Does that fairly and accurately depict --

15 A Yes.

16 Q What does that show?

17 A That is the kitchen cabinet drawer that I was told
18 contained the weapon; or however you want to put it,
19 the knife that I collected from the bathroom.

20 Q Did you do any dusting for fingerprints?

21 A Yes. I dusted the counter and the area surrounding
22 the drawer in question, and I did not find any
23 latents or unusual latents that were available.

24 Q At some point was that drawer pushed in?

25 A Yes.

1 Q Do you know who did that?

2 A No.

3 Q I'm showing you State's Exhibits 13, 14, 11 and 12
4 which have already been entered into evidence. Will
5 you just tell the jury what those are?

6 A You take overall pictures of every room. And in this
7 case I took a basic panoramic view of the kitchen.
8 You'd start from basically left to right. So you
9 take a slice of that room so you make sure that you
10 have everything that you need to depict. So in case
11 something ever arises with a question, you can say,
12 yes, in picture No. 22 you could see that this item
13 is right here on the counter or it is not there. So
14 you know beyond a reasonable doubt what is and what
15 is not in this kitchen.

16 Q I'm going to show you State's Exhibits 58 and 59.
17 With the exception of half of, I believe it was 59,
18 are those also pictures of the kitchen?

19 A Yes.

20 Q Can you tell me again, did the kitchen look dirty?

21 A No. It was actually, like I said, very clean. It
22 was a very clean house.

23 Q Did it look like there was a struggle?

24 A No. I've been to other houses before. And it did
25 not appear that t195: had been one.

1 **MR. WAGONER:** Begging the Court's indulgence.

2 **THE COURT:** Yes, sir.

3 **Q** (By Mr. Wagoner) If you would just -- can you see
4 this?

5 **A** Yes.

6 **Q** We were just talking about the kitchen, right?

7 **A** Right.

8 **Q** Next did you go down the hallway?

9 **A** Yes.

10 **Q** Did you take pictures?

11 **A** Yes. I took pictures of the hallway.

12 **MR. WAGONER:** Beg the Court's indulgence.

13 **THE COURT:** Yes, sir.

14 **Q** (By Mr. Wagoner) And while you're walking through
15 the hallway, did you take pictures of any other room
16 from the hallway?

17 **A** Well, you could actually -- once you're in the
18 hallway, you try to actually take an initial picture
19 of the entranceway of every room that you're going to
20 be concerned with. And this --

21 **Q** I'm showing you State's Exhibit 15.

22 **MS. AHRENS:** No objection, Your Honor.

23 **MR. WAGONER:** Move these into evidence.

24 **THE COURT:** Objection?

25 **MS. AHRENS:** 196 Once the foundation is laid that

1 she took these photographs.

2 Q Did you take these photographs?

3 A Yes. This is --

4 THE COURT: Without objection, we'll admit them
5 all.

6 MS. AHRENS: Without objection, Your Honor.

7 (WHEREUPON, State's Exhibit No. 15 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 16 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 17 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 18 is admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 19 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 20 is admitted
18 into evidence.)

19 (WHEREUPON, State's Exhibit No. 21 is admitted
20 into evidence.)

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

23 (WHEREUPON, State's Exhibit No. 23 is admitted
24 into evidence.)

25 A This is actually 197 view of -- you're looking down

1 the hall toward the bedrooms and the bath.

2 Q Be there?

3 A There is actually a door right there. So, actually,
4 yes; the picture is coming from the doorway towards
5 the bedrooms.

6 Q I'm going to show you State's 16, 17, 18, 19, 20, 21,
7 22 and 23. If you'd go through those. Did you take
8 those pictures?

9 A Yes. This is a continuation of many photographs that
10 I took that day.

11 Q Some of those, are those pictures of the hallway?

12 A No. 16 is the actual -- it's half way down the hall,
13 a little bit larger or enlargement of No. 1. And
14 No. 17 is actually the floor which is right outside
15 of the bedroom where Mr. Gibson was found, a spare
16 bedroom which is kind of off to the left in front of
17 you, and then your bathroom would be to the immediate
18 left.

19 Q Did you see any blood spots in the hallway?

20 A There are slight blood spots on the carpet.

21 Q I'm showing you State's Exhibit 60 which I believe I
22 also entered without objection.

23 A These are close ups of the carpet.

24 Q Is there blood spots on there?

25 A Yes.

1 (WHEREUPON, State's Exhibit No. 60 is admitted
2 into evidence.)

3 Q Also with the ones I previously handed you, the
4 smaller photos --

5 A Mm-hmm (affirmative).

6 Q -- were those pictures of the bathroom?

7 A The entrance to the bathroom. And a little bit
8 closer up, I took better photographs of what items
9 were found in the bathroom. In this case it would be
10 the knife that was on the floor adjacent to the
11 kitchen or the sink.

12 Q Approaching you with 61, 71, 72 and 73; are those
13 blowups of -- what are they?

14 A Blowups of the same pictures of the bathroom area.

15 Q Now, you stated there was a knife?

16 A Yes.

17 Q What did you do with that knife?

18 A After taking photographs of it, placed it into a
19 cardboard box for safekeeping. That box.

20 Q Showing you State's Exhibit 86, is that the box?

21 A Yes. That's my handwriting.

22 Q Without showing this to the jury, can you open that
23 box? Can you identify what that is?

24 A That would be the knife that I collected that day off
25 the floor of the bathroom.

1 Q Is that the same knife?

2 A Yes.

3 MR. WAGONER: Your Honor, the State would move
4 this knife into evidence.

5 MS. AHRENS: Without objection, Your Honor.

6 THE COURT: All right, counsel. Without
7 objection, it's admitted.

8 MR. WAGONER: I apologize, Your Honor.

9 THE COURT: Yes, sir.

10 (WHEREUPON, State's Exhibit No. 86 is admitted
11 into evidence.)

12 Q Can you show that to the jury?

13 A Basically what you're going to do once you collect
14 the knife in order to make sure that it does not move
15 is they have these little tie downs, and you're just
16 going to basically put it for safety in the box.
17 Once you take it and collect it, it will go into the
18 evidence room, and it will sit there until something
19 like what we're doing today happens.

20 Q After the bathroom, where did you go?

21 A Went to the initial room where Mr. Gibson was.

22 Q Did you enter that room?

23 A Yes.

24 Q Did you notice anything about the door?

25 A It had what we would consider to be transfer. It had

1 been -- had some blood from probably a hand, and it
2 was just a mark on the door.

3 Q I'm showing you State's Exhibits 75, 76 and 77, I
4 believe without objection.

5 **MS. AHRENS:** Without objection, Your Honor.

6 **THE COURT:** Thank you, counsel. Without
7 objection.

8 (WHEREUPON, State's Exhibit No. 75 is admitted
9 into evidence.)

10 (WHEREUPON, State's Exhibit No. 76 is admitted
11 into evidence.)

12 (WHEREUPON, State's Exhibit No. 77 is admitted
13 into evidence.)

14 Q What are those?

15 A Pictures of the entrance to the bedroom where Mr.
16 Gibson was found and close ups of his bedroom door.

17 **MR. WAGONER:** Just for my clarification, I move
18 those into evidence.

19 **THE COURT:** Without objection, they're admitted.

20 **MS. AHRENS:** Without objection, Your Honor.

21 (State's Exhibit Nos. 75, 76 and 77 previously
22 admitted into evidence)

23 Q Can you show those to the jury and describe what
24 those are?

25 A This is the entrance to the bedroom where Mr. Gibson

1 was found.

2 COURT REPORTER: I can't hear her, Your Honor.

3 THE COURT: As you show it to the jury, if
4 you'll keep your voice up. I don't know if it's jus
5 the microphone today or something. If you all can
6 keep your voice up, not just so the court reporter
7 can hear you, but that far juror back there needs to
8 be able to hear you as well.

9 A Okay. This is the entrance to the bedroom of where
10 Mr. Gibson was found. And this picture is just an
11 overall picture. It's going to basically show the
12 entrance itself and what you're trying to
13 basically -- like I said, it's an overview.

14 In the second picture we're going to get a
15 little bit closer to the door. In this case, I don'
16 know if you can see it, it's about a medium sized
17 picture of the transfer.

18 And in your last picture you're going to do a
19 close up to basically show, and you're going to put
20 scale in it, to give reference as to how big of an
21 area the actual transfer is covering.

22 Q Was there blood elsewhere in the room?

23 A There was blood on the carpet and blood on the
24 victim.

25 Q You mentioned transfer. What is transfer? Sorry for

1 going back to the door.

2 A Transfer basically is, if you should take a medium;
3 and in this case we're dealing with blood, you would
4 actually take it and you're actually superimposing it
5 on another object. So in this case, this would
6 actually be the door. You'd actually take your
7 medium which would have been blood, and it would wind
8 up on your other surface which would be a door. It
9 could have been an off a t-shirt; it could have been
10 off your hand; you're basically just doing a transfer
11 from one surface to another.

12 Q Showing you State's Exhibit 27. I believe this is
13 without objection into evidence.

14 MS. AHRENS: Yes, Your Honor.

15 THE COURT: Without objection?

16 MS. AHRENS: Without objection.

17 (WHEREUPON, State's Exhibit No. 27 is admitted
18 into evidence.)

19 Q What is that?

20 A That would be some of the blood that was found near
21 Mr. Gibson's body on the carpet.

22 Q Do you have an opinion to a reasonable degree of
23 certainty within your field of what that blood may be
24 from?

25 A It's definitely 203ng to be from somebody who is

1 dripping. Because in a lot of occasions when you're
2 standing, blood will go where gravity pulls it, and
3 it will go down. And it's just a matter of how much
4 activity is involved in it. And in this case he was
5 dripping a great deal and it wound up just in little
6 spots in the floor. Sometimes it will pool and
7 sometimes it will congregate in pools and sometimes
8 it will just be in one initial spot. It just depend
9 on where it is. You know, if you have walls, it's
10 going to be --

11 Q But there wasn't a lot of blood in the hallway?

12 A No.

13 Q Did you also take photographs of the body?

14 A Yes.

15 Q Showing you State's Exhibits 78, 79, 80 and 81,
16 moving these into evidence I believe without
17 objection.

18 MS. AHRENS: Without objection, Your Honor.

19 THE COURT: Without objection, they're admitted
20 (WHEREUPON, State's Exhibit No. 78 is admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit No. 79 is admitted
23 into evidence.)

24 (WHEREUPON, State's Exhibit No. 80 is admitted
25 into evidence 204

1 (WHEREUPON, State's Exhibit No. 81 is admitted
2 into evidence.)

3 Q Can you describe what is in those photographs?

4 A Okay. No. 81 is the area where the victim's feet
5 are. It shows his jeans, feet, the little balloon
6 that says "you're so special" which is on the floor
7 inbetween his legs.

8 Q When you're doing that, can you just show the jury?
9 I'm sorry.

10 A Basically you want to show -- you try to capture
11 everything. So this way you know that you have a
12 basic description of what's going on. In this case
13 you're going to have the victim's feet area. You
14 want to show any type of blood spatter patterns. You
15 want to show the condition of his clothing and the
16 condition of the body overall once you get there.

17 No. 78 is a little bit out of focus, but it's a
18 close up of his left shoulder. He was laying face up
19 inbetween the bed and a dresser. You can see the
20 barrel right here of a .32 caliber Smith and Wesson
21 revolver, and it was right up underneath his body.
22 So that was found right where it was.

23 Then No. 79 is -- you move Mr. Gibson's body in
24 order to get a clear picture of the pistol up
25 underneath him. 205 can see that it's laying a

1 little bit to the left, not quite up underneath the
2 bed but adjacent to the pool of blood that was up
3 underneath him.

4 And No. 80 is the close up picture of the
5 pistol. Afterwards you would collect it, box it.

6 Q Is that what you did in this case?

7 A Yes. You always collect it and box it and keep it
8 for safekeeping.

9 Q Showing you State's Exhibit 85, is that that box?

10 A Yes. This is my handwriting.

11 Q Without showing the jury at this point, can you open
12 that box, and tell the jury what is -- or say what's
13 inside there?

14 A Yes. There's a .32 caliber Smith and Wesson pistol
15 with the rounds that were found within the weapon
16 that were not fired.

17 MR. WAGONER: The State would move that into
18 evidence.

19 MS. AHRENS: Without objection, Your Honor.

20 THE COURT: Without objection, it's admitted.

21 (WHEREUPON, State's Exhibit No. 85 is admitted
22 into evidence.)

23 Q I'm sorry. Had that been fired?

24 A No. It had not.

25 Q Did you try to 206 any fingerprint analysis on that?

1 A Not at that point.

2 Q Was it found in his hand?

3 A No.

4 Q Now, did you have occasion to have any interaction
5 with the defendant?

6 A At the very end before I was ready to finish my
7 processing, I actually took some photographs which
8 you normally would do of a --

9 Q Can you describe the demeanor of her?

10 A Quiet, cooperative. If you asked her to do
11 something, she would just do it for you.

12 Q I'm sorry. You took some photographs of her?

13 A Yes. I took photographs of her hands and of her face
14 because you always want to document if there has been
15 a struggle or a question of any struggle. You want
16 to show any type of damage to both parties. So this
17 way it could tell you a few things here and there
18 what happened.

19 Q I'm showing you State's Exhibits 47 and 48, 49, 50,
20 51 and 52. Are those pictures you took?

21 A Yes.

22 Q What are those pictures of again?

23 A Of Ms. Smith.

24 MR. WAGONER: The State would move those into
25 evidence.

1 **MS. AHRENS:** Without objection, Your Honor.

2 **THE COURT:** Without objection, they're admitted.

3 (WHEREUPON, State's Exhibit No. 47 is admitted
4 into evidence.)

5 (WHEREUPON, State's Exhibit No. 48 is admitted
6 into evidence.)

7 (WHEREUPON, State's Exhibit No. 49 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 50 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 51 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 52 is admitted
14 into evidence.)

15 **Q** Can you just describe anything significant with thos
16 pictures to the jury?

17 **A** 47 is going to be a close up of her face. There is
18 slight spot of blood on her nose, on the bridge of
19 her nose which you can see in this picture. You wil
20 actually -- this is just an overall picture, like I
21 say, we always do. And then you will go to a close
22 up shot to show a little bit more significance as to
23 what you're looking at.

24 The second place I went was to her hands, just
25 in case it show208ny defensive wounds, any type of

1 transfer of any kind of material.

2 No. 49, I apologize because these are not in
3 focus, but there was a slight spot on the back of her
4 hand. And then this is actually a little bit closer
5 if you can bear with me.

6 No. 51 is actually going to be her thumb.
7 There's a close up that actually didn't come out.
8 But in this picture you can see it a little bit
9 better. There is a little bit of blood up underneath
10 her nail that was not quite washed off I guess, if
11 you want to call it that. But it's up underneath
12 there. And that's what we want to show, that it was
13 there.

14 Q Was there another bedroom?

15 A There is actually three bedrooms in the home.

16 Q Showing you State's Exhibits 53, 54, 55, 56, 82 and
17 83, do you recognize these pictures?

18 A These would be the bedroom that I would call a spare
19 room. Actually, it's -- if you were facing the
20 hallway, it's to the right of the bathroom. It was
21 just holding different various items like spare
22 clothes and objects that really -- it wasn't actually
23 being utilized as a bedroom.

24 Q On this diagram, which bedroom would it be?

25 A Bedroom number t209

1 Q That bedroom?

2 A Mm-hmm (affirmative).

3 MR. WAGONER: The State would move those
4 pictures into evidence.

5 MS. AHRENS: Without objection.

6 THE COURT: Without objection, they're admitted
7 (WHEREUPON, State's Exhibit No. 53 is admitted
8 into evidence.)

9 (WHEREUPON, State's Exhibit No. 54 is admitted
10 into evidence.)

11 (WHEREUPON, State's Exhibit No. 55 is admitted
12 into evidence.)

13 (WHEREUPON, State's Exhibit No. 56 is admitted
14 into evidence.)

15 (WHEREUPON, State's Exhibit No. 82 is admitted
16 into evidence.)

17 (WHEREUPON, State's Exhibit No. 83 is admitted
18 into evidence.)

19 Q What is in that closet?

20 A There is a tan colored dress that was covered in
21 blood on the floor of the closet.

22 Q Is that what these pictures are of?

23 A Yes. These are pictures of the closet, close ups of
24 on the dress on the floor.

25 MR. WAGONER: 210 Beg the Court's indulgence.

1 **THE COURT:** Yes, sir.

2 **Q** (By Mr. Wagoner) Showing you State's Exhibit 74, do
3 you recognize that?

4 **A** That would be the -- if you were standing in Mr.
5 Gibson's bedroom, it's the left wall or the left side
6 of the bed on the floor, or the floor area to the
7 left side of the wall.

8 **MR. WAGONER:** The State would move that picture
9 into evidence.

10 **MS. AHRENS:** Without objection, Your Honor.

11 **THE COURT:** Thank you, counsel. Without
12 objection, it's admitted.

13 (WHEREUPON, State's Exhibit No. 74 is admitted
14 into evidence.)

15 **Q** Going back to the dress, can you describe how that's
16 in the closet?

17 **A** It's kind of just thrown in there on the floor.

18 **MR. WAGONER:** Beg the Court's indulgence.

19 **THE COURT:** Yes, sir.

20 **MR. WAGONER:** May I approach the witness?

21 **THE COURT:** Yes, sir.

22 **Q** (By Mr. Wagoner) Showing you State's Exhibit 12, is
23 there something on the stove?

24 **A** There was something cooking in a pot, and it looks
25 like a casserole 211 some kind.

1 Q A casserole?

2 A Something along the lines like in a casserole dish.

3 MR. WAGONER: Beg the Court's indulgence.

4 THE COURT: Yes, sir.

5 MR. WAGONER: May I approach the witness?

6 THE COURT: Yes, sir.

7 Q (By Mr. Wagoner) Showing you State's Exhibits 17 and
8 57 which have already been entered in evidence, can
9 you tell the jury what that is?

10 A It would be the carpet right outside of bedrooms one
11 and two and the bathroom.

12 Q Is there a blood spot on there?

13 A There is a few different blood spots. There is at
14 least four. There is one right off of the bathroom.
15 There's one almost in front of bedroom two and one a
16 little bit more toward bedroom one and then closer to
17 the actual hallway coming down.

18 Q Would that blood spot in that photograph be
19 consistent with transfer?

20 A It could be. Or it could be a droplet from off of
21 something that it's actually a source of.

22 Q You labeled this diagram?

23 A Yes.

24 MR. WAGONER: I would move State's Exhibit 84,
25 the labeled diagram, into evidence.

1 **MS. AHRENS:** Your Honor, I am going to object.
2 It's specifically actually labeled that it's not
3 drawn to scale, and that would be the nature of my
4 objection. It's sort of cut off on that photograph.
5 But at the very bottom it actually says that it's not
6 drawn to scale. For that reason I would object.

7 **MR. WAGONER:** The State would submit that this
8 would assist the jury in the layout of the house as
9 it relates to the photographs. Furthermore, the
10 State agrees that it is not drawn to scale and I
11 believe the jury can understand that.

12 **THE COURT:** I'll leave that as an argument both
13 sides can make as to the fact it wasn't drawn to
14 scale. I understand their objection to it. I'm
15 going to overrule the objection and go ahead and put
16 it in.

17 **MS. AHRENS:** Thank you, Your Honor.

18 **THE COURT:** There were two actually of those.
19 You just want to try and put one in?

20 **MR. WAGONER:** Beg the Court's indulgence. The
21 State would also move State's Exhibits 7, the
22 unlabeled diagram, into evidence. This has
23 previously been entered as identification purposes
24 only.

25 **THE COURT:** 213 n't they the same thing?

1 **MR. WAGONER:** These are. The only difference is
2 84 has been labeled.

3 **THE COURT:** I'll let you put in 84. It's got
4 everything it looks like that No. 7 has anyway, and
5 think it would just be cumulative.

6 **MR. WAGONER:** Thank you, Your Honor.

7 (WHEREUPON, State's Exhibit No. 84 is admitted
8 into evidence.)

9 **MR. WAGONER:** Beg the Court's indulgence.

10 **THE COURT:** Yes, sir.

11 **MR. WAGONER:** May I approach the witness?

12 **THE COURT:** Yes, sir.

13 Q (By Mr. Wagoner) Now, when you're looking at the
14 bathroom, was there anything else significant in the
15 bathroom?

16 A There was a towel found on the sink.

17 Q And can you describe that towel?

18 A It's a purple in color bath towel that anybody would
19 have in a bathroom.

20 Q Showing you State's Exhibits 18, 19, 20, 61, 67 that
21 have already been introduced into evidence, do those
22 pictures show any towel?

23 A Yes.

24 Q Was there any blood on that towel?

25 A Yes, there is. 214

1 Q What would that be consistent with?

2 A Clean up, transfer -- well, --

3 Q Was there a lot of blood on it?

4 A No. I mean, there was enough to say that there was
5 somebody who was trying to clean up at one point.

6 Q So it was a wipe?

7 A Yeah. It's more consistent with somebody who is
8 trying to take something off of themselves instead of
9 trying to I guess mop up or anything. It's not a
10 significant amount of blood, but there is enough to
11 show that there was some on the towel.

12 MR. WAGONER: Beg the Court's indulgence.

13 THE COURT: Yes, sir.

14 MR. WAGONER: The State has no further
15 questions.

16 THE COURT: Thank you, sir.

17 MS. AHRENS: May it please the Court, Your
18 Honor.

19 THE COURT: Yes, ma'am.

20 CROSS EXAMINATION

21 BY MS. AHRENS

22 Q All right. Now, you arrived at this location after a
23 number of other officers. Is that correct?

24 A Yes.

25 Q Okay. Is it your understanding that prior to your

1 arriving there the crime scene had been secured?

2 A As far as I know, yes.

3 Q Okay. And what I mean by that is everything
4 supposedly was where it was before you got there?

5 A Correct.

6 Q And when you arrived there and you did your walk
7 through, you saw a knife just lying on the floor of
8 the bathroom. Is that right?

9 A Yes.

10 Q And there was a towel in the bathroom sink just lying
11 there, correct?

12 A Correct.

13 Q I believe you testified on direct that the dress that
14 you found in the location was just lying in the
15 bottom of a closet. Is that right?

16 A Correct.

17 Q Okay. And there was blood on a door?

18 A Yes.

19 Q Correct? Blood on the hallway floor?

20 A Mm-hmm (affirmative).

21 Q Is that correct?

22 A Correct.

23 Q And I believe you just testified on direct that the
24 blood that you saw on the towel in the sink was
25 consistent with maybe somebody trying to wipe

1 themselves off with it?

2 A Yeah. It's not a significant amount, but it's enough
3 to say that there is some on the towel.

4 Q You didn't see any evidence from your walk through in
5 the house or your collection of the evidence that
6 anyone had actually tried to clean up the house
7 itself, did you?

8 A No. It was just pretty much I'm sure as it was when
9 it happened.

10 Q Okay. Now, you testified that you saw some blood
11 droplets in the hallway, some blood on the door, some
12 blood on Ms. Smith, correct?

13 A Yeah. Pretty much, yeah.

14 Q Okay. And one of the things that you're trained do
15 is to -- one of the things you're trained in how to
16 do is how to collect blood. Is that correct?

17 A Correct.

18 Q And you can swab a stain that's on the ground. Is
19 that right?

20 A You will take a sample of what it was.

21 Q Okay.

22 A You will not actually take a significant amount, just
23 enough for the criminalist to be able to work with.

24 Q But you could take a sample of blood that was on the
25 floor. Is that right?

1 A Correct.

2 Q And you could take a sample of blood that's on a
3 door. Is that right?

4 A You could take the door if you wanted to.

5 Q Okay. You could take a sample of blood that's on a
6 human being, correct?

7 A Correct.

8 Q And somebody else could analyze that to determine,
9 for example, if it is in fact blood. Is that right?

10 A Right.

11 Q And they could also try to determine whose blood it
12 would be. Is that correct?

13 A Yes.

14 Q At this particular scene you didn't take samples of
15 any of the blood. Is that right?

16 A There is a blood sample packet.

17 MS. AHRENS: Beg the Court's indulgence for a
18 moment.

19 THE COURT: Yes, ma'am.

20 MS. AHRENS: Your Honor, we may need to
21 approach.

22 THE COURT: Yes, ma'am.

23 (Whereupon, a bench conference is had)

24 MS. AHRENS: Thank you, Your Honor.

25 THE COURT: Thank you, counsel.

1 Q (By Ms. Ahrens) All right. You filled out some
2 reports with respect to this case. Is that right?

3 A Correct.

4 Q Okay. And do you have those reports here with you
5 today?

6 A Yes.

7 Q Okay. And you are trained to fill those things out
8 pretty thoroughly I would expect?

9 A Yes.

10 Q Is that correct? And your job, it's actually fairly
11 important to collect the physical evidence from the
12 scene. Is that right?

13 A Yes.

14 MS. AHRENS: Okay. Your Honor, may I approach
15 the witness?

16 THE COURT: Yes, ma'am.

17 Q (By Ms. Ahrens) All right. I am showing you -- are
18 these the reports that you filled out in this case?

19 A Yes.

20 Q An investigative report and an evidence recovery log?

21 A Right.

22 Q And these are the reports that you have here with you
23 today?

24 A Yes.

25 Q Okay. Do you men219n anywhere in here about having

1 taken blood samples?

2 A No.

3 Q That's not something that you documented?

4 A You would.

5 Q Okay. But you didn't document that here?

6 A In all honesty, I don't remember. I mean, normally I
7 would. It might have been something I did after the
8 fact.

9 Q Okay. But in your complete, accurate, thorough
10 reports here, no mention of having taken a blood
11 sample?

12 A There is no mention, no.

13 Q Would you agree that in order to determine whose
14 blood a particular stain or a particular sample
15 belonged to you'd actually have to collect the blood
16 and test it?

17 A If you're going for a particular source, it would
18 depend on where you're looking. Are you looking at
19 the victim's body? Are you looking at the suspect's
20 body? Are you looking at the carpet? If you're
21 going to take samples from anything, you would
22 actually; yes, you would have a particular person or
23 thing that you would like to compare it against.

24 Q But in order to determine whose blood it was you
25 would have to actually test it. Is that fair to say

1 A Correct.

2 Q Okay. All right. And you testified that when you
3 observed Mr. Gibson's body there was a revolver
4 underneath it. Is that correct?

5 A Yes.

6 Q That revolver was loaded. Is that right?

7 A It was loaded but unfired.

8 Q Okay. You also testified about the blood transfer
9 that you saw on the door. And you testified that you
10 found a bloody dress in this incident location. Is
11 that right?

12 A Right. In the closet of bedroom two.

13 Q Is it possible that someone wearing a bloody dress
14 could leave a blood stain on a door, transferred?

15 A Sure.

16 Q Okay. You also testified that this house was very
17 neat. Is that correct?

18 A Yes, it was.

19 Q Okay. There weren't any female belongings in the
20 house that you could see, were there?

21 A There was -- in bedroom three there was a -- well,
22 the diagram is gone. There is a few things that were
23 boxed up and one of which was some female belongings,
24 I think shoes or something to that effect. But other
25 than that, there 221lly wasn't anything that you

1 would think that would be feminine items there.

2 Q Can I refer you back again to your evidence log? Do
3 you remember writing in your evidence and photograph
4 logs that you did not find any female belongings in
5 the residence except for one bag in another spare
6 room, and that's it?

7 A Correct.

8 Q But other than that, there were just no female
9 belongings anywhere in that house that you could see

10 A Not that I could see, no.

11 Q And you testified that there was no fingerprint
12 analysis that could be performed on the gun. Is that
13 right?

14 A I didn't perform it. I didn't say there couldn't be

15 Q So that's something you could have done?

16 A Yes. At a later time.

17 Q And that would tell you; for example, if you found
18 prints, who those prints might belong to?

19 A If the gun would yield them. Which there is a
20 possibility it will and a possibility it will not.
21 It just depends.

22 Q In this particular case you didn't try?

23 A Actually, I didn't do it at the time. You can do it
24 at any point in time you want to. It just wasn't
25 done at that p²²².

1 Q To your knowledge, has that been done to this date?

2 A Yes.

3 Q All right.

4 MS. AHRENS: Beg the Court's indulgence for just
5 a moment.

6 THE COURT: Yes, ma'am.

7 MS. AHRENS: Beg the Court's indulgence for just
8 a moment.

9 THE COURT: Certainly. Yes, ma'am.

10 Q (By Ms. Ahrens) All right. I am showing you what's
11 been marked as State's 80 which you've already
12 previously identified as a photograph of the gun?

13 A Correct.

14 Q Do you see any blood on that gun?

15 A A slight bit toward the actual trigger and basically
16 up underneath it because it's lying in it.

17 Q Okay. There is some blood on the gun itself?

18 A There is a little bit, yeah.

19 Q All right. And the blood sample that you talked
20 about having taken earlier, do you remember where you
21 took that blood sample from?

22 A It would have been off of the victim.

23 MS. AHRENS: No further questions, Your Honor.

24 THE COURT: Thank you, Ms. Ahrens. Mr. Wagoner.

25 MR. WAGONER: 223ust a few brief questions.

1 THE COURT: Sure.

2 MR. WAGONER: May I approach the witness?

3 THE COURT: Yes, sir.

4 MR. WAGONER: Begging the Court's indulgence.

5 THE COURT: Certainly.

6 REDIRECT EXAMINATION

7 BY MR. WAGONER

8 Q Showing you State's Exhibits 74 and 80 which have
9 already been entered into evidence, what are those
10 pictures of?

11 A The .32 caliber revolver found up underneath Mr.
12 Gibson.

13 Q Based on your experience, whose blood would that be?

14 A It's more than likely going to be his. It's in his
15 pool of blood.

16 MR. WAGONER: May I approach the witness?

17 THE COURT: Yes, sir.

18 Q (By Mr. Wagoner) Showing you State's 51, 52, 50, 49,
19 48 and 47 which have already been introduced into
20 evidence, tell the jury what those are pictures of?

21 A The victim's -- photographs I took of the victim
22 (sic) in the den.

23 Q Is the victim (sic) bleeding?

24 A No.

25 Q Are there any '224'r wounds on her?

1 A No, there are not.

2 MR. WAGONER: May I approach the witness?

3 THE COURT: Certainly.

4 Q (By Mr. Wagoner) Showing you State's Exhibits 4 and
5 5 which have been entered for I.D. purposes only, did
6 you take those pictures?

7 A Yes.

8 Q Do they fairly and accurately represent what you saw
9 that day?

10 A Yes.

11 MR. WAGONER: I would move those two pictures
12 into evidence. Begging the Court's indulgence.
13 Sorry. If I may show that to defense counsel. Beg
14 the Court's indulgence.

15 THE COURT: Yes, sir.

16 MR. WAGONER: May I approach the witness?

17 THE COURT: Yes, sir.

18 Q (By Mr. Wagoner) Do those fairly and accurately
19 represent what you saw that day?

20 A Yes.

21 MR. WAGONER: The State would move those two
22 Exhibits into evidence.

23 MS. AHRENS: Your Honor, I am going to have an
24 objection to those as being cumulative. I don't know
25 if that's something you want us to approach on or

1 take it up outside the presence of the jury.

2 **THE COURT:** Let me discuss it with you all a
3 little bit first and see if we need to take it up.

4 (Whereupon, a bench conference is had)

5 **THE COURT:** Thank you, counsel. Mr. Wagoner.

6 **MR. WAGONER:** Thank you, Your Honor.

7 **Q** (By Mr. Wagoner) I'm showing you State's Exhibit 5
8 which has previously been entered for identification
9 purposes only. Did you take that picture?

10 **A** Yes, I did.

11 **Q** Does it fairly and accurately depict what you saw
12 that day?

13 **A** Yes. From the entrance to the bedroom.

14 **MR. WAGONER:** The State would move State's
15 Exhibit 5 into evidence.

16 **THE COURT:** Withdraw No. 4 and just offer No. 5
17 Ms. Ahrens?

18 **MS. AHRENS:** I raise the same objection I raise
19 at side bar, but I'm happy to take that up outside
20 the presence of the jury, Your Honor.

21 **THE COURT:** I'm going to overrule the objection
22 allow No. 5 in. Counsel, I'm going to preserve your
23 further argument and your grounds for the next break
24 We'll take that up. No. 5 is admitted.

1 (WHEREUPON, State's Exhibit No. 5 is admitted
2 into evidence.)

3 Q (By Mr. Wagoner) Can you explain to the jury what
4 that depicts?

5 A It's Mr. Gibson lying face up on the floor next to
6 the bed.

7 Q Can you show that to the jury, please?

8 (Witness complies)

9 Q Is there blood in that picture?

10 A There is blood in little patterns on the floor to the
11 right of his body. And this is his t-shirt. Which
12 EMS has already been there. So they've basically cut
13 the front of the t-shirt and they moved it to each
14 side. And there's a little bit of blood on the front
15 of his jeans.

16 Q Based on your experience, --

17 COURT REPORTER: I'm sorry. I didn't hear the
18 end of the answer.

19 A There's a little bit of blood on the front of his
20 jeans.

21 COURT REPORTER: Okay. Thank you.

22 Q Based on your experience, whose blood would that be?

23 A That would be the victim's.

24 MR. WAGONER: Beg the Court's indulgence.

25 THE COURT: Yes, sir.
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1 **MR. WAGONER:** No further questions.

2 **THE COURT:** Thank you, sir. Ms. Ahrens?

3 **MS. AHRENS:** No further questions, Your Honor.

4 **THE COURT:** Thank you, ma'am. The witness may
5 step down. Thank you. If the State would call their
6 next witness.

7 **MR. MEADORS:** The State would call Investigator
8 Mark Vinson.

9 **MARK W. VINSON,** after being duly sworn,
10 testifies as follows:

11 **THE CLERK:** Thank you. Please have a seat in
12 the witness stand and state your full name for the
13 record.

14 **THE WITNESS:** My name is Mark William Vinson.

15 **DIRECT EXAMINATION**

16 **BY MR. MEADORS**

17 **Q** Mark Vinson, do you work at the Columbia Police
18 Department?

19 **A** Yes, sir, I do.

20 **Q** How long have you been there?

21 **A** Twenty-six years.

22 **Q** Have you held -- where are you from?

23 **A** Camden originally.

24 **Q** Born and raised there?

25 **A** Yes, sir. . 228

1 Q Did you go to Camden High School?

2 A Yes, sir.

3 Q After you finished high school, what did you do?

4 A I spent three years in the Army.

5 Q And did you get in law enforcement after that?

6 A Yes, sir. I joined the Columbia Police Department
7 after that.

8 Q And have you held different positions at the police
9 department?

10 A I spent my first six years as a patrol officer, then
11 all of it in just uniform duty, then two years as a
12 Corporal which is a supervisor, and then the
13 remaining time as an investigator.

14 Q And what are your duties as an investigator with the
15 police department?

16 A Primarily assigned to follow up on major crimes,
17 crimes of violence against persons, serious assaults,
18 homicides, robberies and sexual assaults.

19 Q And are you assigned to a certain area of the city?

20 A Yes. Now I am assigned to what's called the Metro
21 region which is the downtown region. Previously when
22 this happened we were just -- we worked the entire
23 city.

24 Q Typically, is it fair to say the line officers get
25 there first?

1 A Yes.

2 Q And then you are called in after that?

3 A Yes, sir.

4 Q And as the first investigator gets there, is it sort
5 of your case?

6 A Yes, sir.

7 Q And did that happen in this case?

8 A Yes, it did.

9 Q And the address -- we all know what it is now -- is
10 4107 Mildred Avenue?

11 A Yes, sir.

12 Q Can you tell the Ladies and Gentlemen of the Jury
13 about what time you got there, Investigator?

14 A I got there at approximately 2:40 p.m.

15 Q And once you got to the residence, did you have an
16 occasion to see the defendant, Sharon Lisa Smith?

17 A Yes, I did.

18 Q And can you please tell them where you saw her?

19 A She was seated in the den area. She had already been
20 handcuffed by the officer.

21 Q And I think we've all seen it. But looking at
22 State's 84, would this be -- well, it says den. So
23 that's where she was?

24 A Yes, sir.

25 Q And she was seated in there?

1 A Yes, sir.

2 Q Did you become aware of whether or not she had been
3 advised of what we all know or have heard now her
4 Miranda rights?

5 A Yes. I had been advised of that by the reporting
6 officer and after -- I spoke with them first, the
7 officer and Sergeant Thornton.

8 Q And did you learn that she had been advised of her
9 rights?

10 A Yes, sir.

11 Q Did you ask her again if she had understood them and
12 if she was willing to talk?

13 A Yes. I asked her if she had been advised. She
14 indicated she had. I asked her if she understood
15 them. She said she did. And I asked her if she was
16 willing to talk to me and she said she was.

17 Q And that transfer of words right there, like you did
18 just with me then, could you understand her?

19 A Yes, sir.

20 Q Did she appear based on her experiences to understand
21 you?

22 A Yes, sir.

23 Q Did she appear to be under the influence of alcohol,
24 drugs, or anything else, Investigator?

25 A No.

1 Q Did you get a consent to search, too, also her home?
2 Or their home?

3 A Yes, I did.

4 Q Did she sign that?

5 A Yes, she did.

6 Q Did you know what was going on before you got there?
7 I mean, did you know what you were coming to?

8 A Yes. I knew there was a stabbing, that there was a
9 homicide.

10 Q Okay. Did you make some notes on May 11th --

11 A Yes, I did.

12 Q -- 2003? Do you have those there with you?

13 A Yes, sir.

14 Q And this first part that we're going to go over,
15 you're going to tell the jury about, did she give you
16 an oral statement?

17 A Yes.

18 Q There at the scene?

19 A Yes, sir.

20 Q And can you tell these folks what she told you after
21 you asked her, do you understand your rights, did
22 understood them, do you understand them, do you want
23 to talk? What did she tell you, if anything?

24 A She told me that she had been with the victim
25 together, that 232y had been together for

1 approximately one year and had actually been living
2 together in that house since September.

3 Q And that would have been September of 2002?

4 A 2. Yes, sir.

5 Q Okay. Go ahead.

6 A I asked her what happened. She told me that they had
7 been arguing and that the victim was apparently
8 cooking and had a knife in his hand. She said they
9 were tussling and that he then told her that she had
10 stabbed him. She said at first she did not think it
11 was serious so they didn't call police. She was in
12 on the phone with Patrice Parks and was talking to
13 her when she said the victim stumbled into the room
14 and that that --

15 Q Did she say stumbled in there?

16 A Right.

17 Q Okay.

18 A And that Patrice told her to call 911, which she did.

19 Q Did she tell you anything else? And again, you're at
20 the den at the scene, correct?

21 A Yes, sir.

22 Q What else did she tell you then in this oral
23 statement?

24 A Officer -- Investigator O'Grady had observed a pistol
25 under the victim. ^{we} hadn't initially noticed it,

1 but then she had later observed it. So I asked her
2 about that. She said there was a pistol they kept on
3 the nightstand but that neither one of them had the
4 pistol at any time during the struggle.

5 Q Neither one of them had the pistol?

6 A Right. That's what she told me.

7 Q Okay.

8 A She also had told me that she had changed clothes and
9 the --

10 Q And let me go back there specifically to your oral
11 statement. When you go back, and you said she was
12 asked about that, and that being the pistol that was
13 observed and there was a pistol she kept on the
14 nightstand; the next thing in your notes, you have
15 that neither one of them had it?

16 A Correct.

17 Q Okay. The word "struggle" wasn't there after that,
18 correct?

19 A Correct.

20 Q After that what did she tell you?

21 A She told me she had changed clothes and the clothes
22 were found by Investigator O'Grady in the closet. I
23 had also observed that she had some smeared blood on
24 her forearms. She --

25 Q Let me stop you ²³⁴here. Where did you observe that?

1 Do you remember? Show on me; where was that?

2 A I don't remember specifically. Just on her forearms.

3 Q Just on her -- okay.

4 A That's one of the reasons I would have Investigator
5 O'Grady take photographs of her. She was asked if
6 she had any injuries and she said she did not.

7 Q You asked her if she had any injuries?

8 A Yes.

9 Q She being Sharon Lisa Smith?

10 A Yes.

11 Q And what did she tell you?

12 A She told me she did not have any injuries.

13 Q Did you ask her if the knife -- what's the next thing
14 reflected in the oral statement that you took?

15 A I asked her if the knife was ever in her hand. She
16 first said, "I don't know."

17 Q Stop right there. She said what?

18 A "I don't know."

19 Q All right. What did she say after that?

20 A She later said she had picked the knife up off the
21 floor after the victim had collapsed and she had put
22 it in the bathroom.

23 Q Now, at any time when she is giving you this
24 statement, did you have any trouble understanding
25 her?

1 A No, sir.

2 Q Did she have any trouble responding to your
3 questions?

4 A No, sir.

5 Q Did she ever ask for a lawyer then?

6 A No, sir.

7 Q Did she ever say, Mark or Investigator Vinson, I
8 don't want to talk to you any more?

9 A No, sir.

10 Q If she had done that, what would you have done?

11 A I would have stopped talking to her.

12 Q When did you take down -- this is written on a case
13 summary I think form here?

14 A Yes, sir.

15 Q Did you put this in writing shortly after the time
16 that she told you this?

17 A Yes, sir.

18 Q Were you still at the scene?

19 A Yes, sir.

20 Q Did you -- or was the defendant subsequently brought
21 down to the police department?

22 A Yes, she was.

23 Q And, specifically, where did she go? Where did you
24 take her, or where was she located at the police
25 department?

1 A She was brought up to the second floor of the police
2 department which is where the investigations bureau
3 is, and she was brought into an interview room.

4 Q Describe that room for these folks, please?

5 A It's just a small room. It's even probably a little
6 smaller than the jury box there. It has a table and
7 several chairs.

8 Q And was the defendant seated?

9 A Yes, sir. She was seated on one side of the table
10 and I was on the other.

11 Q Did have an occasion to talk to her? About what time
12 was that when she was brought to the police
13 department?

14 A That was around 5 p.m.

15 Q Did you have -- is that your practice? If you found
16 somebody at a scene you've identified as a suspect,
17 do you then -- they're brought to the police
18 department?

19 A Yes, sir.

20 Q And do you, and did you this day, have an occasion to
21 talk to her again there?

22 A Yes, I did.

23 Q You had been told she was advised of her rights
24 before, correct?

25 A Correct.

1 Q And you orally asked her, do you still understand
2 them and do you want to talk?

3 A Yes, sir.

4 Q When you got to the police department, did you have
5 an occasion to advise her of her rights again?

6 A Yes, I did.

7 Q And, specifically, do you have a form that you use --

8 A Yes.

9 Q -- there at the police department? What's been
10 marked State's 8, is that the form you use?

11 A Yes. This is our standard form we use entitled
12 Interrogation/Advice of Rights.

13 Q I want to -- up at the top of that I see three
14 letters, LPN?

15 A Yes, sir.

16 Q LPN. Why is that up there?

17 A I always obtain educational background; LPN being
18 licensed practical nurse.

19 Q Did she tell you she was a licensed practical nurse?

20 A Yes, sir.

21 Q And you are gathering that background or educational
22 background?

23 A Yes.

24 Q And then it's got the place where it is, 1 Justice
25 Square?

1 A Right. It's the address to the police department.

2 Q The date?

3 A Yes. May 11th, 2003.

4 Q And the time?

5 A It's written in military time 17:06 which is

6 5:06 p.m.

7 Q Now, you said you're both at the table?

8 A Yes, sir.

9 Q Can you tell the jury or read to the jury how you
10 read the defendant, Sharon Lisa Smith, her rights
11 that day? Do it like you did it that day.

12 A All right. I'll just basically read from the form
13 word-for-word. It says: "Before we ask any
14 questions you must understand your rights. You have
15 the right to remain silent. Anything you say can be
16 used against you in court. You have the right to
17 talk to a lawyer for advice before we ask you any
18 questions and to have him with you during
19 questioning. If you cannot afford a lawyer one will
20 be appointed for you before any questioning if you
21 wish. If you decide to answer questions now without
22 a lawyer present, you will still have the right to
23 stop answering at any time. You also have the right
24 to stop answering at any time until you talk to a
25 lawyer."

1 Q Now, at any time during reading these rights, did she
2 appear, based on your training, your experience, law
3 enforcement, everyday life, to understand these?

4 A Yes, sir.

5 Q Did she tell you she understood them?

6 A I asked her if she understood, and she said she did.

7 Q Did you have any trouble understanding her when she
8 answered you?

9 A No, sir.

10 Q At this point did she appear to be under the
11 influence of alcohol, drugs, or anything?

12 A No, sir.

13 Q And these are the questions we ask in all these
14 situations?

15 A Right.

16 Q Did you threaten or coerce her, either prior in the
17 den or at this time?

18 A No, sir.

19 Q Did you hold out any promise or hope of reward to get
20 a statement, Investigator?

21 A No, sir.

22 Q After you read her those rights, there's something -
23 and you indicated she said she understood them - -
24 there's a waiver of rights. Read that like you did
25 that day? 240

1 A Like I said, I would have asked her if she understood
2 her rights. She said that she did. I asked her if
3 she was willing to talk to me and she said she was.
4 I then went over the second half which is called
5 waiver of rights. It says: "I have read this
6 statement of my rights, understand what my rights
7 are. I am willing to make a statement, answer
8 questions. I do not want a lawyer at this time. I
9 understand and know what I am doing. No promises or
10 threats have been made to me, and no pressure or
11 coercion of any kind has been used against me."

12 Q So you went over that waiver of rights with her?

13 A Yes, sir.

14 Q And did she sign it?

15 A Yes. I asked her if she understood that portion.
16 She stated that she did. I asked her again if she
17 was willing to talk to me. She stated she was. I
18 then asked her to sign this form indicating that she
19 did understand her rights and was willing to talk to
20 me, and she did sign it.

21 Q And is that -- that's her signature down there?

22 A Yes, sir.

23 Q Sharon L. Smith. And M. W. Vinson, that's you?

24 A Yes.

25 Q And the time at 1241 bottom, 5:10?

1 A Yes, sir.

2 MR. MEADORS: Your Honor, we'd offer this as
3 State's 8.

4 MS. SAMPSON: Without objection.

5 THE COURT: Thank you, ma'am. Without
6 objection, it's admitted.

7 (WHEREUPON, State's Exhibit No. 8 is admitted
8 into evidence.)

9 Q Did you have an occasion to now get a written
10 statement from her?

11 A Yes, sir.

12 Q And do you all have written forms that you use,
13 Investigator?

14 A Yes, we do.

15 Q And looking at the top, do you have the original?

16 A I do.

17 Q I know we marked it before. This is marked State's !
18 I believe for identification already. The top of
19 that form, it's got 5-11?

20 A Yes, sir.

21 Q The date. My birth date is -- would she have given
22 you that information?

23 A Yes, sir.

24 Q And my address and phone number are?

25 A She gave 4107 N242nd Avenue and a phone number.

1 Q Her phone number is 929-0975?

2 A Yes, sir.

3 Q And again for these purposes, did you have any
4 trouble understanding her, or did she appear to
5 hesitate when she was giving you her birthdate or
6 phone number?

7 A No, sir.

8 Q Now, under the first part of this form that says: "I
9 have am giving this statement concerning Stanley or
10 Charles Gibson to M. W. Vinson who identified himself
11 as a police officer", it appears to me; and would you
12 please tell the jury, that there is different
13 handwriting on the front and the bottom there?

14 A Yes, sir.

15 Q Would you explain that?

16 A I basically allowed her to write out -- I told her
17 she could write out her statement. She wrote out
18 just three lines. And then after that I wrote out
19 some questions and answers, and I wrote out the
20 question and then her answer.

21 Q Could we go over the first part that you gave to her
22 and she wrote out?

23 A Okay.

24 Q Can you read that --

25 A All right.

1 Q -- now?

2 A It just states: "Struggle from arrival in door.
3 Stabbing occurred during dispute. Charles had knife
4 in hand. Knife punctured me a little. I did not
5 know puncture was as severe. I called 911 when I
6 realized what was going on. Police officer and
7 stepfather present afterwards."

8 Q So you gave her that and she wrote that out?

9 A Yes, sir.

10 Q And then you asked her some questions?

11 A Right.

12 Q And is that your practice?

13 A Yes, sir.

14 Q And could you -- what was the first question you
15 asked her?

16 A I asked, "What was the original argument about?"

17 Q And her answer?

18 A She said, "It was about the lease and last night."

19 Q The next question: "Who told you they saw him at a
20 club with another woman?"

21 A Her answer was, "Rosalyn Boyles."

22 Q And the next question was: "What happened earlier at
23 Eddie Fogle's house?"

24 A Her answer was, "He brought my clothes over there. I
25 told him there 244 n't any reason for that because

1 Charles wasn't on the lease."

2 Q "What happened from the time you got home around" --
3 is that 2 p.m.?

4 A Yes, sir.

5 Q Okay.

6 A Her answer was: "When I pulled up in Eddie's car,
7 Charles came out. He said I wasn't going to come in.
8 I bumped into his rental car with Eddie's car. He
9 had been standing in the back doorway. He came out
10 after I bumped the car. I walked past him into the
11 house. He was trying to pull me out. He was behind
12 me and I fell down. I fell three or four times
13 before I got up. I was trying to get to the bedroom
14 to show him the lease. He was behind me holding onto
15 me. I was struggling, knocking his arms away. I
16 never saw a knife in his hand. I was going through
17 the drawers in the bedroom looking for the lease. I
18 had already opened drawers in the kitchen looking for
19 the lease. When I was in the bedroom he said, 'you
20 know you done stabbed me.' He fell back on the
21 floor. I already had Patrice Parks on the phone
22 while I was looking for the lease, and when he told
23 me I had stabbed him, she told me to hang up and call
24 911. I hung up and dialed 911. I thought at first
25 he was just havin²⁴⁵ breathing problems because he does

1 have them. My stepfather got there around that time.
2 I changed clothes because I knew we were going to
3 have to go to the hospital."

4 Q "Who did that pistol belong to" was your question?

5 A And her answer was "Charles."

6 Q Question: "Where is it kept at?"

7 A Her answer was "On the shelf where I keep my books."

8 Q "Did you see Charles with it today"?

9 A Her answer was "No."

10 Q "Do you know how it ended up underneath him?"

11 A Her answer was "No."

12 Q "Was he cooking when you got there?"

13 A Her answer was "Yes. One officer cut the stove off.
14 I assumed he was cooking because of the food on the
15 stove."

16 Q "Did you ever have the knife in your hand?"

17 A Her answer was "I picked up the knife off the floor
18 when it was by him. I didn't want to step on it."

19 Q "Did you hold the knife in your hand and stab
20 Charles?"

21 A Her answer was "No."

22 Q Now, this statement consists of four pages?

23 A Yes, sir.

24 Q On the bottom of each statement did the defendant,
25 Sharon Smith, §246?

1 A Yes, she did.

2 Q Did you also sign?

3 A Yes, I did.

4 Q On each one of the pages?

5 A Yes, sir.

6 Q And did you go over this with her after you had taken
7 this statement?

8 A Yes, I did.

9 Q And did she agree with it by signing it, that that's
10 what she put?

11 A Yes, sir.

12 Q And at any time during all of this, Investigator, did
13 she tell you, I don't want to talk?

14 A No, sir.

15 Q Call me a lawyer?

16 A No, sir.

17 Q If she had, would you have done that?

18 A Yes.

19 Q Would you have stopped?

20 A Well, I would have stopped talking to her.

21 Q And at any point during this process, did you
22 threaten or coerce her?

23 A No, sir.

24 MR. MEADORS: Your Honor, we'd offer this as
25 State's 9.

1 **MS. SAMPSON:** Without objection.

2 **THE COURT:** Thank you, ma'am. Without
3 objection, it's admitted.

4 (WHEREUPON, State's Exhibit No. 9 is admitted
5 into evidence.)

6 **Q** Describe her demeanor to these ladies and gentlemen.
7 Her demeanor, describe it?

8 **A** She was somewhat upset but certainly not hysterical
9 or anything like that. I was able to easily
10 communicate with her.

11 **Q** And I believe you testified earlier she told you she
12 wasn't injured in any way?

13 **A** Correct.

14 **Q** Did you observe any injuries on her?

15 **A** No, sir.

16 **Q** Referring back to your notes section I think there,
17 -- can we approach, Your Honor?

18 **THE COURT:** Yes, sir.

19 (Whereupon, a bench conference is had)

20 **THE COURT:** Thank you, counsel.

21 **MR. MEADORS:** Yes, sir.

22 **Q** (By Mr. Meadors) When she was served the murder
23 warrant, --

24 **A** Yes, sir.

25 **Q** -- did she say 248 thing to you then? And you can

1 refer to your notes if you like.

2 A I first read out the affidavit to her which contained
3 the phrase that she had stabbed him at least once.
4 She then asked, "Wasn't the victim stabbed more than
5 once?"

6 Q She asked, "Wasn't the victim stabbed more than
7 once?"

8 A Yes.

9 Q And do you put that down in your notes?

10 A Yes, sir.

11 MR. MEADORS: Beg the Court's indulgence.

12 THE COURT: Certainly.

13 Q (By Mr. Meadors) Officer, referring to the dispatch,
14 the 911 operator, did a 911 call come from 4107
15 Mildred Street?

16 A Yes, it did.

17 Q And does it show when they were routed, if you will?
18 You're experienced in this. Tell me what time does
19 that show that 911 was called and when the police
20 were dispatched and when they arrived?

21 A Date and time received was May 11th, 2003, at
22 14:05:56 which would be 2:05 p.m. and 56 seconds;
23 almost 2:03. I mean 2:06. Called dispatch -- well,
24 it was routed, which I guess means sent to the
25 dispatcher, at 2:02 and 28 seconds, dispatched at

1 2:07 and 54 seconds. The officer acknowledged being
2 in route at 2:11 and 20 seconds and also showing him
3 arrived at 2:11 and 20 seconds. And clearing from
4 the call at 6:36 p.m.

5 Q And we're going to enter a stipulation later. But
6 based on your experience, training, if a 911 -- if I
7 called 911 from my house, would that necessarily
8 appear on my tolls, my phone tolls?

9 A No, sir.

10 Q As a matter of fact, it probably wouldn't most of the
11 time, correct?

12 A Yes, sir.

13 Q But dispatch shows that a call did definitely come
14 clearly from that residence?

15 A Yes, sir.

16 Q And did you have an occasion also in your
17 investigations -- I'm not asking you to go into it --
18 but talk with Mr. Danny Parker, Daniel Parker?

19 A Yes, I did.

20 Q Ms. Patrice Parks?

21 A Yes, I did.

22 Q Mr. Eddie Fogle?

23 A Yes, I did.

24 MR. MEADORS: Beg the Court's indulgence.

25 THE COURT: 250 certainly.

1 Q (By Mr. Meadors) Is the person that told you at the
2 scene on Mildred Avenue specifically that she had
3 stabbed him after they were tussling, is that person
4 in the courtroom?

5 A Yes, she is.

6 Q And is the person in the courtroom that in State's
7 No. 9 told you "I never saw a knife in his hand" and
8 gave you the rest of this statement, is that person
9 in the courtroom?

10 A Yes, she is.

11 Q And is the person who once you served the warrant on
12 her and said "Wasn't he stabbed more than once", is
13 that person in the courtroom?

14 A Yes, she is.

15 Q Would you please point her out for the jury?

16 A She's seated over there at the middle of the defense
17 table.

18 Q Sharon Lisa Smith in the black outfit?

19 A Yes, sir.

20 MR. MEADORS: We'd like the record to so
21 reflect.

22 THE COURT: Yes, sir.

23 MR. MEADORS: Thank you. That's all.

24 THE COURT: Thank you. Ms. Sampson.

25 MS. SAMPSON: Thank you, Your Honor. May it

1 please the Court.

2 CROSS EXAMINATION

3 BY MS. SAMPSON

4 Q Good afternoon, Investigator Vinson.

5 A Good afternoon.

6 Q I believe you said that you arrived on the scene
7 about 40 minutes after the incident had occurred,
8 about 2:40?

9 A 2:40, yes, ma'am.

10 Q And the first thing you did after talking to the
11 officers was to speak to Ms. Smith?

12 | A Yes.

13 Q Okay. And Officer Wilson explained to you she had
14 been advised of her rights at that time?

15 | A Correct.

16 Q And that includes telling her that she does not have
17 to talk to you, correct?

18 | A | Correct.

19 Q And that includes telling her that anything she says
20 will be used against her?

21 | A Correct.

22 Q And after hearing that she talked to you?

23	A	Correct.

24 Q And she was cooperative?

25 | **A** Yes.

1 Q She was calm, as I think everybody has pretty much
2 said?

3 A Yes.

4 Q And she answered all of your questions that you had?

5 A Yes, ma'am.

6 Q You also at that time asked for her consent to search
7 her house?

8 A Correct.

9 Q And she gave you that?

10 A Yes, she did.

11 Q And when she gave you that, you also advised her then
12 that anything you found could be used against her.
13 Is that correct?

14 A Correct. And that's on the form as well.

15 Q That's on the form?

16 A Yes.

17 Q Did you read that form to her before she signed it?

18 A Yes, I did.

19 Q And in that form again it does say that whatever you
20 find you can use against her?

21 A It could be used. Yes, ma'am.

22 Q And she signed it?

23 A Yes, she did.

24 Q And you all proceeded to search the house?

25 A Yes, ma'am.

- 1 Q Okay. And then after doing the consent to search,
2 you spoke. And making sure she had been advised of
3 of her rights, you spoke to Ms. Smith, correct?
- 4 A Yes, ma'am.
- 5 Q All right. And I think you have it up there, but the
6 case summary or your notes, that's the details of
7 what she told you at that time?
- 8 A Yes.
- 9 Q Are you writing it down as she says it?
- 10 A I wrote it down as soon as I could, shortly
11 thereafter.
- 12 Q About how long do you think it was between when she
13 told you and when you wrote it down in your notes?
- 14 A Normally it would be about 15 minutes. It could be
15 as long as an hour.
- 16 Q In this case do you remember how long?
- 17 A Not specifically, no.
- 18 Q And so this would be, fair to say, your remembrance
19 of the conversation?
- 20 A Yes.
- 21 Q Now, in your notes you try to make those as accurate
22 as possible?
- 23 A Yes, ma'am.
- 24 Q As complete as possible?
- 25 A Yes.

1 Q And as best to your recollection exactly what she
2 said?

3 A Yes.

4 Q And in that report, or the notes as you call them,
5 Ms. Smith said the victim was cooking and had a
6 knife?

7 A Correct.

8 Q And that's one of the first things she tells you?

9 A Yes.

10 Q She doesn't say, I never saw a knife. She says he
11 was cooking and had a knife?

12 A Correct.

13 Q Then she says that they tussled?

14 A Yes.

15 Q And that she didn't -- that the victim told her that
16 she had stabbed him?

17 A Correct.

18 Q And that at that point she didn't think it was too
19 serious?

20 A Correct.

21 Q She calls her friend, Patrice Parks?

22 A Right.

23 Q And then she calls 911?

24 A Right.

25 Q Now, the gun was 255nd under Mr. Gibson's right

1 shoulder, correct?

2 A Yes.

3 Q And I believe -- did you ever see the gun before it
4 was taken into evidence?

5 A Yes, I did.

6 Q Did it have blood on it?

7 A I don't recall.

8 Q I want to have you look at -- beg the Court's
9 indulgence. I'm not sure which photograph it is. In
10 State's Exhibit No. 80, that's the gun?

11 A Yes, ma'am.

12 Q And it looks to me that there's some red spots on the
13 handle. And I don't know what part of the gun you
14 would call it. That right there. But the bottom
15 part of the gun?

16 A The trigger.

17 Q So there is definitely blood on it?

18 A It appears to be, yes.

19 Q And it's sitting in a pool of blood, correct?

20 A Right.

21 Q And I know this picture depicts it after Mr. Gibson
22 has been pulled up, correct?

23 A Right.

24 Q But it would have been, as another picture shows, his
25 shoulder would've been on top of it?

1 A Right.

2 Q And then I believe you said you talked to Ms. Smith
3 at the scene. And then about two hours later, at
4 5:00, you talked to her again at headquarters?

5 A Yes.

6 Q And at that time she does an actual written statement
7 with you?

8 A Yes.

9 Q And at first she writes down a little bit, and then
10 you go through a question and answer session?

11 A Yes, ma'am.

12 Q Okay. Now, in that statement that she goes over
13 where you asked her questions, you can ask her as
14 many questions as you want, correct?

15 A Yes.

16 Q And she was cooperative, was she not?

17 A Yes.

18 Q She was answering all of your questions?

19 A Correct.

20 Q At no time did she ask you to stop?

21 A No.

22 Q And that statement I believe Mr. Meadors says is four
23 pages?

24 A Yes.

25 Q And so would it be fair to assume that it's complete

1 as far as you were concerned?

2 A To the best of my ability, yes.

3 Q You didn't feel like you needed to ask her any more
4 questions?

5 A No.

6 Q And if you had of, she was answering them; you could
7 have asked her more questions?

8 A Yes.

9 Q Now, I want to go back a little bit to the scene.
10 You're the lead investigator in this particular case,
11 correct?

12 A Yes.

13 Q You called, or someone calls, O'Grady-Watts or any
14 other crime scene investigator, and they come and do
15 what you ask them to do?

16 A Correct.

17 Q So if there are testing you want done you would ask
18 them to do it?

19 A Yes.

20 Q Or anything you collected, that you wanted collected
21 you would ask them to do it?

22 A Yes.

23 Q And in this case she took a lot of photographs?

24 A Yes.

25 Q And I believe #258 also took some evidence?

- 1 A Yes.
- 2 Q She took the brown dress into evidence, it's my
3 understanding, correct?
- 4 A Correct.
- 5 Q The gun?
- 6 A Yes.
- 7 Q And all of the bullets?
- 8 A Right.
- 9 Q The weapon itself, the knife?
- 10 A Right.
- 11 Q And the towel?
- 12 A Right.
- 13 Q Okay. Now, I want to talk a little bit about the
14 blood. There was blood all around Mr. Gibson?
- 15 A Yes, there was.
- 16 Q Fair to say?
- 17 A Yes.
- 18 Q And, as we've already talked about, there's blood on
19 the gun?
- 20 A Yes.
- 21 Q And there's also blood on the knife?
- 22 A Right.
- 23 Q Correct? And the red dress? I mean, excuse me; the
24 brown dress?
- 25 A Right.

1 Q It had blood on it, too?

2 A Yes.

3 Q I believe we discussed there were droplets of blood
4 on the carpet?

5 A Right.

6 Q And there was blood on the door?

7 A Yes.

8 Q Now, would it be fair to say that some things may
9 look like blood that aren't blood?

10 A Yes.

11 Q And so, therefore, sometimes you have things tested
12 to make sure they are blood?

13 A Yes.

14 Q Did you do that in this case?

15 A No.

16 Q And the knife, did it get tested for blood?

17 A No.

18 Q So you don't know whose blood is on the knife?

19 A Well, we know the only person bleeding at the scene
20 was Mr. Gibson.

21 Q Do you know if the blood on the dress was all Mr.
22 Gibson's blood?

23 A Well, again, he was the only person bleeding at the
24 scene.

25 Q Did you test it₂₆₀ for DNA?

1 A No.

2 Q So you don't know to a degree of certainty by a
3 medical expert or anybody else that all of the blood
4 that was on that dress was Mr. Gibson's?

5 A Correct.

6 Q To the blood on the gun, the same thing?

7 A Yes.

8 Q All right. And the blood spots on the floor, do you
9 even know for a fact that that's blood?

10 A Well, I mean, it appeared to be blood and fresh blood
11 as well.

12 Q And I understand the blood around his body. I am not
13 disputing that blood was Mr. Gibson's blood. I'm
14 talking about the blood droplets in the hallway.
15 There was some on the carpet?

16 A Well, again he was the only person bleeding in the
17 house, and the blood was --

18 Q Did that blood get tested?

19 A No.

20 Q The blood on the door, did it get tested?

21 A No, it didn't.

22 Q Okay. But those tests could have been done?

23 A They could have been done. Yes, ma'am.

24 Q And you stated that Ms. Smith told you she didn't
25 have any injuries261

1 A Yes.

2 Q And you didn't see any?

3 A Correct.

4 Q Did you check under her clothes?

5 A No, I didn't.

6 Q Would it be fair to say that if she'd had bruising it
7 might not have shown up two hours later but it could
8 have shown up later?

9 A Yes.

10 Q Did you go back the next day and look to see if she
11 had any bruising?

12 A No.

13 Q Did you go back the next day and ask her did she find
14 any cuts?

15 A No.

16 Q Did you look in her hair to see if she had any bumps
17 or bruises in her hair?

18 A Like I say, I asked her if she had any injuries. She
19 told me she did not. And I didn't --

20 Q Do people sometimes find injuries later?

21 A Occasionally they do.

22 Q But you didn't go back and ask her?

23 A No.

24 Q And Ms. Smith actually told you she changed clothes,
25 correct?

1 A Yes.

2 Q And they were found in a closet. They weren't hidden
3 or anything, were they?

4 A No.

5 Q Now, I believe Technician Watts, O'Grady-Watts, has
6 testified about the dress being out and that that was
7 the way she found it. Did you see it at all?

8 A I remember just looking at it briefly that day.

9 Q What about the -- I believe again she testified that
10 there weren't any female items except for maybe in a
11 box. Did you look for any other female items?

12 A No, I didn't.

13 Q And there has been discussion about the house being
14 clean. Was the bedroom very orderly or a little
15 disorganized?

16 A It seemed fairly organized.

17 Q Weren't there drawers missing out of some of the
18 bureaus or cabinets?

19 A I don't recall. There may have been.

20 Q Was the bed, the photos of the bed, was that the way
21 it looked to you that day?

22 A Yes.

23 Q You all didn't put that stuff that's on the bed on
24 it?

25 A No. I didn't. I263an, I can't speak for anyone

1 else. But not that I'm aware of.

2 Q So to the best of your knowledge, no police officer
3 put the items on the bed that were on the bed?

4 A Correct.

5 Q State's Exhibit No. 73, do you know if that's the
6 third bedroom or if that's the bedroom where the
7 incident occurred?

8 A Let me see. It's not the bedroom where the incident
9 occurred. No, ma'am. I'm not --

10 Q But there are items in that photograph in the corner,
11 correct?

12 A Yes.

13 Q And I believe you can only see a corner of it; but on
14 State's Exhibit 74, that's the bed?

15 A Yes.

16 Q And I know there's just some things laying on it. Do
17 you remember if there were other items on the bed?

18 A No.

19 Q But that's the way that it appeared to you that day?

20 A Yes.

21 Q And this closet, this is the other bedroom, correct?
22 This isn't the bedroom where the incident took place
23 That's State's Exhibit No. --

24 A 82.

25 Q -- 82?

1 A Correct. Yes.

2 Q And it's got clothes kind of strewn about. Would you
3 agree?

4 A Yeah. They're shoved in the bottom of the closet.

5 Q Okay. Thank you. This is State's Exhibit No. 86.
6 This is the actual knife?

7 A Yes.

8 Q Did you all check to see if there were any other
9 knives in the house?

10 A They did look through the kitchen drawers. I don't
11 know what exactly they found.

12 Q So you don't know if there were any other knives?

13 A Right.

14 Q Now, Ms. Smith, it's been said that she said, "I did
15 it." Did she ever tell you, I stabbed Charles, using
16 those words?

17 A No, ma'am.

18 Q Did she ever tell you that she did this in
19 self-defense?

20 A No.

21 Q In fact, she never even told you Charles had a gun,
22 correct?

23 (Cell phone rings)

24 A That's correct.

25 THE COURT: 265 sorry, counsel. Sir, give your

1 phone to the bailiff. I apologize, counsel.

2 MS. SAMPSON: That's okay.

3 Q (By Ms. Sampson) She never told you that she had a
4 gun, correct?

5 A Correct.

6 Q She never told you that Charles had a gun?

7 A Correct. When I asked her, she said she never saw
8 the gun. Neither one of them had the gun that day.

9 Q And until you all brought it up, she never brought up
10 there being a gun?

11 A Correct.

12 Q Now, there seemed -- I don't want to put words in
13 your mouth. In your notes it says she tells you she
14 saw him with a knife, he was cooking?

15 A Correct.

16 Q And later in her statement she never says -- she says
17 I never saw him with a knife?

18 A She said she didn't see the knife in his hands.

19 Q In his hands. Did you ever ask her any more
20 questions about that?

21 A No.

22 Q Or you just left it at that?

23 A I never asked any more questions about that.

24 MS. SAMPSON: Beg the Court's indulgence.

25 THE COURT: 266 es, ma'am.

1 Q (By Ms. Sampson) Oh, and just one other thing. That
2 comment about there being -- she thought that there
3 was more than -- what exactly did she tell you about
4 the stab wounds, the number, that last comment?

5 A When I read the warrant affidavit, the affidavit
6 stated that she stabbed him at least once; she stated
7 something to the effect of: "Wasn't there more than
8 one stab wound?"

9 Q Did you ask her why she thought that?

10 A No.

11 MS. SAMPSON: No further questions, Your Honor.

12 MR. MEADORS: Just a few follow-up, please, sir,
13 if it pleases the Court.

14 THE COURT: Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. MEADORS

17 Q Ms. Sampson was just asking you about what I call the
18 first oral statement at the den she gave you?

19 A Yes.

20 Q Are you with me? And I believe she was asking you or
21 had told you that the victim was apparently cooking
22 and he had a knife?

23 A Correct.

24 Q Was it that same conversation where you asked her if
25 the knife was ever in her hand and she stated, "I

1 don't know"? That was at the den?

2 A Yes, sir.

3 Q "I don't know"?

4 A Right.

5 Q Now, she asked you about this knife also. At my
6 request did another officer with the Columbia Police
7 Department test this for fingerprints?

8 A Yes.

9 Q And also the firearm?

10 A Yes, sir.

11 Q And at some point in here she said, "I never saw a
12 knife", didn't she?

13 A Right.

14 Q In one of the statements she said, "I never saw one"?

15 A Right.

16 Q Do you know how that gun got there?

17 A No, sir.

18 Q It wasn't fired?

19 A No, sir.

20 Q She told you she never -- didn't even see it, right?

21 A Correct.

22 Q I believe she asked you did you ask her any more
23 questions than these. When she -- you gave her this,
24 that's what she wrote, those three things?

25 A Yes, sir.

1 Q And that's all she wrote?

2 A Right.

3 Q And she asked you, she never said anything about
4 self-defense?

5 A No, sir.

6 Q Who was bleeding at that house?

7 A Mr. Gibson.

8 Q Where were you when you asked her, "Do you have any
9 injuries?"

10 A At the house.

11 Q At the house you said, "Do you have any injuries?"

12 A Correct.

13 Q What words came out of her mouth?

14 A She indicated she did not. No.

15 Q She said no?

16 A Right.

17 Q Did you see any on her?

18 A No, sir.

19 Q Does she look today like she did then?

20 A Yes, sir.

21 Q Is her head made out like it was then?

22 A The hair is different.

23 MR. MEADORS: Your Honor, we'd offer State's ...

24 COURT REPORTER: 87.

25 MS. SAMPSON: 269 Your Honor.

1 **THE COURT:** Yes, ma'am.

2 **MS. SAMPSON:** Are you introducing it? I'm
3 sorry.

4 **MR. MEADORS:** I was going to, yeah.

5 **MS. SAMPSON:** May we approach?

6 **MR. MEADORS:** Can I have it marked first?

7 **THE COURT:** Yes, sir.

8 (WHEREUPON, State's Exhibit No. 87 is marked for
9 identification.)

10 (Whereupon, a bench conference is had)

11 **THE COURT:** Thank you, counsel.

12 **MR. MEADORS:** Thank you.

13 **Q** Showing you what's State's 87 for I.D., is that the
14 defendant, Sharon Lisa Smith, as she appeared that
15 afternoon?

16 **A** That is her.

17 **Q** Is that the way she appeared that afternoon? Yes or
18 no?

19 **A** Yes.

20 **Q** Okay. And was her hair different?

21 **A** Than it is now; yes, sir.

22 **Q** Fair to say not made up there?

23 **A** Correct.

24 **MR. MEADORS:** Beg the Court's indulgence.

25 **THE COURT:** 270 es, sir.

1 Q (By Mr. Meadors) She asked you if she ever said
2 self-defense, correct?

3 A I'm sorry?

4 Q She asked you if she'd ever claimed self-defense, and
5 you said no, correct?

6 A Correct.

7 Q She never said it was an accident either, did she?

8 A No, sir.

9 Q Thank you. That's all.

10 THE COURT: Thank you, sir. Anything further
11 from the defense?

12 MS. SAMPSON: No, sir.

13 THE COURT: Thank you, ma'am. Investigator, you
14 may step down. Thank you. Solicitor, does the State
15 have anything further to fit in before we break, or
16 is this a good --

17 MR. MEADORS: This would be good time I think,
18 Your Honor, if, Your Honor, it's okay with you.

19 THE COURT: Yes, sir. All right, ladies and
20 gentlemen. We're going to break until 2:00. I'm
21 going to let you all go to lunch. Obviously, like
22 yesterday, do not discuss any evidence or testimony
23 you've heard thus far. You all enjoy lunch. We'll
24 see you all back in the jury room at 2:00 and be
25 ready to go then. 271

1 We'll talk about timing and everything,
2 scheduling and everything. I still anticipate you
3 all getting out about the same time today possibly.
4 We'll talk about scheduling while you all are at
5 lunch. And we'll see you all at 2:00 in the jury
6 room.

7 (Jury out at 12:37 p.m.)

8 **THE COURT:** Thank you, sir. I know there were a
9 few things we need to take up. Ms. Ahrens wanted to
10 put some other grounds on the record as to her
11 objection earlier, and I wanted to get that on the
12 record first.

13 **MS. AHRENS:** Yes. Certainly, Your Honor. There
14 was a photograph that was admitted over defense
15 objection of the body of Mr. Gibson. And our
16 argument was that it was cumulative because there's
17 already been a photograph of the body admitted and
18 that that's particularly problematic here because
19 it's very prejudicial; it's not probative of
20 anything. We're not arguing that the body was moved.
21 We're not arguing anything that the State says about
22 where the body was found, what position it was in,
23 the blood that surrounded the body, that any of that
24 is factually incorrect.

25 Given that²⁷²ere was already a photograph of

1 that body admitted, I believe it's both cumulative
2 and prejudicial. I know that all of us are quite
3 jaded about looking, unfortunately, at pictures of
4 dead bodies at this point, but I don't think that
5 your average person on the street, fortunately, is.
6 I think for that reason it's prejudicial to introduce
7 a number of photographs, particularly where they
8 don't have any specific relevance.

9 **THE COURT:** Anything?

10 **MR. MEADORS:** Judge, for the record, I just --
11 we withdrew -- I can't -- numerous that show --

12 **THE COURT:** No. 4.

13 **MR. MEADORS:** -- close ups. Not only No. 4 but
14 other ones that showed a close up of the body of
15 Mr. Charles Gibson. We didn't even offer them. We
16 think this is a distance shot. We may be arguing the
17 body was moved. I don't know, Judge. But this is a
18 different view of the body which some of our first
19 witnesses identified this particular defendant, these
20 two, as the body being in that connection. We don't
21 think it's prejudicial at all. It was a distance
22 shot. And that's why we ask Your Honor to consider
23 it. Thank you.

24 **THE COURT:** Thank you, counsel. I obviously
25 admitted it during²⁷³ the examination of the witness and

1 was going to give Ms. Ahrens a chance to put her
2 grounds that we discussed at side bar on the record.
3 I obviously found I did not believe that it was
4 cumulative to the point of needing to exclude it
5 based on that ground.

6 And I did not think that based on the previous
7 evidence that I've seen in this case or the
8 particular photo at issue here that it was more
9 prejudicial or likely to elicit any emotional
10 response from the jury other than obviously it is a
11 deceased person.

12 And, Ms. Ahrens, you are right. Sometimes we do
13 get a little jaded. I tried to look at those photos
14 from the point of view of the average juror sitting
15 there. But I in this case do not find that it was
16 more prejudicial than probative of the facts in this
17 case. I believe there may have been one or two other
18 things?

19 **MS. SAMPSON:** I don't know if you wanted us to
20 do that now or come back. I know that Mr. Meadors
21 wanted to get some case law as far as to the booking
22 photo.

23 **THE COURT:** Yeah. We'll talk about that. As I
24 understood it though, there was some issue of defense
25 counsel referring to some other photos that may have

1 related to some --

2 MS. SAMPSON: Oh. I can put that on the record.

3 THE COURT: -- non-injuries. I just haven't
4 seen all of them. I'm not sure.

5 MS. SAMPSON: Your Honor, my understanding is
6 they want to offer the booking photo of Ms. Smith in
7 order to show that she had no injuries. The State's
8 Exhibit No. 48 and 47 -- may I approach?

9 THE COURT: Yes, ma'am.

10 MS. SAMPSON: -- are close up shots of Ms.
11 Smith. And then No. 87 is the booking photo.
12 They're all taken on the same day. The two that were
13 done, I believe they were done at the incident
14 location, and then the other one is a booking photo
15 hours later depicting the same thing. I believe they
16 also took, but I don't think they entered it into
17 evidence, pictures of her hands. So they have other
18 pictures they could use that aren't booking photos.

19 As we discussed at the bench, there is case law,
20 and I didn't bring it with me but I will have it when
21 we come back, that says mug shots or booking photos
22 are per se inadmissible.

23 THE COURT: Ms. Sampson, we've gone roughly a
24 day and a half now and you haven't produced a copy of
25 a case yet. 275

1 **MS. SAMPSON:** We have a whole rest of the day to
2 go. No. But we will have case law on that point if
3 Your Honor needs it.

4 **THE COURT:** I know what you're referring to.
5 But I'll be glad to look at anything from both sides.

6 **MR. MEADORS:** I have a bunch of cases right
7 here, Judge.

8 **THE COURT:** I will give you all a chance both to
9 look at it some more. And we'll talk about it when
10 we come back from lunch.

11 **MS. SAMPSON:** Your Honor, I do not -- it's taken
12 a little bit longer than I guess we all thought that
13 it would be. I do not anticipate arguing and
14 charging this afternoon. I think we probably will
15 get there tomorrow morning. Do you want us --

16 **THE COURT:** Yeah, I was just thinking that.

17 **MR. MEADORS:** Whatever Your Honor says.

18 **THE COURT:** Sure. I didn't want to send you all
19 out with the jury late this afternoon. Timewise, I
20 think we're in good shape. So, you know, I certainly
21 think possibly we could get through all the evidence
22 and testimony today and let you all argue and charge
23 in the morning. That will give us a chance to talk
24 about the charges anyway.

25 **MS. SAMPSON:** That's what I was going to ask.

1 Did you want us to bring them at the end of the day
2 or not?

3 **THE COURT:** I'll let you all bring them at the
4 end of the day when we break. As I've tried to do, I
5 try to give you all a copy of the actual charges
6 before your closing. And you can have a chance to
7 talk about those, incorporate them. I'll get you all
8 a copy. We'll see you all at 2:00.

9 **MR. MEADORS:** Thank you, sir.

10 **THE COURT:** Thank you all.

11 **MR. MEADORS:** Oh, Judge, as again, I know Your
12 Honor is continuing her on bond for right now?

13 **THE COURT:** Yes, sir. I will keep her on.

14 **MR. MEADORS:** No problem.

15 (Whereupon, a lunch break is taken)

16 (WHEREUPON, State's Exhibit No. 88 is marked for
17 identification.)

18 **THE COURT:** All right, Mr. Meadors. I'm sorry
19 to delay you all.

20 **MR. MEADORS:** No, sir, Your Honor.

21 **THE COURT:** I had some meetings in chambers with
22 a couple of things as well. I understand, Ms.
23 Sampson, you needed a chance in discussions with Mr.
24 Meadors to talk about the new --

25 **MS. SAMPSON:** 277 already did. That's been

1 handled.

2 THE COURT: You got all that done?

3 MS. SAMPSON: Yes, sir.

4 THE COURT: Thank you all.

5 MR. MEADORS: I'm just going to mark one other
6 thing for the ...

7 (WHEREUPON, State's Exhibit No. 89 is marked for
8 identification.)

9 MR. MEADORS: The State's ready, Your Honor.

10 THE COURT: Thank you, counsel. Is defense
11 ready?

12 MS. SAMPSON: We're ready, Your Honor. I'm
13 sorry.

14 THE COURT: Thank you. That's all right. All
15 right. We'll bring the jury up.

16 (Jury in at 2:45 p.m.)

17 THE BAILIFF: The jury is all present, Your
18 Honor.

19 THE COURT: Thank you, sir. Thank you, ladies
20 and gentlemen. Again, I apologize. It absolutely
21 was nothing related to this case or counsel here as
22 the reason for the delay in bringing you all out.
23 There were some other matters I had to deal with
24 before you all came out here and then we had to deal
25 with some other matters and get them out of here

1 before we could bring you all out. And I apologize
2 sincerely to you all for the delay in bringing you
3 out. But we are ready to continue at this point.
4 And if the State is ready, they can call their next
5 witness.

6 MR. WAGONER: The State would call MPO W. C.
7 Rose.

8 WALTER ROSE, after being duly sworn, testifies
9 as follows:

10 THE CLERK: Thank you. Please have a seat in
11 the witness stand and state your full name for the
12 record.

13 WITNESS: My name is Walter Rose.

14 DIRECT EXAMINATION

15 BY MR. WAGONER

16 Q Could you just introduce yourself to the jury, tell
17 them where you're from?

18 A Oh, I'm sorry. I'm pretty much from Columbia; been
19 here at the Department since 1990.

20 Q Where did you grow up?

21 A Southeast Columbia, Lower Richland area.

22 Q Where are you currently employed?

23 A The Columbia Police Department.

24 Q What is your current position there?

25 A I am working in t₂₇₉ crime scene investigations.

1 Q Now, as part of your job, do you do fingerprinting?

2 A Yes, sir.

3 Q Have you received some sort of training for that?

4 A Yes, sir. It's an eight-hour course for recovery of
5 latent prints.

6 Q What types of prints are there?

7 A That course is for recovering latent and doing inked
8 prints.

9 Q Can you describe those two types of prints?

10 A The latent prints, that would be a print left on an
11 object by someone that touches it of course that
12 requires another process to develop it and collect it
13 for comparison. And an inked print is a print that
14 you would take someone's hand and put in ink and
15 place on a card so you would leave their print with
16 ink.

17 Q Now, you say for latent prints processing and
18 collecting, how would one go about doing that?

19 A You'd use fingerprint dust. You would apply
20 fingerprint dust on an area you believe they have
21 touched. If there is any print, any ridge detail,
22 anything that the dust would stick on, the oils from
23 the fingerprint, you would see it and then you would
24 use a piece of lifting tape. It's a clear piece of
25 tape with adhesive on the end, on the back of it to

1 lift the powder that has been left on the ridges of
2 the fingerprint.

3 Q Are different surfaces better for fingerprints?

4 A Yes. For fingerprint dust, yes. Smooth surfaces for
5 fingerprint dust.

6 Q Okay. At some point were you requested to do
7 fingerprint analysis, to -- actually, strike that.
8 The State would move MPO W. C. Rose as an expert in
9 fingerprinting.

10 MS. SAMPSON: Your Honor, I think he moved to
11 have this investigator as an expert in
12 fingerprinting?

13 THE COURT: Any objection? I'm sorry.

14 MS. SAMPSON: Maybe I didn't hear it, but I
15 don't think he went over his training in that
16 particular area. So I would object at this point.

17 THE COURT: Do you want to Voir Dire him on his
18 qualifications a little bit more?

19 Q (By Mr. Wagoner) Can you describe your specific
20 training as to fingerprint and fingerprint
21 collection?

22 A Yes. It was around 1999, we had an eight-hour
23 fingerprint course to collect, develop and collect
24 fingerprints, latent fingerprints from crime scenes.
25 That course is designed for street units to have so

1 they can receive a kit to process crimes:
2 Burglaries, auto breakings and crime scenes. That's
3 the only training I've had for collecting.

4 Q I assume that -- have you done fingerprint analysis
5 or lifting before you joined your current unit?

6 A Yes, sir. Since that class until now.

7 Q How many times would you say in the past that you
8 have collected --

9 A Oh, several. I couldn't put a number on it.

10 Q Can you estimate?

11 A Hundreds. I mean, it's -- I couldn't give you a
12 number.

13 Q It's too big for your mind? It's too big?

14 A Pretty much. It's pretty much every auto breaking
15 and burglary you would receive while you're working
16 in your whole region.

17 Q And so you've worked a whole lot of cases with
18 fingerprints?

19 A Well, lifting prints, yes.

20 **MR. WAGONER:** The State would move MPO W. C.
21 Rose as an expert in fingerprint collection.

22 **THE COURT:** Any objection or requested Voir
23 Dire?

24 **MS. SAMPSON:** I'm not sure he needs to be an
25 expert, but that's fine, Your Honor. I don't have a

1 problem with it.

2 **THE COURT:** Okay. I'll find him qualified as an
3 expert in that area. Ladies and gentlemen, just so
4 you all know, and I'll explain this to you more at
5 the conclusion of the case when I charge you on the
6 law. Generally, witnesses cannot give their opinions
7 or conclusions. There are some exceptions to that,
8 one of which is in the instance when somebody is
9 qualified as an expert in some field.

10 It doesn't change how you all evaluate the
11 testimony as jurors, and I'll explain that to you in
12 more detail, but it does allow that witness to state
13 opinions and conclusions during their testimony. So
14 that's all you all probably need to know at this
15 point. But I'll explain that more to you at the
16 conclusion.

17 I'll find him so qualified though. He can
18 testify as an expert in the area of fingerprinting.
19 Mr. Wagoner.

20 **MR. WAGONER:** Thank you, Your Honor.

21 **Q** (By Mr. Wagoner) At some point were you asked to do
22 some fingerprint analysis involving this case?

23 **A** Yes, sir.

24 **Q** Can you tell me what you did?

25 **A** Yes, sir. A request came to the unit to process

1 the -- a pistol and a knife.

2 MR. WAGONER: May I approach the witness?

3 THE COURT: Yes, sir.

4 Q (By Mr. Wagoner) I'm handing you State's 86 and 85.
5 If you could look at those, open the boxes. Do you
6 recognize those items?

7 A Yes, sir.

8 Q What are those items?

9 A That's the .32 caliber pistol and the knife.

10 Q What did you do with those items?

11 A These are two knives I processed for the
12 fingerprints.

13 Q Now, you're saying "processed". How did you go about
14 processing them?

15 A Well, once I received them, they had another
16 substance on them. I believed it to be blood. So I
17 had swabbed a little bit of the blood just to have
18 that so I wouldn't contaminate it with fingerprint
19 dust.

20 Q Do you recall when you did that?

21 A It was on the 24th of last month, in May.

22 Q 2005?

23 A 2005. And then once I started to -- I used magnetic
24 dust to dust the blade, the handles and the whole
25 gun, to include the handle, trigger area, cylinder

1 and barrel area with the magnetic dust. And I was
2 not able to see any type of fingerprint. It didn't
3 stick to anything on the gun.

4 Q In your experience, if an object is kept in the same
5 condition as it was, would that have any outcome or
6 bearing on the fingerprint?

7 A No. It should not.

8 Q It should not?

9 A No, sir.

10 Q Now, since you're in -- you have a lot of experience
11 in the collection of fingerprints?

12 A Yes, sir.

13 Q Would wiping something off affect fingerprints?

14 A Yes, sir.

15 Q What affect would it have on it?

16 A Well, it could smear it. It would ruin the ridge
17 detail of the fingerprint and we couldn't identify
18 it.

19 Q So it would make it more or less likely to have one?

20 A Well, less likely.

21 Q So you found no identifiable prints on the knife or
22 the gun in this case?

23 A No, sir. I didn't find any, any.

24 MR. WAGONER: No further questions.

25 THE COURT: 2851k you, sir. Ms. Sampson.

1 **MS. SAMPSON:** Thank you, Your Honor. May it
2 please the Court.

3 CROSS EXAMINATION

4 **BY MS. SAMPSON**

5 **Q** Good afternoon, Officer Rose.

6 **A** Hi.

7 **Q** All right. On this knife, you said that you didn't
8 find anything, any prints on the knife?

9 **A** No, ma'am.

10 **Q** And you didn't find any on the gun?

11 **A** No, ma'am.

12 **Q** And you said there was blood on the gun?

13 **A** I believed it to be; yes, ma'am.

14 **Q** So it wasn't wiped down, was it?

15 **A** It may not have been.

16 **Q** Okay. Because there was blood on it?

17 **A** Right.

18 **Q** And, foreseeably, if it was wiped down, the blood
19 would have been wiped off, too?

20 **A** Sure.

21 **Q** Now, the knife, it has blood on it as well, correct?

22 **A** Yes, ma'am. On the blade area.

23 **Q** On the blade. Did you fingerprint the blade?

24 **A** Yes. Oh, I put the fingerprint powder on the whole
25 knife. Yes, ma286.

1 Q And you didn't find any fingerprints?

2 A No, ma'am.

3 Q Now, you were talking a little bit with Mr. Wagoner,
4 and I think he might have cut you off, about ridge
5 detail. If somebody just wipes it, they can still
6 leave ridge detail, right? It would just be
7 unidentifiable?

8 A True.

9 Q So it would leave a smudge or something?

10 A Yes, ma'am.

11 Q Correct?

12 A Yes, ma'am.

13 Q If it was just wiped?

14 A It can.

15 Q So what you would have put on there if that had
16 happened would be that it was unidentifiable?

17 A Yes, ma'am.

18 Q But on your report it says that no latent
19 fingerprints were found?

20 A Right.

21 Q So there wasn't any evidence that it had been smudged
22 or anything like that?

23 A No, ma'am. I didn't find anything.

24 MS. SAMPSON: Beg the Court's indulgence.

25 THE COURT: 287 ma'am.

1 MS. SAMPSON: No further questions.

2 THE COURT: Thank you, ma'am. Mr. Meadors?

3 MR. MEADORS: That's all. Thank you.

4 THE COURT: Sir, you may step down. Thank you,
5 sir.

6 MR. WAGONER: May this witness be excused?

7 MS. SAMPSON: No objection.

8 THE COURT: Without objection, you're free to
9 come and go as you please, sir. All right, sir. The
10 State may call their next witness.

11 MR. MEADORS: If it pleases Your Honor?

12 THE COURT: Yes, sir.

13 MR. MEADORS: At this time the State would call
14 Dr. Clay Nichols.

15 DR. CLAY A. NICHOLS, after being duly sworn,
16 testifies as follows:

17 THE CLERK: Thank you. Please have a seat in
18 the witness stand and state your full name for the
19 record.

20 WITNESS: Clay Allen Nichols, N-I-C-H-O-L-S.

21 DIRECT EXAMINATION

22 BY MR. MEADORS

23 Q Good afternoon, Dr. Nichols.

24 A Good afternoon.

25 Q Would you please introduce yourself; and as you're

1 doing that, tell the jury about your educational
2 background and specifically your educational
3 background in the field of the expertise you're here
4 to talk about today?

5 **MS. SAMPSON:** Your Honor.

6 **THE COURT:** Yes, ma'am.

7 **MS. SAMPSON:** Just for clarification purposes
8 and to try to speed this up a little bit, I will
9 stipulate to Dr. Nichols being an expert in the field
10 of pathology or whatever field he would like him to
11 be qualified as an expert in. He does not need to go
12 into his qualifications. We're not disputing his
13 findings in any way, nor are we going to present an
14 expert with any other differences of opinion from Dr.
15 Nichols.

16 **THE COURT:** Most of the time they like to at
17 least give the jury a little background on them.

18 **MR. MEADORS:** I'll be very brief. And we're
19 going to offer him in the field of forensic
20 pathology.

21 **MS. SAMPSON:** That's fine, Your Honor.

22 **THE COURT:** Okay. Without objection, he's so
23 qualified. If you want to introduce him a little bit
24 to the jury, I'll let you do that.

25 Q **(By Mr. Meadors)** 289 I've now been accepted as an

1 expert in the field of forensic pathology. How many
2 times have you testified as an expert?

3 A Numerous times. Several hundred.

4 Q And have you been offered in courts of records of
5 this state and not been found qualified?

6 A No.

7 Q And when you say "numerous" you really mean numerous?

8 A Numerous, yes.

9 Q And tell the folks just generally, what is pathology
10 and the difference between pathology and forensic
11 pathology?

12 A Pathology is the study of medicine that uses
13 laboratory methods for diagnosis. It's like any sort
14 of other branch of medicine. I went to med school
15 for four years, University of Oklahoma, graduating in
16 1985. After that, instead of specializing in patient
17 care, we specialize in laboratory medicine. And I
18 entered a residency program after med school here at
19 MUSC in Charleston, completing that in 1990 in both
20 anatomic and forensic pathology.

21 And essentially what I do is autopsies. And I
22 have specific training in doing autopsies on people
23 who die of suspicious or unnatural deaths. I am
24 board certified by the American Board of Pathology in
25 both anatomic and forensic pathology. And I also

1 hold an unrestricted license to practice medicine and
2 surgery in this state.

3 Q Do you all, when I say you all, it's a general term,
4 pathologists -- are they sent samples to determine if
5 someone may have cancer?

6 A Yes, sir.

7 Q But in your particular field here today, forensic
8 pathology, it's primarily in autopsies?

9 A I do almost 100 percent autopsy practice.

10 Q Now, do you like to get the body in as similar a
11 condition as it was at the crime scene?

12 A That would be nice, yes.

13 Q Okay. Tell them why?

14 A One of the things that we do is that we examine the
15 body looking for the presence or absence of any
16 significant finding which may indicate how the person
17 died. The better the preservation, the quicker we
18 can get the body into the morgue, the better off
19 we're going to be. That doesn't mean it's always
20 like that or that we can't make do with how the body
21 lies, but usually the quicker the better.

22 Q Do your folks go to -- do you go to the scene any?

23 A On occasion.

24 Q And were you requested in this particular autopsy by
25 our coroner, Gary 291ts, to do an autopsy?

1 A Yes, I was.

2 Q And specifically, was that on May 12th of 2003?

3 A Yes, it was.

4 Q And tell them -- they may know -- but where is the
5 morgue? I mean, where do you work?

6 A Basically in the basement of Richland Memorial
7 Hospital.

8 Q And on May 12th, 2003, Doctor, did you have an
9 occasion to examine and perform an autopsy on the
10 body of Charles Gibson?

11 A Yes, I did.

12 Q And for record purposes, for identification only,
13 Your Honor, I have showed it to the defense, is this
14 the body of Charles Gibson you performed the autopsy
15 on?

16 A Yes, it is.

17 Q What's the first thing you do; and specifically, what
18 did you do this day when you had the body of Charles
19 Gibson?

20 A We do an external examination, meaning that we look
21 at the body on the outside before we start the
22 dissection on the inside.

23 Q And are pictures taken, doctor?

24 A Yes, they are.

25 Q And can you tel292 - kind of go through your

1 examination with the jury as you did it?

2 A Sure. Essentially you start from the top of the head
3 and you work your way down. If there is anything in
4 particular of interest, that's noted. Then it's gone
5 back and measured and documented and photographed as
6 necessary. Do you want me to do the external
7 description or --

8 Q Please.

9 A Okay.

10 Q And you are provided with a summary from I guess
11 either the Coroner's Office --

12 A The Coroner's Office and investigating officers.

13 Q And so you kind of -- you have an idea -- I know you
14 weren't there, but you know what the allegations are,
15 so to speak?

16 A Yes.

17 Q And then you examine the body. Is that correct?

18 A That's correct.

19 Q Your external examination, please tell the jury about
20 that?

21 A Specifically, a stab wound is identified in the left
22 chest wall and will be further described under
23 evidence of injury. Otherwise, this is a body of a
24 well-developed, well-nourished black male appearing
25 compatible with st₂₉₃d age, which I was given as 49

1 years of age.

2 The height is 68 inches and the weight is
3 estimated between 180 and 190 pounds. The rigor is
4 full and generalized. And rigor or rigormortis is
5 stiffening of the body after it dies. No lividity is
6 appreciated. Lividity is the settling of blood to
7 the lower parts of the body, giving a purple
8 coloration to those areas.

9 The body is identified by the Coroner's Office
10 and is covered by gray/black hair. The face is
11 atraumatic which means there are no injuries to the
12 face. The irides or the color of the eye are brown.
13 The pupils are equal to 0.2 each which is a normal
14 diameter. The sclera and conjunctiva are
15 unremarkable. And those are basically the whites of
16 the eyes.

17 There is no evidence of the trauma to the nose,
18 mouth or ears. No mustache, goatee are present. The
19 neck is free of trauma or masses. The chest, abdomen
20 and posterior aspects are appropriately developed.
21 Of note there is a 2.5 inch vertical scar over the
22 lumbar spine which is the lower back. The genitals
23 are those of a normal adult male. There is no
24 evidence of trauma or discharge to the genitals or
25 anus. And the 294^{er} and lower extremities are

1 appropriately developed, and no defensive injuries
2 are present.

3 Q And are you kind of -- are you dictating this as
4 you're examining?

5 A No. I take notes and then I go back to my office and
6 dictate.

7 Q So basically on your initial external examination of
8 Charles' body, you found no injuries, facial injuries
9 or what you would call defensive wounds, correct?

10 A That's correct.

11 Q Now, did you next have an occasion to examine
12 specifically a stab wound?

13 A Yes, I did.

14 Q Tell the jury about that, please?

15 A There is a single stab wound located to the left mid
16 chest at a distance of 15 inches from the top of the
17 head and two inches to the left of mid-line. The
18 wound is vertical with a dull edge at the 12:00
19 position and a sharp edge at the 6:00 position. The
20 wound is distorted by drying. Reapproximating the
21 wound shows the wound to be 0.75 by 0.09 inch
22 greatest dimensions.

23 The knife enters the chest at this point with
24 subsequent transection of fracture of the left third
25 rib. There was perforation of the pericardial sac

1 and perforation of the anterior left ventricle of the
2 heart. There is an associated pericardial and left
3 thoracic cavity hemorrhage.

4 I examined the knife which was presented to me
5 which was a steak type knife with a black plastic
6 handle. The blade is 5 inches in length, 0.8 inch in
7 width and 0.6 inch in thickness, and blood is found
8 to cover the blade.

9 In addition, there was a minor bruise to the
10 right anterior biceps measuring 1 by 0.4-inch.

11 Q And you say a bruise. That was where?

12 A On the biceps.

13 Q Is that what you're referring to there?

14 A Yes, sir.

15 Q Do you know when that was -- well, do you have any
16 idea of how long that had been there?

17 A It's relatively recent, but exactly when it happened,
18 I can't date that type of injury.

19 (WHEREUPON, State's Exhibit No. 90 is marked for
20 identification.)

21 MR. MEADORS: Your Honor, we'll now offer
22 State's 90.

23 MS. SAMPSON: To objection to that particular
24 one.

25 THE COURT: 296 Thank you, counsel. Without

1 objection, it's admitted.

2 MR. MEADORS: That was 90, Judge.

3 THE COURT: Thank you, sir.

4 (WHEREUPON, State's Exhibit No. 90 is admitted
5 into evidence.)

6 Q Doctor, I didn't understand all the words you just
7 went through. But can I go back specifically and ask
8 you about; you said the knife enters the chest at
9 this point with subsequent transection and fracture
10 of the left third rib, perforation of the pericardial
11 sac and perforation of the anterior left ventricle?

12 A That's correct.

13 Q Put that in English for me.

14 A It means the knife went through and completely broke
15 through the left third rib. The heart sits in a
16 protective sac called the pericardial sac. That was
17 perforated by the knife. And then the knife also
18 perforated the main pumping chamber of the heart
19 which is the left ventricle.

20 MR. MEADORS: Beg the Court's indulgence. I'm
21 sorry. Thank you, Judge. Judge, I think these will
22 be the last ones. I'm sorry.

23 THE COURT: No. That's all right.

24 (WHEREUPON, State's Exhibit No. 91 is marked for
25 identification.). 297

1 (WHEREUPON, State's Exhibit No. 92 is marked for
2 identification.)

3 (WHEREUPON, State's Exhibit No. 93 is marked for
4 identification.)

5 (WHEREUPON, State's Exhibit No. 94 is marked for
6 identification.)

7 (WHEREUPON, State's Exhibit No. 95 is marked for
8 identification.)

9 **MR. MEADORS:** Thank you.

10 **Q** (By Mr. Meadors) State's 95, Doctor, do you
11 recognize that as the -- what is that?

12 **A** This is a photograph of Mr. Gibson's heart showing
13 the stab wound to the left ventricle.

14 **MR. MEADORS:** Your Honor, we would now offer
15 State's '95, I believe without objection.

16 **MS. SAMPSON:** Without objection. Your Honor, we
17 need to make some corrections to one photograph, but
18 we don't have to do it now; just as long as it's done
19 before we publish it.

20 **MR. MEADORS:** We have discussed that, and I
21 would not show those to the jury.

22 **THE COURT:** Thank you, counsel. Without
23 objection.

24 (WHEREUPON, State's Exhibit No. 95 is admitted
25 into evidence.) 298

1 Q (By Mr. Meadors) Looking at State's 94, 91, 92 and
2 93, do those appear to be the hands of Charles
3 Gibson?

4 A Yes, sir.

5 MR. MEADORS: Your Honor, we'd now offer 91, 92,
6 93 and 94 without objection and will not publish them
7 to the jury until one of them has been redacted.

8 MS. SAMPSON: If Mr. Meadors wants to publish
9 all but that one, that's fine. There is just the
10 problem with one of them.

11 THE COURT: Okay. Without objection, it's
12 admitted. Thank you, counsel. They're all admitted
13 with that exception that you all are going to publish
14 it.

15 MR. MEADORS: Thank you so much, Judge.

16 (WHEREUPON, State's Exhibit No. 91 is admitted
17 into evidence.)

18 (WHEREUPON, State's Exhibit No. 92 is admitted
19 into evidence.)

20 (WHEREUPON, State's Exhibit No. 93 is admitted
21 into evidence.)

22 (WHEREUPON, State's Exhibit No. 94 is admitted
23 into evidence.)

24 Q (By Mr. Meadors) Again, Doctor, you're looking at
25 these hands for what reason?

1 A Well, we look at the hands to see if there are any
2 defensive injuries. And particularly in stabbing
3 deaths, that many times the victim-to-be will try to
4 ward off the attacker by putting their hands up. And
5 as such, if the knife is thrust repeatedly at the
6 individual, oftentimes there are cuts on the fingers,
7 the palms or the arms of the hands -- excuse me --
8 arms, indicating some sort of defensive type motion.
9 And although in this particular case there is dripped
10 blood on the hands, there was no indication that
11 there was actually injury to the hands.

12 Q Looking specifically at State's 94, the one I'm going
13 to redact here, here there looks like -- what are
14 these marks here?

15 A That's just dripped blood on the hands.

16 Q In State's '95, is this -- would that sort of been
17 where the heart -- where the knife entered Charles'
18 heart?

19 A That's correct.

20 Q And is the instrumentality you looked at, the knife,
21 consistent with these injuries?

22 A Yes, it is.

23 Q That knife that made that?

24 A It's -- that knife is consistent with it. Just from
25 the measurement:300 can't say that that is actually

1 the knife. Any similar type knife could have caused
2 that injury.

3 Q State's 86 could have caused damage to Charles with
4 State's '95?

5 A Yes.

6 Q What other examination of his body did you do?

7 A The organs were taken out individually. They were
8 documented, weighed, dissected. Microscopic samples
9 were also taken at that time. And also fluids such
10 as blood and urine were obtained for a toxilologic
11 evaluation.

12 Q And you've reviewed that toxicology evaluation, have
13 you not?

14 A Yes, I did.

15 Q And did it come back negative for any types of drugs
16 or --

17 A It was completely negative for drugs as run by the
18 State Law Enforcement Division of toxicology.

19 Q And is that what you all do? You all get drugs
20 from -- excuse me. Strike that, please. I
21 apologize. You get blood from, in this case, the
22 victim's body, and it's sent off for toxicology
23 analysis at SLED?

24 A That's correct.

25 Q And that's the re301 t you're referring to which you

1 said it was negative for intoxicants or --

2 A Illicit substances. Yes, sir.

3 Q -- illicit substances? With the Court's permission
4 we ask the doctor to step down, please, sir.

5 THE COURT: Yes, sir. Certainly.

6 MS. SAMPSON: Your Honor, if I may?

7 THE COURT: Certainly.

8 Q Will you step down, Doctor.

9 (Witness complies)

10 Q Now, you prepared a -- what do you call this thing?

11 A A body diagram.

12 Q A body diagram. Correct?

13 A Yes, I did.

14 Q And you brought that to me this morning, correct?

15 A Yes, I did.

16 Q Does that show the schematic drawing of the body,
17 right?

18 A Yes, sir.

19 Q That shows where the injuries were, right?

20 A Yes, sir.

21 Q Can you show on this, too?

22 A Yes, sir.

23 Q And if I could put this up. Is this all right with
24 the judge?

25 THE COURT 302 Yes, sir. Certainly.

1 Q Do you need your report to show, or can you show --

2 A I can approximate where it would be. It would be
3 approximately here.

4 Q And it penetrated the heart?

5 A Yes, it did.

6 Q And you've given us how far down the neck line I
7 believe?

8 A About 15 inches from the top of the head, which of
9 course is not here.

10 Q Right.

11 A But from the top of the head to here, it's about
12 15 inches, and two inches to the left of mid-line.

13 Q And do you have how tall -- do you have your -- I
14 think you weigh the body and I think you said the
15 length. If you said the weight I apologize.

16 A 68 inches which is five-foot eight. And the weight
17 is estimated between 180 and 190 pounds.

18 Q And just -- I'm not going to introduce your schematic
19 drawing. But put it on me where it is.

20 A Approximately there.

21 Q So this would be the left ...?

22 A Left chest. The knife would go in. And the heart
23 actually doesn't sit in the mid part of the chest.

24 It's over to the left and it's rotated. So that if
25 you picture a va303 line with the humps at the top and

1 the point at the bottom, it would be rotated. It
2 wouldn't be straight up and down. It would be
3 rotated. So when the knife goes in, it hits the left
4 part of the heart which is the main pumping chamber.

5 Q And you've got this knife -- or how is this knife
6 going in? Is it going straight in? At an angle?

7 A Pretty much straight in. A little bit to the right.
8 But for the most part it's going straight in. It
9 transects, completely breaks the left third rib and
10 goes in the left ventricle.

11 Q And describe based on your experience and
12 specifically your educational training in forensic
13 pathology and all those autopsies you've done --

14 A Mm-hmm (affirmative).

15 Q -- can you tell the jury what type of force it would
16 have taken for the knife to go in and cause those
17 injuries?

18 A Exactly how much force, no. I mean, that's very
19 individualized. But to me, this was an intentional
20 type of injury where the blade of the knife had to
21 have enough force to actually cut a rib. And those
22 people that have experience of cutting up food or
23 anything like that, trying to get a knife through a
24 rib, would have an idea about how much force of that
25 would take. 304

1 Q What's going to happen to me right here if I'm -- the
2 injuries, based on your training and experience, as
3 to the blood once you receive this type of injury?

4 A Well, you're going to start bleeding internally.
5 Your left chest cavity is going to start filling with
6 blood, which had happened with Mr. Gibson. Also that
7 pericardial sac is going to start filling with blood,
8 which happened with Mr. Gibson. At some point, and
9 once again this is very individualized, there's going
10 to be a leakage of blood coming out of the wound.

11 That may be a lot. It may be immediate. It may be a
12 minimal amount. And it may be delayed.

13 Q Can you give us, again based on your training,
14 experience, education, your practical experience in
15 the morgue, what kind of length of death in your
16 training and experience? How long before he would
17 have passed after receiving this injury?

18 A Minutes.

19 MR. MEADORS: Your Honor, we now offer State's
20 88.

21 MS. SAMPSON: Into evidence?

22 MR. MEADORS: Yes, ma'am.

23 MS. SAMPSON: Without objection, Your Honor.

24 MR. MEADORS: And, Your Honor, if we could
25 approach?

1 **THE COURT:** Yes, sir.

2 (Whereupon, a bench conference is had)

3 **THE COURT:** Thank you, counsel. Without
4 objection, it's admitted.

5 (WHEREUPON, State's Exhibit No. 88 is admitted
6 into evidence.)

7 **Q** (By Mr. Meadors) Going back to your report, and for
8 the record, in your opinion to a reasonable degree o
9 medical certainty, Dr. Nichols, what was the cause o
10 death of Charles Gibson?

11 **A** Internal hemorrhage secondary to a single stab wound
12 to the left chest.

13 **Q** And he'd have lasted minutes?

14 **A** Minutes.

15 **Q** Thank you.

16 **THE COURT:** Thank you, Mr. Meadors. Counsel?

17 **MS. SAMPSON:** Thank you, Your Honor. May it
18 please the Court?

19 **THE COURT:** Yes, ma'am.

20 CROSS EXAMINATION

21 **BY MS. SAMPSON**

22 **Q** Dr. Nichols, how are you doing this afternoon?

23 **A** I'm fine. Thank you.

24 **Q** You indicated that the wound goes from left to right

25 **A** Slightly left 306:right, yes.

1 Q Slightly. And it's pretty much in and out?

2 A Yes.

3 Q Would it be fair to say it's about -- you measured --
4 did they ever present this knife to you?

5 A Yes, they did.

6 Q And you measured it. I think you gave the
7 measurements?

8 A Yes, I did.

9 Q It's about the length of the full tip of this. Would
10 you agree or disagree?

11 A The entire length of the knife?

12 Q I'm sorry. Not --

13 A The width?

14 Q I should say from the tip to the end.

15 A It's approximately -- you can even see the knife --
16 the blood wipe right here.

17 Q So, in your estimation, it didn't go to the hilt, all
18 the way in?

19 A That's correct.

20 Q It only went to where the blood sort of stops on
21 here?

22 A That's correct. Approximately three inches.

23 Q Okay. And the length of the cut from top to
24 bottom --

25 A Right. 307

1 Q -- is about the same as this knife?

2 A Correct.

3 Q Okay. Now, you said it would take some pressure to
4 have caused this because of the rib?

5 A Yes.

6 Q Could a fall to the ground be that much pressure?

7 A If -- are you asking did the deceased fall? Is it
8 possible that he fell on this knife?

9 Q No. I'm asking would a fall to the ground be enough
10 pressure to cause that kind of breakage on a knife?

11 A I'm sorry. I don't want to give a bad answer to your
12 question.

13 Q You said it took a lot of pressure?

14 A Yes. Yes.

15 Q Falling would cause pressure, correct?

16 A If the deceased fell on it.

17 Q If you fall onto something?

18 A Fall onto the knife?

19 Q Mm-hmm (affirmative).

20 A Yes.

21 Q And showing the injury, you can't tell how it
22 occurred, can you; other than that it's a knife and
23 it entered his chest?

24 A That's correct.

25 Q You can't tell 308 they were struggling when that

1 happened?

2 A There is no indication of that.

3 Q Can you tell that by just looking at the wound?

4 A Not at the wound. But once again, there is no
5 defensive injuries.

6 Q There is no defensive injuries?

7 A No.

8 Q Do you know how tall Ms. Smith is?

9 A No, I do not.

10 Q But would it be fair to say -- well, you don't know
11 anything about Ms. Smith, do you?

12 A No, I do not.

13 Q And you said the defendant is five-eight?

14 A Yes.

15 Q And you -- would it be fair to say if someone was
16 coming at him with a knife, he'd probably try to
17 defend himself? That's why you're looking for
18 wounds?

19 **MR. MEADORS:** Objection. Speculation.

20 **MS. SAMPSON:** He's an expert, Your Honor.

21 **THE COURT:** He's an expert. We'll let him
22 speculate.

23 A Thank you, Your Honor. It's entirely possible. But
24 I don't know what Mr. Gibson did at that particular
25 time.

1 Q But that's why you look for defensive wounds. You
2 assume someone would defend themselves?

3 A That's correct.

4 Q Okay. And you said that he would have died within
5 minutes?

6 A Yes.

7 Q But before he died he would have been able to walk?

8 A As long as he has enough blood circulating through
9 his brain, he'd be able to ambulate.

10 Q Would he be able to talk?

11 A Yes.

12 Q And you said on direct I believe that he would have
13 immediately began to bleed internally?

14 A That's correct.

15 Q But the external bleeding could take a little bit?

16 A It could. It's variable. Sometimes there's a lot o
17 blood coming out at one time. Sometimes there's a
18 little amount of blood. Sometimes it comes out righ
19 away. Sometimes it's delayed.

20 Q So upon him being stabbed, if someone looked at him
21 immediately, they might not see any blood. Would
22 that be fair to say?

23 A A minimal amount of blood at best.

24 Q A minimal amount. It wouldn't have pumped out
25 profusely or a310ing?

1 A It may not have.

2 Q It may not have?

3 A Right.

4 Q Okay. And once the puncture happened, would there
5 have been anything anybody could do to stop that
6 internal bleeding immediately that wasn't a doctor?

7 A The best thing to do would be direct pressure to the
8 wound.

9 Q Direct pressure. So pressing on it would have been a
10 good idea?

11 A Yes.

12 Q And anybody with any kind of medical training other
13 than, say, a doctor wouldn't be able to stitch it up
14 or anything like that?

15 A Well, you wouldn't stitch up this wound. You'd have
16 to do what's called a thoracotomy, open up the chest,
17 try to stop the bleeding heart first and then -- no.

18 Q Other than that, there wasn't much anybody could have
19 done to stop this once it started?

20 A No. You call 911.

21 Q Calling 911 would be the best thing to do?

22 A Yes.

23 MS. SAMPSON: Beg the Court's indulgence.

24 THE COURT: Okay.

25 BY MS. SAMPSON

1 Q (By Ms. Sampson) Let me just ask you a couple more
2 questions: Would -- if someone tried to pressure --
3 like you said, do direct pressure or do CPR, would
4 that cause more blood to come out?

5 A Yes. It would cause blood to be continually
6 circulating. And every time it circulates and goes
7 through the heart, more blood would come out through
8 the heart.

9 Q And it would then come out through that wound?

10 A Not necessarily.

11 Q And State's Exhibit No. 90 shows a bruise to his --
12 is it his right or his left arm?

13 A Right biceps.

14 Q Okay. And you can't tell how old that bruise is?

15 A It's relatively recent, but I can't say that that
16 necessarily happened during this particular incident

17 Q But it could have been happened during this incident
18 You can't rule it out?

19 A I can't rule it out. That's correct.

20 MS. SAMPSON: No further questions.

21 THE COURT: Mr. Meadors.

22 MR. MEADORS: Just a few. Beg the Court's
23 indulgence.

24 THE COURT: Yes, sir. Of course.

25 MR. MEADORS: 312 Beg the Court's indulgence.

1 **THE COURT:** Of course.

2 **REDIRECT EXAMINATION**

3 **BY MR. MEADORS**

4 **Q** I'm going to show you what's been entered as State's
5 33. Is that a picture of the wound -- Ms. Sampson
6 was asking you about that knife.

7 **A** Yes.

8 **Q** The length it went in.

9 (WHEREUPON, State's Exhibit No. 96 is marked for
10 identification.)

11 **Q** I show you what's now marked State's 96. Do you
12 clean the body off?

13 **A** Yes.

14 **Q** Picture, weight?

15 **A** Yes.

16 **Q** You saw it first. Then you cleaned the body off?

17 **A** Yes, sir.

18 **Q** Did State's 96 show the clean wound of Charles
19 Gibson's body?

20 **A** Yes, it does.

21 **MR. MEADORS:** Your Honor, we'd now offer State's
22 96 without objection.

23 **MS. SAMPSON:** That's correct.

24 **THE COURT:** Thank you, counsel. Without
25 objection, that's submitted.

1 (WHEREUPON, State's Exhibit No. 96 is admitted
2 into evidence.)

3 Q (By Mr. Meadors) Just a couple of questions to
4 follow up directly what she asked you, Doctor. Based
5 on your experience and training, if you received that
6 wound, would you know you'd been stabbed?

7 A Oh, yes.

8 Q And you'd be able to tell somebody, I've been
9 stabbed?

10 A Yes.

11 Q And she asked you about treatment about it. And you
12 said the best treatment would have been to do what?

13 A Direct pressure over the wound, call 911.

14 Q And just based on your experience and training, if
15 you received this stab you'd know it was serious?

16 A Yes.

17 Q In your heart?

18 A Yes, sir.

19 Q Now, Ms. Sampson asked you or showed you the knife
20 here, and you said it went about three inches in.
21 And she -- you've described it as intentional force.
22 I think you -- going to the cause of damage it did to
23 the ribs, correct?

24 A Yes.

25 Q And you gave an example of that, that if -- and she

1 said if you had fallen on it, it might be that kind
2 of force, correct?

3 A Yes.

4 Q Well, in your training and your practice in
5 pathology, you would have had to fall on it with the
6 knife up like this to cause that injury, correct?

7 A That's correct. The knife would have to be supported
8 by the floor and then Mr. Gibson have his body weight
9 fall on top of the knife.

10 Q On top of the knife on the floor?

11 A Yes.

12 Q Doesn't it make sense, too, if it was like that, it
13 would have gone on down further on the knife?

14 A Entirely possible, yes.

15 Q If the body is pushing down on it?

16 A Yes.

17 Q This just went in three inches?

18 A Yes.

19 **MR. MEADORS:** Beg the Court's indulgence.

20 **THE COURT:** Yes, sir.

21 Q (By Mr. Meadors) One final question. She was asking
22 you about defensive wounds?

23 A Yes.

24 Q If you came around and I surprised you, would you
25 expect to find defensive wounds?

1 **A** No. Defensive wounds are, if the person has
2 defensive wounds, they're there and they're an
3 indication of defensive type action. If they're not
4 there, that doesn't mean that the person defended. I
5 just can't comment on that. I can't rule them in or
6 rule them out.

7 **Q** If you didn't see it coming, based on your training
8 and experience, there wouldn't be defensive wounds,
9 would there?

10 **A** No.

11 **Q** Thank you.

12 **MS. SAMPSON:** Just briefly, Your Honor.

13 **THE COURT:** Yes, ma'am.

14 RECROSS EXAMINATION

15 **BY MS. SAMPSON**

16 **Q** I just want to make sure that -- I don't think that
17 my question was understood.

18 **A** Okay.

19 **Q** So I want to ask you a couple. Mr. Gibson of course
20 would have known that he was stabbed the minute that
21 he got stabbed?

22 **A** Yes.

23 **Q** Would somebody looking at him who didn't see the
24 stabbing know he'd been stabbed?

25 **A** I think so. 316

1 Q Would they see blood?

2 A They'd see some blood.

3 Q They'd see some blood?

4 A Right.

5 Q Would they know that he was stabbed in the heart?

6 A Probably not.

7 Q Would they have known how serious it was just by
8 looking at him?

9 A No.

10 MS. SAMPSON: No further questions, Your Honor.

11 THE COURT: Thank you, ma'am. Doctor, you may
12 step down. Thank you, sir.

13 THE WITNESS: Okay. Thank you, Your Honor.

14 MR. MEADORS: Your Honor, we'd ask that the
15 doctor be excused with the Court's permission.

16 MS. SAMPSON: Without objection.

17 THE COURT: Doctor, you are free to come and go
18 as you please.

19 WITNESS: Thank you. I appreciate it, Your
20 Honor.

21 THE COURT: Thank you.

22 MR. MEADORS: Beg the Court's indulgence.

23 THE COURT: Yes, sir.

24 MR. MEADORS: Your Honor, at this time there is
25 a stipulation that₃₁₇ as been entered between the State

1 of South Carolina and the defendant, Sharon Lisa
2 Smith, through her attorneys. I would like to
3 publish that if that's okay with the Court.

4 **THE COURT:** Yes, sir.

5 **MS. SAMPSON:** Can I confer?

6 **THE COURT:** Yes.

7 (Pause).

8 **THE COURT:** Is that right, Ms. Sampson?

9 **MS. SAMPSON:** That's fine, Your Honor.

10 **THE COURT:** Ladies and gentlemen, a stipulation
11 is just a fancy legal word for agreement between both
12 sides. And I'll explain to you at the conclusion of
13 the case when I charge you on the law that a
14 stipulation is a fact that you all are to take. It's
15 one of the facts that you're to deliberate on and
16 include in your deliberations. But it just means
17 that both sides agree; and so, therefore, it's coming
18 in at trial.

19 **MR. MEADORS:** Thank you, sir.

20 (WHEREUPON, State's Exhibit No. 97 is marked for
21 identification.)

22 **MR. MEADORS:** If it pleases Your Honor?

23 **THE COURT:** Yes, sir.

24 **MR. MEADORS:** As previously stated, there is
25 agreement between the State of South Carolina through

1 myself, John Meadors, and Sharon Lisa Smith through
2 her attorney, Ms. April Sampson, that the phone
3 number (803) 929-0975 on May 11th, 2003 was in the
4 name of -- listed to a Charles and Sharon Gibson at
5 4107 Mildred Street in Columbia. The service address
6 was also at that address, 4107 Mildred Street. And
7 the billing was to Sharon Smith at 4107 Mildred
8 Street, Columbia, South Carolina, 29203-3919.

9 Your Honor, there are a series of phone calls
10 attached to that subscriber information for the day
11 of May 11th, 2003; approximately 38 phone calls. On
12 that phone list, specifically there are two phone
13 numbers, (803) 799-3636 which does come back and it's
14 in the subscriber information as to one Ms. Patrice
15 Parks. There's also a number of (803) 647-0107 which
16 is subscriber information from BellSouth does come
17 back to Daniel Parker. We have all agreed and
18 stipulated that those are their subscriber numbers.
19 They do appear on this document which does come back,
20 the billing information and phone calls on May 11th,
21 2003 to Charles and Sharon Gibson. We now offer it
22 as State's 97.

23 **THE COURT:** Thank you, counsel. Without
24 objection and by stipulation?

25 **MS. SAMPSON:** 319's, Your Honor. There may be

1 something that needs to be added, but --

2 MR. MEADORS: Oh, I'm sorry. Judge, and also
3 this came out through a previous -- I apologize to
4 the Court. A little previous -- I believe through
5 one of the investigators.

6 The State and defense are stipulating that a 911
7 phone call was made from that residence. It was
8 picked up by dispatch. But as Your Honor knows
9 better than all of us, that on these personal phone
10 tolls, the 911 call does not usually appear.

11 THE COURT: Thank you, counsel.

12 MS. SAMPSON: That's it, Your Honor.

13 THE COURT: Thank you, counsel, both on those
14 agreements. And, ladies and gentlemen, those are
15 stipulations between both sides. And as I said, I'll
16 go over that with you in a little more detail at the
17 conclusion of the case. But that just means it's an
18 agreed upon fact that both sides have put in front of
19 you at this point. Thank you.

20 (WHEREUPON, State's Exhibit No. 97 is admitted
21 into evidence.)

22 THE COURT: Mr. Meadors.

23 MR. MEADORS: Thank you, Your Honor. The State
24 would now call Jennifer Blair.

25 JENNIFER E320 R, after being duly sworn,

1 testifies as follows:

2 **THE CLERK:** Thank you. Please have a seat in
3 the witness stand and state your full name for the
4 record.

5 **WITNESS:** My name is Jennifer Blair.

6 **DIRECT EXAMINATION**

7 **BY MR. MEADORS**

8 **Q** Good afternoon, Ms. Blair.

9 **A** Good afternoon.

10 **Q** Please tell the jury just a little bit about
11 yourself. Where are you from?

12 **A** I am from the Columbia/Richland 911, 301
13 Communications Center.

14 **Q** I didn't mean that. Where are you from?

15 **A** Columbia.

16 **Q** Born and raised?

17 **A** Yes.

18 **Q** Okay. And grew up in Columbia?

19 **A** Yes.

20 **Q** And you now work where?

21 **A** For the 911 Communications Center.

22 **Q** How long have you been there?

23 **A** Twenty-one years.

24 **Q** What's your job there?

25 **A** I am the administrative physical officer.

1 Q And you work with Ms. Judy Spell?

2 A Yes.

3 Q And oftentimes in court are you and/or Ms. Spell
4 called to testify regarding 911 phone calls?

5 A Yes.

6 Q And are they kept in the regular course of your
7 business?

8 A Yes, they are.

9 Q And specifically, when law enforcement asks you to
10 copy a 911 phone call, do you do that?

11 A Yes, I do.

12 Q If that's not done, are they destroyed after a
13 certain period of time?

14 A We only keep 911 tapes for six months.

15 Q And in this case were you asked to reproduce a copy
16 of a 911 phone call that went to 4107 Mildred Drive?

17 A Yes.

18 Q And you have reviewed the dispatch logs, have you
19 not?

20 A Yes.

21 Q With Investigator William Wesley of our office?

22 A Yes.

23 Q And have you also listened to the 911 phone call?

24 A I didn't get the opportunity to listen to the phone
25 call, but I did 322 view the copy of the report.

1 Q You looked at the report. And that report showed
2 that a 911 phone call came to you all from 4107
3 Mildred Avenue?

4 A Yes, it did.

5 Q Okay.

6 (WHEREUPON, State's Exhibit No. 98 is marked for
7 identification.)

8 MR. MEADORS: Your Honor, may I approach? I
9 don't know. I'm sorry.

10 THE COURT: Oh, yes, sir.

11 Q (By Mr. Meadors) On the outside of this, is that
12 4107 Mildred Avenue, May 11th, 2003?

13 A Yes, it is.

14 Q And that would be consistent with the dispatch logs,
15 correct --

16 A That's correct.

17 Q -- that came from that residence?

18 MR. MEADORS: Your Honor, at this time we would
19 like to publish State's 98.

20 MS. SAMPSON: Without objection.

21 THE COURT: Thank you, counsel. Without
22 objection, it's admitted. You may publish.

23 (WHEREUPON, State's Exhibit No. 98 is admitted
24 into evidence.)

25 MR. MEADORS: 323 should have had this done in

1 advance. Sorry about that, Judge. Your Honor,
2 there's one over here. I should have known that.

3 (Whereupon, State's Exhibit No. 98 is played for
4 the jury).

5 Q That came from Mildred Avenue May 11th, 2003?

6 A Yes, it did.

7 Q And it's part of your job to keep these records?

8 A Yes, it is.

9 Q Thank you.

10 MR. MEADORS: That's all we have of this
11 witness.

12 THE COURT: Thank you, Mr. Meadors.

13 MS. SAMPSON: No questions.

14 THE COURT: Thank you, counsel. Ma'am, you may
15 step down. Thank you, ma'am.

16 MR. MEADORS: Could we beg the Court's
17 indulgence?

18 THE COURT: Excuse me just a second.

19 MR. MEADORS: Yes, sir.

20 THE COURT: We can turn this witness loose,
21 right?

22 MR. MEADORS: Sir?

23 MS. SAMPSON: Without objection.

24 MR. MEADORS: Please, sir. Yes, sir.

25 THE COURT: 324a'am, you're free to come and go as

1 you please. If you want to hang out here with us,
2 you're welcome to stay.

3 **MR. MEADORS:** Your Honor, the State rests.

4 **THE COURT:** Thank you, Mr. Meadors. Ladies and
5 gentlemen, at this point in the case then I have to
6 take up some matters of law with counsel outside your
7 presence. After we go over those matters we'll bring
8 you back out. We'll go ahead and take your afternoon
9 break now. We'll make sure you have some snacks or
10 something while we do this, and we'll bring you back
11 out very shortly and proceed with the case at that
12 point. If you all will just obviously do not discuss
13 the evidence and testimony during your break, and
14 we'll see you all very shortly. Thank you.

15 (Jury out at 3:40 p.m.)

16 **THE COURT:** Thank you, sir. Ms. Sampson or Ms.
17 Ahrens.

18 **MS. SAMPSON:** Thank you, Your Honor. May it
19 please the Court?

20 **THE COURT:** Yes, ma'am.

21 **MS. SAMPSON:** At this time we would renew any
22 motions and objections that you have overruled. I
23 can't think of any specifically, but for the record I
24 would renew those at this time.

25 Secondly, Yo₃₂₅ Honor, we would at this time be

1 asking for a directed verdict. Viewing the evidence
2 in the light most favorable to the State, Your Honor,
3 I would concede that they have proved that a stabbing
4 occurred. I do not feel that they have proved that a
5 murder has occurred, Your Honor.

6 They have not shown that there was ever any
7 malice aforethought. That's an element that they
8 must show. I understand that they can infer from the
9 weapon, but it's my understanding from the testimony
10 given that the only thing that they've shown is that
11 Mr. Gibson had a knife.

12 When -- the evidence they presented, looking at
13 the evidence in the light most favorable to the
14 State, she said, I stabbed him. When they asked her
15 specifically did she have the knife, she said, "I
16 don't know." And the only time that she was able to
17 put a knife in anyone's hands was Mr. Gibson's.

18 They have no evidence to refute that. The only
19 evidence they have is by the words of Ms. Smith.
20 They have no other corroborating evidence. We're not
21 denying he was stabbed. We're not denying that they
22 had an injury. But they do have to show malice
23 aforethought.

24 And I assume because their arguments normally
25 are that you can't look into the mind of someone to

1 tell exactly what they were thinking when they were
2 thinking it, and based on Mr. Wagoner's opening
3 statement, they are arguing that it's inferred by the
4 weapon. But their problem that I would argue, Your
5 Honor, is that looking at the evidence in the light
6 most favorable to the State --

7 **THE COURT:** I was just going to ask you about
8 that.

9 **MS. SAMPSON:** -- is that Mr. Gibson had the
10 knife. They're inferring that a deadly weapon was
11 used. The evidence again that they have is that he
12 had it. She was specifically asked. She said, "I
13 don't know."

14 **THE COURT:** From her testimony is what you're
15 referring to.

16 **MS. SAMPSON:** From her statements.

17 **THE COURT:** Statements. Right.

18 **MS. SAMPSON:** Her statements given to
19 Investigator Vinson and her statements given to --

20 **THE COURT:** Of course the jury could disbelieve
21 them.

22 **MS. SAMPSON:** That would be the jury's purview.
23 But we're not to that point yet. They have to give
24 it -- I have to argue it, that even though looking at
25 it in the light "327 favorable to them, it does not

1 infer that she had malice aforethought at any time.
2 It may infer that he had a knife at some point. So
3 that would just be our argument, Your Honor, is that
4 they cannot prove malice aforethought although they
5 can prove that an incident did occur.

6 MR. MEADORS: Your Honor, if it pleases the
7 Court.

8 THE COURT: Yes, sir.

9 MR. MEADORS: The initial officer on the scene,
10 she said, "I did it." We would ask Your Honor to
11 take the inference which is allowable in this case
12 and infer from the use of the deadly weapon that she
13 did have malice. We think all the facts taken
14 together in the light most favorable to the State do
15 establish that she went over there; she came to the
16 house; she went inside, based on her own statement,
17 looking for the lease; and she pushed her way in,
18 told the initial officer she did it.

19 And her last statement then goes back and
20 contradicts her, says, I never saw a knife in his
21 hand, she says herself. So we think there's abundant
22 evidence for this case to go forward to the jury,
23 Your Honor. In light of what she just said, we think
24 you ought to allow jury argument.

25 MS. SAMPS(328 The only thing I would add to

1 that, Your Honor, is this was by all accounts her
2 house. So she does not have to force herself into
3 her own house and she is allowed to come home last
4 time I checked. So I would still have the argument
5 as I've given it.

6 **THE COURT:** I respectfully, Ms. Sampson, agree
7 and disagree with you. I'm going to disagree with
8 you on the directed verdict. At this point I think
9 that there is a question for the jury. And I'll
10 disagree with you on the principle that you are
11 always allowed to come home unless you of course show
12 up at my house at a certain hour; then you'll know
13 that's not always the case. I understand your
14 argument. I just -- I think there's enough there to
15 send it to the jury. I think that's an issue for
16 them to weigh during their deliberations.

17 Let me ask counsel, I know we haven't gone over
18 with Ms. Smith at this point her rights to testify or
19 not testify or put up anything at this point. Have
20 you all made a decision about that?

21 **MS. SAMPSON:** Your Honor, we've discussed it.
22 There is a matter that I need take up with the Court
23 before I think we can make that decision. We settled
24 the record, or so I thought yesterday, that the only
25 thing that would 329e in was a fraudulent check.

1 Today I was handed by the State something
2 purporting that Ms. Smith had the conviction for
3 giving false information to the police from
4 January 22nd of 2004. We would strenuously object to
5 them being able to use that, Your Honor, for two
6 reasons.

7 First of all, we settled the record yesterday,
8 and that was not even mentioned. This was given to
9 me today. I did not ask for them to -- and it's not
10 a certified conviction. I did not ask them to do
11 that on the fraudulent check because Ms. Smith
12 verified to me that that was a conviction. However,
13 she highly disputes this second one, the one that
14 we're discussing; namely, that she never had a
15 conviction for giving false information to police.

16 **THE COURT:** Was that here in South Carolina?

17 **MS. SAMPSON:** It was in -- right now I can't
18 find it. I believe it was in Magistrate Court in
19 Forest Acres, if I remember correctly. I don't have
20 it right now. He gave it to me this morning and I
21 can't find it. On the sheet it says "Disposition:
22 Pled guilty." Ms. Smith asserts to me that she did
23 not do that. It is a public record search index. I
24 says "pled guilty". Beside it, it says "S". I don'
25 know what that 330ns either. For all I know she was

1 found guilty in her absence. I don't know what this
2 is. If I'd have been given it before this morning,
3 maybe I would have been able to figure that out.

4 But yesterday I stated on the record that the
5 only charge I knew that could come in against her was
6 a fraudulent check charge, and we all agreed to that.
7 There was nothing else out there. There was an
8 arrest for some -- and there are several arrests on
9 her record, but this is the only new conviction that
10 I have been told about that we did not have a
11 conviction for as of yesterday.

12 So my objection is two-fold. I'm given this
13 today. I have a dispute over it. And, no, I have
14 not had time to go and research to see if it truly is
15 a conviction, if she was truly present or not when
16 that conviction was made. And it was a 30-day,
17 according to this fine or jail time of \$250 or 30
18 days in jail. I don't know if any of that is to this
19 Ms. Smith or if it's truly a conviction or something
20 done in her absence.

21 So, therefore, we would ask that if she
22 testifies it not be used against her for credibility
23 purposes.

24 **MR. MEADORS:** May it please the Court. I'd like
25 the record to clearly reflect yesterday when she said

1 that to clarify the record I said, "as far as I'm
2 aware of." I specifically said that, because at that
3 point it went through my mind her rap sheet is run as
4 done the time she was arrested on it. At that time
5 this charge didn't appear because it didn't happen
6 until 2004.

7 Last night we were looking on the photos and I
8 asked to run another rap sheet. This did come up. I
9 handed her this document from Forest Acres this
10 morning. Investigator Wesley is at Forest Acres
11 right now.

12 **THE COURT:** And I'm not disputing either side.
13 I was a little bit under the impression that we were
14 actually going to run some more rap sheets on
15 witnesses and everybody.

16 **MR. MEADORS:** And, Judge, I provided three of
17 the lay witnesses, them this morning. At the same
18 time I ran Ms. Smith's again. Two of those lay
19 witnesses we called. One we didn't. Her rap sheet
20 does show a conviction also. They have that.

21 I'm assuming, I think it's -- I'd like to know
22 if credibility is in issue. She's saying she didn't
23 do it. We've got a certified record coming from
24 Forest Acres. If it is certified, I certainly think
25 under Rule 609.332 ought to be able to ask her. But

1 we will have the certified record I think before she
2 testifies if she decides to, or at least a copy of
3 it.

4 THE COURT: We'll leave it open. Somebody has
5 gone to actually check?

6 MR. MEADORS: They're there now.

7 THE COURT: Let me ask, Ms. Sampson, other than
8 Ms. Smith's testimony, do you all anticipate putting
9 anything else up?

10 MS. SAMPSON: Your Honor, it has come to my
11 attention based on discussing this with Ms. Smith
12 that she would like for us to call another witness.
13 And he is here. I think Mr. Meadors has already
14 talked to him. His name is Harry Davis. I do not
15 have his information in order for a rap sheet to be
16 ran. But he is a law professor. So I assume he does
17 not have a record. But that could be a bad
18 assumption on my part.

19 But he is out -- I'm sorry. He is standing
20 right here. So if they need -- or sitting right
21 there -- if they need his information to run a rap
22 sheet, they're more than welcome to do so. This was
23 not something I anticipated doing until talking to
24 Ms. Smith probably two hours ago. And so then I did
25 call Mr. Davis and ask him to be here. It might have

1 been longer than that. At this point it was probably
2 longer than that. It was probably right before lunch
3 when I called him to ask him to come in. And he has
4 been here since 2.

5 **THE COURT:** Yes, sir.

6 **MR. MEADORS:** I went down and introduced myself
7 to him. I saw him out there. I saw him talking to
8 them, just went and said, "Hey." This is the first
9 time I'd met him. Of course he wasn't on the witness
10 list. I won't raise that.

11 **THE COURT:** Let me ask the defense about a
12 witness list.

13 **MS. SAMPSON:** And, Your Honor, we did not have
14 one. I did not anticipate calling him when we
15 started this trial on Monday. I did not. I did not
16 until talking with Ms. --

17 **THE COURT:** Actually, I take responsibility.
18 Sometimes I ask the defense for a witness list and
19 sometimes I don't.

20 **MR. MEADORS:** And I don't think she even knew
21 about him then. But, Your Honor, we wouldn't have
22 objection to that if Your Honor would just ask the
23 jury panel if anybody knows him, just a quick Voir
24 Dire.

25 **MS. SAMPSON:** That's fine.

1 **MR. MEADORS:** And if anything came up in reply
2 that we needed to call, of course we'd reserve the
3 right to do that.

4 **THE COURT:** Sure. I'll actually let him -- if
5 you all want to, I'm quite sure, I don't think the
6 law school hires anybody with records. But I'll let
7 you all ask him if you all want to his information to
8 run a rap sheet. If you all need a few minutes to
9 talk to him, I will be glad to give you that as well.

10 And, Ms. Smith, why don't we go over your
11 rights. What I anticipate we'll do is, if you all
12 want, Ms. Sampson, call that one witness and then
13 stand down while we check on this other information
14 as it relates to her record.

15 **MS. SAMPSON:** Can I make just one more statement
16 about the record?

17 **THE COURT:** Yes, ma'am.

18 **MS. SAMPSON:** Mr. Meadors did hand me a copy of
19 the rap. It says it was ran on 6-15 of '95. It says
20 date of record entered as 6-15 of 19--- I'm sorry.
21 Never mind. Never mind. Forget what I was going to
22 say. We'll talk about that. I will withdraw what I
23 was about to say.

24 **THE COURT:** Okay. And then what I anticipate
25 doing, Ms. Smith, 335 we go over your rights right

1 now, we'll take the one witness that Ms. Sampson has
2 talked about and then we'll break and see where we
3 are with this issue and Ms. Smith's record.

4 Ms. Smith, if you will rise, ma'am. I'm going
5 to go over a few things that I'm sure counsel has
6 already talked to you about. And that is, at this
7 point in the case, ma'am, the State has rested. It
8 is not incumbent upon you to put forth any evidence
9 or testimony, including your own at this point. Do
10 you understand that?

11 MS. SMITH: Yes, sir.

12 THE COURT: And that is because, ma'am, you
13 don't have to convince the jury you're not guilty.
14 The State has to meet a burden of beyond a reasonable
15 doubt in order to convince a jury that you are
16 guilty. And that burden always lies throughout the
17 course of a trial with the State. Do you understand
18 that?

19 MS. SMITH: Yes, sir.

20 THE COURT: As I said, you can offer other
21 witnesses and/or your own testimony in addition in
22 front of the jury if you choose to. Do you
23 understand that?

24 MS. SMITH: Yes, sir.

25 THE COURT: 336f you choose to, ma'am, you can

1 take the witness stand. You will be treated just
2 like any other witness that takes that witness stand
3 though. Do you understand that?

4 MS. SMITH: Yes, sir.

5 THE COURT: You will of course have the right
6 also as well in consultation with counsel --
7 ultimately it's your own decision though. But I
8 would advise you to talk with counsel and make a
9 decision as to whether or not you wish to take the
10 witness stand.

11 If you choose to exercise your right not to take
12 the witness stand, at the conclusion of the case when
13 I give the jury the law that they're to apply to this
14 case, I will instruct them that under their oath they
15 cannot hold it against you that you exercised that
16 right. In fact, under the law they're forbidden to
17 even discuss in deliberations the fact that you did
18 not testify. Do you understand that?

19 MS. SMITH: Yes, sir.

20 THE COURT: And you we will have resolved this
21 issue of your prior record before I'll ask you about
22 a decision as to whether you wish to testify or not.
23 But you do understand you have the right at this
24 point to either testify or not testify?

25 MS. SMITH: 337 sir.

1 **THE COURT:** Has anybody coerced you or pressured
2 you or mistreated you in any way to get you to make
3 one decision or the other?

4 **MS. SMITH:** No, sir.

5 **THE COURT:** I'm going to allow you at this point
6 to continue to discuss that with your lawyers, and
7 when we come back from the break we'll take up that
8 one witness and then we'll come back and address this
9 issue of the record.

10 **MS. SAMPSON:** Your Honor.

11 **THE COURT:** Yes, ma'am.

12 **MS. SAMPSON:** If I may. I now realize that I
13 had lost by train of thought, but I found it. So if
14 I could just put it on the record.

15 **THE COURT:** Yes, ma'am.

16 **MS. SAMPSON:** According to the rap that I
17 received, rap sheet I received on Ms. Smith, it was
18 ran at 9:00 this morning. And it still doesn't list
19 there being a conviction. So, again, I would not
20 have known that there was ever a conviction.

21 **THE COURT:** We're talking about the false
22 statement?

23 **MS. SAMPSON:** Yes. It said this was ran
24 according to the top of this memo, 6-21, 2005 at
25 9:02:51. And t338 last page says she was arrested for

1 speeding, driving under suspension and giving false
2 information on January 4th of 2004. There are no
3 convictions on here. So, maybe he has it certified.
4 But I wouldn't have been able to research any of it
5 is my whole point because I would never have asked
6 her about arrests. I ask them about convictions.

7 **THE COURT:** Well, I'll let you all talk. We'll
8 stand down for a few minutes and let you all if you
9 need to talk to this one other witness. We'll come
10 back, deal with that witness, and then see what you
11 all have found out, and then we'll address that
12 situation.

13 **MR. MEADORS:** Judge, briefly.

14 **THE COURT:** No, no.

15 **MR. MEADORS:** After I saw that this morning I
16 asked Investigator Wesley to go check on it. I've
17 found that people do get convicted. And we went and
18 checked on it.

19 Your Honor, there are some folks in the audience
20 that have been laughing several times the last few
21 minutes. And I'd ask Your Honor at some point to ask
22 for decorum. And I apologize. There's been several
23 individuals. This gentleman right here and the one
24 behind him have been laughing the last few times. I
25 don't think it's appropriate in the this courtroom.

1 **THE COURT:** Not only is it appropriate, but I
2 will instruct anybody that there is a proper decorum
3 to have in this courtroom. If I see it, I promise
4 you I'm going to hold you in contempt for it. It's
5 something that better not happen in front of the jury
6 especially. When I hold people in contempt they do
7 spend a good bit of time in the jailhouse. Yes, sir.

8 **MR. MEADORS:** I apologize. After that I asked
9 Investigator Wesley to check, and he did find where
10 she had been -- there was a conviction in Forest
11 Acres. I think he's here with it now. We'll address
12 it after the break. I'll show it to her. And the
13 only other thing: If it is a conviction, her client
14 would have known it. But we'll talk over the break.

15 **THE COURT:** Okay. I'll let you all take a look
16 at that and then we'll readdress it before she has to
17 make a decision to take the stand or not. But we'll
18 stand down for about five minutes or so then and let
19 you all take a short break and talk to this one
20 witness who we'll call and then readdress this issue.

21 **MR. MEADORS:** Thank you, Your Honor.

22 **THE COURT:** We'll see you all in a little bit.

23 (Whereupon, a break is taken)

24 **THE COURT:** Has counsel had a chance to
25 decide -- are y340all planning to call the first

1 witness, Ms. Sampson?

2 MS. SAMPSON: We're prepared -- we're prepared
3 to call the first witness. I'm sorry. I was looking
4 to make sure he was in the room, Your Honor.

5 THE COURT: That's all right.

6 MS. SAMPSON: They have provided -- I guess you
7 can go ahead and put this on the record.

8 THE COURT: Yes, ma'am.

9 MS. SAMPSON: They have provided me with their
10 outcome tickets that were given to Ms. Smith on the
11 false information as well as the disposition saying
12 that there was a fine that she received, that it was
13 a trial court hearing, that she paid for it the same
14 day she received the sentence it looks like.

15 So, I would have to -- I guess with the -- I
16 still leave my objection as it is on the record, but
17 I understand that I've been given a certified copy of
18 what would be a plea sheet for Central Court.

19 THE COURT: I will let your objection stand, and
20 I respectfully overrule the objection. I think it's
21 proper to use a certified conviction. And I'll let
22 you all, after we finish this I'll let you all make
23 the decision as to whether she still wants to testify
24 or not. But I'll let you call your first witness
25 first.

1 **MS. SAMPSON:** Thank you, Your Honor.

2 **THE COURT:** Are you prepared?

3 **MS. SAMPSON:** Yes, we are, Your Honor.

4 **THE COURT:** We'll bring the jury back out then.

5 (Jury in at 4:10 p.m.)

6 **THE BAILIFF:** The jury is all present, Your
7 Honor.

8 **THE COURT:** Thank you, ma'am. Thank you, Ladies
9 and Gentlemen of the Jury. Right before we took our
10 break the State rested. And at this point, Ms.
11 Sampson, anything from the defense?

12 **MS. SAMPSON:** Yes, sir, Your Honor. The defense
13 would call Harry Davis to the stand.

14 **HARRY DAVIS,** after being duly sworn, testifies
15 as follows:

16 **THE CLERK:** Thank you. Please have a seat on
17 the witness stand and state your full name for the
18 record.

19 **WITNESS:** My name is Harry Davis.

20 **MS. SAMPSON:** Thank you. I just need to get
21 some things marked --

22 **THE COURT:** Yes, ma'am.

23 **MS. SAMPSON:** -- before we get started, Your
24 Honor.

25

1 (WHEREUPON, Defendant's Exhibit No. 1 is marked
2 for identification.)

3 (WHEREUPON, Defendant Exhibit No. 2 is marked
4 for identification.)

5 DIRECT EXAMINATION

6 **BY MS. SAMPSON**

7 **Q** Good afternoon, Mr. Davis.

8 **A** Good afternoon.

9 **Q** Just to give the jury a little background about you,
10 what do you do for living?

11 **A** I'm an attorney. I currently serve as Director of
12 the Children's Law Office at the USC School of Law.
13 Prior to that I practiced law here in Columbia.

14 **MS. SAMPSON:** One moment, Your Honor.

15 **THE COURT:** Yes, ma'am.

16 (Whereupon, a bench conference is had)

17 **THE COURT:** Ladies and Gentlemen of the Jury,
18 let me ask, this witness was not on the list of folks
19 whose name was called out when I went over Voir Dire
20 with you and selected you all. Let me ask if any
21 member of the jury is either related by blood or
22 marriage to this witness or believes that they know
23 of Professor Davis in any capacity whatsoever.

24 Let the record reflect that no one is indicating
25 that are either re343ed to or know Professor Davis.

1 Thank you. Yes, ma'am.

2 MS. SAMPSON: Thank you, Your Honor. Sorry
3 about that.

4 THE COURT: I appreciate it, counsel.

5 Q (By Ms. Sampson) Now, other than being a law
6 professor, do you have anything else that you do?

7 A I have a business partner and together we own several
8 rental properties here in Columbia.

9 Q In specific, do you own a rental property on Mildred
10 Avenue or street?

11 A Yes, we do. 4107 Mildred Street.

12 Q And is that how you came to know Ms. Sharon Smith?

13 A It is.

14 Q And did she rent that or lease that house from you?

15 A Yes, she did.

16 Q Do you remember when that began?

17 A Yes. It was first rented October the 1st of 2002.
18 She and Mr. Charles Gibson rented the property from
19 us. They signed a one-year lease.

20 Q Okay. And I'm going to -- may I approach the
21 witness, Your Honor?

22 THE COURT: Yes, ma'am.

23 Q I know that you're looking at something. We've
24 discussed this before. What are you looking at?

25 A I'm looking at 344 lease agreements.

1 Q And for clarification purposes, I'm first discussing
2 what's marked as Defense Exhibit No. 1. That would
3 be the one that says October 1st for your purposes?

4 A That's correct.

5 Q Who was listed as the tenants?

6 A Charles and Sharon Gibson.

7 Q And when was this lease entered into?

8 A It was entered into on October the 1st of 2002.

9 Q And at that time it's listed as Charles and Sharon
10 Gibson?

11 A That's correct.

12 Q And you know that now is Sharon Smith?

13 A That's correct.

14 Q They held themselves out as married?

15 A Yes, they did.

16 Q And that was back then on October 1st of 2002?

17 A That's correct.

18 Q And was there an occasion where a second lease was
19 done?

20 A Yes, there was.

21 Q When was that done?

22 A There was a second lease that was signed on May the
23 2nd, 2003.

24 Q And who was listed at the tenant on that lease?

25 A Sharon L. Smith. 345

1 **MS. SAMPSON:** And that would be for
2 identification purposes, Your Honor, Defense Exhibit
3 No. 2.

4 **MR. MEADORS:** Your Honor, we'd have an objection
5 to relevance at this point.

6 **THE COURT:** Okay. There is an objection?

7 **MR. MEADORS:** Yes, sir. Just relevance.

8 **MS. SAMPSON:** Your Honor, if I may, there has
9 been some discussion as to who --

10 **MR. MEADORS:** Can we approach?

11 **THE COURT:** Yes.

12 (Whereupon, a bench conference is had)

13 **THE COURT:** I'm going to overrule the objection.
14 I'll let you continue.

15 Q (By Ms. Sampson) And just so, because I don't
16 remember what my last question was, on the lease on
17 the one made on May 2nd, 2003, who was listed as a
18 tenant on that one?

19 A Sharon L. Smith.

20 Q And is Mr. Gibson listed at all as a tenant?

21 A He is not.

22 Q And who entered into that with you? Was it just
23 Ms. Smith or --

24 A Just Ms. Smith.

25 Q And was there a 346ason provided?

1 A They had signed the lease agreement from October of
2 2002. During the term of that year there had been a
3 problem collecting the rent. And I filed an eviction
4 action. And subsequent to that, when I met with
5 them -- or at least I recall meeting with Ms.
6 Smith -- she wanted to continue to rent the property.
7 Mr. Smith (sic) was no longer going to be --

8 Q Mr. Smith?

9 A I mean, excuse me. Mr. Gibson was no longer going to
10 be residing there. And I agreed to let her sign a
11 new lease for her to continue living there. And in
12 the second lease, Mr. Gibson did not sign the lease
13 and was not a tenant there.

14 Q I'm going to hand to you what's been marked as
15 State's 1 and 2 and ask you to actually look at the
16 copies. Do those accurately reflect the leases that
17 you entered into both in October and in May?

18 A Yes, they do.

19 MS. SAMPSON: At this time, Your Honor, we'd ask
20 that Defense Exhibits 1 and 2 be entered in evidence.

21 THE COURT: Mr. Meadors, I assume that there's
22 still the same objection as to the testimony on this
23 as to the documents?

24 MR. MEADORS: We'll withdraw it. That's fine.

25 THE COURT: 347 right. I'll without objection

1 admit both Defense 1 and 2.

2 (WHEREUPON, Defendant's Exhibit No. 1 is
3 admitted into evidence.)

4 (WHEREUPON, Defendant's Exhibit No. 2 is
5 admitted into evidence.)

6 MS. SAMPSON: No further questions, Your Honor.

7 THE COURT: Mr. Meadors.

8 MR. MEADORS: Thank you, Your Honor.

9 CROSS EXAMINATION

10 BY MR. MEADORS

11 Q Good afternoon, Mr. Davis.

12 A Good afternoon.

13 Q You pretty much do nothing but real estate now? We
14 had a brief conversation before this and I just met
15 you a little while ago, right?

16 A That's correct.

17 Q And you do a lot of real estate?

18 A Actually, I am Director of the Children's Law Offices
19 at the Law School.

20 Q I was getting to that, too. But, I mean, you have
21 rental property?

22 A I have some rental properties with a business partner
23 and we manage those properties and rent them, yes.

24 Q That's the word I was looking for maybe, "manage".

25 But you're also 348'ing at the Children's Law Center?

1 A That's my primary employment. This is just an
2 investment on the side, yes.

3 Q Do you all have people managing each property?

4 A No, we don't. I handle the administration of the
5 properties.

6 Q So if you go out and repair --

7 A My partner does the repairs and I do the
8 administration.

9 Q I mean, does somebody go out to check and see who's
10 living where?

11 A No, sir.

12 Q I mean, that's --

13 A We occasionally go to the properties. If there is a
14 problem with the property and they call and say, for
15 example, there's a plumbing problem, my partner --
16 and sometimes I accompany him -- will actually
17 physically go to the property and make the repair.
18 On those occasions we go there. We have one or two
19 properties where the tenants have asked us to come by
20 and pick up the rent. So we go there monthly.

21 Q Okay. I was handed these just a little while ago.
22 Can I go back to State's -- Defendant's -- excuse
23 me -- No. 1. Do you mind if I come up next to you?

24 A No, sir.

25 Q Defendant's No. 1 349 the first lease I think you

1 talked about, correct?

2 A That's correct.

3 Q And that was entered October 1st, 2002. That's you,
4 Harry Davis, Jr.?

5 A I signed on behalf of me and my partner, James Stack.

6 Q I'm just reading through it. I'm not --

7 A Right.

8 Q And underneath it's got Charles and Sharon Gibson?

9 A That's correct.

10 Q So I think she asked you she took the name or was
11 holding herself out as -- did you think she was his
12 wife?

13 A Yes. I thought that based on my conversations with
14 both of them.

15 Q And this lease ran from October 1st, 2002 to
16 September 1st, 2003?

17 A September 30th.

18 Q September 30th. That's what I said. That's what I
19 meant. 2003?

20 A Correct.

21 Q And basically, I've got a little experience with
22 these. In here it talks about the terms and the
23 conditions and basically says you've got to pay to
24 stay?

25 A That's correct. 350

1 Q Right?

2 A (Nods head affirmatively).

3 Q And it gives a -- if the tenants don't comply you've
4 got a right to do certain things. If you don't
5 comply, they've got a right to do certain things.
6 Right?

7 A Correct.

8 Q And I won't into right to access. But do you -- and
9 this -- and your testimony is they hadn't been
10 paying?

11 A They paid for a number of months and then the rent
12 payments stopped.

13 Q Okay. Do you know how long the rent payments
14 stopped?

15 A I -- the second lease was entered into on May the
16 2nd.

17 Q Right.

18 A So my -- they probably stopped paying in like March.
19 We filed an eviction action that takes about a month.
20 And at that point we got together and she signed the
21 second lease. So, probably March or April, somewhere
22 in there, is the last month rent. Then they -- they
23 made a payment to get caught up.

24 Q Okay.

25 A And I was -- at t351 point I agreed for Ms. Smith to

1 continue to rent the property.

2 Q And you keep saying they made a payment. Do you
3 remember how they paid when they did pay? Was it
4 paid by check?

5 A It was paid by check.

6 Q Okay. Do you remember --

7 A It could have been money order, but I'm almost
8 certain it was a check.

9 Q Fair to say both of them had paid during the process
10 before you began the eviction notice?

11 A I was --

12 Q Or do you know?

13 A I received a couple of payments -- I received some
14 payments through the mail. Once or twice I met Mr.
15 Gibson in person where he would call and say, can I
16 just meet you like at the bank and give you the
17 money? And so I would receive his rent payment that
18 way.

19 Q All that went down fine?

20 A Yes, sir.

21 Q Okay. You'd show up, meet him where you did; he'd
22 give you the money?

23 A Yes, sir.

24 Q Property not damaged that you know of, correct? I
25 guess you have 352^e renters that will tear a place

1 up?

2 A They did not tear the place up, no.

3 Q They took care of the property?

4 A The property was well maintained, yes.

5 Q And you said earlier when you all -- under this
6 lease, Mr. Davis, he signed as a tenant, or he's on
7 here as a tenant. And it went through
8 September 30th, as you've stated, 'til 2003. And I
9 wrote down earlier, and you tell me; you said you met
10 with them or at least you remember meeting with her.
11 Did you meet with him, too, maybe before this second
12 lease, or do you know?

13 A Prior to the signing of the second lease?

14 Q Yes, sir.

15 A I recall having several -- are you talking about
16 after the rent payments stopped or before?

17 Q I just wrote down -- I think after, because I think
18 you had started -- I wrote down "eviction" and then
19 "met with them". And you said, I know I at least met
20 with her.

21 A From the time that --

22 Q Leading up to the second lease. That's all I'm
23 asking.

24 A During the time of the first lease I saw Mr. Gibson
25 on several occasions at the property. I talked to

1 him on the phone several times, and I met him once or
2 twice to receive his -- when he would deliver the
3 rent.

4 Q Okay.

5 A I don't remember what it was. It was some project
6 that we were doing at the house. And my partner and
7 I were over there a couple of times to fix something
8 and I remember seeing him there.

9 Q But after you started the eviction -- and you filed
10 papers on them?

11 A I did.

12 Q After you filed papers and before you worked out a
13 new lease, you never actually evicted them?

14 A That -- Ms. Smith never moved out of the property.

15 Q Okay. And an eviction in and of itself means you get
16 somebody out of the property?

17 A Yeah.

18 Q So they never were evicted?

19 A That's correct. Prior to the eviction hearing we
20 entered into -- or I entered into an agreement with
21 Ms. Smith for her to continue to rent the property.

22 Q You worked something out?

23 A Yes, sir.

24 Q Now, prior to that, between you filing the eviction.
25 hearing and working something out -- and I think I'm

1 right -- this is whether I think you said, I met with
2 them or I at least met with her. Do you remember
3 meeting with Charles during that time? Could you
4 have met with him when you met with her?

5 A It's possible I met with him. I remember having a
6 couple of telephone conversations about, what are we
7 going to do? Your rent hasn't been paid. And I
8 can't remember specifically whether they were in
9 person or by telephone, although I do know I talked
10 to him on the phone a couple of times.

11 Q Because clearly he had rights under the rental
12 agreement through September 30th, 2003, as you did?

13 A That's correct. Until we terminated that lease. The
14 first lease was terminated as a part of entering into
15 the second lease.

16 Q Okay. And to terminate that, you would have had to
17 have talked to all the tenants I guess?

18 A That's correct.

19 Q I guess that's my question. You probably talked to
20 Charles?

21 A That's correct. I delivered him a letter terminating
22 the first lease.

23 Q And that process, you had to go through the eviction
24 process, correct?

25 A That letter was g355n to him as part of the eviction

1 process; yes, sir.

2 Q And you don't know what, if any, agreement Ms. -- the
3 defendant, Sharon Lisa Smith, had with Charles after
4 you signed the second agreement?

5 A No, sir. I don't know.

6 Q You don't know if she said, keep staying there, we'll
7 just put it in my name? You have no way of knowing
8 that?

9 A I know that Mr. Gibson made it clear to me in some
10 conversation that he was not going to continue to
11 live there.

12 Q And actually he was living -- working out of town,
13 wasn't he? Did you know that?

14 A He worked for the -- one of the telephone or power
15 companies as I recall and traveled on the road. I
16 think he was working out of Georgia.

17 Q Had he been in the military, too? Did you know that?

18 A Yes, sir. I did know he'd been in the military.

19 Q So he was working a good bit out of town, wasn't he?

20 A I don't know how much he was out of town. I know
21 that he worked for either the power company or the
22 phone company and there was an an out-of-town work
23 site that he would go to. But how frequently he was
24 there I don't know.

25 Q So leading up to this time when you wrote a new lease

1 you know he was out of town but you don't know how
2 often he was out of town?

3 A That's correct.

4 Q And you don't know how their relationship was going,
5 like you would any of your other tenants, correct?
6 You don't know what's going on inside the house, do
7 you?

8 A That's correct, sir.

9 Q And you don't know if the defendant, Lisa Smith,
10 talked and went over this agreement with Charles, do
11 you?

12 A The second lease agreement?

13 Q Yes, sir. I mean, you don't know that?

14 A No, sir. I don't know that.

15 MR. MEADORS: Beg the Court's indulgence.

16 THE COURT: Yes, sir.

17 MR. MEADORS: Sorry, Your Honor. Beg the
18 Court's indulgence.

19 THE COURT: That's all right.

20 Q (By Mr. Meadors) On the second lease, you put it
21 between Ms. Smith, correct?

22 A That's correct. Sharon L. Smith.

23 Q And this was one Ms. --

24 A Charles and Sharon Gibson.

25 Q So he clearly was 357 tenant on this one even though he

1 didn't sign, correct?

2 A He clearly was a tenant.

3 Q And this lease ran through October 30th, 2003, when
4 you signed it? It was for a year? That was the
5 terms of it?

6 A That was the term of that lease.

7 Q Thank you. That's all.

8 THE COURT: Thank you, Mr. Meadors. Ms.
9 Sampson.

10 MS. SAMPSON: Briefly, Your Honor. Would you
11 like me to wait until you're finished?

12 THE COURT: No, ma'am. You can go ahead.

13 REDIRECT EXAMINATION

14 BY MS. SAMPSON

15 Q Just a couple of questions. I am almost done.

16 A Mm-hmm (affirmative).

17 Q I just want to point out to you under No. 7 where it
18 states: Who is designated to live in the premises?
19 Okay? On No. 7 on the first lease dated October, it
20 says Charles, Sharon and Desmond Gibson, correct?

21 A It does.

22 Q And on the second one done in May of 2003, it just
23 says Sharon Smith and her children, correct?

24 A That's correct.

25 Q Now, if Ms. Smith had wanted Mr. Gibson to be a

1 tenant, he could have, correct?

2 A He could have been.

3 Q On the second lease?

4 A Yes.

5 Q And the first lease, just to make it clear, it was
6 terminated during the eviction process?

7 A It was terminated.

8 Q So in order for Ms. Smith to continue living in that
9 residence she had to do a new lease?

10 A That's correct.

11 Q And he was not prohibited from being on this new
12 lease, was he?

13 A I didn't prohibit him from that. That was a matter
14 of their business.

15 Q Thank you.

16 MS. SAMPSON: No further questions, Your Honor.

17 MR. MEADORS: Just one final question.

18 THE COURT: Yes, sir. Of course.

19 RE CROSS EXAMINATION

20 BY MR. MEADORS

21 Q From the time of the second lease, did Ms. Smith ever
22 call you and say, Charles is in my house, how about
23 get him out?

24 A No, sir.

25 Q Thank you. That's all.

1 **THE COURT:** Professor, you may step down. Thank
2 you, sir.

3 **THE WITNESS:** Thank you, sir.

4 **MS. SAMPSON:** May Mr. Davis be excused?

5 **THE COURT:** Any reason not to excuse this
6 witness?

7 **MR. MEADORS:** No, sir.

8 **THE COURT:** Sir, you're free to come and go as
9 you please.

10 **WITNESS:** Thank you, Your Honor.

11 **THE COURT:** Ms. Sampson, do you all need --

12 **MS. SAMPSON:** Yes, sir, Your Honor. We don't
13 need any time. The defense would now call Eddie
14 Fogle to the stand.

15 **EDDIE L. FOGLE,** after being duly sworn,
16 testifies as follows:

17 **THE CLERK:** Thank you. Please have a seat in
18 the witness stand and state your full name for the
19 record.

20 **WITNESS:** Eddie Leroy Fogle.

21 DIRECT EXAMINATION

22 **BY MS. SAMPSON**

23 **Q** Good afternoon, Mr. Fogle.

24 **A** Good afternoon.

25 **Q** Could you just 360.1 the jury a little bit about

1 yourself? Where did you grow up?

2 A I am born and raised here in South Carolina.

3 Q And -- well, you're not a woman. So I guess you
4 won't be offended. How old are you?

5 A I am 35.

6 Q And do you know the defendant, Ms. Sharon Smith?

7 A Yes, I do.

8 Q And how do you know her?

9 A We have a relationship. We also have our son
10 together.

11 Q Could you -- I know that --

12 **THE COURT:** I'm going to ask you, too, sir, if
13 you can sit up and sit close to that microphone.

14 Q Could you repeat what you just said? I'm sorry.

15 A We were involved in a relationship and we also have a
16 son together.

17 Q And I just want to speed up kind of to the date of
18 this incident. Did you see Ms. Smith on May 10th
19 through May the 11th, 2003?

20 A Yes, I did.

21 Q And what time did she arrive at your house?

22 A I can't say exactly. Maybe about 2:00 in the
23 morning.

24 Q About 2 a.m.?

25 A Right.

1 Q And at some point did Mr. Gibson come over to your
2 home?

3 A Yes, he did.

4 Q What happened when he came over?

5 A At first he kind of drove by. Then he stopped and
6 backed up, came to the gate. He -- he asked me what
7 was going on.

8 Q And let me ask you this. How do you know Mr. Gibson?

9 A I know him through him and Sharon.

10 Q And could you recognize him? You knew him by name
11 and sight?

12 A Right.

13 Q Okay. So he comes up to your -- does he get out of
14 the car?

15 A Yeah, he got out of the car.

16 Q And ...?

17 A He asked me what was going on.

18 Q And --

19 A I told him I didn't know. I said, you can come in
20 the gate and talk to her.

21 Q So did they have a conversation? Don't tell me the
22 specifics of the conversation. But did they have a
23 conversation?

24 A Well, yes.

25 Q Could you overh362 it? I'm not asking you again what

1 was said. But could you overhear it?

2 A Some of it I paid attention to. Some of it I didn't.

3 Q Could you see it?

4 A Yeah. I was standing right next to them.

5 Q Was Mr. Gibson upset?

6 A Yeah.

7 Q Would you -- how would you characterize it?

8 A He was mad.

9 Q Okay. Was there any cursing going on?

10 A Yeah.

11 Q Was Ms. Smith cursing at Mr. Gibson?

12 A No. She was unconcerned.

13 Q She was unconcerned. What was her demeanor like?

14 A She was just sitting there looking at him.

15 Q Okay. Again, without getting into the gist of the
16 conversation, what happened after that?

17 A After their conversation, he left, went back to their
18 house, or her house, got her clothes and brought them
19 around to my house, put them out in the yard.

20 Q He put her clothes out in the yard?

21 A Mm-hmm (affirmative).

22 Q How were they -- were they in suitcases? I mean, how
23 did that happen?

24 A They were like in I think boxes and like a laundry
25 basket.

1 Q Okay. And how did Ms. Smith respond to that?

2 A Basically she said she didn't understand what was
3 wrong with him because he couldn't put her out of her
4 own house.

5 Q Okay. And without saying what he said then, what was
6 his demeanor like?

7 A Well, I didn't really talk to him then.

8 Q Could you see him?

9 A Yeah.

10 Q Did he look -- how did he look to you?

11 A Well, I knew he was upset because I told him not to
12 do that when he said he was going to do it.

13 Q Okay. Does he just take one trip, or how many trips
14 did it take to get this accomplished?

15 A Maybe three or four.

16 Q And when you say three or four, was he going back to
17 her residence and coming to yours?

18 A Right.

19 Q How far is it between her residence and yours?

20 A Maybe about eight, ten blocks.

21 Q Okay. Not -- and he is driving. He's not walking?

22 A Right.

23 Q So it took about three trips I think you said?

24 A Three, maybe four.

25 Q So was all her 364 iff -- I mean, how many bags of

1 stuff or boxes of stuff did it end up being?

2 A I couldn't really tell you.

3 Q And how was Ms. Smith? Was she upset? How was she
4 acting?

5 A She was unconcerned with him.

6 Q Was she mad?

7 A No. She wasn't mad.

8 Q Okay. And after he left all her stuff on the front
9 yard, what did she do?

10 A She came in the house. We sat around and talked for
11 a minute. Then she went to sleep.

12 Q She went to sleep?

13 A Mm-hmm (affirmative).

14 Q What time did she get back up?

15 A Well, that's kind of hard to say because I don't
16 really remember how long she was asleep.

17 Q Okay.

18 A But I would estimate maybe about 12, about 12:00 I
19 guess.

20 Q Were you in the house the whole time?

21 A Mm-hmm (affirmative).

22 Q And at some point did she decide to leave?

23 A Yeah. I believe -- I can't remember if she called
24 Patrice or Patrice -- I think Patrice called me.

25 Q And who is Patrice?

1 A Her first cousin.

2 Q Her cousin. Okay. Would you say they were friends
3 as well as cousins?

4 A Yeah.

5 Q And after that conversation with Patrice, what did
6 she do?

7 A She said that she was going around to the house to
8 get the kids' -- I think it was a game or something.

9 Q Do you know if she knew if Mr. Gibson was still at
10 the home or not?

11 A She didn't know it if he was there.

12 Q Okay. To the best of your knowledge, was she going
13 there to confront him?

14 A No.

15 Q Why was she going there?

16 A To get the kids' game. And I think she had a meeting
17 or something at a church, a church meeting or -- I
18 know it was Mother's Day. She might have been going
19 down to the country to see her mother.

20 Q So what did she do in order to get home?

21 A She asked to borrow my car.

22 Q And did you let her?

23 A Mm-hmm (affirmative).

24 Q And when she left, what was her demeanor like?

25 A It was like she 366n't concerned with the situation.

1 But I -- I knew that he was mad... And I told her to
2 get Patrice to go over there with her in case he was
3 there.

4 Q Was she upset at all?

5 A No.

6 Q She wasn't mad?

7 A Hmm-mm (Negative).

8 Q But she didn't get Patrice?

9 A No.

10 Q Or did she?

11 A No.

12 MS. SAMPSON: Beg the Court's indulgence.

13 THE COURT: Yes, ma'am.

14 MS. SAMPSON: No further questions, Your Honor.

15 THE COURT: Thank you, ma'am.

16 MS. SAMPSON: Please answer anything the State
17 may have.

18 THE COURT: Mr. Meadors.

19 MR. MEADORS: Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 MR. MEADORS: May it please the Court?

22 THE COURT: Yes, sir.

23 CROSS EXAMINATION

24 BY MR. MEADORS

25 Q Good afternoon, M₃₆₇ Fogle.

1 A Good afternoon.

2 Q You and Charles didn't have any bad blood, did you?

3 A No, sir.

4 Q And he was working in Alabama, wasn't he, or out of
5 town?

6 A I couldn't tell you.

7 Q Well, you know he --

8 A I didn't know his schedule.

9 Q Okay. But you knew he was working out of town,
10 didn't you?

11 A Not really. I didn't really know a lot about him.

12 Q You knew that the defendant, Sharon Lisa Smith, had
13 had a relationship with him?

14 A Right.

15 Q And during that relationship, were you seeing her
16 also?

17 A Not -- to an -- to an extent.

18 Q And as a matter of fact, if he was out of town
19 sometime, would you see her during the week when he
20 was out of the town? Would she stay at your place?

21 A I would see her a lot. No. She didn't stay at my
22 place.

23 Q She never stayed at your place?

24 A She didn't stay there, no.

25 Q Would she ever spend the night?

1 A She might have.

2 Q And that would also be during this time when she was
3 at Mildred Avenue with Mr. Gibson?

4 A From my understanding, that was when they were broke
5 up.

6 Q What do you mean, when they were broke up?

7 A He was supposed to have moved out, from my
8 understanding.

9 Q When was he supposed to have moved out?

10 A I couldn't give you a date.

11 Q Do you know how long --

12 A Yeah.

13 Q I'm sorry, sir.

14 A Yeah. It wasn't long before this happened.

15 Q But you had, all due respect, had a relationship with
16 her prior to that?

17 A Right.

18 Q And perhaps you spent the night at the house prior to
19 him moving out?

20 A Right.

21 Q There ain't no question about that, is there?

22 A Right.

23 Q And do you know how long they were at Mildred Avenue?
24 Roughly. I'm not trying to beat it death.

25 A Yeah. I know me 369 her was broke up for about year.

1 And right after we broke up they was dating.

2 Q He didn't live far from your house. By the way,
3 Mildred Avenue is not far from -- you're Suffolk,
4 correct?

5 A Right.

6 Q Several blocks fair to say?

7 A (Nods head affirmatively).

8 Q As a matter of fact, he went by your house that next
9 morning, like you say, right?

10 A Right.

11 Q And it would be fair to say; well, she was there, you
12 were there, right?

13 A Right.

14 Q And earlier -- I can't remember if she asked you this
15 or not -- but you had seen her earlier that morning?

16 I've got a calendar here somewhere. Early the
17 morning of May 11th?

18 A Right.

19 Q When you first saw her?

20 A Right.

21 Q There might have been somebody else at your house.
22 Right?

23 A Right.

24 Q And she was drunk, right?

25 A Right.

1 Q "She" being Sharon Lisa Smith?

2 A Mm-hmm (affirmative).

3 Q And she was with Ms. Patrice, correct?

4 A Right.

5 Q And basically she was telling you she didn't want
6 Charles, right?

7 A Right.

8 Q Basically. Did she tell you that?

9 A (Nods head affirmatively).

10 Q She told you she wanted you, didn't she?

11 A Yeah.

12 Q And did you all stay on the front porch?

13 A (Nods head affirmatively).

14 THE COURT: I need you to answer, sir, so the
15 court reporter can take it.

16 A Yes.

17 Q And so she chose to stay with you, chose to stay
18 there?

19 A Correct.

20 Q And you stayed on the porch how long?

21 A From when she arrived until after he left.

22 Q All right.

23 A So that was until sunrise.

24 Q Actually, you put in your statement she might have
25 stayed there 'til 3³⁷1?

1 A Right.

2 Q And I think you said earlier and you said in your
3 statement earlier he drove by and then backed up. Do
4 you think it's fair to say he may not have even known
5 that she was there to start with? Do you have any
6 idea?

7 A No. I couldn't tell you..

8 Q You don't know where he was going, right?

9 A Right.

10 Q But he drives -- you all were out on the front porch.
11 I've been by your house.

12 A Right.

13 Q If you're on the road, he would have been able to see
14 you all on the front porch?

15 A Right.

16 Q So if he saw you, he could have backed up then; that
17 would have reasonable, and then had a conversation
18 with you, correct?

19 A Correct.

20 Q And he then got out and came up and he just said,
21 what's going on?

22 A Correct.

23 Q You asked him if they were still in a relationship,
24 didn't you?

25 A Correct. 372

1 Q Fair to say based on his response that he still
2 thought so?

3 A Correct.

4 Q But he wasn't mad at you, was he?

5 A No.

6 Q You all never had any bad blood?

7 A No.

8 Q And you said Sharon, the defendant -- do you call her
9 Sharon or Lisa?

10 A Sharon.

11 Q Some folks call her Lisa?

12 A Mm-hmm (affirmative).

13 Q You're saying she wasn't upset at all?

14 A She was acting like she wasn't concerned with it.

15 Q Based on the time there, did you learn that there is
16 an allegation that Charles might have been with
17 somebody else the night before?

18 A To be honest, I -- yeah. Yeah. Because I think she
19 mentioned it.

20 Q And that upset her, didn't it?

21 A No.

22 Q It didn't upset her?

23 A She just -- it was something that he was talking
24 about, and it was like she threw it out there because
25 he had said somet3733.

1 Q But actually, prior to coming to your house -- what
2 time did she get there? 3:30 in the morning?

3 A About 2 I think.

4 Q About 2:30. I'm not trying to pin you on that,
5 Eddie. She was intoxicated. Your statement said she
6 was drunk?

7 A Right.

8 Q She had been by 4107 Mildred right before that,
9 hadn't she?

10 A I don't know. I didn't know that.

11 Q She didn't tell you she'd just come from Mildred
12 where she'd gone?

13 A No.

14 Q She thought Charles left, didn't she?

15 MS. SAMPSON: Objection, Your Honor. It calls
16 for speculation as to what Ms. Smith thought.

17 THE COURT: I'll let you rephrase the question.

18 Q Did you know she'd gone over to 4107 Mildred Avenue
19 where she and Charles resided that early morning
20 before she came to see you?

21 A No. I didn't.

22 Q She never told you that?

23 A No.

24 Q That was her residence, wasn't it?

25 A Right.

1 Q That's where she stayed?

2 A Right.

3 Q Except the times she was with you, correct? You
4 didn't know she was coming? With all due respect,
5 you had other company?

6 A No, I didn't.

7 Q You didn't know she was coming?

8 A No.

9 Q Isn't it true when you first saw her that night that
10 based on the conversation you had with her you knew
11 she was upset with him and didn't want him any more,
12 at 2:30 or 3:00 in the morning?

13 A Can you say that again?

14 Q At 2:30 or 3:00 in the morning of May 11th, when you
15 first saw her, --

16 A Mm-hmm (affirmative).

17 Q -- based on the conversation with her, did you not
18 know that she didn't want him any more? Did you put
19 that in your statement?

20 A She wasn't talking about it.

21 MS. SAMPSON: Your Honor, if he's going to ask
22 him about what's in his statement, I'd ask that he
23 give it to him, or at least ask if he remembers it.

24 THE COURT: If he says he doesn't remember it,
25 I'll let him show 375 to him afterward.

1 **MR. MEADORS:** Your Honor, I'll move on. Beg the
2 Court's indulgence.

3 **THE COURT:** Yes, sir.

4 **Q** (By Mr. Meadors) And basically, as a result of the
5 conversation that you observed, I think she said, he
6 started bringing the stuff over later that morning,
7 correct, Mr. Fogle?

8 **A** Right.

9 **Q** Fogle?

10 **A** Right.

11 **Q** And he had brought several trips?

12 **A** Right.

13 **Q** Several stuff over, bringing her stuff?

14 **A** Right.

15 **Q** And I think there was some conversation about
16 bringing the kids' stuff, correct?

17 **A** I think she said she was going to get the kids'
18 stuff.

19 **Q** Okay. And you said you didn't know whether anybody
20 was over at Mildred Avenue that next morning or not?

21 **A** No.

22 **Q** You didn't know if Charles was there or not?

23 **A** Right.

24 **Q** The night before until you saw him that morning,
25 right?

1 A Right.

2 Q And you had not gone out that night? Well, let me --

3 A As far as --

4 Q Let me ask you another question. I don't care what
5 you did that night. But let me ask you this. Did
6 you see Charles out that night?

7 A No, I didn't.

8 Q Or Sharon out that night?

9 A No.

10 Q Before she got to your house?

11 A No, I didn't.

12 Q And you wanted her to take Patrice with her I think
13 you said?

14 A Right.

15 Q And Patrice, she is in the courtroom back there in
16 the white?

17 A Mm-hmm (affirmative).

18 Q Ms. Parks. She's cousins with Ms. Smith?

19 A Right.

20 Q And there was a discussion about a lease. Was it
21 fair to say Ms. Smith's upset that he was bringing
22 her stuff over and telling her to come get the kids'
23 stuff? Was she concerned about him doing that
24 because she was on the lease also?

25 A Yes. She was concerned about it.

1 Q But she wasn't upset about it?

2 A She kind of laughed at it.

3 Q She thought it was funny?

4 A Right.

5 MR. MEADORS: Just a few more questions, Your
6 Honor.

7 THE COURT: Yes, sir.

8 Q (By Mr. Meadors) Did you know Mr. Parker?

9 A Yeah. Daniel?

10 Q Daniel. Yes, sir.

11 A Mm-hmm (affirmative).

12 Q And he lives in Hopkins?

13 A Right.

14 Q Had you talked to him that day? You didn't see him
15 that day, did you?

16 A I saw him at the house.

17 Q Afterwards?

18 A Right.

19 Q Okay. Let me do that. Before that, you didn't see
20 him?

21 A No.

22 Q You had no way of knowing he was coming to get the
23 kids' stuff, did you?

24 A No.

25 Q You don't know 1378 phone number, do you?

1 A Not by heart.

2 Q What's your phone number? What was it in May of
3 2003?

4 A That's a good question.

5 Q The best you remember it.

6 A It's currently 735 ...

7 Q You got one in your home?

8 A Right.

9 Q 8373?

10 A Right. Right.

11 Q That's your number?

12 A (Nods head affirmatively).

13 Q And that was your number back in May of 2003?

14 A It may have been. I just can't --

15 Q You had the same phone number for a while?

16 A Right.

17 Q As a result of a phone call you got, did you learn
18 that Sharon had stabbed Charles?

19 A Correct.

20 Q Did that come from a family member of hers?

21 A It did.

22 Q And was she wearing the brown dress at your house?

23 A Yes.

24 Q And after you said she went to sleep at 2:30 or 3:00
25 in the morning? 379

1 A No. That was like --

2 Q My bad. At sun break?

3 A Right.

4 Q After he came by?

5 A Right.

6 Q Brought the stuff by?

7 A Mm-hmm (affirmative).

8 Q She fell asleep?

9 A Right.

10 Q 'Til roughly 11 'til 12?

11 A Yeah.

12 Q And that's when she asked to borrow your car to go
13 over to the house, correct?

14 A When she woke up.

15 Q Okay. Now, since this incident, has Ms. Smith been
16 staying at your house some?

17 A Yes.

18 Q And you all have a relationship now?

19 A Right.

20 Q Back together?

21 A Pretty much, yeah.

22 Q And stayed there last night?

23 A No, she didn't.

24 Q You're at your same house last night you've been in
25 since then? 380

- 1 A Say that again now?
- 2 Q You're at the same house you've been in since then?
- 3 A That I've been in?
- 4 Q Yes, sir.
- 5 A No.
- 6 Q You're still on Suffolk Street?
- 7 A Right.
- 8 Q What's your address?
- 9 A 508 Suffolk.
- 10 Q That's where you were living then?
- 11 A Right.
- 12 Q It's where you're living now?
- 13 A Right.
- 14 Q And she's been there with you since this incident?
- 15 A What do you mean "been there"?
- 16 Q Staying with you.
- 17 A No. She has got her own place.
- 18 Q I thought -- but she's stayed with you some?
- 19 A Yeah.
- 20 Q How often has she stayed with you?
- 21 A It's hard to say.
- 22 Q And how old is your child with her?
- 23 A Eight.
- 24 Q That you all have together?
- 25 A Eight.

1 Q Have you discussed your testimony here today at all
2 with her?

3 A No.

4 MR. MEADORS: That's all. Thank you.

5 MS. SAMPSON: Just very briefly, Your Honor.

6 THE COURT: Yes, ma'am.

7 REDIRECT EXAMINATION

8 BY MS. SAMPSON

9 Q The State asked you a couple of questions. You all
10 have never discussed this incident at all really
11 since it happened, have you?

12 A Not really. Not no need to.

13 Q And you haven't even talked me about --

14 THE COURT: Mr. Fogle, I'm going to ask you to
15 slide close to that microphone.

16 Q I'll ask you again. You've never talked to Ms. Smith
17 about this incident since then, have you?

18 A No, not in detail.

19 Q And, in fact, as her lawyer, I never met you until
20 yesterday?

21 A Correct.

22 Q And you actually are here under subpoena from the
23 State, correct?

24 A Correct.

25 MS. SAMPSON: 382 No further questions.

1 THE COURT: Mr. Meadors.

2 RE CROSS EXAMINATION

3 BY MR. MEADORS

4 Q Not in detail?

5 A Right.

6 MR. MEADORS: That's all.

7 THE COURT: Mr. Fogle, you may step down. Thank
8 you, sir. Anything further from the defense?

9 MS. SAMPSON: I don't -- can we approach?

10 THE COURT: Yes, ma'am.

11 (Whereupon, a bench conference is had)

12 THE COURT: All right, ladies and gentlemen.

13 We're going to go ahead and break a little bit
14 earlier today. I anticipate that we'll finish up in
15 the morning and at some point tomorrow morning we'll
16 argue and charge this case to you and send you to
17 your deliberations. But this is a good point for us
18 to break for today.

19 Overnight I just ask that you not discuss the
20 evidence and testimony you've heard or seen thus far.
21 We'll bring you back at 9:30 in the morning. We'll
22 be ready to start then. And I anticipate we should
23 be able to wrap up the evidence and testimony you'll
24 receive at some point in the morning and we'll then
25 go into arguments, 383 using arguments and my charge on

1 the law. Then you all should begin deliberations
2 tomorrow. You all have a good night. And we'll see
3 you all again at 9:30 in the morning. Thank you.

4 (Jury out at 5:00 p.m.)

5 THE COURT: Okay. Thank you, ma'am. Counsel,
6 anything? Anything else before we break?

7 MS. SAMPSON: Not from the defense, Your Honor.

8 MR. MEADORS: I guess we'll just discuss the
9 charges tomorrow afterwards. It will be easier to
10 pull that up.

11 THE COURT: We'll do that. I'm let you all look
12 at that. Just as a heads up, does anybody anticipate
13 anything other than sort of the standard charge?

14 MS. SAMPSON: No, sir.

15 THE COURT: Then without making you give away
16 anything, anything other than in terms of the charge
17 on the law, anything other than the indictment at
18 this point?

19 MS. SAMPSON: No, sir.

20 THE COURT: All right. We'll go ahead and put
21 together or finalize our charge. If we need to make
22 any changes, we'll do that tomorrow and I'll give you
23 a copy of it. All right, counsel. Thank you all.
24 We'll see you all at 9:30 in the morning.

25 MR. MEADORS₃₈₄ Thank you.

1 **MS. SAMPSON:** Thank you, Your Honor.

2 (Whereupon, the proceedings are concluded for
3 the day, to be reconvened tomorrow morning)
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1 Wednesday, June 22, 2005

2 **THE COURT:** All right, counsel. I'll explain
3 more to you later in chambers, but I appreciate your
4 patience this morning. Are we about ready to proceed
5 now?

6 **MS. SAMPSON:** The defense is ready.

7 **MR. MEADORS:** The State's ready.

8 **THE COURT:** And you are going to call Ms. Smith?
9 Is that right?

10 **MS. SAMPSON:** Yes, sir.

11 **THE COURT:** Before the jury? All right. We'll
12 bring the jury out.

13 (Jury in at 12:10 p.m.)

14 **THE BAILIFF:** The jury is all present, Your
15 Honor.

16 **THE COURT:** Thank you, sir. Ladies and
17 Gentlemen of the Jury, I first of all appreciate your
18 patience with us this morning. I apologize to you.
19 There was a little emergency I had to deal with, and
20 I certainly sincerely apologize to you for all coming
21 and then having to stand down and wait on us a little
22 bit. But we are ready to continue with the trial at
23 this point. And we'll continue with the defense
24 case. Ms. Sampson.

25 **MS. SAMPSON:** 386 Thank you, Your Honor. The

1 defense would call Sharon Smith to the stand.

2 SHARON L. SMITH, after being duly sworn,
3 testifies as follows:

4 THE CLERK: Thank you. Please have a seat in
5 the witness stand and state your full name for the
6 record.

7 WITNESS: Sharon Lisa Smith.

8 DIRECT EXAMINATION

9 BY MS. SAMPSON

10 Q How are you doing today?

11 A Good.

12 Q All right. You go by Sharon?

13 A As far as occupation; but most of my family calls me
14 Lisa.

15 Q And how old are you?

16 A Thirty-three.

17 Q And tell me, how many kids do you have?

18 A Four kids.

19 Q Four kids? How old are they?

20 A 18, 15, 10 and 8.

21 Q Okay. And I think we've already talked about it, but
22 do you have kids with Mr. Fogle who was here earlier?

23 A Yes.

24 Q What do you do for a living?

25 A Now I'm a registered nurse. I just graduated with my

1 Bachelor's on May the 5th.

2 Q Now, there has been some testimony about you being an
3 LPN. What's that?

4 A That's a licensed practical nurse.

5 Q What's the difference between an LPN and an RN like
6 you are now?

7 A Just a difference in the amount of time you go to
8 school. As an LPN, you have a diploma and as an RN,
9 you can have an Associate's or you can have all the
10 way up to your Bachelor's, which it's two years to
11 five years.

12 Q And so now you are registered?

13 A Yes, I am.

14 Q And how long altogether have you been a nurse?

15 A Well, I did CNA work for like ten --

16 Q What's CNA?

17 A That's a certified nursing assistant. I've done that
18 for a while. And then I kind of just, you know, took
19 the stepping blocks to an RN.

20 Q Okay. Now, I want to take you back to May of 2003
21 and talk about that a little bit. Okay?

22 A Okay.

23 Q At that time or maybe even a little before then, when
24 did you meet Mr. Charles Gibson?

25 A I met Charles at the VFW. I always worked about
388

1 three jobs. And I was going to nursing school after
2 me and my kids' fathers broke up. And I met him at
3 the club where I worked.

4 Q About when was that? Do you remember?

5 A When did I work there?

6 Q I know it's been a long time.

7 A Probably like February in 2002.

8 Q Okay. And there has been some testimony. In I
9 believe September of 2002 you all started living
10 together?

11 A Yes.

12 Q Okay. Now, we've already introduced your lease. And
13 on that lease it says Sharon and Charles Gibson. Did
14 the two of you often share names, or how did that
15 happen?

16 A Well, at first the relationship was going pretty good
17 and he asked me if I would like getting married. He
18 had asked me. But I told him I was still in love
19 with Mr. Fogle and I thought I should get over that
20 for a while. And so -- but when we first went to get
21 the house, he told the landlord that. So I didn't
22 dispute it.

23 Q And you didn't mind, did you?

24 A No. Not at the time.

25 Q Okay. Now, when ³⁸⁹ you break up with Mr. Gibson?

1 A Well, we -- we broke up kind of over the phone.
2 There was a lot of things happening at the time. But
3 the broke (sic) up happened when I got a phone call
4 about his daughter had been in a car accident from
5 her mother.

6 Q Do you remember -- I don't mean to cut you off --
7 when exactly that was, what time of the year?

8 A It was -- to me, it was around March or something.
9 I'm not sure. It could have been in April.

10 Q Of what year?

11 A Of 2003.

12 Q And there's been some talk about Mr. Gibson working
13 out of town. Explain what you know about that.

14 A Well, yes. I know that he works out of town because
15 I've taken him there numerous times. And he works
16 for the power, Georgia Power. And he works from
17 Alabama to the Georgia line.

18 Q So were there times he would -- how long would he be
19 gone at a time?

20 A It was just like Monday through Thursday. He would
21 leave out on Sunday and come back on Thursday.

22 Q Okay. So it was fair to say he'd be gone four days
23 out of the week?

24 A About four days out of the week.

25 Q Okay. When did390 -- did he ever move out? You say

1 you broke up. Did he ever move out?

2 A Well, he kept telling me that he was going to come
3 and get his things. He said he didn't have any
4 money. He didn't have any money to come back and get
5 them. And so I waited, you know. Because I was
6 getting ready to change the locks. I told him I
7 didn't feel that was fair. Plus, I needed his keys
8 back. And ...

9 Q So when was the last time you saw him before
10 May 10th?

11 A I always remember talking to him on the phone. I'm
12 trying to think.

13 Q Would you guess? Had it be an month, two?

14 A Oh, it had been a while. It had been about a month.

15 Q Do you know where he was living at that time?

16 A He was staying at hotels that his job would have him
17 stay at.

18 Q Okay. And so you said you hadn't taken his keys.
19 Why not?

20 A Because he had not been there to get them, to give
21 them back.

22 Q So at some point you made a new lease?

23 A Mm-hmm (affirmative).

24 Q Did he know about that?

25 A He knowed (sic) --391

1 **MR. MEADORS:** Objection.

2 **THE COURT:** Sustained, unless you can lay a
3 foundation.

4 **Q** Do you know if he knew about that?

5 **A** Well, Mr. Davis, I spoke Mr. Davis, and he said --

6 **MR. MEADORS:** Objection. It would be hearsay.

7 **THE COURT:** Sustained.

8 **Q** Did you ever tell him that you had done a new lease?

9 **A** Yes. He knew.

10 **Q** Thank you. When did you tell him that?

11 **A** That was like in April I told him. Well, he knew
12 when we got the eviction notice. And actually I was
13 leading him to believe that I was moving out, too.
14 So that's why I always asked him, when are you coming
15 to get your things so I can clean the house out for
16 Mr. Davis? But I never would let him know that I was
17 going to keep the house, because one time I didn't
18 have any intention that I wanted the house.

19 **Q** So once you decided to keep it, did you let him know
20 you were staying there?

21 **A** Yeah. I let him know at that point. Because when I
22 went to Mr. Davis, he was letting me know that we
23 were --

24 **Q** I don't want to get into what Mr. Davis said.

25 **A** No. But I'm just saying about the house. He was

1 letting us know that that really put him in a bind
2 with us leaving the house before the lease was up.
3 So that's why I decided to really keep the house.

4 Q Was Mr. Gibson living there in May of 2003?

5 A No.

6 Q But his things were still there?

7 A His things were still there.

8 Q All right. So, on May 10th, were you expecting him
9 to come?

10 A No.

11 Q How did you find out he was in town?

12 A He called me down to my mom's house that day. And he
13 said --

14 Q When you say he called you, you were at your mother's
15 house?

16 A I was at my mother's house, me and Patrice, and he
17 called me down there. And I said -- you know, I
18 didn't know where he was. And I asked him. He said,
19 I'm at the house. I said, oh, so you going to get
20 your things? And he kind of hesitated.

21 **MR. MEADORS:** Objection to hearsay, Your Honor.

22 **THE COURT:** Sustained.

23 A Well, I asked --

24 Q What was your understanding of why he was here?

25 A To get his things 393 to renew his lease on the

1 rental car.

2 Q Okay. When did you see him on May 10th? Do you
3 remember what time it was, the first time?

4 A The first time I seen him was after leaving the club.
5 And that was about 2:30, almost 3:00.

6 Q And where did you see him?

7 A At the home.

8 Q And what happened when you saw him then?

9 A When we were leaving the club -- well, when I first
10 even got to the club, and that was about 10:00,
11 Rosalyn approached me and --

12 Q Don't tell me -- I don't want to know what she said.

13 A Well, the first time, so it was something said. And
14 I was like, no. But then I kind of knew, well, maybe
15 so. But it was just that she thought she had seen me
16 in the club earlier.

17 Q So at some point you go home?

18 A So then after -- well, after staying to the club
19 until they closed, then I wasn't really going home.
20 I had planned to go over to Mr. Fogle's house anyway.
21 And so on my way going there, seeing that he had
22 company. So then Patrice, we proceeded to go to my
23 home.

24 Q And let me ask you, Sharon. You said you were how
25 old?

1 A Thirty-three.

2 Q So you were drinking a little bit that night? Would
3 it be fair to say you drank a lot that night?

4 A Yeah. I dranked (sic) a lot that night.

5 Q So would it be fair to say you were intoxicated or
6 drunk?

7 A Very intoxicated.

8 Q So you get home around, I think you said 2:30 or 3?

9 A Mm-hmm (affirmative).

10 Q And what happens then?

11 A Well, when we got to the home and we seen him, and
12 Patrice, she was kind of saying some little jokes to
13 me about the situation. And so I kind of laughed
14 about it. And so then we're going in the home and he
15 comes out. He approaches us. And, you know, he
16 says, I've been waiting on you all night; you know,
17 where you been? So I had gave him this look like,
18 you know, okay, you know, because I had heard
19 something. And so Patrice for some reason --

20 MR. MEADORS: Objection. Hearsay.

21 THE COURT: Sustained. You can't --

22 Q Let me just tell you; I don't want to know what was
23 said. Did you have an argument?

24 A No. It wasn't really an argument. He said he wanted
25 to talk. And I wa395ike, I don't want to talk. You

1 know, I was tired.

2 Q Okay. So did you stay or leave or --

3 A No. I told Patrice, come on. I wanted to go.

4 Q Okay. What was Mr. Gibson's demeanor at that time?

5 A He was saying he wanted to talk with me.

6 Q Not what was he saying. What was he acting like?

7 A He was like trying to approach me; you know, like
8 come back, talk to me.

9 Q But you didn't want to?

10 A No.

11 Q So where did you go when you left?

12 A So then I went back over to Mr. Fogle's house.

13 Q Okay. Now, there's already been some talk about you
14 staying over at Mr. Fogle's. How long do you think
15 it was you were at Mr. Fogle's before Mr. Gibson came
16 over?

17 A I don't know. Because actually I started falling
18 asleep. We were talking on the porch but I was kind
19 of falling asleep. And then I was kind of awakened.
20 I was awakened by his words.

21 Q By whose words?

22 A Charles'.

23 Q Okay. So he comes over. And this has already been
24 testified about. He brings your things over?

25 MR. MEADORS 396 Objection to leading.

1 **THE COURT:** I'll sustain that. Rephrase it.

2 **Q** What happens when Mr. Gibson came over?

3 **A** He said that he wanted to talk. He asked what was
4 going on or something like that. I didn't really
5 hear the first words. But then I --

6 **MR. MEADORS:** Objection to hearsay.

7 **A** -- woke up.

8 **THE COURT:** Sustained. You can't go into what
9 somebody else said, ma'am.

10 **A** I didn't hear the first words, but I woke up. And so
11 I was just listening to him because he -- it wasn't
12 directed towards me. It was directed towards Mr.
13 Fogle. So I was just sitting there.

14 **Q** Were you upset?

15 **A** No.

16 **Q** Did he ever go to his car?

17 **A** When he was getting ready to leave.

18 **Q** Did he ever come back?

19 **A** Not -- I don't know. I actually went to sleep.

20 After I went in the house I went to sleep.

21 **Q** Okay. Was there any time when your clothes ended up
22 on Mr. Fogle's lawn?

23 **A** Yes. I seen them there. I know it was said that
24 they were going to be brought there, but I actually
25 seen them the next 397 when I woke up.

1 Q So did you see who brought them?

2 A No.

3 Q And when you woke up, do you remember what time it
4 was when you finally got up and were going about your
5 business?

6 A It was probably about 12:30.

7 Q And at that time what did you decide do?

8 A Well, it was 12:30, and I was little upset because I
9 had like a great aunt that was having something. It
10 was her birthday and they was having a Mother's Day
11 thing at church. So I was kind of upset. I was
12 like, you know, I ain't going to make it. And so I
13 called Patrice because she would have to take me down
14 in the country. And I called her and we started
15 talking on the phone.

16 Q Don't go into what you all said. What did you decide
17 to do upon your conversation with Patrice?

18 A Well, I told Patrice, I said, I'm going to go over to
19 the house and get the kids' games and get -- my son,
20 Desmond, had made my mom a little thing at school
21 because it was Mother's Day. I said, I'm going to
22 pick the things up and then I'm going down to the
23 country.

24 Q Did you expect anybody to be at your house?

25 A No. From my un398standing, he had to be back to work

1 a certain time; he wouldn't be there.

2 Q Okay. Were you angry when you left?

3 A No.

4 Q What were you thinking when you left Mr. Fogle's
5 house?

6 A I was thinking I'm running late; I need to be down in
7 the country; I should have been down in the country.

8 Q How did you get from your house, from Mr. Fogle's
9 house to your house?

10 A I asked him for his car.

11 Q And did he give it to you?

12 A At first he was kind of, you know, skep -- he was
13 like --

14 Q Don't go into what he said.

15 A But at first he was just asking me that I should wait
16 to go around to the house, but I didn't feel there
17 was a need for that.

18 Q Okay. What happens when you get to the house?

19 A Well, as I'm pulling up to the house, I do see that
20 the rental car is still there.

21 Q And what did you think about that?

22 A I knew he was still there. I just -- I didn't think
23 anything, you know. I kind of a little surprised.

24 Q So what did you do when you saw the car?

25 A I still proceeded. 399nd I'm driving Mr. Fogle's car.

1 And his car is not really made for my height. But as
2 I'm approaching and coming back in the parkway, I
3 kind of can see him now because he's standing to the
4 door. And he is saying some things. So I'm kind of
5 looking at him and trying to -- but looking at him, I
6 kind of let the car go too far. So I hit the brakes
7 but I already had kind of bumped the rental car.

8 MS. SAMPSON: May I approach the witness, Your
9 Honor?

10 THE COURT: Yes, ma'am.

11 Q I want to show you what's been marked as State's
12 Exhibit No. 1. That would be the house we're talking
13 about?

14 A Yes, ma'am.

15 Q And on this picture there's a red car. Is that where
16 you normally parked?

17 A No. We park all the way back.

18 Q So I want you to show the jurors where you would
19 normally park. Where are you talking about?

20 A Just continue to go back here and kind of park right
21 there.

22 Q And where was Mr. Gibson's car?

23 A The rental car was like all the way to the fence back
24 here. But it was, you know, just parked right there.

25 Q And how far did 400 drive in before you hit his car?

1 A I only drove in like to -- back where the gate is.

2 The door of my car was where the gate was almost.

3 Q Okay. And I think you said you hit his car?

4 A It kind of tipped it. I didn't think it really hit
5 it. I didn't realize -- because the brakes so bad on
6 that Monte Carlo, I didn't realize I didn't hit the
7 brakes.

8 Q Okay. And there has been some talk about the door.
9 This is your front door?

10 A Yes.

11 Q What door did you normally use to go in and out of
12 your house?

13 A Well, I went in both of them.

14 Q Okay.

15 A But it's only because of this double bolt. You've
16 got to have a key to get into either one of them.

17 Q What do you mean by double bolt?

18 A I mean you've got to have a key to get in it and
19 you've got to have a key to get out.

20 Q Did you all leave the key in the door or anything
21 like that?

22 A No.

23 Q So where did Mr. Gibson come out? Did he come out
24 the front or the back?

25 A From the den door.401

1 Q Okay. And without telling me what he said, what was
2 his demeanor like when he came out?

3 A He was upset.

4 Q Okay. So what did you do?

5 A At first I stayed in the car for a minute as he was
6 coming out. And then when he came out, he went to
7 the rental car. So I kind of proceeded to jump out
8 the car and run into the house, thought I could shut
9 the door or something.

10 Q Okay. What happened?

11 A Well, I didn't really make it because once I got to
12 the door he was right behind me. And he kind of
13 pushed me in the door, you know, pushed me in.

14 Q And did he have -- what, if anything, did he have in
15 his hand at that time?

16 A When he was coming out, I kind of noticed he had
17 something in his hand. And it -- and now I would say
18 it was the knife.

19 Q What was he doing when you arrived? Do you know?

20 A Well, once I got in you could smell the food, you
21 know, and I know he was cooking.

22 Q Okay. And does your door open into the den or the
23 kitchen?

24 A It opens into the den.

25 Q Okay. But you 4021 you could smell the food when you

1 walked in?

2 A You could smell it.

3 Q So what happened once you got in the house?

4 A Well, when he pushed me. You know, I think a bad
5 habit; sometime when we have, as a woman, I started
6 saying some things to him and maybe upset him a
7 little bit more. But I told him, first of all you
8 wasn't supposed to be here and now you're in here
9 cooking the food. And, you know, I was saying
10 things.

11 Q Were you upset?

12 A No. I was just saying it. I mean, I was saying it
13 to make him upset I guess.

14 Q And was he upset?

15 A Yeah. He was already upset. So I should have been
16 quiet.

17 Q So what did you do then?

18 A Well, then he just like was confronting, saying
19 little things. But it was basically about Mr. Fogle.
20 And so I asked him, I said, are you going to get your
21 things? You're going to need to leave. And so I was
22 telling him, I'm going to get the lease. I said, so
23 when I come back from down in the country, you know,
24 be gone because I'll call the police then.

25 Q So your intention⁴⁰³ust based on what you said were

1 to go to your mom and then later call the police if
2 he was still there?

3 A If he was still there.

4 Q Okay. So what happened after that?

5 A Well, I proceeded -- I was looking because I thought
6 he had put it up somewhere. Because the lease was
7 right on the chair. I had left it there. But it
8 wasn't there. And as I was trying to go through the
9 house, then that's when he started, you know,
10 throwing me and everything. He started doing things.

11 Q Started doing what? I'm sorry.

12 A Like pushing me and everything.

13 Q Pushing you?

14 A (Nods head affirmatively).

15 Q And what were you doing?

16 A I was just telling him to stop.

17 Q Did you hit him?

18 A I hit him a few times. But he was like pushing me
19 down. Sometime I couldn't even hardly get back up.

20 Q How tall are you?

21 A Five-three.

22 Q I won't ask you how much you weigh. How tall is Mr.
23 Gibson?

24 A At first I thought he was like five-ten. But
25 five-eight. 404

1 Q So there's about a five-inch difference between the
2 two of you all?

3 A (Nods head affirmatively).

4 Q At that time did you see the knife?

5 A No. Not really.

6 Q Were you concerned about that?

7 A No. Because I wouldn't have never thought anything
8 like that would happen.

9 Q So he's pushing you and you're pushing him. Would
10 that be fair to say?

11 A Yes.

12 Q And what were you trying to do?

13 A I was just going to -- I wanted to get the things and
14 leave. That's all I was trying to do.

15 Q Okay. And so then what happened?

16 A Well, from the last time when I was on the floor when
17 he kind of was on me, I kind of kicked him off of me
18 this time. And I think that kind of stopped him a
19 little bit. So as I went back to get something out
20 of the room, which I was looking for the lease, and I
21 had my makeup in there, just different things I would
22 have needed. But when I went back and I was looking
23 through the drawers, he was approaching me again.

24 Q And then what happened?

25 A I was in the room⁴⁰⁵ and I could see him coming, but I

1 one thinking anything at first. But I don't know.
2 It was just a feeling that he was getting ready to do
3 something. I don't know. It was just a feeling.
4 Q So what did you do?
5 A This time when he came, I kind of pushed him with
6 everything I had. And that's when he kind of -- just
7 kind of stumbled back.
8 Q So you pushed him hard?
9 A I pushed him real hard this time.
10 Q And then what happened?
11 A And then he kind of stumbled back. And that's when
12 he said, "You stabbed me." And I looked back because
13 I could see him in the mirror a little bit. And I
14 looked but I didn't see any blood.
15 Q So what did you do?
16 A So I just looked like okay, you know. I didn't think
17 anything right then. And then the way he was -- I
18 looked at his eyes or something. I seen his eyes in
19 the mirror and they was fixed. I could tell
20 something was wrong with him. But then he was
21 breathing -- the way he was breathing and stuff. So
22 I looked back. But I thought he was having a heart
23 attack because I thought when they said that
24 sometimes it will feel like it's a stabbing feeling
25 or something. 406

1 Q So what did you do?

2 A When he collapsed I got down beside him. I was
3 upset. I was checking his pulses. He was getting
4 cold. And then I started getting ready to do CPR. I
5 did CPR on him. But when I did the compressions, all
6 of the blood came.

7 Q So what did you do next?

8 A I think I kind of -- I panicked for a minute because
9 I never expected to see that much blood.

10 Q Now, when did you call Patrice?

11 A I called Patrice -- actually when I was in there the
12 phone was already in there. Because I was getting
13 ready to call Patrice. But she wasn't answering her
14 phone. The phone was like ringing at the time.

15 Q And did you ever talk to Patrice?

16 A Yes, I talked to her. And I felt like I was talking
17 to her when he made the comment about it because I
18 told her that Charles said I stabbed him.

19 Q Okay. And when did you call 911?

20 A I called 911 immediately when I seen all the blood
21 and everything. I called them.

22 Q And we've heard -- was that you on the 911 tape?

23 A Yes.

24 Q So, once you did that and you said you saw the blood
25 and all that, wha407id you do after that?

1 A I stayed beside him. I was trying to -- I knew I
2 would have to try to put pressure on it. But it's
3 like I was on the phone. It was like I wasn't even
4 there. It was like I was just moving. But I went
5 back because someone was at the door. I thought
6 maybe that was the EMS coming.

7 Q So what did you do?

8 A I went to let them in. But it was Daniel. It was my
9 stepfather.

10 Q Then what happened?

11 A Well, then Daniel came. And I asked him, could you
12 help me? I said, could you help me? And he came
13 back. And so he started calling Charles' name. And
14 I said, he's breathing but, you know, you don't want
15 him to talk. You know, don't -- and so he started
16 helping me. And I told him, I said, EMS is coming.
17 So I'm just -- you know, I'm going to change. And I
18 went in the room. But I was like praying. I was
19 saying a prayer in the closet. And I took the dress
20 off and I put on some clothes.

21 Q Why did you change?

22 A I just felt like we was going to the hospital.

23 Q What did your dress look like? I mean, what shape
24 was it in?

25 A It was ragged. 408d actually it had like from some

1 things was -- like body parts was hanging out. I
2 don't know if the zipper came loose or what.

3 Q When you say body parts, your body parts? I mean,
4 what do you mean by that?

5 A Mine. My body parts.

6 Q Could you be a little more specific on what was going
7 on with the dress?

8 A The breasts like was hanging out.

9 Q And so you changed clothes?

10 A Mm-hmm (affirmative).

11 Q And I think you just said you were in the closet.
12 Why were you in the closet?

13 A Well, because it didn't have a window in that room.

14 Q So you just --

15 A I mean, it didn't have curtains up to the window in
16 that room.

17 Q So you changed clothes I think you said?

18 A Mm-hmm (affirmative).

19 Q What did you do with the dress?

20 A The dress was still there.

21 Q Then what did you do?

22 A Then I came out. And I thought it was EMS again.

23 And then Daniel was saying someone was at the door.

24 I said, they can't come to that door. They're going
25 to have to come a409id because we don't have the

1 keys. And then it was the officer.

2 Q Okay. When did you pick up the knife?

3 A I picked up the knife twice. The first time I picked
4 it up was when I got down to help him, and the second
5 time was like when Daniel came in the room because he
6 was like right over by it. That was the second time
7 I picked it up.

8 Q What did you do with it?

9 A I took it in the bathroom.

10 Q Why?

11 A I don't know. I think I was going in there to get a
12 towel.

13 Q What did you need a towel for?

14 A I was going to hold pressure and get Daniel to hold
15 pressure.

16 Q Okay. So once the police got there, I think you just
17 said Officer Wilson was the first one to get there,
18 what did you do at that point?

19 A Well, when the officer came in, he was standing up at
20 the -- you know, he came. And he didn't even come
21 in. Daniel and I was in the room. Daniel had come
22 back. And he just said, come out. And I'm like,
23 why? Because, you know, he's still breathing. And
24 he said, no.

25 Q Where did you a.41010 after that?

1 A We went around to the den.

2 Q And would it be fair to say that's where you stayed
3 the rest of the time?

4 A (Nods head affirmatively).

5 Q You need to answer out loud. She needs --

6 A Yes.

7 Q Okay. Did Officer Wilson read you your rights?

8 A Yes.

9 Q Okay. What, if anything, did you tell him?

10 A When he read me my rights?

11 Q Yes.

12 A He read me my rights. He asked me did I understand.
13 I said yes. And then he asked me did I want to tell
14 him what happened. I told him I didn't know right
15 then, that it was just so much going through my mind.

16 Q So at first would it be fair to say you didn't talk
17 to him at first?

18 A No.

19 Q Then later what did you tell him?

20 A Then later someone else came in.

21 Q Did you ever tell Officer Wilson your story?

22 A Well, first he told me that a supervisor or someone
23 was coming. And then he came back I would say. He
24 came back and I saw him.

25 Q And did you talk to him?

1 A Yes.

2 Q And did you tell him what happened?

3 A Yes.

4 Q Were you truthful with him?

5 A Yes.

6 Q And then, as you said, someone else came?

7 A Yes.

8 Q Who was that? Do you remember?

9 A It was Officer Thornton. And then it was the
10 investigator.

11 Q And did you speak with the investigator?

12 A Yes.

13 Q And were you truthful with him?

14 A Yes.

15 Q At some point do you remember if you were arrested
16 before or after you talked to Officer Vinson?

17 A Oh. Before.

18 Q Okay. Did you ever see that gun?

19 A No.

20 Q Do you have any idea how it got under Charles?

21 A No.

22 Q Did you ever see him come at you with a knife?

23 A No.

24 Q At some point did you go to headquarters or to
25 another police department?

1 A Yes.

2 Q And you spoke -- who did you speak with there?

3 A I spoke with the investigator.

4 Q And you took another statement with him?

5 A Yes.

6 Q I want to ask you some questions about your
7 statement.

8 MS. SAMPSON: Is it okay if I approach the
9 witness, Your Honor?

10 THE COURT: Yes, ma'am.

11 Q (By Ms. Sampson) I'm handing you what's marked as
12 State's Exhibit No. 9. Okay? Does that look to you
13 to be your statement?

14 A Yes.

15 Q Okay. Now, when you're doing this statement, how did
16 it happen as best you can remember?

17 A Well, he was asking me -- he asked me could I write
18 my statement, and I told him I was going to try that.
19 You know, I was just feeling so many things right
20 then, and I couldn't really do it but I would write
21 something. You know, that's what he needed me to do.
22 So I tried to write something for him. And then he
23 read it. And he was saying, you know, maybe I'll ask
24 you some questions. I felt like that would probably
25 help me remember (413).

1 Q So were you okay with him asking questions?

2 A Yes, I was okay.

3 Q And in here -- now, earlier I think you heard him
4 testify. But at some point did you tell him you did
5 see Charles with a knife?

6 A I told him I think I remember him having it in his
7 hand when he came to the door. I was just trying to
8 remember things and, you know, the way they wanted me
9 to remember them.

10 Q Okay. Bear with me one second. Okay. I want you to
11 look on page 2. Or actually I'm just going to point
12 you to it. In your statement right there it says "I
13 never saw a knife in his hand." When are you -- what
14 are you talking about?

15 A He was speaking of when I was in the room when he was
16 approaching me.

17 MR. MEADORS: Objection to what he's -- it's
18 speculation, what he's speaking of.

19 THE COURT: Sustained.

20 Q What were you speaking of?

21 A That's what I was -- that was my perspective.
22 Because it seems that I was struggling, knocking his
23 arms away from me. I told him that when he was
24 coming in the room. So I was referring to in the
25 room.

1 Q So what it says here, "I was struggling" --

2 MR. MEADORS: Objection. I'm sorry. Excuse me.

3 Q What it says here is "I was struggling, knocking his
4 arms away; I never saw a knife in his hand", what did
5 you mean by that?

6 A I referred -- I thought the question was asked me
7 when I was in the room.

8 Q Okay. When you were talking about when you first got
9 home?

10 A No. It was already to he said where the incident
11 occurred.

12 Q Now, just to get this out of the way; back in 1996,
13 you were convicted of fraudulent check, correct?

14 A Yes.

15 Q And in 2004 you had a conviction for giving false
16 information to police?

17 A Yes.

18 Q Was this false information that you gave them?

19 A No.

20 Q Were you telling them the truth?

21 A Yes.

22 Q Were you being truthful when you talked to Officer
23 Wilson?

24 A The best of my ability, yes.

25 Q What about when you⁴¹⁵ are talking to Officer Vinson?

1 A Yes.

2 Q Okay. And when they asked you -- he asked you: "Did
3 you hold a knife in your hand and stab Charles", your
4 answer is no?

5 A No.

6 Q Is that the truth?

7 A Yes.

8 Q Did you intend to stab Charles that night?

9 A Never.

10 Q Or any time?

11 A No.

12 Q Did you intend to hurt him in any way?

13 A No.

14 Q Did you try to get him help after this had happened?

15 A Yes.

16 MS. SAMPSON: Beg the Court's indulgence.

17 THE COURT: Yes, ma'am.

18 Q (By Ms. Sampson). I'm sorry. I think I skipped a
19 couple of things I just need to go over with you.
20 There was some discussion about you saying, "I did
21 it." When you first said that in and your
22 father-in-law I believe it was said that you said
23 that, your stepfather was there. Is that correct?

24 A Yes.

25 Q What did you mean by "I did it"?

1 A Well, when the officer asked me the first time, me
2 and my stepfather was there. He was saying, who,
3 what? And he said it just that way. And he was
4 looking at my stepfather. I'm saying, he wasn't
5 here. You know, I was here. I guess I did it. You
6 know. So I said it.

7 Q Okay. And there has been some talk that when Officer
8 Thornton was there you said "I did it." What did you
9 mean then?

10 A Well, when Officer Thornton came in, he was saying
11 the same thing. He was saying, you know, there was
12 two parties here. And he was saying the same thing.
13 It was along the same lines. That was my
14 understanding of it.

15 Q So you said, "I did it." And what did you mean by "I
16 did it"? What did you mean you had done it?

17 A This incident that occurred.

18 Q Did you mean that you had stabbed him?

19 A No.

20 Q I'm sorry. Beg the Court's indulgence.

21 THE COURT: Yes, ma'am.

22 MS. SAMPSON: No further questions, Your Honor.

23 THE COURT: Thank you, ma'am.

24 MR. MEADORS: Beg the Court's indulgence.

25 THE COURT: 417, sir.

1 MR. MEADORS: May it please the Court.

2 THE COURT: Yes, sir.

3 CROSS EXAMINATION

4 BY MR. MEADORS:

5 Q Good afternoon, Ms. Smith.

6 A Good afternoon.

7 Q Do you deny that you told officer Andrew Scott
8 Wilson -- stand up, Officer Wilson -- when he first
9 came to the scene and said who, what, when and where,
10 "I did it"? Do you deny that?

11 A I -- no, I don't deny it.

12 Q You just said a minute ago you may have said, well, I
13 guess I did it. But you said "I did it", didn't you?

14 A Yes, sir. Yes, sir. But I can explain. When he was
15 asking the questions, he was looking at my stepfather
16 and he was looking at me. So it was in response to
17 that.

18 Q And your stepfather, Daniel Parker, who is sitting
19 back on the second row, the last on the end, you
20 don't deny that you told Daniel Parker, I stabbed
21 him?

22 A I did not tell Daniel Parker that.

23 Q You deny that you told Daniel Parker I stabbed him?

24 A Yes, sir.

25 Q What did you tell Daniel Parker?

1 A Daniel overheard me talking on the 911 call. I never
2 had a conversation with Daniel about it the whole
3 time. We was only trying to help him.

4 Q So you deny saying anything to Daniel Parker about
5 who stabbed him?

6 A I never spoke to Daniel about the stabbing.

7 Q You didn't talk to him at all about what happened to
8 Charles Gibson in there or what happened to him in
9 the hall?

10 A No, sir.

11 Q Didn't say one word about it to him?

12 A No, sir.

13 Q And do you deny that Sergeant Thornton, Sergeant
14 Derrick Thornton here, you've already mentioned him;
15 when you saw him, do you deny that you said to him,
16 "I did it"?

17 A No. I don't deny, not to Sergeant Thornton.

18 Q And did you deny that when you first saw Officer
19 Vinson there you told him, "I did it"? You know Mark
20 Vinson right here?

21 A No.

22 Q You deny that?

23 A No.

24 Q You told him you did it?

25 A Yes, sir. 419

1 Q And you did do it?

2 A No, sir.

3 Q But you told him you did it?

4 A In response to the way they asked me questions; yes,
5 sir.

6 Q The question from Officer Wilson is, who did it, and
7 you said, "I did it"?

8 A That was not his question.

9 Q Sergeant Thornton: Who did it, and "I did it"?

10 A No, sir.

11 Q That wasn't his question?

12 A No.

13 Q What was his question?

14 A They said --

15 Q No, ma'am. What was Sergeant Thornton's question?

16 MS. SAMPSON: Your Honor, she's answering the
17 question.

18 MR. MEADORS: No. She said "they". I asked
19 her --

20 THE COURT: Ask her specifically.

21 Q I'm sorry. I apologize. What did Sergeant Thornton
22 ask you?

23 A He said, what happened? And I explained to him what
24 happened.

25 Q You told him, "I did it." You just agreed to that a

1 minute ago, correct?

2 A Yes, sir. In response to one of his questions.

3 Q What time did you get there?

4 A It was around -- it could have been around 1:30 or a
5 quarter 'til 2. I'm not sure about the time.

6 Q 1:30 or quarter to 2?

7 A It could have been.

8 Q So this altercation happened pretty quick after you
9 got there, didn't it?

10 A Yes.

11 Q I mean, there's no question about it. If you got
12 there at 1:30, this altercation happened right after
13 that?

14 A Yes, sir.

15 Q No question about it?

16 A There is no question about it.

17 Q Do you remember -- she has asked you about several
18 statements. You told Officer Wilson initially at the
19 scene that you came to confront Charles about last
20 night, about being out with another woman last night.
21 You came to confront him. Do you remember telling
22 him that?

23 A No, sir.

24 Q You deny telling him that?

25 A I told him some of 421e -- he asked me what happened

1 the night before and everything. I told him a lot of
2 things about that story.

3 Q But do you deny you told him you came to confront
4 Charles about the woman last night?

5 A Yes, sir.

6 Q You deny that?

7 A Yes, sir.

8 Q You'd been there the night before, Ms. Smith.

9 A Yes, sir.

10 Q You'd been there with Patrice, hadn't you?

11 A Yes, sir.

12 Q You'd heard he'd been out the night before?

13 A Yes, sir.

14 Q You thought he'd already gone back to Alabama?

15 A Yes, sir.

16 Q You went over there to check and see?

17 A No, sir.

18 Q You didn't?

19 A No. I went to go get my kids' games.

20 Q At 3:00 in the morning?

21 A Okay. I thought you were speaking of the morning of
22 the incident.

23 Q No, ma'am. I'm talking about 2:30 or 3:00 in the
24 morning. You heard he'd been out?

25 A Yes, sir. 422

1 Q You thought he was in Alabama?

2 A Yes, sir.

3 Q That made you mad?

4 A No.

5 Q Well, you went at 2:30 or 3:00 in the morning over
6 there to see if he was there?

7 A No. Patrice -- Patrice wanted me to go over there.

8 Q Patrice wanted you to go over there?

9 A (Nods head affirmatively).

10 Q You were kind of interested yourself, weren't you?

11 A Not really.

12 Q Because you didn't want to go over there at all?

13 A Not really.

14 Q But you told Officer Wilson you went to confront him
15 the next day about it?

16 A Yes, sir.

17 Q You did, didn't you?

18 A I don't think it was confronting him. It was just
19 going over there seeing exactly what he was going to
20 say about it.

21 Q Okay. And that's why you went over there. So you
22 knew he was there?

23 A Well, it was my house. I could go to my house.

24 Q He wanted to talk about it, didn't he?

25 A Yes.

1 Q There wasn't anybody else there, was there?

2 A No. But I wouldn't think anybody else was at the
3 house.

4 Q All his stuff was there, wasn't it?

5 A I would assume. Yes.

6 Q He didn't even know that you had entered this other
7 lease with Mr. Davis, did he?

8 A Yes, he knew.

9 Q He'd been out of town working and had just come in
10 from Alabama, hadn't he?

11 A We talked on the phone. He knew.

12 Q How long had he been working out of town?

13 A Years. I assume years.

14 Q He was a pretty hard worker, wasn't he?

15 A Yes.

16 Q Retired marine?

17 A Yes.

18 Q Retired reserve marine?

19 A Yes, sir.

20 Q He got out of that. He was working hard?

21 A Yes.

22 Q Providing a living?

23 MS. SAMPSON: Objection, Your Honor. He's
24 getting into victim impact issues that aren't
25 relevant to this case.

1 **THE COURT:** I sustain that at this point.

2 **Q** The question related to he's working out of town,
3 right?

4 **A** Yes, sir.

5 **Q** And you took his name. You said he was okay with
6 that. Even though you're still not sure if you loved
7 Mr. Fogle, but you still -- he was okay with you
8 keeping his last name and seeing Mr. Fogle during
9 this time period, right?

10 **A** Yes, sir.

11 **Q** And you must have liked him a lot to use his name?

12 **A** At first; yes, sir.

13 **Q** And he and Mr. Fogle got along?

14 **A** Yes. All of the time.

15 **Q** They didn't fight?

16 **A** No.

17 **Q** They both knew you were friends with both of them,
18 didn't they?

19 **A** Yes.

20 **Q** You're the one that got angry when you thought he was
21 with somebody else?

22 **A** No, sir.

23 **Q** I think Ms. Sampson asked you the last time you saw
24 him, being Charles -- do you call him Charles?

25 **A** Yes.

1 Q Charles. Charlie. I've heard something about
2 Charlie -- was when?

3 A It had been a while since I had seen him.

4 Q Prior to that Friday, Friday night, early Saturday
5 morning.

6 A Saturday morning.

7 Q Yeah. Excuse me. Or it was actually Sunday morning,
8 isn't it?

9 A Mm-hmm (affirmative).

10 Q Let me ask you; when did you first see him that
11 weekend?

12 A Was that time, about 2:30 or 3 in the morning.

13 Q And this thing happened on -- this was in the
14 afternoon on Sunday, May 11th, right?

15 A Yes.

16 Q So you would have seen him the early morning of
17 Sunday, correct, 2:30 or 3:00? I'm not trying to
18 confuse you.

19 A Yes.

20 Q Had you seen him the Saturday before, just the day
21 before that?

22 A No.

23 Q Okay. But he is coming back to renew his lease at
24 the Enterprise car, wasn't he?

25 A Yes.

1 Q They wouldn't let him do it on the phone. That's why
2 he was coming back, right?

3 A Yes. And to get his things.

4 Q Well, he's still on this lease 'til September of
5 2003, Ms. Smith.

6 A That was the old lease.

7 Q Yes, ma'am. And he's got rights through
8 September 2003.

9 A That lease was terminated.

10 Q He didn't know about it.

11 A Yes, he did.

12 Q You didn't call that whole time to tell him to get
13 out?

14 A Yes, I did.

15 Q You didn't call the police to get him out?

16 A No. I think he deserved a chance to get his own
17 things out.

18 Q So the last time you saw him before May 10th was you
19 said March or April?

20 A Yes. Probably. If it was May 10th, it was in April.

21 Q And his stuff is there the whole time?

22 A Packed up and put up.

23 Q His stuff was packed up and put up?

24 A Some stuff was put up. Yes.

25 Q A lot of his stuff427sn't put up, was it?

1 A Yeah. I think he did that that night.

2 Q Well, were you not over there between March, April
3 and May?

4 A Yes. But he --

5 Q Were you staying up there in May?

6 A -- did a lot of things that night that I did not see
7 in the house.

8 Q So he unpacked all the boxes and put his stuff back
9 up?

10 A He could have. I don't know.

11 Q The phone is still in both you all's names?

12 A Yes.

13 Q No question about that, is it?

14 A No.

15 Q You thought he'd gone back to Alabama on Saturday,
16 didn't you?

17 A Yes.

18 Q You thought he'd gone back to work?

19 A Yeah. Gone back to work.

20 Q All right. Stuff still in his house; you all's
21 house?

22 A Mm-hmm (affirmative).

23 Q You talked to him Saturday. You didn't say, come get
24 it out?

25 A Yes, I did. I (428 speak to him about it.

1 Q And you said Mr. Gibson was not living there during
2 May?

3 A No.

4 Q He was not living there during May?

5 A No.

6 Q Never stayed there?

7 A No. Not May.

8 Q No, ma'am. Charles. You said Charles was not living
9 there during May?

10 A That's right.

11 Q Were you living there during May?

12 A Yes.

13 Q How long did you see him 2:30 or 3:00 in the morning,
14 "him" being Charles, on the early morning hours of
15 May 11th?

16 A It wasn't very long.

17 Q And finally on that, you were not upset at all when
18 you went by there?

19 A No.

20 Q And it was Patrice's idea to go by there?

21 A Yeah. She was making some little jokes. Yeah.

22 Q What time did you go over there Sunday?

23 A I wasn't looking at a clock. I'm not sure of the
24 time, but it -- I got up like 12:30, almost 1. And I
25 spoke to Patrice a little bit on the phone before I

1 proceeded to go over there.

2 Q Tell me what happened.

3 A I asked Mr. Fogle for his car. I went around to the
4 house. And as I said, as I was pulling up, I could
5 see him at the door. I kind of looked over at him at
6 the door. I could hear -- I could see his gestures
7 more than I could hear him because of how loud the
8 car runs. And then when I went to stop, I kind of
9 bumped the rental car. Go on? And so he came to
10 approach me. He came. And I thought he was
11 approaching me, but he approached the vehicle first.
12 And as I seen that he was over at the rental car, I
13 tried to run into the home.

14 Q You never told anybody that before, did you?

15 A Hmm?

16 Q You never told anybody that before, that you tried to
17 scoot in there while he was looking at the rental
18 car, did you?

19 A Yes. I told them.

20 Q What happened then?

21 A Well, I didn't make -- I wasn't able to shut the door
22 back. So he kind of pushed me in. I stumbled and
23 fell a few times. And he kind of pushed me again.
24 Like I was hit against like a big screen television.
25 Then I kind of 430 up. So then we started the

1 talking kind of stuff. And I was saying things to
2 him about cooking the food. And he was making his
3 little statements about Mr. Fogle. And then I
4 proceeded to walk through the house to get some
5 things and looking for the lease and everything.

6 Q Now, that TV, did he push you into the TV? No
7 question now; no question under your testimony here
8 today you all were struggling, fighting with each
9 other. No question?

10 A (Nods head affirmatively).

11 Q You're upset at this point, aren't you? Or are you
12 still happy? I mean, you're upset?

13 A I wouldn't use happy, but I'm not upset.

14 Q Okay. You're struggling. He's pushing you. And
15 you're okay?

16 A Yeah, I'm all right.

17 Q You're fine, not upset at all?

18 A Well, more tired because I had been drinking.

19 Q And he is pushing you around, threw you? Where is
20 the TV? In the den?

21 A Mm-hmm (affirmative).

22 Q Did it knock the TV over?

23 A No. It's a big TV. No, it didn't knock it over.
24 It's against a wall anyway.

25 Q But he pushed you⁴³¹ to it or you pushed who into it?

1 A He pushed me.

2 Q You're pushing him back?

3 A Yeah. I pushed him back.

4 Q And I think -- well, what happened next?

5 A And then as I was proceeding, looking, I asked him
6 actually did he move the lease, because it was
7 sitting right on that chair where he had a lot of his
8 clothes that he packed up to go to work. And so I'm
9 coming back through the house, and as I was coming,
10 maybe something I said at that time I said, too, so
11 this time he kind of throws me right around right
12 where the living room was.

13 Q He kind of what?

14 A Where the living room and the dining room kind of
15 intersect.

16 Q He did what?

17 A Pushed me into there.

18 Q Where did he push you?

19 A It was through like a little doorway where the
20 refrigerator was and then where the room is.

21 Q No, ma'am. On your body, where did he push you?

22 A Like the back -- back part of me, because my back was
23 always turned to him.

24 Q Was it a little push, or was it a hard push?

25 A It was a hard p432.

1 Q Did it knock you down?

2 A I kind of stumbled this time but I kind of was able
3 to hold up a little.

4 Q Did that upset you?

5 A No. Not really. I mean, I wasn't happy.

6 Q You were upset the night before when you hear he is
7 with somebody?

8 A I wasn't upset.

9 Q Okay. Well, you went to his house?

10 A Yes.

11 Q Now he's pushing you and you're fighting and you're
12 not upset at all in the house?

13 A No.

14 Q You told me a minute ago. When did you hit him?

15 A When did I what?

16 Q When did you hit him?

17 A When did I hit him?

18 Q Mm-hmm (affirmative).

19 A That wasn't until we got in the room.

20 Q Which room?

21 A The room where the incident happened at.

22 Q Earlier I thought you testified after the lease was
23 in the chair the defendant pushes me as we're going
24 through the house. I hit him a few times. We were
25 pushing at each other?

1 A I said we struggled, like when someone is pushing you
2 and holding onto you and you're trying to get away.

3 I said struggled.

4 Q No, ma'am. You said, I hit him a few times?

5 A Well, if I said it, then that's what I said.

6 Q And that's what you did, wasn't it?

7 A Yes, sir.

8 Q How long did you all struggle?

9 A It seemed like longer than the time span that, you
10 know -- and now I come to find out it seemed like a
11 long time when it was happening. But I don't know.

12 Q And actually, in one of Ms. Sampson's questions after
13 you got to the scene and she asked you, is anything
14 in your hand, and you say now you say there's a
15 knife. Now you want to say there was a knife. Is
16 that what your answer was?

17 A In my hands?

18 Q No, ma'am. She asked you when you got there and you
19 went inside did he have anything in his hand. And
20 your answer was, now I want to -- now you want to say
21 that it was a knife?

22 A Yes.

23 Q You said anything in your hand? You said, now you
24 want to say it was a knife?

25 A Talking about i434ls hand?

1 Q Yes, ma'am.

2 A Yes, sir.

3 Q You told them a couple of different -- didn't you
4 tell one officer you saw a knife and then another
5 officer you didn't see a knife in his hand?

6 A Yes, sir.

7 Q And actually, when she asked you about your
8 statement, when you were reading that, that's when
9 you were just -- like I was just asking you that, you
10 were just telling him, right? There wasn't any
11 questions in there. That was you giving a little
12 narrative form right there, and you said, I never saw
13 a knife?

14 (No Response)

15 Q That is in there, isn't it; I never saw a knife in
16 his hand?

17 A Yes, sir.

18 Q Where was he when he said, you done stabbed me?

19 A He was in the room.

20 Q Yeah. I don't mean --

21 A Right after I pushed him.

22 Q Okay. Do you remember telling one of the officers
23 that the altercation happened and you did it right
24 there in the den?

25 A No.

1 Q You deny that?

2 A I told them he came, he approached me in the room.

3 Q And when he first -- you said you got there between
4 1:30 and 1:45. You're sure, correct?

5 A No. I didn't say I was sure.

6 Q Yeah, I thought you did. So is that changing?

7 MS. SAMPSON: Objection, Your Honor.

8 A I said I did not know the time.

9 THE COURT: I'm sorry. Hold on a minute.

10 Q What time --

11 MS. SAMPSON: I'm objecting to the comments. If
12 there is a question, fine.

13 THE COURT: I'll let him rephrase the question.

14 Q Your testimony previously, you got there at 1:30,
15 1:45. Would you agree that was your testimony?

16 A If that's what they said, --

17 Q Sometime around that time?

18 A -- that's around that time.

19 Q With all due respect, Ms. Smith, isn't that what you
20 said a little while ago?

21 A Approximately, yes. That's what I said.

22 Q And I wrote it down. Thank you for bearing with me.
23 After you're somewhere in the struggle you just
24 described, you said you didn't really see the knife.
25 And I think it 436 in response to the question she

1 had about when I was just talking about. So, when is
2 the first time you saw the knife?

3 A The first time I actually see the knife is really
4 when it was on the floor beside him.

5 Q Say that one more time?

6 A The first time I actually see the knife is the first
7 time, picturing in my mind is when it was beside him.

8 Q Is that what you told one of the officers then after
9 you said, I didn't touch him?

10 A Yes. Because I was asking him -- yes, sir.

11 Q Go ahead.

12 A Yes, sir. Because when he was asking me, he was
13 asking me for the incident, of how it was occurring.
14 I told him that was the first time I pictured in my
15 mind that I actually seen it.

16 Q And is that right? Is that when you first saw it?

17 A No. That's not actually when I first seen it.

18 Q So --

19 A I just couldn't remember.

20 Q And why did you move the knife?

21 A At first I was about to step on it myself when I was
22 getting down to help him. So I kind of moved it out
23 the way.

24 Q All right. And then after that you moved it
25 somewhere else? 437

1 A Yes.

2 Q Where did you move it?

3 A Into the bathroom.

4 Q All right. Where did you put it in the bathroom?

5 A It was just -- it kind of dropped. I thought I set
6 it on the sink. But it didn't. It fell beside it.

7 Q The truth of the matter, you were going to clean it
8 off, weren't you?

9 A No, sir.

10 Q It had a little bit of blood on that knife and you
11 were going to clean it off?

12 A No, sir.

13 Q Well, how long had you been an LPN at this point?

14 A I've been going to school so long.

15 Q Well, this is May 2003. You were an LPN at that
16 point, correct?

17 A Yes.

18 Q A licensed practical nurse. You started off as a
19 CNA, a certified nursing assistant, correct?

20 A Yes.

21 Q Then you go graduate up to licensed practical nurse?

22 A Yes.

23 Q And then after that, what did you say you are now?

24 A An RN. I just graduated with a Bachelor's.

25 Q A registered nu:438. So a licensed practical nurse,

1 you've been around plenty of people and were aware of
2 how to help people when they're hurting, correct?

3 A Yes, sir.

4 Q And Mr. Gibson, you said he said, "You stabbed me,
5 you stabbed me"?

6 A Yes.

7 Q You knew he was stabbed?

8 A No, I did not.

9 Q At some point you knew he was stabbed?

10 A Yes, sir. When I seen all the blood I assumed he was
11 stabbed.

12 Q Well, when he told you you stabbed him?

13 A I didn't see any blood.

14 Q No, ma'am. But you knew he was stabbed when he said
15 that?

16 A No, sir.

17 Q You didn't believe him?

18 A No.

19 Q Did you check?

20 A No.

21 Q Why not?

22 A Because I just didn't think he was. I thought he was
23 only saying it.

24 Q Now, tell me; you mentioned to Ms. Sampson the last
25 time in your stru⁴³⁹e you were on the floor and he

1 kicked him off of him or you kicked him off of you?

2 Do you remember you testified to that a minute ago?

3 A Yes, sir.

4 Q Where were you when that happened?

5 A That was in the living room part; the living room and
6 the dining room.

7 Q He kicked you off of him?

8 A No. I kicked him.

9 Q You kicked him off of you?

10 A Yes.

11 Q Okay. Were you angry at that point?

12 A No. I wasn't angry.

13 Q Now, after that, did you -- you said he was coming at
14 you?

15 A Well, after that he kind of had to stop a little bit
16 because of where the kick was. But I went into the
17 room thinking I could just grab the things and get
18 ready to go.

19 Q He had to stop because you stabbed him in the heart,
20 Ms. Smith.

21 A No.

22 Q Did you testify here today in this courtroom --

23 A Yes.

24 Q -- that he came at you?

25 A Yes, sir.

1 Q Where were you when he came at you?

2 A When he approached me again I was in the bedroom.

3 Q Where were you in the bedroom?

4 A Standing up at the dresser going through dresser
5 drawers.

6 Q Did you end up closing that drawer?

7 A I don't really remember. When he came, I just
8 responded to him. That's all I remember. I know
9 they were out, and I was pulling several of them out
10 looking for my makeup and lease.

11 Q Looking for what?

12 A My makeup, the lease, things I had came to get.

13 Q How fast was he coming at you?

14 A He came in the room pretty -- pretty fast. I mean,
15 he came in pretty fast.

16 Q So you're back -- this is the bedroom he had all his
17 stuff in, isn't it? I'm just asking.

18 A I don't know if he put his stuff back in there. I'm
19 not sure.

20 Q So if his stuff was back in there, he unloaded it
21 maybe the night before and put it all back in there?

22 A Mm-hmm (affirmative).

23 Q But he's standing back -- if I can find a picture.
24 By the way, on State's 57, you opened that drawer,
25 didn't you?

1 A Yes. When I was looking.

2 Q And that drawer, this kitchen is pretty clean, isn't
3 it?

4 A I just cleaned it the day before.

5 Q You had cleaned it the day before?

6 A (Nods head affirmatively).

7 Q Did you see him over there the day before?

8 A No.

9 Q And you were looking in here for a lease?

10 A I was seeing where he could have put it. So I looked
11 through several of the drawers. I went to the one
12 first in that corner first where we keep all the
13 bills and everything.

14 Q There are knives in here, too, aren't there?

15 A Well, yes.

16 Q That's really what you got out of there, was a knife,
17 wasn't it?

18 A No, sir.

19 Q When he's charging at you in the room, Ms. Smith, --
20 if you'll bear with me, I'd like to get a picture of
21 that room -- you are back looking in the drawers?

22 A Yes.

23 Q And do you see the knife with him then, or is he just
24 charging at you?

25 A He's just coming442ck there at me.

1 Q He didn't have a knife then, did he?

2 A No. I don't know if he had the knife.

3 Q Okay. So he's just walking towards you?

4 A Yes. I mean, he is like charging like he's getting

5 ready to do something?

6 Q Look angry?

7 A The same as he had looked before.

8 Q You're not angry?

9 A No. Because I'm telling you I don't even understand

10 why he was angry with me.

11 Q You're trying to tell him he can't stay there any

12 more, aren't you?

13 A That's true.

14 Q You're upset that you heard -- don't even know if

15 it's true or not -- that he was out with somebody

16 else, right?

17 A I wasn't upset.

18 Q But you told the officer that's why you came to

19 confront him?

20 A No. That's confirmation of why he should move his

21 things then.

22 Q And when you were sitting there -- and this isn't

23 funny, is it?

24 A No.

25 Q This isn't funny a44311, is it?

1 A Hmm-mm (Negative).

2 Q And when he charged you, as you say today he charged
3 at you as you were looking through the drawer, he's a
4 pretty big fellow, isn't he? What is he?
5 Five-eight?

6 A Yes, sir.

7 Q You pushed him, right?

8 A Yes, sir.

9 Q "Pushed him with everything I had?"

10 A Yes.

11 Q Don't see a knife with him now, correct?

12 A No.

13 Q "Pushed him with everything I had?"

14 MS. SAMPSON: Asked and answered, Your Honor.

15 THE COURT: I understand. It's cross though.

16 Q He stumbled back, correct?

17 A Yes, sir.

18 Q So under your version, if you're sitting here
19 checking cosmetics or looking for the lease, he comes
20 at you and you push him back, correct?

21 A (Nods head affirmatively).

22 Q He'd have gone toward the door of the bedroom and
23 said, you done stabbed me?

24 A He didn't really go towards the door at all. He went
25 back like toward the wall of the door, like still in

1 the bedroom though when I pushed him.

2 Q Well, looking at State's 5, you pushed him toward the
3 wall of the bedroom?

4 A I just pushed him off me. I didn't know which way he
5 was going, but he was still in the bedroom when he
6 made the statement.

7 Q Didn't see him with a knife with him?

8 A Hmm-mm (Negative).

9 Q You push him as hard as you can. He stumbles back
10 and says, "You stabbed me"?

11 A Yes, sir.

12 Q And then he fell, correct?

13 A Well, I kind of looked at him. He didn't fall right
14 then. I kind of could hear him like breathing, and
15 it was different breathing sounds.

16 Q Did he walk around the house?

17 A Hmm-mm (Negative).

18 Q He basically fell, didn't he?

19 A Mm-hmm (affirmative). He collapsed.

20 Q After you'd pushed him?

21 A Not right after I pushed him, no.

22 Q And when he fell, you didn't see the knife, did you?

23 A Not right then, no. I was not even looking when he
24 fell. I turned around because he collapsed.

25 MR. MEADORS: 445:9 the Court's indulgence.

1 **THE COURT:** Yes, sir.

2 **MR. MEADORS:** Beg the Court's indulgence.

3 **Q** (By Mr. Meadors) Where did his body fall in the
4 room?

5 **A** Towards like the window of the room.

6 **Q** You checked his pulse and you said he was getting
7 cold?

8 **A** (Nods head affirmatively).

9 **Q** And at this point, when had you talked to Patrice?

10 **A** I felt like I talked to Patrice when he made the
11 statement.

12 **Q** So you're looking for it. He charges you. You push
13 him. You pick up the phone and you call Patrice?

14 **A** The phone was already -- I was already like calling
15 Patrice so that she would meet me. I was getting the
16 things out, you know, getting the lease, trying to
17 find the lease and doing everything. I was already
18 calling her so she can just meet me over to Mr.
19 Fogle's house. So she wasn't answering the phone.
20 The phone was just ringing, I believe.

21 **Q** So you could have not even talked to her prior to
22 this happening?

23 **A** Ask the question again? I don't understand the
24 question.

25 **Q** I'm just trying 446ask you; you said the phone could

1 have been ringing while this happened and charging
2 and he said you stabbed him?
3 A I know she took a long time to answer her phone.
4 Q And you told her you stabbed him?
5 A No. I told her what he said.
6 Q That you had stabbed him?
7 A Yes.
8 Q There's no question Charles said that, is there?
9 A There's no question he said it.
10 Q So Patrice was on the phone around this time?
11 A Yes.
12 Q And did he ask you to call EMS?
13 A I don't remember that.
14 Q You don't remember --
15 A I don't remember that.
16 Q -- after Charles said, "you stabbed me", whether he
17 said to call EMS? You can't remember that?
18 A He didn't say -- I don't recall him saying that.
19 Q You started helping him immediately, didn't you?
20 A Yes.
21 Q You knew it was serious?
22 A I mean, he has breathing problems. I knew he had
23 heart problems, too.
24 Q He had serious heart problems after that, Ms. Smith.
25 A Yes.

1 Q Had you already called -- when did you call 911?

2 A I -- I don't remember exactly when I called.

3 Everything was going so fast.

4 Q And without pinning you down, is it fair to say you
5 called them right after -- your testimony today for
6 these ladies and gentlemen of this jury, you called
7 911 shortly after this incident happened?

8 A Yes. I called EMS.

9 Q No question about that?

10 A That's right.

11 Q Do you remember -- you've talked about law
12 enforcement. I won't go through them again. But do
13 you remember EMS coming?

14 A No. They wasn't there -- it was a long time.

15 Q A long time?

16 A A long time..

17 Q A long time after you called 911 before EMS got
18 there?

19 A Oh, they never got there. I was arrested and
20 everything before --

21 Q What time did you leave?

22 A -- EMS came.

23 Q What time did you leave?

24 A I don't know.

25 MR. MEADORS: 448 Beg the Court's indulgence.

1 THE COURT: Yes, sir.

2 Q (By Mr. Meadors) What was he cooking? Charles was a
3 good cook, wasn't he?

4 A Yes, sir.

5 Q Liked to cook?

6 A Yes.

7 Q Was that macaroni and cheese on the stove?

8 A I don't know what it was.

9 Q It was already cooked, wasn't it?

10 A Yes, sir.

11 Q Already done?

12 A (Nods head affirmatively).

13 Q Tell this jury now, this, so far as you know, State's
14 85 has got nothing to do with this case, does it?

15 A Yeah. As far as I know.

16 Q Got nothing to do with it?

17 A Yes, sir.

18 Q You never saw Charles Gibson with it that day?

19 A No.

20 Q He never pointed it at you?

21 A No.

22 Q You never saw it?

23 A No.

24 Q You never felt threatened by it?

25 A No. 449

1 Q Got nothing to do with this case, does it?

2 A That's right.

3 Q How did it get underneath him, Ms. Smith?

4 A I don't know.

5 Q No question you never felt threatened by it, because
6 you didn't even see it, right?

7 A I didn't see it.

8 Q Was it kept right in that room there, in the same
9 room where Charles' body was found?

10 A All the time.

11 Q Right around there on the shelf?

12 A Mm-hmm (affirmative).

13 Q You knew where it was? I'm just saying you knew it
14 was there?

15 A It's usually there. But, I mean, the whole room was
16 different from him I guess taking things in and out
17 the room.

18 Q But that gun was in the same place it always was?

19 A No. Actually the shelf wasn't in the same place it
20 always was. He had moved some things around.

21 Q Where is that shelf usually, please, ma'am?

22 A It was like right by the bed where I kept my books.
23 But he had done taken my books and stuff off of
24 there. So he moved it. He moved it.

25 Q So he had rearranged the furniture? Had he taken --

1 A Not the furniture. But he had rearranged a few
2 things in it.

3 Q Well, when I say rearranged, moved, I think we're
4 saying the same thing. You're saying he moved
5 furniture within his room, correct?

6 (No Response)

7 MR. MEADORS: Beg the Court's indulgence.

8 THE COURT: Yes, sir.

9 Q (By Mr. Meadors) You saw the blood on his chest,
10 correct?

11 A When I was doing the compressions.

12 Q I'm sorry, ma'am?

13 A When I did compressions I seen it.

14 Q Do you remember telling -- you said you immediately
15 helped him. You went to help him when he said you
16 stabbed him as a good LPN would do, correct? You
17 said at first you didn't know whether he was. But
18 you remember saying that, you immediately went to
19 help him?

20 A When he collapsed.

21 Q Okay. Do you remember telling Mark Vinson that you
22 didn't think it was serious so you didn't call right
23 away? Do you remember telling him that?

24 A Yes. I remember.

25 Q No question you had no injuries on you, did you,

1 ma'am?

2 A Well, I didn't know. But I did say no.

3 Q Well, you told him right then: Ms. Smith, have you
4 got any injuries on you? You said no, correct?

5 A Because it wasn't about me. Someone had just died.
6 It wasn't about me.

7 Q But you didn't have any injuries on you, ma'am?

8 A I wasn't focusing on me.

9 Q With all due respect though, you didn't have any
10 injuries?

11 A I just didn't want to think about me right then.

12 Q Okay. But will you think about you right now? Did
13 you have any injuries?

14 A Well, some appeared later on. But at that time I
15 told him no.

16 Q Charles had an injury, didn't he?

17 A Yes.

18 Q He had a little bruise on his arm, didn't he?

19 A Mm-hmm (affirmative).

20 Q When he came in there, you all started arguing and
21 fighting right off the bat, didn't you?

22 A As in the statement; yes, sir.

23 Q Well, this statement where you were -- no question he
24 told you this and said write what happened right
25 here, wasn't it? He gave you this statement. And b

1 the way, this statement and all the other statements,
2 there is no question that all these officers treated
3 you nice, didn't they?

4 A I thought so.

5 Q Informed you of your rights?

6 A Yes.

7 Q I mean, you understood them?

8 A Yes. I understood my rights.

9 Q They didn't threaten you or coerce you in any way?

10 A No.

11 Q They didn't make you give a statement you didn't want
12 to give?

13 A No.

14 Q They didn't hold out any promise of reward, did they,
15 Ms. Smith?

16 A No.

17 Q Was it fair to say they were very professional,
18 weren't they?

19 A Yes, sir.

20 Q And it's fair to say they were trying to find out
21 what happened, and you were responding to their
22 questions, weren't you?

23 A Yes, sir.

24 Q And in this first part you said a struggle from
25 arrival in the dc453

1 A Yes. Exactly.

2 Q In that struggle you went to the kitchen and got a
3 knife, didn't you?

4 A No.

5 Q Can you explain one thing to me, ma'am? On this --
6 and I tell you, there's another copy I think
7 somewhere if I can find it. "Struggled from arrival
8 in the door. Stabbing occurred during dispute.
9 Charles had knife in hand." So here you say he had a
10 knife in hand when you came, correct?

11 A (Nods head affirmatively).

12 Q "Knife punctured me a little. I did not know
13 puncture was as severe." Were you saying the knife
14 punctured you a little?

15 A I don't know. That's why I told -- that's why he
16 started asking me the questions, because I told him
17 was just seeing so much stuff going on in my mind.

18 Q So you don't know if it punctured you a little or
19 not. Did you call your -- and, by the way, when
20 Charles comes into your house -- in your bedroom;
21 excuse me, ma'am -- and you're looking through the
22 closet, it actually would have been on State's 75,
23 you would have been looking in this, correct?

24 A Yes.

25 Q Okay. And you 454ned and pushed him. You didn't see