

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Sumter County

George C. James, Circuit Court Judge

NATHANIEL BRADLEY,

RECEIVED
MAR 12 2019
S.C. SUPREME COURT
PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2018-001121

APPENDIX

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
APPLICANT’S EXHIBIT #7 (MAP); APPLICANT’S EXHIBITS #8-23
(PHOTOGRAPHS)**

1 Herndon Road on the left, Golf Cart Road is going to be on
2 the right, and the next road that you come to will be
3 Spann Road right here on the right, and she lives -- I
4 want to say this house right here up in this area.

5 Q Okay. And could you just mark that with a D, please,
6 if you could, just roughly.

7 A Would be roughly in this general vicinity.

8 Q Okay. Thank you.

9 MS. FANT: Your Honor, at this time I would
10 enter State's 54 into evidence.

11 THE COURT: What says the defense?

12 MR. FINNEY: No objection.

13 THE COURT: Okay. State's number 54 is in
14 without objection.

15 (WHEREUPON, State's Exhibit 54 was admitted into
16 evidence.)

17 (Witness resumed the stand.)

18 BY MS. FANT:

19 Q Actually, let me ask you one more thing. If you
20 could step down, we won't bring the easel back over. We
21 will just hold -- I will hold it up.

22 Could you point out in the cemetery approximately
23 where the burned vehicle was found?

24 A It would be at the second driveway as you come in,
25 about in this general location right here.

1 Q Okay.

2 A And during that time it was -- they had -- it was
3 like -- it's kind of grewed up now, but they had did a lot
4 of cleaning up in here, and the vehicle was located right
5 here.

6 Q Okay. And is that area in general, is it heavily
7 developed, suburban, or is it rural and wooded?

8 A It's all wooded.

9 Q Okay. Thank you.

10 (Witness resumed the stand).

11 Q You indicated you had lived in Bishopville all your
12 live and been with law enforcement there. Are you
13 familiar with the cemetery itself?

14 A Yes, ma'am.

15 Q And to your knowledge are there any Bradleys that are
16 buried in the Broad Branch Cemetery?

17 A There are several Bradleys buried in Broad Branch
18 Cemetery.

19 Q Please answer any questions Mr. Wilder (sic) may
20 have.

21 CROSS-EXAMINATION

22 BY MR. FINNEY:

23 Q Good afternoon, Investigator Simon.

24 A How you doing, sir?

25 Q Do you know my client, Mr. Nathaniel Bradley?

- 1 A No, sir.
- 2 Q Do you know his mama's name?
- 3 A No, sir.
- 4 Q Do you know where his mama's buried?
- 5 A No, sir.
- 6 Q In two and a half years has anybody asked you to
- 7 check that out in the Lee County Branch Cemetery?
- 8 A No, sir.
- 9 Q No one, Sumter County, has asked you to check to see
- 10 if my client's mother is buried in that cemetery?
- 11 A No, sir.
- 12 Q Okay.
- 13 A We talked about the Bradleys that's buried there, but
- 14 I don't have no--
- 15 Q You don't know if they have anything to do with my
- 16 client?
- 17 A No, sir.
- 18 Q All right. Now, on the day in question, did you go
- 19 out to see the burned car that was discovered on Sunday?
- 20 A I didn't go out that Sunday, no, sir.
- 21 Q All right. And so you don't know how far away from
- 22 the highway the burned car was left?
- 23 A Yes, sir.
- 24 Q How far was it?
- 25 A Probably about a hundred and 50-yards.

1 Q 150 yards. So that's much further from -- than where
2 you're sitting to the back door?

3 A My -- probably -- no, it's about from here to the
4 back door, sir.

5 Q Okay. From here to the back door --

6 A Yes, sir.

7 Q -- is where the car was from the highway --

8 A Yes, sir.

9 Q -- which is 134?

10 A 154.

11 Q 154.

12 A Highway 154.

13 Q All right. Now, could you, as a citizen of Lee
14 County driving down 154, could you see the smoke from that
15 car if it had been set on fire?

16 A Yes, sir.

17 Q All right. So as you told the jury, it had been cut
18 down during that time?

19 A Yes, sir.

20 Q It was under care?

21 A Yes, sir.

22 Q And it wasn't any problem to see the car burned?

23 A No, sir.

24 Q All right. Now, did you get any reports from anybody
25 that a car was on fire and people had seen the smoke and

1 it was burning up?

2 A No, sir.

3 Q None of your officers got a report?

4 A No, sir.

5 Q All right. So the first thing that was--

6 A All -- correction. The only report that we got where

7 Mrs. McCutchen--

8 Q Mrs. McCutchen found the car --

9 A Right.

10 Q -- Sunday afternoon.

11 A Yes, sir.

12 Q It wasn't smoking.

13 A No, sir.

14 Q All right. Wasn't hot?

15 A No, sir. My understanding it wasn't.

16 Q All right. Now, Investigator McMillan and

17 Investigator Gardner came to your office and met with

18 Ms. Donna.

19 A Yes, sir.

20 Q You were there?

21 A I was in the building.

22 Q You didn't see the interview?

23 A No, sir.

24 Q So Ms. Donna says that she's not going to meet with

25 Sumter County fellows without you being there, but you're

1 not in the meeting?

2 A No, sir. What I did is I -- I made the building
3 accessible to them. I met her there. They went into the
4 conference room and they talked to her.

5 Q All right. Isn't it a fact, officer, that you spoke
6 with Ms. McDuffie for extended period of time before the
7 Sumter County fellows got there about the missing gun?

8 A We talked about the -- these are report--

9 Q What time was the report?

10 A The time of the report is 3:45.

11 Q All right. And what time did the Sumter County
12 fellows get there?

13 A I want to say about four or 4:30, not a hundred
14 percent sure.

15 Q So you talked to her for an hour before they even got
16 there about this missing gun?

17 A We did a report on it.

18 Q All right.

19 A And I -- our report system is everything is
20 computerized and we --

21 Q I understand--

22 A -- we type it up.

23 Q What's the exhibit number--

24 MS. FANT: Objection, Your Honor. I would allow
25 the witness to finish his answer.

1 MR. FINNEY: I'm sorry.

2 THE COURT: Okay. I thought he had. I mean, he
3 said it was computerized and we typed, and then--

4 BY MR. FINNEY:

5 Q What time is the number--

6 A The time of the incident occurred was 1545 which
7 would be 3:45.

8 Q 3:45 in the afternoon?

9 A Yes, sir.

10 Q On what day?

11 A The 27th.

12 Q Twenty-seventh?

13 A Yes, sir.

14 Q All right. And the officers from Sumter came an hour
15 or so later, she was still in the building, and she met
16 with them?

17 A Yes, sir.

18 Q Then all of you all went out to her house and looked
19 at her property?

20 A Yes, sir.

21 Q And at her property you saw -- who took the pictures
22 that afternoon?

23 A I think it was Investigator McMillan. I'm not a
24 hundred percent sure, but it was one of them.

25 Q All right. And according to your testimony on

1 Exhibit 39, that's the way the yard looked at the
2 afternoon that you were in Ms. McDuffie's yard.

3 A Yes, sir.

4 Q And the grass has been neatly cut.

5 A Yes, sir.

6 Q And next to where the grass has been neatly cut there
7 are several bricks. In this picture on 39 there are three
8 cinder blocks.

9 A Yes, sir.

10 Q And each one of the cinder blocks has a tall, fuzzy
11 grass surrounding nearby it; doesn't it?

12 A Yes, sir.

13 Q But between the two cinder blocks that are shown in
14 the middle of the picture, there's no fuzzy grass.

15 A I don't know when the grass was cut.

16 Q I know you don't, officer. I'm asking you to tell me
17 what's in the picture. It's no fuzzy grass in the
18 picture --

19 A No, sir.

20 Q -- between the blocks; is it?

21 A No, sir.

22 Q And that's how it looked that afternoon that you were
23 there.

24 A And you're correct.

25 Q All right. You went to the house also and Donna

1 showed the bullets to the officers that she had in her
2 closet.

3 A Yes, sir.

4 Q And she gave one of the bullets to the officers.

5 A She showed us the bullet that would actually go into
6 the -- to the weapon.

7 Q Did you see Donna give a bullet, unfired bullet, to
8 one of the officers from Sumter?

9 A She show it to us.

10 Q Did you see Donna give an unfired bullet to one of
11 the officers from Sumter?

12 A I didn't see it.

13 Q Thank you --

14 A But what I'm saying--

15 Q -- very much, officer.

16 A Okay.

17 Q Nothing further.

18 MS. FANT: Nothing further, Your Honor. May
19 Mr -- Major Simon be excused?

20 THE COURT: Any objection?

21 MR. FINNEY: No objection.

22 (Witness left the stand.)

23 THE COURT: Madam Solicitor, your next witness,
24 can you get them up and down by one?

25 MS. FANT: I'm not sure if they are even here.

1 Is Mrs. Tracy Drayton here? Your Honor, at this time
2 the State would call Tracy Drayton.

3 THE COURT: All right. Can you -- but you
4 think...

5 MS. FANT: Well, my examination is fairly short.
6 I have no idea...

7 THE COURT: Well, we'll -- if we have to break
8 cross, we will. Okay.

9 TRACY DRAYTON, after being duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. FANT:

13 Q Ms. Drayton, do you know who the defendant is in this
14 case, Nathaniel Bradley?

15 A Yes.

16 Q And do you know his former wife, Lubertha Bradley?

17 A Yes.

18 Q Did you attend a cookout at Ms. Lubertha Bradley's
19 house on Sunday, May 22nd?

20 A Yes.

21 Q Do you recall what y'all did that day?

22 A We was just sitting out in the yard.

23 Q Was it actual -- an actual cookout? Where you
24 cooking out?

25 A Yeah, on the grill, uh-huh.

1 Q And did you see the defendant, Nathaniel Bradley,
2 that day?

3 A Yes, I did.

4 Q Do you know about what time he showed up?

5 A No.

6 Q Do you know who was with him?

7 A No.

8 Q Was there in fact another person with him?

9 A Yes.

10 Q Did you recognize the person that was with him?

11 A No, because I was sitting in the yard paying no
12 attention.

13 Q Did the defendant introduce you to that person?

14 A No, he did not.

15 Q Did he tell you who that person was?

16 A No.

17 Q How did he refer to that person?

18 A I was out in the yard.

19 Q Do you recall having a conversation with Sergeant
20 McMillan yesterday?

21 A Yes, I did.

22 Q And what did you tell Sergeant McMillan about the
23 information that the defendant -- what he called or how he
24 referred to the stranger that showed up at the cookout?

25 A He asked me did I prepare some food for them. I told

1 him, no, I don't remember preparing no food because I was
2 out in the yard.

3 Q What did he ask you, and you told him, what that
4 defendant said about the stranger that he brought with him
5 to the house that day?

6 A He asked me did I prepare some food. I told him no.

7 Q Are you denying that you told Sergeant McMillan that
8 that man--

9 MR. FINNEY: I'm going to have to object to that
10 question, Your Honor. That's going to put all of
11 these things into evidence. If she wants to ask the
12 witness what was said, the witness can say, but she
13 can't ask the witness did she say to Sergeant
14 McMillan blah, blah, blah, blah, blah.

15 MS. FANT: Your Honor, I certainly--

16 MR. FINNEY: This is her witness. This is not
17 cross-examination.

18 THE COURT: I understand. But my understanding
19 of the rules, she certainly has the right to impeach
20 her own. She can ask this witness what she said, she
21 follows through, gives her the date and time of who
22 she said it to. And if she denies saying it, she
23 certainly can go further.

24 MR. FINNEY: I think the foundation would have
25 to be laid as to what she said to Sergeant McMillan

1 yesterday.

2 THE COURT: And that's what she's asking.

3 BY MS. FANT:

4 Q Did you in fact tell Sergeant Clarence McMillan
5 yesterday that the defendant at the cookout referred to
6 the stranger that you didn't recognize as his partner?

7 A No, I did not.

8 Q You did not. No further questions.

9 CROSS-EXAMINATION

10 BY MR. FINNEY:

11 Q Hold on, ma'am. Ask you one or two questions.

12 A All right.

13 Q Had you ever seen Sergeant McMillan before yesterday?

14 A No, I did not. I talked to him on the phone.

15 Q So 2005, nobody came to see you about the cookout?

16 A No.

17 Q Yesterday was the first day they saw --

18 A Yeah.

19 Q -- cookout that happened two and a half years ago?

20 A Yes.

21 Q You were at the cookout on Sunday?

22 A Yes.

23 Q That would have been May 22nd according to our
24 calculations on that week.

25 A Uh-huh.

1 Q You say Mr. Nate came. How did he get there?

2 A I don't know.

3 Q All right. You -- do you have -- think that he got
4 to the cookout before 12:00 that day or after 12:00?

5 A I want to say after 12.

6 Q Okay. After 12. And -- but you don't have any
7 recollection of what time it was when you first saw him?

8 A No.

9 Q You don't have any recollection of how long he stayed
10 there at the cookout?

11 A No, I don't.

12 Q Did he eat?

13 A I can't remember.

14 Q Did he have a drink of beer or drink of coca cola?

15 A No, I can't remember.

16 Q Or was he inside and you were outside?

17 A I was outside.

18 Q Was he mostly inside the house?

19 A No, we were all outside.

20 Q So even he was outside?

21 A Uh-huh.

22 Q Was he standing up or sitting down in the picnic
23 table?

24 A I was sitting. I don't know whether he was standing
25 or sitting.

1 Q Who had the picnic? Whose house were you at?

2 A Lubertha Bradley.

3 Q And that's his ex-wife?

4 A Yes.

5 Q All right. And did you see him leave?

6 A No, I did not.

7 Q Okay. Do you know when you left?

8 A Yes.

9 Q When did you leave?

10 A I left like that afternoon.

11 Q Okay. About what time?

12 A About six or seven.

13 Q Okay. We talking May of 2005. So the sun goes down
14 around 7:30, 8:00 maybe? Was it dark when you left?

15 A It was getting dark.

16 Q Okay. And was he still there? Mr. Nate was there
17 when you left? Do you remember that?

18 A I can't remember.

19 Q Okay. All right. Who else was there besides you and
20 Mrs. Lubertha and Mr. Nate?

21 A I remember it was a lady there. She's deceased now.
22 They had some more friends. I don't remember.

23 Q So would you say maybe 10 or 12 people were there or
24 was it more like five or six?

25 A Around seven.

1 Q Seven people. The man that you say that was with
2 Nate, did you see him come with Nate?

3 A No, I can't -- I don't. I wasn't paying no
4 attention.

5 Q And you didn't say anything to McMillan yesterday
6 about him being -- Nate saying, that's my partner?

7 A I remember he saying that's his partner.

8 Q That's -- who said that?

9 A Nate. I don't -- Nate.

10 Q Nate said that? Back in 2005?

11 A Uh-huh.

12 Q Well, did you tell McMillan that yesterday?

13 A No.

14 Q Did he ask you?

15 A He asked me yesterday did I prepare some food, did I
16 fix them some food, and I told him, no, I don't remember
17 fixing no food.

18 Q Okay. So now we're back to 2005. Don't worry about
19 what -- yesterday.

20 A Okay.

21 Q Remember back in 2005. Do you remember Nate saying
22 to you or people in your area that this is my partner?

23 A No.

24 Q Okay. And the cookout was at Lubertha's some time in
25 the afternoon on Sunday?

1 A Yes.

2 Q Okay. And you don't know what time you left and you
3 don't know what time Mr. Nate left?

4 A Huh-uh.

5 Q All right. Thank you, ma'am. That's all I have got.

6 THE COURT: Anything further from the State?

7 MS. FANT: Yes, Your Honor.

8 REDIRECT EXAMINATION

9 BY MS. FANT:

10 Q Ms. Drayton, did you or did you not just 30 seconds
11 or a minute ago, tell Mr. Finney that that man, Nate,
12 called the other guy his partner the day that you were
13 there?

14 A No.

15 Q So you're denying that you just said that?

16 A Yes.

17 Q Nothing further.

18 MR. FINNEY: Nothing further. You can come
19 down.

20 (Witness left the stand.)

21 THE COURT: Now, is this a good point to stop
22 for lunch?

23 MS. FANT: Yes, Your Honor. I'm not certain
24 that my next witness is actually here yet.

25 THE COURT: Okay. And since we are stopping at

1 a quarter till, we can come back at 2:15 versus 2:30.

2 MS. FANT: That would be fine with the State,
3 Your Honor.

4 THE COURT: Ladies and gentlemen, we are going
5 to stop now for lunch. During lunch I need you to
6 make some extra preparations. Would it cause any of
7 y'all a huge inconvenience for us to run a little
8 late tonight, 5:30 or six?

9 The reason I'm saying that, I'm trying to keep
10 us out of Saturday. I can't necessarily control how
11 fast this trial goes and neither can the parties
12 because you never know when you get a witness on the
13 stand truly how long it's going to take.

14 But looking at the list of witnesses we have to
15 go through, if we don't speed up, we are going to be
16 here Saturday. So I'd like to run -- and it depends
17 on how fast it goes this afternoon, but that way you
18 can tell your families, make arrangements, if you
19 could stay till 5:30, six tonight, it may keep us out
20 of Saturday.

21 If that's a huge problem for any of y'all, you
22 need to tell me right now and we will deal with that
23 or -- but will that work for y'all? I'd love to
24 finish this case this week and not go into Saturday.

25 So we may run a little late tonight. And it may

1 not happen that way, just depends on how fast things
2 go. But if it will work, I'd like to do that.

3 And so the reason I'm telling you now, during
4 your lunch hour if you need to make some arrangements
5 to call home and tell somebody you may be a little
6 late tonight because we're not -- going to run late,
7 late, but sometimes depends on how the witnesses fall
8 and we may run 5:30 or 6:00 if possible.

9 Okay. All right. Y'all will have a nice lunch
10 and try to be back at 2:15 and we'll try to speed
11 this up if we can. And I remind you, you cannot
12 discuss this case during the lunch break with each
13 other or allow anyone to talk with y'all.

14 Please don't read anything or listen to anything
15 on the media concerning this case. Thank you.

16 (Jury left the courtroom at 12:46 pm.)

17 *THE COURT:* We will be in recess until 2:15.

18 (Court in recess for lunch.)

19 *THE COURT:* Do y'all want to deal with the issue
20 on the record before we bring the jury in?

21 *MR. FINNEY:* Yes, sir.

22 *THE COURT:* Okay.

23 *MR. FINNEY:* Your Honor, please, on behalf of
24 the defendant, during the morning testimony it came
25 out that they -- SLED agent Mr. Thrower had received

1 a gun from Sumter County, tested it as part of the
2 evidence in this case, made a report, and sent the
3 gun back to Sumter.

4 The defense never received any information about
5 that procedure or that evidence, and it perhaps is
6 exculpatory evidence and we feel that we should have
7 been advised of it under rule five.

8 And we feel like before this case goes much
9 further, we would like to be able to receive the
10 information of where the gun was found, why is it
11 connected to this case, when did they get the report
12 back from SLED and where the gun is now.

13 *THE COURT:* Okay. Madam Solicitor?

14 *MS. FANT:* Your Honor, I agree obviously. I
15 think we were both surprised by Mr. Thrower's
16 testimony on that. The State would argue that it's
17 not exculpatory in fact because it has absolutely
18 nothing to do with this case.

19 I intend to recall Investigator Mackessy to
20 explain why the gun was sent, and he will hopefully
21 also be able to explain why we had no knowledge that
22 it was sent up there.

23 But the fact is that the report that Mr. Thrower
24 issued, which I don't have a copy of either, but
25 which I assume will be forthcoming, did indicate that

1 there -- it was not a -- a match to -- to the bullets
2 in this case and that -- I think once we have
3 Investigator Mackessy here, we will be able to
4 determine that in fact that it, you know, it was not
5 found in the pond or somewhere that was indicated
6 that was connected.

7 But the bottom line is it wasn't a match. In
8 that sense it's not exculpatory because basically
9 it's a irrelevant piece of information.

10 THE COURT: Well, will you be able to produce
11 the report that SLED returned back to the Sheriff's
12 Office saying it was not a match and give it to --
13 Mr. Finney a copy of that report?

14 MS. FANT: Yes, Your Honor. We will give him
15 everything that we have right now. You have got
16 the... we will give that to him, a copy, right now.

17 THE COURT: Okay. Anything else?

18 MS. FANT: Nothing from the State.

19 MR. FINNEY: I don't think so, Your Honor.

20 THE COURT: Are y'all ready for the jury?

21 MR. FINNEY: Yes.

22 MS. FANT: Let me make sure the witnesses are
23 here. Martha Ann is here. Is Ms. Lubertha here?
24 Okay.

25 THE COURT: Ready?

1 MR. FINNEY: Yes.

2 THE COURT: State ready?

3 MS. FANT: Oh, I'm sorry. Yes.

4 THE COURT: Okay. Bring us the jury.

5 (Jury entered the courtroom at 2:32 pm.)

6 THE COURT: Thank you. Madam Solicitor, you may
7 call your next witness.

8 MS. FANT: Your Honor, at this time the State
9 would recall Martha Ann Ransom.

10 MARTHA ANN RANSOM, after being
11 duly reminded of oath, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. FANT:

14 Q Good afternoon. I apologize for making you come back
15 up here. In the bulk of the witnesses we had, I forgot to
16 ask you something that I didn't ask you, and that was the
17 vehicle that we're talking about in this case, the Volvo.

18 A Uh-huh.

19 Q Who owned the vehicle?

20 A I did.

21 Q And could you tell us what color it was?

22 A Light blue.

23 Q And how long had you owned it before this incident?

24 A Not long, maybe about a month or two.

25 Q Okay. And what was the vehicle tag number on the --

1 on the license?

2 A I don't know. I'm not sure right now.

3 Q Did it actually have a regular tag or was it a paper
4 tag?

5 A I had -- think I had done got the regular tags for
6 it.

7 Q There was a -- what, an Easy Auto Credit paper tag?

8 A Yes, ma'am.

9 Q Do you recall that?

10 A Yes.

11 Q Okay. Okay. And it said -- is that where you bought
12 it from?

13 A Yes, ma'am.

14 Q Easy Auto Credit?

15 A Credit, yes.

16 Q And it's a temporary tag I guess that they give you
17 when you first buy it?

18 A Yes.

19 Q And was that still on the car?

20 A I'm thinking it could have been because we didn't
21 have it that long. I know I went down and got the -- took
22 care of the insurance that same day, and I'm not sure
23 whether they had sent the tags out or not.

24 Q And do you remember the color of that little paper
25 tag?

1 A No. It could have been red. I don't know.

2 Q Okay.

3 A To be honest, I don't know.

4 Q You don't know?

5 A I don't remember.

6 Q That's fine. Thank you very much. I appreciate it.

7 A Okay.

8 MR. FINNEY: No questions.

9 THE COURT: Thank you, ma'am. You can step
10 down.

11 (Witness left the stand.)

12 THE COURT: May call your next witness.

13 MS. FANT: The State calls Lubertha Bradley.

14 LUBERTHA BRADLEY, after being
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. FANT:

18 Q Mrs. Bradley, do you live in Sumter?

19 A Dalzell, yes.

20 Q Dalzell? How long have you lived there?

21 A Probably nine years, and that...

22 Q Are you from this area in general? Where are you
23 from originally?

24 A Sumter.

25 Q Okay. Thank you. Do you know the defendant in this

- 1 case, Nathaniel Bradley?
- 2 A Yes.
- 3 Q How do you know him?
- 4 A I was once married to him.
- 5 Q Did y'all have any children together?
- 6 A Yes.
- 7 Q And do you recall -- where do you live currently at
- 8 your current address?
- 9 A I live at Cindy Lake Drive (sic).
- 10 Q Okay. And were you living there in May of 2005?
- 11 A Yes.
- 12 Q Do you recall having a small cookout on Sunday, May
- 13 the 22nd, 2005?
- 14 A Yes.
- 15 Q Who was there at that cookout?
- 16 A Myself, my stepdaughter, Chonda, my cousin Berniece,
- 17 Tracy Drayton, and one more -- oh, God bless the dead, one
- 18 of my friend from Baltimore.
- 19 Q And that friend has passed on?
- 20 A Yes.
- 21 Q And did you see the defendant, Nathaniel Bradley,
- 22 that day?
- 23 A Yes, I did.
- 24 Q And about what time was that?
- 25 A It was in the afternoon, you know, like somewhere

1 between two, three. I'm not sure about the hours, but I
2 know it's somewhere around that -- that time.

3 Q Okay. And had you invited him to your house?

4 A No, they -- no, not really.

5 Q So you hadn't called him up and said, hey, come on
6 over?

7 A No, I didn't call.

8 Q But he showed up at some point?

9 A Yeah.

10 Q Who was he with?

11 A I don't know, his partner.

12 Q Did -- did -- could you describe -- or was this a --
13 was it a female, you mean like a girlfriend partner?

14 A No, no, no. It was a guy.

15 Q What happened when they got there?

16 A When they got there we were sitting in the yard and
17 he says, oh, I'm in a good time. He says, you have enough
18 food that me and my partner can have some? And I said,
19 sure.

20 Q And do you recall what car he was driving?

21 A The little blue Beretta.

22 Q Uh-huh. And the person that was with him that he
23 referred to as his partner, did you know him?

24 A Never seen him in my life.

25 Q Did -- did the defendant ever introduce him to you?

1 A No.

2 Q Did he tell you what the guy's name was?

3 A No.

4 Q And did the defendant and the partner actually eat
5 something at your house?

6 A They did.

7 Q Do you recall who fixed it? Who fixed a plate for
8 them?

9 A Well, Tracy and Berniece.

10 Q Okay.

11 A Because I asked them to fix, you know, go inside and
12 fix the rice and beans and greens because the meat was on
13 the grill.

14 Q And did you stay outside with the grill?

15 A No, not the whole time, no.

16 Q Okay.

17 A I wasn't out there when they was eating, but I know
18 they was eating because I was looking out the kitchen
19 window.

20 Q Okay.

21 A I went back inside to make some tea.

22 Q And when you were looking out the window of the
23 kitchen, what did you see?

24 A Mr. Bradley was sitting eating and the guy was
25 sitting in the car on the passenger side, the Beretta.

1 Q Was he eating his food in the car?

2 A Uh-huh.

3 Q Did he ever get out and socialize with y'all?

4 A No, not as I can recall because --

5 Q And -- go ahead.

6 A -- because they left after that and went to the
7 store.

8 Q Okay. And when they left, whose vehicle did they
9 take?

10 A Chonda's.

11 Q And when they got back, what did they do?

12 A They did the two front windows of the truck.

13 Q And whose truck is that?

14 A Chonda's.

15 Q And what did they do to the windows?

16 A Tint the windows, put a light tint on it, you know,
17 kind of like a little dark, not light, but a little dark
18 tint.

19 Q Did Chonda -- had Chonda asked them to do that?

20 A Yes.

21 Q And what happened after that?

22 A They left after that. They left.

23 Q And what vehicle did they leave in?

24 A The Beretta, Beretta.

25 Q And about how long would you say that they were

1 there?

2 A Approximately maybe two hours from the time that they
3 arrive and left and came back, I say probably two, two.
4 I'm not sure, but I say probably two.

5 Q And at no time during that did the person with him
6 come up, talk to you, talk to anyone else?

7 A Not as I can recall it, no.

8 Q Okay. And to your memory did he just stay in the
9 car?

10 A Yeah, until he went with Mr. Bradley to the store.

11 Q Okay. And what again -- how did he refer to him when
12 the defendant told you, he said, this is who?

13 A His partner.

14 Q Thank you. Please answer any questions Mr. Finney
15 may have.

16 CROSS-EXAMINATION

17 BY MR. FINNEY:

18 Q Mrs. Bradley --

19 A Yes, sir.

20 Q -- how long were you and Luke, Nate Bradley married?

21 A That stay together married? I say probably a year I
22 guess. I'm not sure.

23 Q How many children y'all got?

24 A We had three.

25 Q Three girls?

- 1 A No, we had two sons and a daughter.
- 2 Q All right. Chonda is one of the girls?
- 3 A No. Latonya Bradley.
- 4 Q Latonya?
- 5 A Latonya Johnson.
- 6 Q You and Luke were close enough for him -- in 2005
- 7 y'all weren't living together?
- 8 A No, no.
- 9 Q But y'all were close?
- 10 A Yeah, we were still--
- 11 Q Friends?
- 12 A Yeah, we stayed friends.
- 13 Q And you're saying -- tell me -- what -- in 2005,
- 14 where were you living?
- 15 A At Cindy Lake Drive. Cindy Lake Drive.
- 16 Q Cindy Lake Drive. You live there now?
- 17 A Yes.
- 18 Q Okay. So the place that they had the cookout, that's
- 19 the same place you live now?
- 20 A Uh-huh, yes.
- 21 Q And the phone number at that house was what?
- 22 A I don't remember --
- 23 Q Well, tell--
- 24 A -- because I changed it.
- 25 Q 499-9651.

- 1 A That's my number now.
- 2 Q That's your number now?
- 3 A Fifty... 57 -- I mean 499-5197?
- 4 Q No, ma'am. 499-9651.
- 5 A Well, I had that number before.
- 6 Q At that house?
- 7 A Yes.
- 8 Q That was your house number?
- 9 A Yeah, I'm pretty sure.
- 10 Q Okay. 499-9651.
- 11 A I'm pretty sure.
- 12 Q Is that your house number?
- 13 A Yeah, I'm pretty sure.
- 14 Q All right. And on May the 22nd, you -- got a little
- 15 map here of the week that we're talking about. May the
- 16 22nd, 2005 was a Sunday?
- 17 A Uh-huh.
- 18 Q Are you sure you had the cookout on a Sunday?
- 19 A It was a Sunday.
- 20 Q All right. And your number was 499-9651 at your
- 21 house?
- 22 A I'm pretty sure.
- 23 Q And if I told you that Nate Bradley called you on his
- 24 cellphone at 3:54 in the afternoon --
- 25 A Uh-huh.

1 Q -- that day to see what you were doing, would you
2 remember getting a call from him?

3 A Probably a -- probably was.

4 Q Did you tell him that you were having a cookout?

5 A No, I always cook. I always cook.

6 Q Well, if he called you at 3:54 in the afternoon and
7 you all talked for over two minutes, would you have told
8 him that you were in the middle of a cookout?

9 A Cooking, yes.

10 Q If he had said, well, can I come over and eat, would
11 that have been all right with you?

12 A Yeah.

13 Q Okay. I'm going to put down here 3:54 as a possible
14 time that he may have called you that afternoon to see
15 what you were doing.

16 A Okay. Because I wasn't sure. I'm not sure.

17 Q All right. And he came over to the house.

18 A He came.

19 Q Stayed at the house for a while?

20 A For a little while, yeah.

21 Q Then he left in Chonda's car and went to the store?

22 A Uh-huh.

23 Q Came back?

24 A Yes.

25 Q Do you know how long he was gone --

- 1 A No, I -- I didn't check no times, I didn't --
- 2 Q -- could you tell --
- 3 A -- estimate--
- 4 Q -- whether it was ten minutes or an hour?
- 5 A No, it wasn't an hour--
- 6 Q Was it closer to 10 minutes he was gone or closer to
- 7 an hour?
- 8 A I may say 15, 20 minutes maybe--
- 9 Q Twenty minutes. All right. He was gone for a while.
- 10 Came back?
- 11 A Yes.
- 12 Q Did he eat before he went to the store or after?
- 13 A Before. Before.
- 14 Q Before?
- 15 A Uh-huh.
- 16 Q Then he came back?
- 17 A Uh-huh.
- 18 Q And then he tinted the windows?
- 19 A Uh-huh.
- 20 Q With a fellow that was with him?
- 21 A Yes.
- 22 Q Okay. How long did that take?
- 23 A I'm not sure, but I know they did the window.
- 24 Q On whose car?
- 25 A Chonda's.

1 Q The same car they took to the store?

2 A Yes.

3 Q It was a truck?

4 A Yes.

5 Q All right. And after they tinted the windows, did
6 they stay around a little bit longer?

7 A No, they left.

8 Q Pretty much left --

9 A Yeah.

10 Q -- after they finished the tint job?

11 A Yes.

12 Q And they left in Nate's car?

13 A Yes.

14 Q Two men?

15 A Two mens.

16 Q Okay. Now, when they left on Sunday from your house,
17 did you see Nate again that day, that night?

18 A No, no, no, no, no.

19 Q Did you hear on Monday, the next day, that the young
20 man, Ernest James, had been killed?

21 A Yes.

22 Q Did you know Ernest James?

23 A Yeah, I knew him a little.

24 Q All right. How did you know him?

25 A He used to live in the same trailer park that I used

1 to live in.

2 Q All right.

3 A Once.

4 Q Did you know that he and Nate worked together as
5 painters?

6 A Yeah.

7 Q All right. When you found out that Ernest James had
8 been killed, did anything cross your mind that that was
9 connected with Luke, Nate Bradley?

10 A No, not really.

11 Q When did the officers first come and talk to you to
12 be a witness here today?

13 A On -- after he was locked up.

14 Q Back in May of 2005?

15 A Yeah, I'm pretty sure, yeah.

16 Q Did you give them a statement?

17 A I'm not sure. I talked to--

18 Q Did you sit down with the officers and they wrote
19 some things down and asked you to sign them?

20 A No.

21 Q Did you write something down and sign it and give it
22 to the officer?

23 A No.

24 Q You just talked to them about the case?

25 A Somebody came and leaved a note in my door, one of

1 the investigator or something.

2 Q Did the investigator left a note and you called the
3 investigator?

4 A Yeah, they came back--

5 Q Talked to him on the phone or he came to your house?

6 A Came to my house.

7 Q Okay. And so the investigator knew -- a few days
8 after this young man was found dead, the investigators
9 knew from talking to you that Nate had been at your house
10 Sunday afternoon doing all these things.

11 A I'm not sure whether they knew that or not--

12 Q You just told me you told them. Take a minute.

13 A Okay.

14 Q The young man has been found dead. A couple of days
15 go by. Somebody leaves a note in your door.

16 A But during that time they didn't ask me about the
17 cookout.

18 Q That's--

19 A Nobody come and asked me about no cookout during that
20 time.

21 Q What -- did anybody come to you and ask you about
22 anything during that time?

23 A Well, as I can remember, it was -- no, listen, it was
24 nobody -- it was no cookout during that time. I think I
25 talked to the two right there.

1 Q These gentlemen at the table?

2 A The lady and the -- and this man right here, these
3 two.

4 Q You talked to them in 2005 or you talked to them this
5 week?

6 A No. No. When I talked to them, I talked to them.
7 But once before I talked to another black man. I don't --
8 can't remember his name. I'm not sure whether it was him
9 or -- it was somebody in a car.

10 Q All right. These people you talked to, they were all
11 from law enforcement?

12 A Yes.

13 Q Did you talk to them this month or back in 2005 when
14 the man got killed?

15 A Back in 2000, one guy came to me.

16 Q Okay. One guy and -- and talked with you. Did you
17 tell him that Nate had been at your house at the cookout?

18 A No.

19 Q Well, why was he there talking to you?

20 A Because they--

21 Q Do you remember?

22 A I don't remember.

23 Q You didn't tell him anything about the cookout?

24 A No.

25 Q You didn't tell him Nate had been at your house?

- 1 A These two people right here this year.
- 2 Q This year?
- 3 A Last year, whatever. Last year.
- 4 Q Okay. Couple of months ago?
- 5 A A month ago.
- 6 Q Okay.
- 7 A I'll--
- 8 Q Let's say November.
- 9 A Yeah, somewhere around there, time, yes.
- 10 Q All right. You told them then that Nate was at your
- 11 house?
- 12 A Yeah, he was.
- 13 Q And the cookout was there?
- 14 A Yeah, he -- it was.
- 15 Q Okay. Now, did you tell those people -- did you tell
- 16 those people in 2005 the man -- you say is a black man
- 17 came to see you in 2005, asked you questions.
- 18 A Uh-huh.
- 19 Q Did you tell him Nate was at the house?
- 20 A No. 2005? No.
- 21 Q That's when this happened. That's when the cookout
- 22 was.
- 23 A The cookout -- okay.
- 24 Q The cookout was on Sunday.
- 25 A Sunday, okay.

1 Q The young man got killed on --

2 A Okay.

3 Q -- Monday.

4 A All right. I was getting confused with those. Okay.

5 Q Did somebody from the Police Department come and talk
6 to you the week of the man getting killed? After the man
7 got killed and found on Monday, did they come to your
8 house on Tuesday or Wednesday or Thursday?

9 A No, no, no.

10 Q Nobody ever talked to you?

11 A No, not then, no.

12 Q So when is the first time you told somebody that Nate
13 Bradley was at your house with another man?

14 A In 2007.

15 Q 2007? Which was a couple of months ago?

16 A Yes.

17 Q That's the first time anybody investigated this case
18 with you?

19 A Yes.

20 Q And that's your first statement to the officers was
21 two years after this event happened. Two years had gone
22 by.

23 A Yeah, those two came to talk to me.

24 Q Okay. And you told them that Nate was with another
25 man?

1 A Yes.

2 Q Now, did you tell them what the other man looked
3 like?

4 A All I knew he was a kind of dark skinned or brown
5 skin or whatever color, he had a cap on, had some --

6 Q Had what on?

7 A -- a cap on.

8 Q A cap on?

9 A Yeah, he had bushy hair around the edge. That's all
10 I know.

11 Q You told them all that?

12 A Yes.

13 Q All right. And they saw you again. When did you
14 meet with them -- when is the last time you met with the
15 investigators?

16 A I met him last -- last week.

17 Q Last week? Thank you, ma'am. Nothing further.

18 THE COURT: Anything further from the State?

19 MS. FANT: No, nothing further, Your Honor. May
20 Mrs. Bradley be excused?

21 THE COURT: Yes, ma'am.

22 (Witness left the stand.)

23 MS. FANT: Your Honor, the State calls Wayne
24 Anthony Johnson.

25 WAYNE ANTHONY JOHNSON, after

1 being duly sworn, testified as follows:

2 THE WITNESS: How are you, Your Honor? My name
3 is Wayne Anthony Johnson.

4 DIRECT EXAMINATION

5 BY MS. FANT:

6 Q Mr. Johnson, are you also known as cowboy?

7 A Yes, ma'am. Yes, ma'am.

8 Q And do you live in Sumter?

9 A I'm a -- Sumter County, Pinewood, South Carolina,
10 yes, ma'am.

11 Q Okay. And do you know the defendant in this case?

12 A That's my father-in-law, Mr. Nathaniel Bradley, yes.

13 Q And who are you married to?

14 A Married to his baby daughter, Latonya Johnson.

15 Q Do you recall a time when you were with the defendant
16 in a -- excuse me -- and he was speaking with the victim
17 in this case -- well, let me back up a minute.

18 A Yes.

19 Q Do you know Ernest James? Did you know him?

20 A Ernest. Yes, I know Ernest. Yes, ma'am.

21 Q And did you know that they actually worked together?

22 A We all worked together.

23 Q You worked with him some?

24 A I worked with them. Ernest worked with us for a
25 while, then Ernest kind of like was a self-contractor like

1 most of us. But my father-in-law had contracts, too.

2 Ernest had things he would doing himself, so he was in and
3 out helping us, you know.

4 Q But you know who he is?

5 A Ernest, yes.

6 Q Yes.

7 A Yes.

8 Q And was there a time when the defendant was talking
9 to him on the phone and put Ernest -- Mr. James on the
10 speaker phone?

11 A Okay. Like I was -- the day that I was investigated
12 by the -- I was called by the detectives, this is prior to
13 Ernest being killed. This is -- I don't -- it was prior.
14 I mean, I don't know how long, maybe three weeks or two
15 months.

16 They had altercation. I can't remember exactly what
17 it was, and he was upset with Ernest. He wasn't mad
18 upset, but he was just upset and he called Ernest and told
19 Ernest that -- in reference to with what Ernest had did
20 and told Ernest he didn't like it and that -- he told
21 Ernest that -- that you going to leave here, that I'm
22 going to send some boys at you, you're going to leave
23 here.

24 Now -- and that's what I said at my statement, and
25 that what was said.

1 Q And what did -- what did you take that to mean, you
2 were going to leave here?

3 A Like I told the detectives that day when I was
4 interviewed, detective -- it could -- now, he never told
5 the whole -- like I was telling the detectives, and I tell
6 you and I tell the Court, my father-in-law never once said
7 that he was going to kill Ernest.

8 Q Okay.

9 A Okay. He never ever said that, not one time that we
10 worked together. My definition of leaving here carries a
11 lot of ground, ma'am. Like I was telling the detective,
12 he could have said that he was going to leave him alone,
13 you know.

14 He -- and some term -- wait a minute. It could mean
15 that he was going to leave. It could have meant that he
16 was going to kill him or anything, but he never said
17 directly that he was going to do that. Okay?

18 Q But he did say he was going to stick his boys on him?

19 A He was going to leave him. He said that.

20 Q And you could tell it was Ernest's voice because you
21 know Ernest?

22 A Ma'am, I -- yes. Yes, it was Ernest. Ernest called
23 back. He put Ernest on the speaker phone.

24 Q And what happened? Was Ernest -- did Ernest respond
25 to that?

1 A Ernest was -- Ernest was upset, you know. He was --
2 he was like, you know, we go back a long way, we were
3 friends, and he -- Mr. Bradley kind of laughed. Like I
4 said, he -- from what I remember that day, he wasn't up
5 to -- he wasn't upset to the point that I felt like that
6 at that time that he would have did anybody bodily harm to
7 Ernest.

8 Okay. He was upset to the fact of what was said
9 because, you know, in this world, we are friends and we
10 call ourselves brothers, certain things you just don't
11 tell.

12 So, you know what I'm saying. So that in -- aspect
13 he was upset with Ernest. I didn't feel that he was upset
14 at that particular day to -- to inflict any bodily harm on
15 Mr -- Mr. James.

16 Q But he did say, I'll sick my boys--

17 A He said that. He said it. He said it.

18 Q And Mr. James in fact was upset when he said that;
19 wasn't he?

20 A He called back. And like I said, he was on the
21 speaker phone, you know. And that was the last -- like I
22 said, this was -- this was -- this incident -- that
23 particular day I was still working for my father-in-law,
24 so this was way -- this -- I don't know.

25 Like I said, I know it wasn't no two or three weeks

1 in between the death of Ernest. It had to been at least
2 two months.

3 Q Okay.

4 A So, you know...

5 Q But did Ernest call him immediately back?

6 A Yes, but -- immediately, yes, within minutes, two --
7 a minute or two back.

8 Q And did he ask him not to hurt him?

9 A No. He never -- Ernest -- he never said not to hurt
10 him. He said, come on, pops. He was like, man, we go way
11 back, don't do that. And that's what he said.

12 Q Okay.

13 A Okay.

14 Q Thank you.

15 A All right.

16 Q Please answer any questions Mr. Finney may have.

17 A Yes.

18 CROSS-EXAMINATION

19 BY MR. FINNEY:

20 Q Mr. Johnson?

21 A Yes, sir.

22 Q When did you first talk to the investigators in this
23 case?

24 A Oh, that was -- hmm, it was that summer. It was
25 after the -- it had to been after during the fourth of

1 July.

2 Q July --

3 A Of 2005.

4 Q -- 2005?

5 A Because prior to that we had a cookout at my cousin's
6 house, and -- and we had an altercation then, and I was
7 served with a warrant. And one of the detectives here
8 from the county, from the city -- the county -- the
9 city -- the county, he -- well, he called me and my wife's
10 house and said that I had a warrant.

11 But I didn't believe it because I had a friend of
12 mine that I was working with used to play jokes with me
13 like that, so...

14 Q So you got a warrant served on you--

15 A For threat, for -- for -- for a verbal threat.

16 Q To who?

17 A One of my cousin's wife that -- that -- what -- that
18 I was found not guilty for.

19 Q What has that got to do with July? That's the time
20 you got the warrant served on you?

21 A Listen, if you let me explain. I had the warrant
22 served on me. He told me if I would come down here to
23 the -- to the Court, to the jailhouse over here --

24 Q Uh-huh.

25 A -- that if I come in and sign a warrant, that he

1 will -- wouldn't lock me up, but if I didn't come, if he
2 had to come to my house...

3 Q Uh-huh.

4 A He would have had to -- he would have locked me up.
5 If I didn't take the time enough to just come down. So
6 when I went down there, that's when the investigator,
7 him -- I think it was him and another guy that I talked
8 to, the gentleman right there, the black gentleman.

9 Q Yes, sir.

10 A I was in the office signing a warrant on the warrant
11 that I had, and that's when he passed the door and he was
12 like -- excuse me, your name's Wayne Johnson? I said,
13 yes. He said, I need to talk to you. And that's when I
14 was spoke to in reference to this case.

15 Q Okay. So after you heard that Ernest James was
16 pulled out of the pond --

17 A Uh-huh.

18 Q -- which was in May --

19 A Uh-huh.

20 Q -- you didn't feel any necessity to call the Sumter
21 County Sheriff's Department to tell them about this threat
22 you had heard?

23 A I -- I never -- no, not that I -- did I feel what
24 now? Ask the question again. You asked me, did I feel
25 any need that I had to call?

1 Q Yes. The man --

2 A Yes. Yes. Yes. You're asking--

3 Q -- pond, right?

4 A Yes, I did. I felt that I had a need -- I felt that
5 I should have called. I didn't call.

6 Q Right.

7 A I choose not to call.

8 Q You choose not to call?

9 A I chose not to call. But when I was -- when I was --
10 when the investigators put a note on my door, then -- I
11 called. Okay. When they put the note on my door stating
12 that I had to get in contact with them, I called a couple
13 times.

14 Q Yeah, but you didn't get in touch with them?

15 A No. Whoever -- whoever name was on the -- on the
16 thing never was in his office. I left several messages.
17 So after a while when I figured they didn't come by the
18 house, said well, you know, I -- they'll see me.

19 So when I had the warrant served on me for the charge
20 that I was pleaded not guilty for, that's when they caught
21 me--

22 Q So you got charges on you now?

23 A No, I don't have any charges -- broke charges.

24 Q Pardon?

25 A No, I don't.

1 Q Pardon?

2 A Financially broke. That's about it.

3 Q So when did they call you to be a witness up here
4 today?

5 A The Monday.

6 Q Monday?

7 A And yeah, they--

8 Q How did they reach you Monday?

9 A I was -- I was -- I was at a friend of mine. My
10 cousin -- her husband's paralyzed and she had to go take
11 care of business for him and I was sitting with him
12 because have to turn him over and--

13 Q So you were at a friend's house--

14 A Yeah, and I saw the officer passing by two or three
15 times that day, which is common for Pinewood going through
16 Remini because of all the drugs traffic coming through
17 there.

18 Q Right.

19 A So I -- I didn't ever know he was looking for me till
20 I went to the store --

21 Q Okay.

22 A -- to get some chewing tobacco, and I was -- and the
23 officer came up to me, and that's when he told me he was
24 at my house with my papers.

25 Q Okay. Now, you married Nate's daughter?

1 A Yes, sir.

2 Q When?

3 A April 1st, 2005.

4 Q So you had been in the family a month when this young
5 man was killed?

6 A What? 2004. Let me make sure now. Had to been
7 2001, two, three, four... yeah, I -- yeah, I guess, yes.
8 Yes. Yes. Yes.

9 Q 2005?

10 A That's when we got married, yes. Yes.

11 Q You know--

12 A Yes, it is.

13 Q Are you married to the young lady now?

14 A Yes. Wait a minute, now.

15 Q Are you married to the young lady now?

16 A Yes, I am. Yes, I am.

17 Q Okay. Do you all live together?

18 A No, she lives with her mom. I was in the hospital.
19 If you can let me explain.

20 Q Okay.

21 A I had--

22 Q I just need to know if you're married--

23 A Yes, we are still married. We are not actually
24 living together, but I was in the hospital, so -- and I...

25 Q And you have had some difficulties with Nate over the

1 years?

2 A No. No. No. I understand that type of man that
3 Mr. Bradley is. Mr. Bradley is a very straight-forward,
4 he doesn't bite his tongue. I understand that he
5 doesn't -- he's a -- Mr. Nate is a -- can be a nice, a
6 very kind person, you understand.

7 But I understand that -- me and him -- me and
8 Mr. Bradley talk about many different subjects, sir --

9 Q Good. Now, let me ask you this.

10 A -- many different--

11 Q Mr. Bradley a -- a foolish kind of guy? Does he like
12 to mess around with foolishness?

13 A He like -- no. No.

14 Q Okay.

15 A No. No.

16 Q So if you tell him you're going to do something, he
17 wants you to do it.

18 A Yeah, he expect you to do that.

19 Q And that's what got him upset with Ernest because
20 Ernest was supposed to do something and he didn't do it.

21 A Well, listen, I wasn't working with them at the time.

22 Q I'm not asking--

23 A I guess so. I assume so.

24 Q You're telling the jury today that he threatened this
25 man's life --

1 A Oh, yes. Yes, that's -- yeah.

2 Q -- in your presence?

3 A Yes.

4 Q And the background of that --

5 A Okay.

6 Q -- the background of that was, Ernest was asked to do
7 a job by Mr. Bradley.

8 A Uh-huh.

9 Q Is that right?

10 A I don't know what the -- what the altercation was
11 they were being upset actually was about.

12 Q You didn't ask Mr. Bradley?

13 A No. No.

14 Q You just heard this --

15 A I heard that.

16 Q -- and it went in your head and it stayed there until
17 a month or two later when the investigators talk--

18 A Asked me did I, you know, okay--

19 Q The fact that the -- the fact that the man was dead
20 in the pond with a brick on his foot didn't shake anything
21 in your head to say --

22 A What you think--

23 Q -- I need to go talk to somebody?

24 A I -- yes, it shook something in my head, sir. Yeah,
25 because that's somebody -- that's somebody's child or

1 somebody's brother. But at the same token, like I was
2 trying to explain to you, I didn't take that initiative to
3 go down there.

4 I called several times, sir, and I -- and left
5 messages. My wife is a witness to that. Let the man know
6 that I was home if he want to come by and talk, he could
7 have come -- he could have came. But he never came. So
8 when I was served with that warrant when I was down there,
9 that's when I spoke with the man --

10 Q All right.

11 A -- the detective.

12 Q Between the time --

13 A Uh-huh.

14 Q -- you heard Nate on the speaker phone --

15 A Yes.

16 Q -- threaten Mr. James --

17 A Uh-huh.

18 Q -- and the time that Mr. James died --

19 A Uh-huh.

20 Q -- was two or three months?

21 A Like I said, had to been because it was that long.

22 Q Did they continue to work together during that period
23 of time?

24 A I -- I think. I think. I think, now. I -- I wasn't
25 there, but I think I heard that they were working, you

1 know--

2 Q Why is it all of a sudden after you hear the threat
3 you don't know what their relationship is any more? I
4 thought you were working with them on different jobs.

5 A Sir, I said that. I wasn't working with him any
6 more, you know. After that -- after that -- after that --
7 after that day on that phone I think we might have worked
8 a few days that week, and after that I hadn't worked for
9 him since that day. So I wasn't with them prior to
10 that -- that phone conversation.

11 Q So you don't know what their relationship was like?

12 A After that. Not physically or visually seeing it,
13 no, I don't know. Okay?

14 Q All right.

15 A All right.

16 Q Thank you for coming. Nothing further.

17 REDIRECT EXAMINATION

18 BY MS. FANT:

19 Q Mr. Johnson --

20 A Yes.

21 Q -- do you recall -- when you did respond, do you
22 recall whether that was Investigator Rodney Ragin who
23 called you about the warrant? Does that sound familiar?

24 A Yes, that's my cousin. Yes. We call him Weasel,
25 yes.

1 Q So he's the one that actually called you and talked
2 to you about the warrant?

3 A Oh, the one that -- no. The one that -- I don't
4 know, now. He's from Remini, right? You wouldn't know
5 any way.

6 Q At some point he called you?

7 A Okay. A investigator called me. I don't know -- I
8 have a cousin that works, the one that -- the one that
9 just served the warrant -- I mean the -- to appear in
10 court thing Monday.

11 Q Okay.

12 A For -- to come here. He's related to me.

13 Q Okay. Who is that?

14 A We call him Weasel. I don't even know his name. I
15 think his last name is Ragin or...

16 Q And he's your cousin?

17 A Yeah. You know, I have a big family. He's from
18 Remini, Summerton down that way. He works for the Sumter
19 County Sheriff's Department.

20 Q Okay.

21 A Okay?

22 Q Okay.

23 A All right.

24 Q And you did eventually agree to go in. You didn't
25 want to go and volunteer to go, but you did go to the law

1 enforcement center in 2005?

2 A I went -- I didn't want to go because I don't like
3 dealing with police officers --

4 Q Okay.

5 A -- but since I had a warrant on me, myself, and I had
6 opportunity not to go to jail, me being in jail, it's not
7 a good place, I went there on that behalf. Other than
8 that, I would not have gone.

9 Q Okay.

10 A Okay?

11 Q And do you recall when you went there that you
12 actually did talk to Sergeant McMillan --

13 A Yes.

14 Q -- sitting here?

15 A Yes.

16 Q Okay. What did you tell him?

17 A I told him exactly what I just said, ma'am. We were
18 riding down 521 and the -- pop was -- in pop car. He said
19 that he was upset with Ernest because Ernest did
20 something --

21 Q Okay.

22 A -- so he called Ernest and he said that -- he let --
23 he said, Ernest -- in reference -- he said, man, you know,
24 we been through this up and down many times, man, I'm sick
25 of it, you know, you -- every time -- every time I look

1 around you telling my business or something in
2 reference -- something I -- someone know all my business,
3 that I just done a big, you know -- and -- his business in
4 reference to maybe a lady friend or something like that.
5 I don't know.

6 You know what I'm saying. I think it was in
7 reference to lady friend. Pop -- Mr. Bradley is a -- very
8 outspoken with women, you know. He has, you know -- and
9 the -- I -- and I don't know if it was in reference to
10 that, but I know -- like I, you know, okay.

11 Q In addition to that incident, what else did you tell
12 him?

13 A Who?

14 Q Sergeant McMillan.

15 A What else is that?

16 Q Okay. In 2005 when you met with Sergeant McMillan --

17 A Yes.

18 Q -- at the law enforcement center, what else did you
19 tell him? You told him about the phonecall in the car --

20 A Uh-huh.

21 Q -- and over the speaker phone.

22 A Yes.

23 Q What else did you tell him?

24 A I don't know, ma'am. Okay. Prior to -- okay.

25 Ma'am, I -- like I said, I -- I remember saying that day

1 because I remember that part. But prior to -- I been in
2 the hospital suffering from a fever of 105 for a month and
3 a half, so a lot of things I just don't remember. But I
4 remember that part. I know I said -- I remember that
5 part.

6 Q Do you recall telling him that you thought the
7 defendant was capable of doing this?

8 A No, I don't remember that, ma'am. I don't remember
9 that.

10 Q You don't remember telling him--

11 A I just said it. I just said that because I just
12 said -- I just told him, I just told you, and I just told
13 the other lawyer at the time when he said that -- he
14 wasn't that upset that day. I'm not saying I didn't say
15 it, but I don't remember saying it.

16 Q Okay.

17 A Okay.

18 Q Not talking about that day.

19 A Okay.

20 Q When you talked to Sergeant McMillan in his office.

21 A That day, 2005.

22 Q Right. And--

23 A That--

24 Q July -- July of 2005? Does that sound right?

25 A Yes, I remember that. I remember that because --

1 yeah.

2 Q Okay. And that was after Ernest James was found
3 dead.

4 A Uh-huh.

5 Q And you told Sergeant McMillan --

6 A Yes.

7 Q -- that he was capable of that, not the phone
8 conversation, but the actual crime that he is here for
9 today.

10 A If I said -- did I say that?

11 Q Yes.

12 A Ma'am, I don't remember saying that. I really, truly
13 don't.

14 Q Okay.

15 A No, I don't.

16 Q And did you tell Sergeant McMillan about an incident
17 that had occurred between you and the defendant that
18 frightened you?

19 A What -- explain that. I don't know. What incident
20 done frightened me?

21 Q What else did you tell Sergeant McMillan?

22 A That's -- I don't know, ma'am. I don't remember.
23 Tell me. You have it written, please tell me, then maybe
24 it will enlighten me.

25 Q No, it was not written down. Did you tell Sergeant

1 McMillan that you had an incident with your father-in-law,
2 the defendant, and you armed yourselves with knives --

3 A Oh, okay, yeah.

4 Q -- afraid of him?

5 A So -- so -- okay. So -- I remember that. Okay.
6 Because this -- I think this was after Ernest was dead.

7 Q That's correct.

8 A Okay. I -- you know, me being a man, so you know,
9 I -- he's a man, and he was -- it was talk that he had
10 supposedly done it. So he called me one night, he wanted
11 me to help him move his girlfriend's car.

12 And me and my wife, we were laying down and -- and
13 you know, I'm not going to a dog fight without a dog,
14 ma'am. Okay. So, you know, I'm not going to a dog fight
15 without a dog.

16 I never owned a gun, so I said, well, I put three
17 steak knives in my pockets and I had two butcher knives in
18 my back pocket and I had two razor blades in my hand. I
19 said, well, if I'm going, I'm not going by myself.

20 But I wanted to let him know that I'm not afraid of
21 him. I'm not afraid to die, ma'am.

22 Q And that's when you went to meet with your
23 father-in-law, the defendant?

24 A He came by the house and he picked me up. And he
25 saw -- I think he seen one of the knives I had in my hand.

1 He was like -- he said, boy, what's wrong with you? I
2 said, well, pop, I can't be too careful, I didn't know
3 what was going on, you know. You know.

4 And he was like, man, I would never do nothing to
5 hurt you, man. I said, well, you know, whatever. I said,
6 whatever whatever. And so we got in the car and we rode
7 and we went and got in the car.

8 Well, we talked about that night -- we talked about
9 he had some contracts in Manning or something in reference
10 to that that he wanted me to -- to get back with him and
11 get things together because I'm an expert painter, he is,
12 and we were going to knock these things out.

13 We rode -- we talked about that. But at the same
14 time -- at the same time I was, you know, being on the
15 defensive side, you know. Yeah, I remember that.

16 Q Thank you.

17 A Okay.

18 MR. FINNEY: Beg the Court's indulgence.

19 THE COURT: Yes, sir.

20 THE WITNESS: That's it?

21 THE COURT: Just a minute. He's going to ask if
22 he's got any more questions.

23 THE WITNESS: Okay.

24 (Mr. Finney conferring with defendant.)

25 MR. FINNEY: No questions, Your Honor.

1 THE COURT: Now -- thank you, sir. You can step
2 down.

3 THE WITNESS: All right.

4 THE COURT: Any reason he can't be excused?

5 MS. FANT: No, your Honor.

6 MR. FINNEY: No, Your Honor.

7 THE COURT: You can be excused. You can leave
8 the courtroom if you want to. You're welcome to
9 stay. It's up to you.

10 THE WITNESS: I'm going home.

11 (Witness left the stand.)

12 MS. FANT: Your Honor, the State at this time
13 would call Bobby Lee Hughes.

14 THE COURT: Okay.

15 BOBBY LEE HUGHES, after being
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. FANT:

19 Q Good afternoon. Mr. Hughes, can you tell us where
20 you live?

21 A I stay in Cheraw, South Carolina.

22 Q And did you know the victim, Ernest James?

23 A Yes, that's my oldest brother.

24 Q And did you also know the defendant in this case,
25 Nathaniel Bradley?

1 A Yeah, I knew Mr. Bradley some -- somewhat.

2 Q Did you live in Sumter at one point?

3 A Yeah, I stayed down around this area for about a
4 year.

5 Q Okay. Do you recall when that was?

6 A Had to be around between 2000 and 2002, something --
7 something up in there.

8 Q Did -- is that the time that you actually met the
9 defendant?

10 A Right.

11 Q And do you know what the relationship was between
12 your brother and him?

13 A I -- first meeting they was like the best of friends,
14 they about close as brothers than me and him were. I
15 couldn't -- couldn't have been no closer.

16 Q Did that change over the course of time?

17 A Not while I was down here, but you know, I was gone a
18 couple of years between that and the incident, so can't
19 tell how people act when I'm not around.

20 Q Okay.

21 A I can't call that one.

22 Q Do you recall when you found out that your brother
23 had been murdered?

24 A Yeah. I got called on a Monday. I was at work. A
25 female I knew from the area, she called me and told me

1 they was pulling my brother out of a pond.

2 Q Okay. And what did you do when you got the call,
3 after you got the call?

4 A First thing I called my parents, my -- called my
5 other brother in the Army and got the family together. We
6 came down here to see -- see if it was true or not.

7 Q And that would be Monday, May the 23rd of 2005?

8 A Right.

9 Q Did y'all actually come down on that day?

10 A Yes, ma'am.

11 Q And where did you go when you got to Sumter?

12 A First stop was at Ms. Jean house and she showed us
13 how to get to Rembert to -- to the other lady house. I
14 can't remember her name.

15 Q Well, who is Ms. Jean? How did you know her?

16 A That was one of my brother's long time girlfriends.

17 Q Okay. And she's the one that told you how to get to
18 Martha Ann's house? Does that sound like--

19 A Right. Right.

20 Q And they lived in Rembert at the time?

21 A Right.

22 Q And did you actually go up there and talk to them, to
23 Martha Ann?

24 A Right. Went to her house.

25 Q What did you do after you left Martha Ann's house?

1 A I'm trying to figure out did he come down here to the
2 Sheriff's Office? Thinking we came down here, talked
3 to -- talked to the Coroner or somebody, and left--

4 Q Is that how you were -- how did you find out it was
5 actually your brother, officially did they tell you it was
6 your brother?

7 A From the Coroner.

8 Q Okay. And would that have been the same day that
9 y'all came down?

10 A Right.

11 Q And after you left the meeting with the Coroner,
12 where did you go?

13 A Went back to Jean's house.

14 Q Okay. And you -- where does she live?

15 A Hillcrest Trailer Park.

16 Q Okay. And when you got there, was the defendant
17 there?

18 A No. He arrived after we got there.

19 Q Okay. And what kind of -- was he driving a vehicle?

20 A Yes, he was driving.

21 Q What kind of car was it?

22 A At that time I thought it was a Cavalier. I -- early
23 model 90's Cavalier, but it's a Beretta. You know, they
24 close in resemblance.

25 Q I will show you what's been entered as State's

1 Exhibit 33. Is that the vehicle?

2 A Yes, ma'am, it is.

3 Q Okay. Thank you. And after -- after he arrived
4 there, what happened?

5 A He wanted to -- well, he shook hands with everybody,
6 spoke to everybody, and he want to talk to me away from
7 everybody.

8 Q Okay.

9 A He wanted me to walk off to the side, and me and him
10 got in a conversation.

11 Q So did you do that?

12 A Yeah.

13 Q And what did he tell you at that time?

14 A At first of all he was kind of boo-hooing, and
15 crying. To me -- to me he wasn't upset. He was -- it's a
16 joke to me.

17 Q Okay.

18 A But he was, you know, he was crying. Well, playing
19 crying, and he was saying -- he start telling me about the
20 little incident or whatever, say this unknown character
21 was supposed to already been at my brother's place in
22 Rembert. The guy was supposed to be there when he pulled
23 up.

24 Q The -- did he tell you the guy was supposed to be
25 there or that the guy was there?

1 A The guy was there.

2 Q Okay.

3 A The guy was at the house when he got there.

4 Q And what did he tell you about this guy?

5 A He told me he didn't know him, you know. I ain't

6 never seen him, so... I mean, I'm in South Carolina. I'm

7 in Cheraw. I know I don't know him.

8 Q Okay. And so he told you when he got to the house

9 this other guy was there.

10 A Yeah.

11 Q Did he indicate that he knew who this person was?

12 A He said to me he never seen him, he don't know him.

13 Q And did he indicate when he last saw this person and

14 Ernest?

15 A Well, it initially started they said they was -- I

16 don't know if it was my brother playing or my brother and

17 the guys playing or whatever, they supposed to go do a

18 deal or something, but...

19 Q Did he indicate that all three of them were supposed

20 to go do something?

21 A Right. But he couldn't make it because he had to

22 take the kids -- daughter or step-daughter or something up

23 from the hair dresser.

24 Q But this was a deal they all three were going to go

25 do together?

- 1 A Right.
- 2 Q But he didn't know who the other person was?
- 3 A Right.
- 4 Q Did you believe him when he said that?
- 5 A No, because I don't -- I -- me knowing my brother, he
- 6 ain't going to do nothing with nobody he don't really
- 7 know.
- 8 Q Okay.
- 9 A No, he got to know something about them.
- 10 Q If he had trusted the defendant's representation that
- 11 this was his partner, would he have agreed to do it based
- 12 on Nate's word?
- 13 A Yeah, he probably would have did it off of that.
- 14 Q Do you know who Barbara Jean Williams is?
- 15 A I -- if it's the same lady I'm thinking about, yeah.
- 16 Q Okay. And how did you know her?
- 17 A Her and Ernest were good friends and her and
- 18 Mr. Bradley was dating.
- 19 Q Okay. But she was a friend of Ernest?
- 20 A Right.
- 21 Q And had Ernest known her for a long time?
- 22 A Right.
- 23 Q And was the defendant upset or jealous about their
- 24 friendship?
- 25 A Not around me, but he say she said, yeah, you know.

1 MR. FINNEY: I'm going to have to object to he
2 said she said. I think I need a little bit more than
3 that, Judge.

4 THE COURT: Okay. Sustained.

5 BY MS. FANT:

6 Q Were you made aware that there was some issues
7 between Ernest and -- and the defendant?

8 A Right.

9 Q And did you understand that they were over this
10 Barbara Jean Williams?

11 A Right.

12 Q And did your brother call you shortly before he died,
13 a few weeks beforehand, to talk about this?

14 A Yeah.

15 Q Now, without saying what he said, what did you tell
16 him as a result of that conversation?

17 A As a result of that conversation I told him, me
18 personally coming from Cheraw down here to take -- have
19 his back and get in trouble for nothing for y'all to be
20 back friends the next day, it was a waste of my time, I
21 wasn't going to do it.

22 Q And about you -- do you recall about how it was --
23 when was that I guess is the best way to say it? When did
24 he make that call?

25 A Well, that particular time was like two weeks before

1 I got the call that they was -- that he was dead, but
2 maybe a six month period before that I was getting
3 phonecalls every other week, something, about them two
4 arguing over nothing really.

5 Q They had had difficulty over a period of time?

6 A Right.

7 Q And how did you feel when you heard that your brother
8 had been murdered?

9 A I -- it hurt my feelings, you know. That's a
10 brother. It feel the same way anybody else would feel
11 about their brothers and sister.

12 Q Did you think it had anything to do with the
13 defendant?

14 A No, it -- yeah, in a way. In a way I think it is and
15 in a way I think it don't, but... my thing is if y'all
16 were supposed to be such brothers, you ought to know more
17 than what's coming out, you know. Y'all was that cool
18 y'all was calling each other brothers, somebody know a
19 little more than what they saying.

20 Q Did you ever talk to him, the defendant himself,
21 after that night at Jean Spann's house?

22 A No, I never talked to him after that.

23 Q Okay. Please answer any questions Mr. Finney may
24 have.

25 CROSS-EXAMINATION

1 BY MR. FINNEY:

2 Q Mr. Hughes, you say that you know that Ernest, your
3 brother, and Nate were real tight?

4 A Right.

5 Q Did you know that they liked to date -- double-date
6 girls, different girls?

7 A I -- I knew that, too.

8 Q Did you know Ernest was dating Barbara Jean? Excuse
9 me. Nate was dating Barbara Jean?

10 A Yes, I did.

11 Q So now you're telling the jury that Ernest wanted to
12 date Barbara Jean?

13 A No, I didn't say that time.

14 Q Sir?

15 A I didn't say that now time.

16 Q Well, I just thought you told this lady solicitor
17 that Nate got into some kind of argument with Ernest over
18 Barbara Jean.

19 A Right, but I didn't never tell you that I thought
20 that.

21 Q Well, who -- where did you get that from?

22 A You don't want to hear he said she said, so...

23 Q Oh, okay. So it's he said she said?

24 A That's what you said it was.

25 Q You don't know anything about it, though?

- 1 A I know a lot about it.
- 2 Q Oh.
- 3 A You may not know nothing about it.
- 4 Q I don't know anything about it.
- 5 A Well, that's for you.
- 6 Q Okay.
- 7 A That's not me.
- 8 Q Well, so Nate and Ernest used to like to date,
- 9 double-date girls.
- 10 A Right.
- 11 Q And--
- 12 A They was dating cousins.
- 13 Q Dating cousins?
- 14 A I know more than two sets of girls they done
- 15 double-dated.
- 16 Q More than two?
- 17 A Right.
- 18 Q Okay. All right. Now, you get the call and you come
- 19 down from Cheraw and the family's gathered at Jean's
- 20 house?
- 21 A Whose family?
- 22 Q Ernest's family.
- 23 A Right.
- 24 Q And that's when you meet Nate?
- 25 A No, that's when Nate met me.

1 Q Okay. Nate met you there. And he asked you to come
2 outside so he could discuss with you...

3 A No, I wasn't never in the house. He asked me to step
4 to the side.

5 Q All right. And you all stepped to the side and he
6 told you that he went down to the house to talk to Ernest.

7 A Right.

8 Q There was another man there --

9 A Right.

10 Q -- that he didn't know.

11 A Right.

12 Q And that he discovered from I guess being there with
13 them that they were going to go do something.

14 A Right.

15 Q And they wanted him to go.

16 A No. No. You trying to throw me off the track, but
17 it ain't going to happen. All three of them supposed to
18 be planning this together.

19 Q Okay. And that's what Nate told you?

20 A Right.

21 Q Nate said that we all planned this together.

22 A Right.

23 Q And I went down there to get in the plan with them,
24 to start the plan off, with Ernest and a man that he had
25 never seen before.

1 A Right.

2 Q Okay. And then when he got there, he started the
3 plan with them, he remembered he had to go take somebody
4 to the hair dresser?

5 A No, he was picking somebody up from the hair dresser.

6 Q Okay. And that's what he went and did?

7 A I don't know. I wasn't with him.

8 Q So he just -- but he told you --

9 A He said -- he said she said.

10 Q -- these two fellows, Ernest and this unknown man, I
11 can't hang with y'all, can't do this, I got to go pick up
12 somebody.

13 A Right.

14 Q Okay. And what did he tell you that Ernest and the
15 other man did?

16 A He said they left.

17 Q In what car?

18 A Well, he said he left and went to do what he wanted,
19 what he was going to do.

20 Q Okay. And so if he was in his car, which is the
21 Beretta, which car did the other guys leave in?

22 A I don't know what my brother was driving at the time.
23 I hadn't been down here in two years.

24 Q All right.

25 A I don't know what he was driving.

1 Q Two years?

2 A Right.

3 Q All right. So when did you -- excuse me one minute.
4 When did you have this conversation with Nate?

5 A The same day they pulled my brother out this pond.

6 Q That would be Monday?

7 A Right.

8 Q The 21st.

9 A Right.

10 Q Excuse me. The 23rd.

11 A Right.

12 Q What time did you have this conversation with Nate?

13 A I don't know what time it was. It was dark.

14 Q It was dark?

15 A Yeah, it was dark.

16 Q Would you say 8:00, 9:00? Can you give me an
17 estimate or a range?

18 A I don't know, whatever time it got dark that day. I
19 can't give you no time.

20 Q Do you know what time it gets dark in May?

21 A No, I don't -- I don't keep up with what time of
22 months or what time of year it get dark.

23 Q Your name is Bobby Lee Hughes, so I'm going to put
24 BLH talked with Nate. Now, after the 23rd did you go back
25 and tell any of your family members what Nate had told

1 you?

2 A I told them right there. I told them that night.

3 Q Okay. And as a result of talking with your family
4 members about what Nate had told you, did you talk to the
5 police that night?

6 A I don't think I talked to them at that...

7 Q Did you talk to them the next night?

8 A I think I did.

9 Q Sir?

10 A I believe I did. I came down here every day that
11 week, every day for two or three weeks after that.

12 Q So Monday night you went back to Cheraw?

13 A Yes, I did.

14 Q Came back to Sumter on Tuesday?

15 A Right.

16 Q And what -- did you talk to the police on Tuesday?

17 A I don't know what date. You got the statement in
18 your hand that's got a date on it.

19 Q I'm asking you. You don't remember?

20 A That's been how many years ago?

21 Q Two years and a half.

22 A Okay. Y'all had these statements in y'all hands
23 since that trial. How many times I looked over this?

24 Q Can you remember --

25 A No, I can't.

1 Q -- today after you left talking to Nate, went to
2 Cheraw, drive back to Sumter the next day, what you did on
3 Tuesday? Can you remember?

4 A No, I can't.

5 Q Well, if you can't remember what you did on Tuesday,
6 why should we remember what you say you did Monday night?

7 A Because everything I did with the law enforcement is
8 on paper, right?

9 Q Right.

10 A Okay. So you should have it in your hand. You
11 should know what I done.

12 Q All right. But you don't know independently of
13 what's on--

14 A How many years ago that been?

15 Q Two and a half.

16 A Okay. If you know it's two and half, you got my
17 statement in your hand, everything else, right? You know
18 exactly what I done.

19 Q So you told the police officers what you had been
20 told by Nate on Tuesday?

21 A Right.

22 Q So Tuesday night or Tuesday afternoon the police
23 officers could have checked Nate's story out?

24 A They could have.

25 Q Thank you, sir.

1 A I'm not no law enforcement officer. If I could check
2 it, I'll check it.

3 Q Did you check it?

4 A Trust me, you don't want me to check it.

5 Q Thank you.

6 REDIRECT EXAMINATION

7 BY MS. FANT:

8 Q Let me just show you what will be marked for ID...
9 is...

10 (WHEREUPON, State's Exhibit No. 55 was marked
11 for identification only.)

12 BY MS. FANT:

13 Q I will show you what's been marked as State's Exhibit
14 5 (sic) for identification. Do you recognize that
15 document?

16 A It's the statement I gave Mr. McMillan.

17 Q And could you read just to yourself to refresh your
18 memory the last sentence of that -- that statement, the
19 last sentence on the first page, and it spills over to the
20 second page.

21 A (Complied.)

22 Q Okay. Just regarding the last sentence on the first
23 page, does reading that refresh your memory about what you
24 had told them that the defendant said?

25 A Yeah.

1 Q Okay. And what was that?

2 A Don't say what -- state the question again.

3 Q Okay. That's your statement that you gave to law
4 enforcement.

5 A Right.

6 Q So that's what you told them on the date that you met
7 with them.

8 A Uh-huh.

9 Q And that was in May of 2005.

10 A Uh-huh.

11 Q And you told them that the defendant had told you
12 several things when you were at Jean Spann's house.

13 A Uh-huh.

14 Q And the last sentence on that statement, does that
15 refresh your memory about what you told them about the
16 vehicle and the unknown man?

17 A Excuse me. Say -- tell what he told me?

18 Q Correct. What did he tell you about the vehicle and
19 the unknown man?

20 A Well, him as far as my brother in all, man, said they
21 left in my brother's car, and that was the last time he
22 seen him.

23 Q Okay. So he said the unknown man and your brother
24 left in the Volvo.

25 A Right.

1 Q From Ernest's house.

2 A Right.

3 Q Okay. Now, do you recall talking to Sergeant
4 McMillan recently about this, just refreshing your memory?

5 A Well, I -- I read over my statement Monday.

6 Q Okay. And do you recall him -- us talking about and
7 he -- in his presence how you felt when you found out that
8 your brother was dead?

9 A Yeah.

10 Q What did you tell him on Monday?

11 A I told him I was hurt. My heart dropped, you know,
12 it's my brother. We...

13 Q Did you -- do you recall telling him that you thought
14 the defendant was involved?

15 A Yeah.

16 Q Tell us exactly what you said if you remember.

17 A I said somewhere or another if he didn't commit the
18 murder himself, he knows something about it and he got
19 something to do with it. If he actually didn't do the
20 killing, he know something about it, he's involved some
21 kind of way.

22 Q And you told him that on Monday?

23 A Right.

24 Q Okay.

25 MS. FANT: Nothing further, Your Honor.

1 THE COURT: Anything further?

2 MR. FINNEY: No.

3 THE COURT: Thank you, sir. You can step down.

4 (Witness left the stand.)

5 THE COURT: Y'all need a break or you want to go
6 through another witness?

7 MS. FANT: Your Honor, the State would like a
8 short break if we could.

9 THE COURT: All right. Then we'll take about a
10 10 minute break.

11 (Jury left the courtroom at 3:34 pm.)

12 (Whereupon a recess was had.)

13 MS. FANT: I apologize, Your Honor. I would
14 like to take up a small matter with you before we
15 bring the jury in.

16 THE COURT: Okay.

17 MS. FANT: Actually kind of a large matter. At
18 this point we plan to call one more witness before
19 going into our identification testimony. And so we
20 obviously at that point are going to have to have a
21 Neal v Biggers hearing.

22 And our concern would be that -- and it will
23 have three witnesses -- that the jury will be sitting
24 out there as we did all that.

25 I think that we could have done this at the

1 beginning, but it was put off. And so at this point
2 what I would propose that we do is have the next
3 witness testify and then allow the jury to go home,
4 let us do our Neal v Biggers.

5 I would have those remaining witnesses in the
6 morning, and do it that way. Because if we run late,
7 they are just going to be sitting there for a while
8 while we do that hearing, and that's a concern.

9 *THE COURT:* Okay. So you got one more witness
10 and then you get -- and you're going to have three
11 identification witnesses?

12 *MS. FANT:* Yes, Your Honor.

13 *THE COURT:* And then that -- so you've got four
14 more witnesses in this case?

15 *MS. FANT:* Correct. Yes. Well, no. I have got
16 five more witnesses in the case, two of whom I could
17 put up today actually.

18 *THE COURT:* Well, leave three tomorrow. So we
19 could -- I'm just trying to figure out from a time
20 schedule when you rest, Mr. Finney would start as --
21 whether he's going to offer any testimony or not.

22 So if we went to the two today, three in the
23 morning, what time do you think you would be through
24 in the morning where we...

25 *MS. FANT:* Well, I mean, it's -- my last witness

1 is going to be my longest witness, probably, that
2 would be Investigator -- Sergeant McMillan.

3 *THE COURT:* And that will be in the morning?

4 *MS. FANT:* That will be in the morning, yeah.
5 The Neal v Biggers hearing, I do have three witnesses
6 for that. So at this point this afternoon--

7 *THE COURT:* Well, how big a -- I mean, we say
8 that and y'all -- sometimes it gets real quick. How
9 big is -- is the identification issue in this case?
10 I mean, is it something we're going to ask two
11 questions and be done with it or is it truly an
12 identification issue?

13 *MR. FINNEY:* Is this Mr. Koenig?

14 *MS. FANT:* Yes.

15 *MR. FINNEY:* And who are the other two
16 witnesses?

17 *MS. FANT:* The officers, Wesley Gardner and
18 Clarence McMillan.

19 *MR. FINNEY:* It's a line-up I think situation.
20 Let me just...

21 *THE COURT:* Okay. And usually that's not real
22 long. Line-ups are pretty simple.

23 *MS. FANT:* Your Honor, I found that everything
24 we did in this case has taken longer than I thought.

25 *THE COURT:* I understand that. I'm trying to...

1 to speed that up. But I mean, it's usually apparent
2 from looking at the line-up whether it's good or not.

3 MR. FINNEY: My client informs me that he has no
4 objection to Mr. Koenig testifying and he waives his
5 rights under the Neal v Biggers case to object to the
6 line-up testimony.

7 THE COURT: Okay.

8 MS. FANT: And that includes the line-up
9 testimony of my two law enforcement officers;
10 correct?

11 MR. FINNEY: They -- they only going to say that
12 they compiled the line-up and showed it to the man,
13 right?

14 MS. FANT: Right, but they also say that they
15 didn't influence him, he immediately picked him out,
16 he was a hundred percent sure. Yeah.

17 THE COURT: Yeah.

18 MR. FINNEY: That's fine.

19 THE COURT: Okay. So we won't need to have any
20 hearing, we'll just proceed till 5:30 or 6:00 because
21 usually -- that's what I say. You look at the
22 line-up -- you know, if he was the only black male in
23 the line-up, we'd have a problem.

24 But if the line-up on its face complies with the
25 law, usually the line-up is not that big an issue.

1 And on its face -- I assume after you looked at it --
2 that there's no other issues, and then the question
3 comes in to -- the guy, whether he identified it and
4 the police had any undue influence.

5 And so I assume they know the rules and they're
6 going to -- and that's not the issue.

7 MR. FINNEY: That's not the issue. The only
8 thing I would request of the Court is if the line-up
9 itself that was shown to the witness was in color,
10 I'd like to see it.

11 THE COURT: Can y'all -- and that's --
12 certainly. Do you have a copy of the original
13 line-up that was shown to the witness?

14 MR. FINNEY: All right. I have seen it. It's
15 in color.

16 THE COURT: Any problem with it?

17 MR. FINNEY: No, sir.

18 THE COURT: Okay. Then we -- then based on your
19 waiver to the Court as far as the Biggers hearing,
20 then we will proceed with normal testimony, and the
21 jury can give whatever weight they deem appropriate
22 to the line-up identification.

23 MR. FINNEY: That's fine, Your Honor.

24 THE COURT: Okay.

25 MR. FINNEY: I just would like clarification.

1 Is Mr. Koenig going to be called first?

2 THE COURT: I don't know.

3 MS. FANT: I've just been informed -- apparently
4 you were waiting for me. I'm sorry. I didn't hear
5 whatever you had asked.

6 THE COURT: We're ready to proceed. Based on
7 what Mr. Finney has told me, he just simply asks if
8 your ID witness is going to be first.

9 MS. FANT: No.

10 THE COURT: Okay.

11 MR. FINNEY: Who is the next witness?

12 MS. FANT: I'm recalling Ray Mackessy to the
13 stand.

14 THE COURT: Okay. Then -- so you're ready to
15 bring in the jury?

16 MS. FANT: Yes, Your Honor.

17 THE COURT: If you will get us the jury, please
18 sir.

19 (Jury entered the courtroom at 4:00 pm.)

20 THE COURT: Thank you, sir. Madam Solicitor,
21 you may call your next witness.

22 MS. FANT: Your Honor, at this point the State
23 would call recall Sergeant Ray Mackessy.

24 RAY MACKESSY, after being duly
25 reminded of oath, testified as follows:

DIRECT EXAMINATION

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BY MS. FANT:

Q Sergeant Mackessy, you obviously are familiar with this case because you processed the crime scene on it. Was there a point later in time when you received information that a gun had been recovered from Burnt Gin Road in Wedgefield?

A Yes, ma'am.

Q And how did you -- how did you get that information?

A The report came in to me, had my name at the top, and it said that a 9-millimeter Highpoint I believe it was was recovered on Burnt Gin Road which is in the general area of where this incident took place.

The weapon comes in, it's normally the procedure -- then if it's recovered in the area where a crime had occurred that a weapon was used in, that the weapon be sent up.

Q Now, what do you mean by sent up?

A Sent up to SLED for ballistics examination or comparison.

Q Okay.

A In this case this weapon -- Lieutenant Florence had called me and asked me to send this weapon up to SLED to be compared to the bullets removed from the victim in this case.

1 Q Did you in fact do that?

2 A Yes. Our evidence technician, Cindy Pearson, sent it
3 up. She took it up to SLED.

4 Q And do you recall when that was?

5 A I don't have the forms with me, but I don't remember
6 the date. I believe it was November or December of 2005,
7 something in that area.

8 (WHEREUPON, State's Exhibits Nos. 56, 57 were
9 marked for identification only.)

10 (Ms. Fant and Mr. Finney conferring.)

11 BY MS. FANT:

12 Q Sergeant Mackessy, I will show you what's been marked
13 for identification as State's Exhibits 56 and 57. Do you
14 recognize those documents?

15 A Yes, ma'am, I do.

16 Q And how do you recognize those?

17 A They were -- it's a SLED submission form, evidence
18 submission form for examination filled out by me.

19 Q And the second one?

20 A Second form is an inventory sheet. It lists the
21 property that we are submitting to SLED and the
22 examination we're requesting.

23 Q And is that the form that was used to send that found
24 Highpoint to SLED?

25 A Yes, it was.

1 Q And who actually took it up there?

2 A Our evidence technician, Cindy Pearson.

3 Q And what date was that that you took it in there?

4 A That was December the 20th of 2005.

5 Q Okay. And can you tell us again what the purpose of
6 sending it up there at that time would be?

7 A Well, it was recovered in November of 2005. We send
8 it up because if we have a major crime that has occurred
9 in the area where the weapon was recovered, we normally
10 send the weapon up.

11 If there's ballistic evidence in the major case, such
12 as this one, we ask that that weapon be compared, the
13 found weapon be compared to the bullets from this case,
14 and we do that in mostly all cases.

15 Q Did -- so it wasn't because you knew there was some
16 information that this might be the gun?

17 A No. No, it's just standard procedure that we do
18 that.

19 Q And did you ultimately receive a report back from
20 SLED indicating they had looked at the gun and tested it
21 as you requested?

22 A Yes, I did.

23 Q And was that Tracy Thrower that was the forensic
24 scientist that did that?

25 A Yes.

1 Q And what did he find as far as when he compared them?

2 A The gun and the bullets from the victim in this case
3 didn't match up.

4 Q And as a result of that, was there any connection at
5 all between this gun and this case?

6 A None at all, no.

7 Q And did the gun ultimately come back to -- to the
8 Sumter Police Department?

9 A Yes, it did.

10 Q And is it currently in the -- I should say the Sumter
11 County Sheriff's Office -- is it currently in y'all's
12 possession now?

13 A Yes, it is.

14 Q Okay. Please answer any questions Mr. Finney may
15 have.

16 CROSS-EXAMINATION

17 BY MR. FINNEY:-

18 Q Mr. Mackessy, tell me when did the gun get back to
19 Sumter.

20 A I -- it was in 2007. I don't remember the month.
21 But it came -- according to our evidence technician, Cindy
22 Pearson, she picked it up and returned it to Sumter in
23 2007.

24 Q So from December of 2005 to some time late in 2007,
25 for two years the gun sat at SLED?

1 A That's how long it was there. I can't tell you why,
2 but that's how long it was there.

3 Q And there was no report on it until a month or so
4 ago?

5 A I don't know. You mean the report on the ballistics
6 report?

7 Q Yeah.

8 A I don't know the date on it, Mr. Finney. According
9 to the date October 2007, that's what they have on there.

10 Q And when -- Sumter County received the report
11 sometime in October or November of 2007?

12 A That's what it says, October 11th, 2007.

13 Q All right, sir.

14 A I can't answer anything else about that.

15 Q Nothing further.

16 THE COURT: Anything further from the State?

17 MS. FANT: No, Your Honor.

18 THE COURT: Thank you, sir. You can step down.

19 THE WITNESS: Yes, sir.

20 (Witness left the stand.)

21 MS. FANT: Yes, Your Honor. May Sergeant
22 Mackessy be excused?

23 THE COURT: Any objection?

24 MR. FINNEY: No objection.

25 THE COURT: You can be excused. Thank you, sir.

1 MS. FANT: Your Honor, at this time the State
2 would call Lieutenant David Florence.

3 DAVID FLORENCE, after being duly
4 sworn, testified as follows:

5 THE COURT: Ladies and gentlemen of the jury
6 panel, are any of y'all connected by blood or
7 marriage or close personal friends or social
8 relations with this witness? Okay.

9 And because -- the reason I asked you that, I
10 don't think he was on the original list of the
11 witnesses I asked you about at -- the very first day.
12 He was inadvertantly left off I think, so I wanted to
13 be sure before he testified that there was no family
14 or personal connection. Yes, ma'am.

15 DIRECT EXAMINATION

16 BY MS. FANT:

17 Q Lieutenant Florence, can you tell us where you work?

18 A Yes, ma'am, the Sumter County Sheriff's Office.

19 Q And how long have you worked there?

20 A I have been associated with the Sheriff's Office 22
21 years.

22 Q And what do you currently do at the Sheriff's Office?

23 A Criminal investigations, major crimes.

24 Q And you're a lieutenant in that division?

25 A That is correct.

1 Q And do you recall the -- being involved or beginning
2 to be involved in the case with the defendant, Nathaniel
3 Bradley?

4 A Yes, ma'am, I do.

5 Q And before we get to your direct involvement in this
6 case, do you actually recall a report that came in of a
7 found gun that you forwarded to Sergeant Mackessy?

8 A Yes, ma'am.

9 Q Could you tell us about that?

10 A It was a report that came in in reference to a
11 recovery or a found gun. I think it was a 9-millimeter
12 pistol that was found on Burnt Gin Road. And at that time
13 the homicide was fresh in -- in our minds, I guess, in
14 that I asked Sergeant Mackessy to send that gun, a
15 ballistics check based on the fact that a gun was not
16 recovered in this case at that time, to compare it with
17 that particular case.

18 Q And is that a standard operating procedure for the
19 Sheriff's Department?

20 A Yes, ma'am.

21 Q And did you have anything further to do with -- with
22 that incident, with the gun being sent up?

23 A No, ma'am, I did not.

24 Q And is that part of Sergeant Mackessy's job to handle
25 that kind of thing?

1 A Yes, ma'am.

2 Q Now, regarding your involvement in this case in
3 particular, do you recall how you became involved in the
4 case?

5 A Yes, ma'am. I was asked to come into an interview.
6 Mr. Bradley was at the Law Enforcement Center. He
7 voluntarily came in to the Law Enforcement Center for an
8 interview pertaining to this particular case. There were
9 several investigators or officers in there during that
10 interview, and I was one of those officers.

11 Q And was this a voluntary interview or was the
12 defendant under the arrest -- under arrest at that time?

13 A No, ma'am. He was not under arrest, and he was
14 advised that, and that it was a voluntary interview, that
15 he came up on his own accord.

16 Q And after y'all began talking to him, what kind of --
17 well, I guess what kind of interview was it?

18 A Well, it was an interview to -- based on the fact
19 that we had received information or during the
20 investigation it was found that he was one of the last
21 person to see the victim alive and that we wanted to talk
22 to him about that.

23 Q And what did he tell you when he was asked when the
24 last time he had seen Ernest James alive?

25 A I believe it was on May the 21st of '05. He

1 indicated that he was going to the victim's residence, and
2 as he was going to the residence down the lane he saw a
3 guy walking up the road, and he picked up this guy and
4 they proceeded on to the residence.

5 At that time I believe Ernest got in a vehicle that
6 belonged to his wife or belonged -- it was a Volvo -- and
7 they drove up to the end of the road, and at that point,
8 according to Mr. Bradley, this unknown victim, the him
9 that he picked up, got out of his car and got in the car
10 with the victim and they drove off, and he indicated that
11 was the last time he saw him with this unknown victim or
12 unknown person.

13 Q And did he indicate what he had done after he left
14 the residence on Spring Hill?

15 A Yes, ma'am. He indicated that he went to his
16 girlfriend's residence, Donna McDuffie, somewhere up in
17 the Bishopville area. I don't recall the exact address,
18 but it was in the Bishopville area.

19 Q So he told y'all he had been with his girlfriend,
20 Donna McDuffie?

21 A That's correct.

22 Q And what did y'all ask him when he gave you that
23 information?

24 A Well, we asked him about his girlfriend, what was her
25 phone number, and we wanted -- we needed it -- basically

1 we needed to talk with her as well to pretty much
2 corroborate what he said, and that -- he said that he
3 would call her, and I gave him my cellphone so he could
4 make a call.

5 He dialed a number. And I don't know what the
6 circumstances were, but he said there was no answer. At
7 that time little conversation went and I got up and left
8 the room, and I did a caller retrieve on it and got the
9 number that he dialed, and I passed that information on to
10 Sergeant McMillan.

11 Q Okay. So this was your cellphone that he used?

12 A That is correct.

13 Q And you were able to retrieve the number that he had
14 dialed?

15 A Yes, ma'am.

16 Q And you -- did you call that number yourself?

17 A No, ma'am. I did not.

18 Q You gave that to Sergeant McMillan?

19 A Yes, ma'am.

20 Q And excuse me -- did you then re-enter the interview
21 room?

22 A At that time I believe I did re-enter for a few
23 minutes. And during that course of time and prior to
24 that, things kind of got heated as far as Mr. Bradley was
25 concerned.

1 He got agitated. He was very nervous. He was
2 sweating. And that -- indicated that he wasn't answering
3 any more questions at the time and he was going to leave,
4 and we basically told him he was not under arrest, he
5 could leave at any time, and that's what he chose to do.

6 Q After that day did you have any further dealings with
7 this case other than the -- the found gun that was sent to
8 SLED?

9 A No, ma'am, I did not.

10 Q Please answer any questions Mr. Finney may have.

11 A Yes, ma'am.

12 THE COURT: Mr. Finney?

13 CROSS-EXAMINATION

14 BY MR. FINNEY:

15 Q Mr. Florence, you were an investigator?

16 A Yes, sir.

17 Q Are you just like Mr. McMillan?

18 A I'm his supervisor.

19 Q You're his supervisor?

20 A Yes, sir.

21 Q And he was assigned this case as soon as it happened?

22 A That's correct.

23 Q All right. And does a supervisor have to supervise
24 the case after its been assigned to an officer?

25 A No, sir. We intervene with any issues that may come

1 up or assist when needed in the particular case. The
2 officer that handles each case, we rely on them to come to
3 us for any help that they need in the case.

4 Q All right. And so on the 24th of May at
5 approximately 2:30 in the afternoon, my client--

6 A Somewhere -- somewhere around that time, 2:30. I
7 don't remember the exact time.

8 Q You don't remember the exact time?

9 A No, sir. It was some time in the afternoon, but it
10 was on the 24th of May.

11 Q All right. Who would know the exact time? Is it
12 written down?

13 A There were some notes that were taken, yes, sir.

14 Q All right. So somebody's got some notes?

15 A That's correct.

16 Q All right. And he was being talked to about the
17 death that had been found out on Monday, on Tuesday he was
18 being talked to about it because he was one of the last
19 people to see the man alive?

20 A That's correct.

21 Q Now, were you aware that on Monday night Bobby Lee
22 Hughes had found out some information and Bobby Lee Hughes
23 says he talked to the officers on the 24th?

24 A No, sir.

25 Q You weren't aware of that information?

1 A No, sir.

2 Q Well, who did you talk to first, Bobby Lee Hughes or
3 Nate Bradley?

4 A I didn't talk to Bobby Lee Hughes at all.

5 Q Well, you're the supervisor --

6 A Yes, sir.

7 Q -- do you know who talked to who first?

8 A I assume that Investigator McMillan did. He's the
9 lead investigator in the case.

10 Q Do you know if he talked to Hughes first or Nate
11 first?

12 A No, sir, I don't know.

13 Q You don't know. All right. Now, everything you all
14 do at the Sheriff's Department, you usually put a date on
15 it and a time; don't you?

16 A Depends on what it is.

17 Q Depends on if it's official or not?

18 A Well, no, sir. Depends on what kind of paperwork
19 you're talking about.

20 Q All right.

21 A If I'm writing notes, no, sir, I don't usually write
22 the dates and times on it a lot of times.

23 Q All right. So a man comes in on Tuesday to talk
24 about what he knows about a death that happened the day
25 before, and you all don't have any written statement from

1 him?

2 A No, sir.

3 Q You didn't get a written statement?

4 A No, sir. He didn't -- wouldn't give us any kind of
5 written statement.

6 Q Did you ask for one?

7 A Yes, sir.

8 Q Okay. And you didn't tape record it?

9 A No, sir.

10 Q You got tape recorders?

11 A That's not our normal practice.

12 Q Got tape recorders?

13 A Yes, sir.

14 Q Got a video camera?

15 A Yes, sir.

16 Q You could have told them, we're going to videotape
17 this meeting so we will have it on videotape.

18 A We could have, but that's not our normal practice.

19 Q And you don't normally do it, but you didn't do it
20 that day?

21 A Just like any other time, yes, sir.

22 Q All right. So you talked to Nate -- does Nate come
23 in with a lawyer?

24 A Talking about the...

25 Q Nate, did he come in with a lawyer?

1 A No. As I said earlier --

2 Q Who did he come in with?

3 A -- he came in by himself as far as I was concerned.

4 Q Okay. How long would you say he stayed there that
5 day, on the 24th of May?

6 A I probably say at least an hour and a half maybe.

7 Q Hour and a half?

8 A Guesstimate.

9 Q Just you and him and couple other officers?

10 A Yes, sir.

11 Q And during this hour and a half you asked him, when
12 did you last see Ernest alive, and he told you at Martha
13 Ann's house on Saturday evening; is that right?

14 A On the 21st, yes, sir.

15 Q On Saturday evening. And he saw Ernest James got
16 into his girlfriend's Volvo, and when they got down to the
17 end of the driveway, this unknown man got out of Bradley's
18 car and got into James' car and that was the last time
19 Bradley saw James or this unknown man.

20 A That's correct.

21 Q Okay. He told you that Tuesday at your office.

22 That's what he said happened Saturday?

23 A Yes, sir.

24 Q And after he told you that, you said, where did you
25 go after you left -- you asked -- you asked Mr. Bradley

1 where did he go after this incident?

2 A Yes, sir.

3 Q And he said he went up to Donna's house in
4 Bishopville.

5 A That's correct.

6 Q All right. And you asked him for Donna's phone
7 number, address?

8 A Right.

9 Q And he dialed it on your cellphone and gave it to
10 you?

11 A No, sir. He dialed on the cellphone and he talked.

12 Q Hold on a minute--

13 A He dialed on my cellphone and listened and he hung up
14 and said that he got no answer.

15 Q Then he gave you the cellphone back, said nobody is
16 there?

17 A That's correct.

18 Q Then you went out in the hall and wrote the number
19 down?

20 A I recalled the number and wrote it down, that's
21 correct.

22 Q Gave it to the investigator?

23 A That is correct.

24 Q All right. Did the investigator call the number
25 after?

1 A Yes, sir. Yes, sir, according to what he told me, he
2 did.

3 Q Did y'all talk to Donna?

4 A I did not. He did.

5 Q So the number was correct?

6 A Yes, sir.

7 Q Thank you, sir.

8 A You're welcome.

9 Q And then he left your office.

10 A Yes, sir, he left the interview room.

11 Q Did he come back the next day?

12 A I'm not sure. I wasn't in the interview for that,
13 but I believe he did.

14 Q All right. All right. Nothing further.

15 THE COURT: Okay. Anything further from the
16 State?

17 MS. FANT: No, Your Honor.

18 THE COURT: Okay. Thank you, sir. You can step
19 down.

20 (Witness left the stand.)

21 MS. FANT: Your Honor, at this time the State
22 would call Senior Investigator Wesley Gardner.

23 WESLEY GARDNER, after being duly
24 sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MS. FANT:

2 Q Investigator Gardner, could you tell us where you
3 work, please?

4 A With the Sumter County Sheriff's Office.

5 Q And how long have you worked there?

6 A Twenty-five years.

7 Q What types of things do you do at the Sheriff's
8 Office?

9 A I'm an investigator with the Sheriff's Department.

10 Q And were you -- did you become involved in the murder
11 case involving the defendant, Nathaniel Bradley?

12 A Yes, I did.

13 Q How did you become involved in the case?

14 A I took some statements from some of the witnesses,
15 and I also was present during the identification process.

16 Q Did -- were you present at that -- were you the lead
17 investigator on this case?

18 A No, Sergeant McMillan is the lead investigator.

19 Q And do you recall whether you began talking to people
20 on the 23rd of May or the 24th of May?

21 A I think it was somewhere in that area.

22 Q And were you present when the defendant came to the
23 Law Enforcement Center on May the 24th, 2005, to talk to
24 y'all?

25 A That's correct.

1 Q And who else was there with you?

2 A Sergeant McMillan, Lieutenant Florence and Sergeant
3 Dennis.

4 Q And at that point, what was the purpose of that
5 interview?

6 A The purpose was just to talk with Mr. Bradley and --
7 since he was the last person that was seen with the
8 victim.

9 Q And during that conversation or -- with the
10 defendant, what did he tell y'all about the last time he
11 had seen Mr. James?

12 A It was over at Mr. Ernest James' -- I think his
13 girlfriend's house, or he was there, and that was the last
14 time he actually saw him. Pretty much what Lieutenant
15 Florence testified to.

16 Q Did you ask him who that girlfriend was?

17 A Yes, Martha Ransom I think her name is.

18 Q That was the defendant's girlfriend?

19 A No, not the defendant's girlfriend, the -- Mr. James'
20 girlfriend.

21 Q Who did he say that he had spent the night at her
22 home when y'all asked him if he was with someone during
23 that time?

24 A Oh, that was the young lady in Bishopville.

25 Q Donna McDuffie?

1 A That's correct.

2 Q And after that, do you recall the defendant or y'all
3 asking him to make a phonecall to Ms. McDuffie?

4 A That's correct.

5 Q And did he in fact use Lieutenant Florence's phone?

6 A Yes, he did.

7 Q And after that, what happened?

8 A Pretty much to what Lieutenant Florence testified to.
9 He went out of the room, and when he came back, he
10 actually terminated the interview and he said that not
11 going to charge me, then I'm leaving, so he pretty much
12 just left.

13 Q Okay. Now, after that -- that was on May the 24th.
14 The next time y'all met with him, you were also present
15 with Sergeant McMillan?

16 A That's correct.

17 Q And y'all also talked to him at that time?

18 A Yes.

19 Q And what did -- what did Mr. Bradley tell you at that
20 time?

21 A I -- pretty much what he told us during the first
22 interview about where he was at. He was at his
23 girlfriend's house in Bishopville and...

24 Q What did y'all say in response to that?

25 A Pretty much we just pretty much listened to what he

1 .told us, that he was down in Bishopville with his
2 girlfriend and...

3 Q Did you indicate to him that y'all had some
4 information that that might not be correct?

5 A I don't recall. Sergeant McMillan was the lead
6 investigator on this at the time.

7 Q Okay. Now after that, y'all left. Was he arrested
8 at that time?

9 A No.

10 Q Okay. And did you go with Sergeant McMillan to
11 interview Donna McDuffie?

12 A That's correct.

13 Q And were you present when he actually conducted the
14 interview with her at the Lee County Sheriff's Office?

15 A Yes.

16 Q And did y'all force her in any way or tell her what
17 to say?

18 A No. No, we didn't.

19 Q And did Sergeant McMillan give her an opportunity to
20 make any changes in her statement or to add to it or
21 delete from it?

22 A Yes.

23 Q And after the interview with Ms. McDuffie, did y'all
24 go by her house?

25 A Yes.

1 Q And what happened when you got to the house?

2 A When we got to the house we, you know, checking
3 around, we found out that there was a cinder block also --
4 a cement block missing out of her yard, and I think
5 Sergeant McMillan photographed it.

6 Q Excuse me. And had you also gone with him to look at
7 the vehicle, the burned vehicle that Major Simon had
8 called about?

9 A Yes.

10 Q So you went with him the day that y'all looked at
11 that?

12 A Yes.

13 Q And when you were with Ms. McDuffie, did y'all
14 actually take a -- another concrete block from her house?

15 A No, we didn't.

16 Q Did you talk to her about the bullets to her gun?

17 A I don't recall talking about the bullets. I don't
18 remember.

19 Q Did you yourself take it -- a bullet from her? Did
20 she give you a bullet that you then took in your
21 possession?

22 A No, she didn't give me any bullets.

23 Q You in fact are from the Rembert area; are you?

24 A That's -- that's correct.

25

1 (WHEREUPON, State's Exhibit No. 58 was marked
2 for identification only.)

3 BY MS. FANT:

4 Q Investigator McMillan (sic), I'd ask you to step down
5 and take a look, please, at State's Exhibit 58. Do you
6 recognize what that is?

7 A It's an areal photograph of the northern section
8 of -- northwest section of Sumter County which is the
9 Rembert area.

10 Q And does it accurately reflect that area to your
11 knowledge, your familiarity with it?

12 A Yes, it does.

13 Q And using this, can you show us where Henry
14 Kirkland's place is?

15 A This is 521 North. This is going toward Camden up
16 about -- maybe about 2 miles there's a little intersection
17 here, Spring Hill Road. Down Spring Hill Road maybe about
18 another 2 miles there's a little store here by the name of
19 Kirkland's Place, a -- here, and another lane that runs
20 about -- about a tenth of a mile past Kirkland's Place is
21 where Ms. Ransom lives.

22 Q And would that be this, this area that's kind of
23 highlighted here?

24 A Right. Right. That's the area right there.

25 Q And can you point to her house there?

1 A Right there.

2 Q Okay. And that would be actually the McCray family
3 home?

4 A Yes, McCray family.

5 Q Okay. So Henry Kirkland's Place is...

6 A Right here, and that--

7 Q And they play ballgames there, softball games?

8 A Yeah.

9 Q That sort of thing?

10 A Yeah.

11 Q Okay. And can you in fact see Martha's house from --
12 from Henry's place?

13 A Right, yeah, this is Martha.

14 Q Okay.

15 MS. FANT: Your Honor, at this time I would
16 offer State's Exhibit 54 into evidence.

17 THE COURT: What says the defense?

18 MR. FINNEY: No objection.

19 MS. FANT: I'm sorry. Fifty-eight.

20 (WHEREUPON, State's Exhibit 58 was admitted into
21 evidence.)

22 BY MS. FANT:

23 Q Now, you're familiar with the Rembert area in general
24 because you live there?

25 A Yes.

1 Q Do -- do a lot of people there know you?

2 A That's correct.

3 Q Do they know you're actually a law enforcement
4 officer?

5 A Yeah.

6 Q Were a lot of the people involved in this case from
7 the Rembert area?

8 A Yes.

9 Q Did you have a lot of people coming to you and
10 offering information to you, telling you about this case?

11 A A few.

12 Q But was there some people who refused to actually
13 give you information that they knew?

14 A I don't...

15 Q You never had anybody indicate that they were afraid
16 or that didn't want to talk?

17 A I didn't have anybody, no.

18 Q Okay. And on...

19 (Attorneys conferring.)

20 (WHEREUPON, State's Exhibit No. 59 was marked
21 for identification only.)

22 BY MS. FANT:

23 Q Investigator Gardner, did you actually accompany
24 Sergeant McMillan to meet with a witness in this case that
25 had possibly identified the victim -- I mean -- excuse me,

1 the defendant?

2 A That's correct.

3 Q And you met with that -- do you recall his name?

4 A I think it was Mr. Koenig.

5 Q And who went with you to talk to Mr. Koenig?

6 A Sergeant McMillan and I went.

7 Q And what was the purpose of going out there?

8 A Actually to show him a photo line-up.

9 Q And I'll show you what's been marked for
10 identification as State's Exhibit 59. Do you recognize
11 that?

12 A This is a photo line-up that we took to show
13 Mr. Koenig on May 26th, '05.

14 Q And when y'all went out there to show it to
15 Mr. Koenig -- well, actually, let me ask you again. That
16 is in fact the line-up that you showed him?

17 A Yes.

18 Q And did he -- was he able to pick someone out?

19 A Yes, he was.

20 Q And who did he pick out of that line-up?

21 A The number three photo which is the defendant.

22 MS. FANT: Your Honor, at this time I would
23 offer State's 59 into evidence.

24 THE COURT: What says the State -- I mean the
25 defense?

1 MR. FINNEY: No objection, Your Honor.

2 THE COURT: Okay. 59 is in without objection.

3 (WHEREUPON, State's Exhibit 59 was admitted into
4 evidence.)

5 BY MS. FANT:

6 Q Now, you were there obviously when the line-up was
7 shown to Mr. Koenig.

8 A That's correct.

9 Q Did he hesitate before picking out the defendant?

10 A No, he did not.

11 Q And did he indicate to you how certain he was that
12 the defendant was the person he had seen driving the car?

13 A Yeah. We'd ask him, he'd say he was a hundred
14 percent sure that was him.

15 Q Okay. Please answer any questions that Mr. Finney
16 may have.

17 MR. FINNEY: May it please the Court, Your
18 Honor.

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION

21 BY MR. FINNEY:

22 Q Mr. Gardner, did you go to the pond on Monday the
23 23rd of May to see the body being recovered?

24 A No, sir, I did not.

25 Q Did you go out to the house Monday night to talk to

1 Bobby Lee Hughes and his family members about the death of
2 their loved one?

3 A No, I did not.

4 Q Did you go to the -- did you do anything in
5 connection with the case on the next day, on Tuesday the
6 24th, as far as having any evidence looked at or having
7 the body sent up there or talking to the Coroner or
8 anything on the 24th?

9 A No, sir.

10 Q All right. And so then on the 25th, my client,
11 Mr. Bradley, is back uptown for the second time to talk
12 with the officers.

13 A That's correct.

14 Q Correct?

15 A That's correct.

16 Q What time on the 25th, which was Wednesday, did you
17 see Mr. Bradley?

18 A I'm not sure, but I think it was in the -- I think it
19 was in the afternoon. I'm not sure.

20 Q In the afternoon. Now, you said that you just talked
21 to Ms. Fant and you told her you had taken several
22 statements from several witnesses in this case. Name
23 those witnesses, please sir.

24 A I think it was Ms. Martha Ransom, Ms. Josephine
25 McCray, and it was a -- can't remember the other lady's

1 name, the other...

2 Q All right. Martha Ransom, Josephine McCray?

3 A Yes, sir, and another.

4 Q And William McCray?

5 A William McCray, right.

6 Q Those are the three?

7 A That's correct.

8 Q Okay. And did you talk to those ladies? Do you

9 remember talking to Martha Ransom and Josephine McCray on

10 the same day, the 25th of May?

11 A I think it was the 25th.

12 Q Think it was? That was Wednesday?

13 A I -- yes.

14 Q Look at those papers and see if that refreshes your

15 memory. Tell me what time you talked to those ladies.

16 A Josephine McCray was on the 25th at 12:15 pm, and--

17 Q 12:15?

18 A That's correct.

19 Q PM. That was Josephine McCray?

20 A Right. Uh-huh.

21 Q All right. What was the other lady's name?

22 A Martha Ransom, and that was on the 25th at 10:25 am.

23 Q Uh-oh. I messed up. 10:25?

24 A That's correct.

25 Q AM?

1 A Yes.

2 Q So you talked to Martha Ransom first and then talked
3 to Ms. McCray?

4 A That's correct.

5 Q Okay. And you think you talked to Mr. Bradley in the
6 afternoon?

7 A I'm not sure, but I think somewhere --

8 Q After 12:00.

9 A -- sometime after 12. That's what I'm thinking. I'm
10 not sure.

11 Q All right. Let me ask you this. I will take those
12 back. By the time you talked to Mr. Bradley that
13 afternoon, did you know that Barbara Jean Williams had
14 given a statement to Investigator Bradley --

15 A I wasn't aware.

16 Q -- at 10:49 that morning?

17 A No, I wasn't aware of it.

18 Q Were you aware that Tanesha Williams had given a
19 statement to Investigator Bradley at 11:16 that morning?

20 A No, I wasn't aware of it.

21 Q Were you aware that Investigator Bradley took a
22 statement from Eloise Sinkler at 11:42 that morning?

23 A No.

24 Q All right. Were you aware on Wednesday the 25th that
25 Bobby Lee Hughes gave a statement to Investigator McMillan

1 on the 24th of May?

2 A No, sir, I wasn't aware of it. I'm not the lead
3 investigator in this case, Mr. Finney.

4 Q So you just were kind of riding around with the other
5 guys letting them do the work?

6 A No, I wasn't riding around with them letting them do
7 the work. Some things I have to -- I accompany Sergeant
8 McMillan with, but I wasn't the lead investigator in the
9 case.

10 Q All right. Well, at the end of the day on Tuesday
11 the 24th after Bobby Lee Hughes told Investigator McMillan
12 that Nate had told him what was going on that day and
13 where the Volvo had gone with the two men and where he had
14 gone -- that was on the 24th -- did you all talk at the
15 end of the day so that everybody on the team knew what was
16 going on?

17 A I didn't talk to them about that, Mr. -- Mr. Finney,
18 I didn't --

19 Q Okay.

20 A -- just like I say, I'm not the lead investigator on
21 the case. He's--

22 Q On the 25th -- but, I mean, you take your
23 investigation of those three ladies you saw --

24 A That's correct.

25 Q -- and you turned it over to Mr. McMillan?

1 A That's correct.

2 Q But you -- Mr. McMillan didn't have a meeting with
3 you and other investigators at the end of the day, you had
4 talked to three, he had taked to three, somebody else
5 named Bradley had talked to three? When did y'all get
6 together and -- and find out what you got?

7 A Just like I said, Mr. Finney, Sergeant McMillan, he's
8 the lead investigator on this case, sir.

9 Q I know that, sir. Yes, sir. I understand. But did
10 you have a meeting with the other investigators, the lead
11 investigator, didn't talk with the other officers who were
12 out there getting statements?

13 A Not particularly just me and him meet, you know.

14 Q Investigator Bradley was getting statements.

15 A That's correct.

16 Q Investigator Gardner was getting statements.

17 A That's correct.

18 Q Investigator McMillan was getting statements.

19 A That's correct.

20 Q Y'all didn't sit down and talk at the end of the day
21 to see who said what to who?

22 A I probably talked with Investigator McMillan about
23 the statements that I took.

24 Q But he didn't talk to you about the statements he
25 took?

1 A I don't recall. Maybe he did, but I don't recall.

2 Q Did you talk to Bradley about the statements he took?

3 A No, I -- I didn't. I'm pretty sure I didn't talk
4 with her.

5 Q So if somebody told you that they were with Nate
6 Bradley at the hair dresser's, doing this, doing that,
7 whatever --

8 MS. FANT: Objection, Your Honor --

9 BY MR. FINNEY:

10 Q -- you didn't know anything about it.

11 MS. FANT: How can he say if somebody told you,
12 you didn't know anything about it?

13 BY MR. FINNEY:

14 Q If somebody told the police officer. If somebody
15 told an investigator -- not you. If somebody told an
16 investigator that Nate Bradley was with them, did that
17 part of the story get checked out?

18 A Apparently it did. But Sergeant--

19 MS. FANT: Objection, Your Honor. He -- he has
20 testified that he does not know anything, he did not
21 share that information with him, and he doesn't know
22 about it. He can ask the appropriate witnesses when
23 they get on the stand.

24 THE COURT: Well--

25 MS. FANT: It's hearsay.

1 THE COURT: He asked -- he asked him whether --
2 repeat.

3 MR. FINNEY: Let me rephrase the question, Your
4 Honor. Maybe I can solve the problem.

5 THE COURT: Okay.

6 BY MR. FINNEY:

7 Q Did you know, sir, that witnesses in this case--

8 MS. FANT: Objection, Your Honor. That's
9 exactly what he's trying to say, hearsay. He is
10 trying to get in what witnesses might have told other
11 people about the investigation.

12 MR. FINNEY: No, sir, because he was with the
13 investigators. He just said he was with McMillan
14 when he went to Donna's house, he was with Florence
15 when they interviewed him downtown, so he was there.

16 MS. FANT: Your Honor, may we approach?

17 THE COURT: Yes.

18 (Whereupon a bench conference was held.)

19 BY MR. FINNEY:

20 Q Were you there, sir, when Barbara Jean Williams gave
21 her statement to Investigator Bradley?

22 A No.

23 Q Were you there when Tanesha Williams gave her
24 statement to Investigator Bradley?

25 A No.

1 Q Were you there When Eloise Sinkler gave her statement
2 to Investigator Bradley?

3 A No, sir.

4 Q Okay. Now, as far as this line-up is concerned, the
5 line-up was done on the 26th of May which would have been
6 Thursday after you had talked to McCray and Ransom and
7 Bradley.

8 A That's correct.

9 Q On the 26th at 1543. What -- what time is that?
10 That's 3:45?

11 A 3:45.

12 Q 3:43 in the afternoon?

13 A 3:43, right.

14 Q Where was this done, this line-up?

15 A That's at Mr -- where was it done?

16 Q Yes, sir. Y'all went to Mr. Koenig's house to do it?

17 A That's correct.

18 Q So you go to his house to do a line-up at 3:43 in the
19 afternoon?

20 A We went there to show him the line-up.

21 Q Right. And he looked at the line-up and immediately
22 picked Nate Bradley out of the line-up?

23 A That's correct.

24 Q And told you that was the man he had seen driving the
25 car that was connected with this case?

1 A That's correct.

2 Q Okay. Is there any reason why y'all didn't take him
3 down to the police station to do this?

4 A No, we just went out to the house. He was at home.
5 We called him, he said he was at home, and we went out and
6 talked with him.

7 Q Okay. And you picked out the six photographs that go
8 in the line-up. You picked out these six pictures here?

9 A No. Those are Department of Motor Vehicle driver's
10 license pictures.

11 Q Right.

12 A We get line-ups from them, and it's...

13 Q What I'm saying is, the six pictures that were
14 selected, you picked them out?

15 A No, we don't pick them out. It's done by a computer.

16 Q Computer picks them out?

17 A That's correct.

18 Q And you assemble them on the sheet and take them down
19 to see the witness?

20 A Right. It comes just like that.

21 Q Okay.

22 A Yeah.

23 Q All right. And Mr. McMillan was with you at the
24 line-up?

25 A That's correct. I was with Mr. McMillan. He showed

1 them...

2 Q All right. Because he was the lead investigator?

3 A That's correct.

4 Q I got it now. Thank you. Nothing further.

5 THE COURT: Anything further from the State?

6 MS. FANT: No, Your Honor.

7 THE COURT: Thank you, sir. You can step down.

8 (Witness left the stand.)

9 MS. FANT: Your Honor, the State calls Darrell
10 Koenig.

11 DARRELL KOENIG, after being duly
12 sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MS. FANT:

15 Q Mr. Koenig, could you tell us where you live?

16 A At ■ Richardson Street, Sumter, South Carolina.

17 Q And how long have you lived in Sumter?

18 A For off and on over the last 20 years about 11 years.

19 Q What do you do for a living?

20 A I am a commercial airline pilot.

21 Q And what was your previous piloting experience?

22 A In the military.

23 Q Tell us a little bit about your military background.

24 A I started out here at Shaw as an aircraft mechanic
25 and later switched over to a flying position, was moved up

1 to New Jersey where I flew C141s and went through combat
2 training.

3 One of the things that I went through during my
4 combat training was aircraft and equipment recognition
5 from both the air and the ground.

6 Q Can you describe for us what that is?

7 A Basically it's -- it's being able to look at an
8 object and get just a moment glimpse of something and be
9 able to identify what it was.

10 Q And after you left the military, what year was that?

11 A I exited active duty Air Force in October of 1994,
12 then entered the Air National Guard in Ohio where I spent
13 three years. And during that timeframe I was hired by ATA
14 Airlines, and so I started in 1996 with ATA.

15 Q Is that your current employer?

16 A That is.

17 Q What type of piloting do you do?

18 A I fly boeing 757s and I do both scheduled service
19 flights as well as military charter flights to the Middle
20 East.

21 Q And I kind of hesitate to ask this, but how is your
22 eyesight?

23 A Very good.

24 Q Is that required of pilots?

25 A Yes, it is.

1 Q Now, in 2003 did you buy a piece of property in
2 Sumter?

3 A I did.

4 Q Tell us about that.

5 A My wife and I bought a 6-acre lot at Boyle's Pond.
6 It was lot number four when -- when you turn off of St.
7 Paul Church Road heading southbound on to Cobblestone, it
8 would have been the fourth lot on the left-hand side on
9 the pond side.

10 Q And were you actually living there at the time?

11 A No, I wasn't.

12 Q Was there a house there?

13 A No, there was not.

14 (WHEREUPON, State's Exhibit No. 60 was marked
15 for identification only.)

16 BY MS. FANT:

17 Q Do you recall being at your property on Cobblestone
18 on Sunday, May the 22nd, 2005?

19 A Yes, I do.

20 Q And how do you recall that?

21 A I had been working on the entryway to our lot. We
22 had just paved the road at -- on Cobblestone Road. That
23 is a private road that the members of the association
24 there paid to have paved, and we had just finished paving
25 it that prior week, and so I was dressing up the entryway

1 to our lot getting ready to build the house.

2 Q Is that community what is referred to these days as a
3 gated community?

4 A It was a gated community at the time that we
5 purchased the lots. After the road was put in -- or
6 actually before the road was put in the gates were removed
7 so they could do the paving. And once the paving was
8 done, it was not put back up.

9 Q And so at this -- on this day were the gates down or
10 up on the...

11 A They were down.

12 Q So it would have been a barr to people who didn't
13 live there?

14 A It was wide open to the public. Yes, it was.

15 Q Okay. So in other words, anyone could come in at
16 that point?

17 A Anybody could come in.

18 Q And do you recall about what time it was when you
19 were working on your property?

20 A I had gone out early that morning. I skipped church
21 that morning because I had rented a backhoe to do some of
22 the work to start removing trees.

23 It -- I had rented the piece of equipment early
24 Saturday morning and had problems with it mid-day, and so
25 I was unable to use it for most of the day on Saturday, so

1 I came out very early in the morning on Sunday to get
2 started.

3 Q And did something happen on that morning that you
4 thought was odd?

5 A Yes. While I was working, I looked up and noticed a
6 blue Volvo sedan coming in off of St. Paul Church Road.
7 There's a little bit of a bend in the road between St.
8 Paul Church Road and our lot, so I noticed it coming
9 around the corner, and it was moving rather slowly, and
10 I -- like somebody looking for somebody's place.

11 And as it came around the corner, I noticed that
12 there were two black men sitting in the car and they were
13 looking over towards our side of the road which is the
14 pond side of the road, and there was one black couple in
15 the neighborhood across the street, Angela and Tommy
16 Frederick I believe their name is, and I thought that they
17 were going to visit Tommy and Angela.

18 And they passed their first driveway. There's two
19 driveways leading into their place, one before our lot and
20 one after. As they passed the first entryway, they
21 continued on and shortly passed the driveway.

22 I looked at the driver of the car and he was looking
23 directly at me. And as they slowly went past, we had
24 locked eye contact for several seconds.

25 And then they went on down the road, and they -- they

1 missed the second driveway at which time I thought was a
2 little bit odd, and -- but people occasionally would --
3 would drive through there just looking to see what was in
4 there since it was now open to the public and it hadn't
5 been before.

6 So I continued working. I was working right along
7 the edge of the road in the ditch leveling out the soil.
8 And I was kind of startled because the car was back in
9 front of me again going the opposite direction, and it was
10 just several feet from me, and I hadn't heard them coming
11 because it was moving so slow.

12 And as it went on by me, I just kind of sat for a
13 second and watched the car go by, and I noticed that on
14 the back was a bright yellow license plate with red
15 writing on it, temporary tag, and I just remember thinking
16 to myself, that's the ugliest car I have ever seen because
17 it was a very pale chalky looking blue color with this
18 bright yellow license plate on it.

19 And then they -- they drove off and I didn't see the
20 car again.

21 Q Now, how many homes were on Cobblestone at that time?
22 Was it well developed or...

23 A No, at the time on the pond side there were 11 lots
24 on the pond side on Cobblestone Road, and at the time --
25 give me a second here and I will tell you how many houses

1 there were... there was a house on lot two, there was a
2 house on lot three, four and five were empty -- or I'm
3 sorry, four was empty, five had a house on it, six was
4 empty, seven had a house, eight, nine and 10 did not have
5 a house, so there were four houses built at the time.

6 Q All right. Do you recall what time it was that you
7 did actually see this vehicle?

8 A It was approximately about 9:30. Like I said, I got
9 out there early in the morning. It was shortly after
10 sun-up when I got to the property, and it was still, you
11 know, some -- some time in the morning. It was well
12 before noon. And I would estimate it to be around 9:30.

13 Q And what first -- what was the weather like that day?
14 Was it raining?

15 A It was a clear day, was very nice.

16 Q Was it sunny?

17 A I believe it was very sunny, yes.

18 Q And you were outside?

19 A Yes.

20 Q And what initially drew your attention to the
21 vehicle?

22 A When I glanced up, I kind of did a double-take
23 because it was moving very slowly as I said before. And I
24 noticed that when I looked up at the car, that the people
25 were looking like they were looking for something.

1 And so that kind of drew my attention to it, and
2 that's why I kind of watched because I thought maybe they
3 were looking for somebody's home. And I was ready to help
4 them out if they needed directions to somebody's house,
5 but they never stopped.

6 Q So you actually never talked to them?

7 A Never spoke to them.

8 Q Excuse me. Mr. Koenig, I would ask you to step down
9 and take a look at State's Exhibit 60. Do you recognize
10 this?

11 A Yes, I do.

12 Q How do you recognize the area?

13 A This is Boyle's Pond here. This is the east end of
14 the lake and this is the west end of the lake, and I'm on
15 the west side of St. Paul Church Road. This is
16 Cobblestone Road here. And this lot here was the lot that
17 we had purchased.

18 Q Okay.

19 A And I was working -- I was working right out towards
20 the edge of the road here. They had -- when they put the
21 paving in on the road, they put our driveway entrance in
22 right here on the -- on the east side of the property, and
23 I was working just west of where the driveway came in,
24 right out by the road on the edge of the wood.

25 Q About how far would you say you were on the edge?

1 A I was on the edge of the road. I know for a fact
2 that the road is 21 feet wide because I was involved in
3 collecting the money and everything for the paving, so I
4 knew exactly what was being done.

5 The road is 21 foot wide upstanding, probably within
6 a couple feet from the edge of the road. So it -- the
7 most distance I was was probably 15 feet from the car as
8 it drove by.

9 Q And show us where you first noticed the car driving.

10 A Okay. Here's the bend in the road as you come off
11 St. Paul Church Road. And from my vantage point here I
12 couldn't see the car till it got right there prior to the
13 curve.

14 And as it started coming around the corner here,
15 Tommy and Angela's driveway is -- this doesn't depict the
16 current picture, but their house sits back in here. The
17 first driveway comes in here and loops around and comes
18 out right over here.

19 So I -- I glanced up right as they started rounding
20 this corner right here, and again they were moving very
21 slowly.

22 Q Did you watch the car the entire time that it was
23 passing in front of you?

24 A The entire time -- when it came into view, I never
25 took my eyes off the car until it had passed the second

1 driveway heading down this way, and I could see from here.
2 I could see all the way down the road.

3 But as they passed the second driveway, I just kind
4 of went back to what I was doing and didn't -- didn't
5 continue watching the car.

6 Q And about how long would you say it took from the
7 time you first saw them on the first pass till it was out
8 of your sight?

9 A It was -- it was no more than a couple minutes. I'd
10 just gone back to work. And like I said, I was raking the
11 soil. This road is 3200 feet long. And the speed they
12 were traveling, I would imagine it was probably --
13 probably two -- no more than two minutes they got there.

14 Q But you didn't see where they actually went after --

15 A I did not --

16 Q -- they passed?

17 A -- did not see where they went afterwards. But it
18 was apparent by the short amount of time that they came
19 back that they had not gone any further than the end of
20 Cobblestone Road.

21 Q Okay. And from where you first noticed them here at
22 the curve to where you just kind of stopped looking around
23 there, could you estimate how many seconds it was that you
24 were watching the car or minutes?

25 A Oh, it -- it was quite a long time. I mean, from

1 the -- the initial point where I saw the car until it
2 passed over here, it had to have been well over 20
3 seconds. It was probably 10 to 15 seconds that I was
4 watching the driver and he was watching me as he drove
5 past.

6 Q And when the car came back, could you show us where
7 it was and where you were?

8 A I was standing again just west of the driveway
9 entrance on the property. And I didn't notice the car the
10 second time until it was meeting me in the road, and it
11 kind of caught me off-guard because I didn't hear it
12 coming, so immediately I looked up and was kind of
13 startled by the presence of the car again.

14 And then sat and watched it as they drove off as far
15 as I could see down past the curve.

16 Q Okay. Thank you.

17 MS. FANT: Your Honor, at this time I would
18 offer State's exhibit 60 into evidence.

19 THE COURT: What says the defense?

20 MR. FINNEY: Sixty? No objection.

21 THE COURT: All right. Exhibit 60 is in
22 evidence without objection.

23 (WHEREUPON, State's Exhibit 60 was admitted into
24 evidence.)

25 BY MS. FANT:

1 Q Excuse me. Now, after you saw this on that Sunday
2 morning, did you do anything immediately? Were you
3 alarmed?

4 A No, I wasn't alarmed. At first it just seemed a
5 little weird that there were two men driving around the
6 neighborhood at 9:30 in the morning on a Sunday, but I
7 just kind of blew it off because they came in and turned
8 around and left, so I didn't -- I didn't suspect anything
9 at that time, no.

10 Q And how did you actually become involved in this
11 case?

12 A The following day again I was back out at the
13 property. My rental was due back on Monday morning. But
14 since I had trouble with it on Saturday, they let me keep
15 it on Monday.

16 And so I was back out working at the property again,
17 and approximately between two and three in the afternoon
18 my next door neighbor Tom Patterson came -- came over on
19 his ATV and let me know that they had found a body in the
20 pond.

21 So at that time we -- we knew that there had been
22 something that had taken place at the pond, but I still
23 didn't know the -- the connection between the car.

24 The -- that night some neighbors had told us that on
25 the news that they were looking for a blue 1990 Volvo with

1 a temporary tag on it, and I immediately knew that that
2 was the car that I had seen that day going by.

3 And at that point I discussed it with my wife, and
4 the next morning I contacted the Sheriff's Department and
5 told them what I had seen, and they came out and took a
6 report.

7 Q Now, do you recall who initially came out to
8 Cobblestone?

9 A Yes, it was Detective Barfield.

10 Q Bennie Barfield?

11 A Yes.

12 Q And did you just generally discuss what you had seen
13 with him?

14 A I went into the same detail that I just spoke with
15 with you is what I told Bennie.

16 Q And at that time did he show you a photo line-up or
17 ask you anything else?

18 A No. No.

19 Q And that actually was at the Cobblestone lot?

20 A That's correct, uh-huh.

21 Q Did you subsequently meet with investigators Gardner
22 and Sergeant McMillan?

23 A Yes, I did. I met with Investigator Barfield on
24 Tuesday, and I believe it was that Thursday I was given a
25 call by Investigator McMillan and Gardner, and they wanted

1 to know if I was going to be around. I told them yes.

2 And they asked if I could do a line-up, and they came to
3 the house and showed me the line-up.

4 Q So you in fact had an opportunity to look at a photo
5 line-up?

6 A Yes, I did.

7 Q And they -- when you said they came to the house, was
8 that where you actually lived?

9 A That's at our residence, uh-huh.

10 Q And that was Sergeant McMillan and Investigator
11 Gardner?

12 A That's correct.

13 Q And when they got there, were -- did they just rush
14 out and show you the pictures? Tell me what happened.

15 A No, they actually asked me again to describe what I
16 had seen that day, and I went back over it again. And
17 once we had discussed that, they then asked me if I was
18 ready to take a look at the line-up, and I told them yes.
19 And it was at that point that they brought out the
20 line-up.

21 Q And when you described the man you had seen driving
22 the vehicle, how did you describe him?

23 A I just remember that he didn't have anything that --
24 that was abnormal about his look except for around his
25 mouth. He had a different look to his mouth as he went

1 by.

2 And I had told them that he had short -- short hair,
3 very short hair, and it looked like light facial hair, and
4 fairly thin face, and that's all I can remember telling
5 them.

6 Q Did you indicate to them that you thought he might be
7 tall?

8 A I did initially because at the angle I was sitting
9 down in the ditch looking up, I thought actually he was a
10 bit shorter actually at first, but then somebody reminded
11 me that the seat position in the car may have had a lot to
12 do with it, and I realize sitting in a car you can't judge
13 how tall somebody is.

14 Q So ultimately you don't know?

15 A I had no idea how tall he was.

16 Q Now, when they showed you the photos, did they tell
17 you anything about the photos they were showing you?

18 A No.

19 Q Was there anything written on the photos when they
20 showed them to you?

21 A No.

22 Q How many photos were in the line-up?

23 A Six.

24 Q Let me show you what has been marked as State's
25 Exhibit 59. Can you take a look at that, please?

1 A Okay.

2 Q And is that the line-up that Sergeant McMillan and
3 Investigator Gardner showed you that day?

4 A Yes, it is.

5 Q And were you in fact able to identify someone in that
6 photo?

7 A Yes, I was.

8 Q And who was -- or what number was that?

9 A That was number three, the upper right-hand photo.

10 Q And is there a -- a marking on there that indicates
11 that there's kind of a scratch mark on the identification
12 page?

13 A On this page?

14 Q Yeah.

15 A A scratch mark as...

16 Q Or on number three, do you -- do you recall
17 Investigator -- what Sergeant McMillan told you to do as
18 far as the instructions were to...

19 A Oh, he told me to put a -- an X I believe in the --
20 in the circle that I thought represented the person I saw.

21 Q Okay. So he asked you to put an X in the little
22 circle where the person that you were identifying as the
23 driver of the vehicle?

24 A I -- I don't recall as far as the mark, because I do
25 remember marking the sheet, but...

1 Q Okay. But you don't recall exactly how it got --

2 A I don't remember, no.

3 Q -- there. But are you certain of the choice that
4 you--

5 A Absolutely, yes.

6 Q And what choice was that?

7 A That was again number three is the defendant,
8 Nathaniel Bradley.

9 MS. FANT: Your Honor, at this time I would
10 offer this into evidence.

11 MR. FINNEY: It's already in.

12 THE COURT: It's already in.

13 MS. FANT: Permission to publish, Your Honor.

14 THE COURT: Yes.

15 (Whereupon exhibit was passed to the jury.)

16 BY MS. FANT:

17 Q Now, when they -- when you -- they showed you the
18 photographs, did you indicate to them how certain you were
19 about your identification?

20 A Yes, I did. I -- I immediately -- when I -- when
21 they opened the folder, my eyes went straight to him.

22 Q And--

23 A Initially I wasn't quite sure why, but then I -- you
24 know, as I looked around and my eyes kept going back to
25 it, and I was -- I was certain at that time that that was

1 definitely who I saw in the car.

2 Q And how certain were you?

3 A I was a hundred percent sure.

4 Q And are you still a hundred percent sure today that
5 that is the man?

6 A Absolutely. That's the man that I saw in that car.

7 Q And by that you indicate that that is the defendant,
8 Nathaniel Bradley?

9 A Yes.

10 Q And do you see him sitting in the courtroom today?

11 A Yes, I do.

12 Q And where is that?

13 A At the defendant's table in the center (pointing.)

14 MS. FANT: Thank you. Please answer any
15 questions that Mr. Finney might have.

16 THE WITNESS: Okay.

17 CROSS-EXAMINATION

18 BY MR. FINNEY:

19 Q Good afternoon, Mr. Koenig.

20 A Afternoon.

21 Q You, sir, are here today to testify that you picked
22 out a man that you have never seen before on a road in
23 Sumter County on Sunday, May the 22nd when you saw him
24 drive. Is that correct?

25 A Yes, it is.

1 Q And you haven't had any special training in
2 cross-racial identification; have you?

3 A No, I haven't.

4 Q You have had -- you have had training on how to
5 identify -- identify aircraft at a distance?

6 A No, I didn't say aircraft. I said aircraft and
7 equipment.

8 Q All right. Aircraft and equipment.

9 A Just about anything.

10 Q Just about anything. You--

11 A Just about anything.

12 Q You can tell us what you saw. On the 22nd when you
13 talked -- when you say -- when you talked to Mr. Barfield
14 what day of the week was it?

15 A I believe that was Tuesday the 24th.

16 Q All right. So you think it was Tuesday the 24th.
17 And if -- what time was it you talked to Mr. Barfield?

18 A I believe it was late afternoon by the time he made
19 it out to talk to me.

20 Q How late?

21 A I have no idea. Just -- I just remember it was
22 afternoon. I called them in the morning, and by the time
23 he got out there, it was afternoon.

24 Q All right. Tuesday the 24th I'm going to put a star
25 in the bottom part that means that the afternoon. When

- 1 you met with Mr. Barfield -- is he in court today?
- 2 A I haven't seen him.
- 3 Q You know him if you saw him?
- 4 A Yes, I would.
- 5 Q All right. Look around. Make sure he's not here,
- 6 now.
- 7 A I do not see him.
- 8 Q All right. And when you talked to him on the 24th in
- 9 the afternoon, where were you at?
- 10 A I was out at the property again on--
- 11 Q The property?
- 12 A On Cobblestone, 4200 Cobblestone.
- 13 Q Did you all agree to meet out there?
- 14 A I was out there working, and he asked if he could
- 15 come and talk to me, and I said yes.
- 16 Q Okay. And so you were there at the scene describing
- 17 to him what you had seen?
- 18 A That's correct.
- 19 Q And was he making notes?
- 20 A I believe he was.
- 21 Q And did he write down everything you told him?
- 22 A I believe he did.
- 23 Q And did he ask you specific questions about details
- 24 that afternoon?
- 25 A As far as the facial description, yes.

1 Q And did you tell Ms. Fant just now that you told him
2 that the man was a black male?

3 A Yes.

4 Q Had dark skin?

5 A Yes.

6 Q A slim face?

7 A Yes.

8 Q And light facial hair?

9 A Yes.

10 Q And do you believe that Mr. Barfield wrote that down?

11 MS. FANT: Objection, Your Honor. He has no
12 idea what he wrote down exactly. He -- he's already
13 testified he wrote some notes.

14 THE COURT: He--

15 MS. FANT: I don't think he can say every time
16 that he saw him write down everything.

17 MR. FINNEY: He can say --

18 BY MR. FINNEY:

19 Q Were you all sitting down?

20 A I did not witness what he was writing. I have no
21 idea what he wrote down.

22 Q All right. But he wrote down something?

23 A He was writing.

24 Q All right. And you -- did -- is there anything else
25 you told him at that time about the defendant, Nate

1 Bradley?

2 A Nothing else other than I told him I thought that he
3 was probably around my height. But as I said before, I
4 really have no way of knowing how tall somebody is.

5 Q Okay. So you told him -- you told Mr. Barfield that
6 the man who you saw driving that car that day was around
7 your height?

8 A I said I would guess that he was around my height. I
9 did not say he was my height, no.

10 Q And how tall are you, sir?

11 A I'm 5-foot eight.

12 Q All right, sir. And is there anything else about the
13 man that you saw driving a car that you told Mr. Barfield
14 about?

15 A Not that I can recall.

16 Q Then why did you tell Ms. Fant today that there was
17 something strange around his mouth?

18 A Well, his mouth was the most noticeable thing when I
19 looked at the line-up that drew -- that kept drawing me
20 back to him was his mouth.

21 Q And that's the mouth that you saw in the picture; is
22 that right?

23 A That was one of the things that was drawing me to
24 him, yes.

25 Q And what was -- what was -- tell the jury what about

1 the pictures -- the mouth on the picture that made it look
2 different.

3 A I'm not understanding what you're asking.

4 Q What was it about picture number three and the mouth
5 that made it assured in your mind that that was the man
6 you had seen?

7 A Because that looked exactly like the mouth that I
8 recalled seeing on the person driving the car that drove
9 past me that day.

10 Q Okay. But when Mr. Barfield came out, you hadn't
11 seen the picture of the mouth.

12 A That's correct.

13 Q So all you had was a reflection in your mind of
14 talking to Mr. Barfield about what you had seen in the
15 Volvo?

16 A About -- ask again, please.

17 Q The Volvo.

18 A Could you ask the question again, please?

19 Q On Tuesday the 24th --

20 A Yes.

21 Q -- when you met with Mr. Barfield --

22 A Uh-huh.

23 Q -- you didn't have a photo line-up.

24 A No, I did not.

25 Q All you had was a recollection of the man you had

1 seen in the Volvo.

2 A That's correct.

3 Q Two days prior on the 22nd in the morning.

4 A That's correct.

5 Q And at that time you told Mr. Barfield he was a black
6 man with dark skin, slim face.

7 MS. FANT: Objection, Your Honor. Mr. Finney
8 appears to be reading from something. I would ask
9 that he not do that. That would be hearsay. And he
10 can ask him what he told him and he can say that or
11 he can repeat it.

12 MR. FINNEY: Judge, I'm asking. I'm asking a
13 question that I believe reflects what the witness
14 testified to earlier today.

15 MS. FANT: May we approach, your Honor?

16 THE COURT: Yes, ma'am.

17 (Whereupon a bench conference was held.)

18 BY MR. FINNEY:

19 Q Did you tell Mr. Barfield that the gentleman that you
20 saw driving on Sunday morning had a funny something about
21 his mouth?

22 A No. I said that that was just something that stuck
23 in my head was the features of his mouth.

24 Q You're standing there on Tuesday --

25 A Uh-huh.

1 Q -- at the scene talking to Bennie Barfield.

2 A I don't believe I told Bennie that it was something
3 about his mouth.

4 Q So today is the first day that anybody has heard you
5 say that --

6 A No, that's not true.

7 Q -- something funny about the man's mouth?

8 A That's not true.

9 Q Who else did you tell?

10 A When I saw the line-up, they -- when they showed me
11 the line-up, I told them that I kept going back to that
12 picture that caught my attention right off the bat and it
13 was something about his mouth.

14 Q Okay.

15 A It's an imprint in my mind. It's not something I can
16 sit and describe to you. It's an imprint. When I saw
17 that man, that is absolutely without doubt the man that I
18 saw in that car.

19 Q You didn't say anything to Bennie on Tuesday about
20 the mouth.

21 A I described -- I just described --

22 Q Yes or no?

23 A Gave him a basis description.

24 Q Mr. Koenig, yes or no, did you tell him?

25 A No, I didn't.

1 Q Okay. And the line-up was on the 26th which was --

2 A That's correct.

3 Q -- two days later.

4 A Uh-huh.

5 Q And that's the first time you told anybody about what
6 you saw Sunday as far as the man's mouth?

7 A That's correct.

8 Q But did you tell Bennie that the man was short, about
9 your height?

10 A No, I did not tell him he was short.

11 Q So you didn't tell Bennie that on Tuesday, you told
12 the officers on Thursday.

13 A No. What I said was that I would guess that he would
14 be about my height looking at the build that I could see
15 from his shoulders and head, I--

16 Q Who did you say that to?

17 A To Inspector Barfield. That's what I told you.

18 Q On Tuesday?

19 A On Tuesday.

20 Q So he should have written in his report that--

21 MS. FANT: Objection, Your Honor.

22 THE COURT: Sustained. He has no idea to know
23 what he should have written --

24 MR. FINNEY: No. I'm asking--

25 THE COURT: -- know what he told him.

1 MR. FINNEY: Let me finish the question.

2 THE COURT: Yes, sir.

3 MR. FINNEY: I'm asking the witness if he told
4 Mr. Barfield that the man was about his height, that
5 Mr. Barfield should have written that in the report
6 if that's what he was doing --

7 THE WITNESS: No, because I--

8 MR. FINNEY: -- Barfield?

9 THE WITNESS: No, because I told him.

10 MS. FANT: That is the objection, Your Honor.
11 He cannot ask that question of this witness. He does
12 not know what Mr. Barfield--

13 MR. FINNEY: I didn't ask him what Barfield
14 wrote down. I asked him that Barfield should have
15 written down what he told him which was the man was
16 about his height.

17 THE WITNESS: That's not what I told him.

18 BY MR. FINNEY:

19 Q You didn't tell him that?

20 A I said if I were to guess. I never said that the man
21 was 5-foot seven.

22 Q Okay. But you told him something about the man's
23 height. You told him something. You said, if I were to
24 guess --

25 A To guess.

1 Q -- he would be about my height.

2 A That's an assumption. That is not an identification.

3 Q Mr. Koenig, all I'm trying to get to is did you tell
4 Barfield that the man was about your height?

5 A No.

6 Q So you didn't make that statement?

7 A I did not say he was about 5-foot eight --

8 Q What did you say?

9 A -- or 5-foot seven.

10 Q What did you say to Barfield?

11 A I said if I was to guess, I would assume that he
12 would be about my height.

13 Q Okay. And that was based on what you saw on Sunday;
14 right?

15 A I really don't know what you're getting at. You
16 can't judge somebody's height by looking at them in a car.
17 You can't, and I -- and I never--

18 Q You -- give that information?

19 A And once again I said I'm guessing it, it -- looking
20 at the height of the head in the window and that's all I
21 was doing.

22 Q I'm not trying to say that you were accurate about
23 the man's height.

24 A Uh-huh.

25 Q Because you weren't. He's not five-eight.

1 A I understand that.

2 Q Okay.

3 A I understand that.

4 Q But I'm trying to get to is that if you gave a
5 detective some information about height, whether or not he
6 wrote it in his report. And so I'm trying to find out
7 from you, sir, did you on Tuesday tell Barfield that the
8 man was about -- if you had to guess -- your height?

9 A You're re-wording what I said.

10 Q What did you say?

11 A I told him that if I were to guess, that I would
12 guess that the man would be approximately my height.

13 Q Would you have expected Barfield to put that in his
14 report?

15 A No, I would not.

16 Q Why not?

17 A Because it wasn't accurate information.

18 Q It was descriptive of the person who was driving the
19 vehicle.

20 A That wasn't part of my actual description. I gave
21 him a description.

22 Q Okay. And another thing that you said to -- you
23 didn't say to Barfield, because this was an impression in
24 your head, was that something was going on with the guy's
25 mouth.

1 A I -- there was no -- there was no way for me to
2 describe every detail about what I saw him and have him --
3 he's not a sketch artist. I mean, I don't know what you
4 want me to tell.

5 Q Did they ask you to go to a sketch artist?

6 A No.

7 Q Did they?

8 A I didn't need to.

9 Q Okay. Well, on the 24th Barfield never mentioned a
10 sketch artist?

11 A No.

12 Q On the 25th nobody approached you about a sketch
13 artist?

14 A They had talked to me about doing a line-up on the
15 25th.

16 Q All right. And on the 26th they did the line-up?

17 A Yes.

18 Q And they brought the pictures to your house?

19 A That's correct.

20 Q And you picked the guy out?

21 A That's correct.

22 Q All right. Now let's go back to Sunday morning
23 because when you picked the guy out on the 26th, the 25th,
24 24th, the 23rd, the 22nd, four days had gone by?

25 A That's correct.

1 Q Had you seen the guy in the car since then?

2 A I had never seen him since. I had never seen him
3 before.

4 Q So your whole -- your whole identification was based
5 on 15 seconds Sunday morning.

6 A Yes, it was.

7 Q All right. Now, you've never seen the guy before?

8 A No, I hadn't.

9 Q And you had locked eye contact. That's what you
10 testified?

11 A That is absolutely correct.

12 Q For 15 seconds?

13 A That's correct.

14 Q What did he do to -- during those 15 seconds?

15 A He stared back at me the entire way.

16 Q Did he smile?

17 A No, he didn't.

18 Q Did he -- did he wave?

19 A His mouth was somewhat open, but it was -- he was not
20 smiling.

21 Q Okay. Did he wave?

22 A No, absolutely no wave. Just looked back at me as he
23 drove by--

24 Q Fifteen seconds locked eye contact?

25 A That's correct.

1 Q Okay. And then it took several seconds for him to
2 drive -- and I'm now referring to State's Exhibit number
3 60 -- it took several seconds for him to drive -- how
4 far -- how wide is your lot?

5 A My lot was 324 feet wide.

6 Q On the frontage on the road is 324 feet?

7 A Uh-huh.

8 Q Sir?

9 A That's correct.

10 Q Okay. And his car was driving on a paved surface?

11 A On a paved surface.

12 Q And his car would have been on the in-coming lane of
13 travel?

14 A It would have been on the right-hand side of the road
15 or the north side of the road, that's correct.

16 Q The north side of the road is this side?

17 A That's correct.

18 Q And he was traveling in his lane?

19 A Well, a lot of people drove down the middle of that
20 road. I don't know where he was driving. There was no
21 lines on the road. It's one road 21 feet wide.

22 Q He wasn't on your side of the road?

23 A No, he wasn't.

24 Q So he was on the north side of the road in his lane
25 as far as you know.

1 A He was somewhere between the middle and off to the
2 right side of the road.

3 Q And how fast was he traveling?

4 A I don't know. Slow.

5 Q How slow, 30 miles an hour?

6 A I didn't have a speedometer in my hand. I don't
7 know. I have no idea. He was moving very slow.

8 Q Okay. 5 miles an hour? Can't tell?

9 A I can't tell you because I don't want you to turn
10 around and tell me that I knew he was going 15 miles an
11 hour.

12 Q Well, and so when he passed by you driving slowly in
13 the northbound lane, you were on your property?

14 A Not northbound, but on the north side.

15 Q Excuse me. On the north side. He was westbound?

16 A He was westbound, that's correct.

17 Q Okay. And he passed by you going slowly for a few
18 seconds. You testified several seconds.

19 A It was a matter of seconds.

20 Q He drove down to the end of the lot --

21 A Uh-huh --

22 Q -- the lane you--

23 A -- I don't know where he turned.

24 Q You don't know where he turned.

25 A I don't know.

1 Q The car turned around and came back.

2 A All I know that it was -- it was no more than
3 probably two minutes.

4 Q Okay. On the second pass when he came back --

5 A That's correct.

6 Q -- did you put your eyes on the driver?

7 A As I told you, I didn't even know the car was there
8 until they were -- beam me, so the driver was already past
9 my position.

10 Q So the answer to the question is what?

11 A No.

12 Q You didn't see the driver the second time?

13 A No.

14 Q Did you see the passenger?

15 A There were two men sitting in the car. I take that
16 back. I did see them.

17 Q You see who?

18 A Both the people in the car.

19 Q On the first pass or the second pass?

20 A Both.

21 Q Okay. On the second pass you did not see the driver?

22 A I did see the driver. I just did not see his face.

23 Q Okay. So you can't tell me anything about the
24 driver's face?

25 A No, not on the second--

1 Q How about the passenger?

2 A They were the same two men that were in the car that
3 went by me the first time.

4 Q Okay. Did you give a description of the passenger to
5 Mr. Barfield?

6 A All I could tell him was what I saw out of my
7 peripheral vision when I was looking at the driver.

8 Q You were looking at a car that was going from your
9 right to left and you locked eyes on the driver --

10 A Uh-huh.

11 Q -- for several seconds. And what did you tell him
12 about the passenger?

13 A I told him that he had a -- a broader build than the
14 driver, that he had much longer hair than the driver, and
15 that he was wearing a bright orange and yellow colored
16 T-shirt. And that was with my peripheral vision. I never
17 looked at him.

18 Q And did you -- did you expect -- would you have
19 expected Mr. Barfield to put those in his notes?

20 A I don't know if he did or not.

21 Q I know that. I'm asking you. Would you have
22 expected for him to put that description of the passenger
23 in his notes?

24 A No because I never -- I never looked directly at him,
25 so I wouldn't expect him to put it because that--

1 Q You knew the guy's color of his shirt.

2 A I said that it looked out of the corner of my eye
3 like I could see orange and yellow on his shirt, and
4 that's all I said.

5 Q And you knew his hair was longer than the driver's?

6 A Uh-huh. Just like I can tell that one of the gals
7 sitting off to the left of me has pink on her shirt, and
8 that's all I know--

9 Q Wouldn't that be important to the officer to know
10 what kind of shirt he had on, what was the length of his
11 hair?

12 A Say again.

13 Q Wouldn't that be important to the officer, you would
14 think, for him to write that down about the passenger?

15 A I don't know. I'm not an investigator.

16 Q All right. After the car passed by the second time
17 it went back out to St. Paul.

18 A That's correct.

19 Q Now, one issue that we haven't -- I didn't understand
20 clear. You testified that you got to the place that
21 morning early to work on the machinery.

22 A Which morning?

23 Q Sunday morning.

24 A Sunday morning, yes.

25 Q Did the machinery operate on Sunday morning?

1 A Yes, it did.

2 Q Okay. Were you working the machinery at the time you
3 saw the Volvo?

4 A No, I wasn't. I was back in the woods.

5 Q What time was it that you saw the Volvo, timeframe
6 that you saw the Volvo on Sunday morning?

7 A Can I give you an approximate time?

8 Q What did you tell Bennie Barfield?

9 A That it was approximately 9:30 in the morning.

10 Q Is that the only time you gave him?

11 A I don't remember. I don't remember if I gave -- I
12 don't know if I gave him an exact time. I just told him
13 it was in the morning time, and that Sunday.

14 Q It was about 9:30?

15 A Uh-huh.

16 Q How do you know that?

17 A Well, I knew I got out there shortly after sun-up,
18 which was somewhere around 8:00 in the morning that I got
19 out there, and I knew that I broke for lunch around 11:30,
20 and that somewhere in between was when the car went by.

21 My neighbor came by to visit around 10:15 after the
22 time when they had drove past me.

23 Q So between 9:30 and 10:15 you think the car drove by?

24 A No, I think it was closer to 9:30 because at 10:15 he
25 came over to visit, and it had been prior to that by at

1 least a half an hour to 45 minutes.

2 Q And you're telling the ladies and gentlemen of this
3 jury that having never seen this car before and never
4 seeing this man before, you with several seconds
5 identified this man through the fact that he was
6 dark-skinned, had a slim face, and had light facial hair?

7 A No. I identified him from what I saw and registered
8 in my memory, not by what you just said.

9 Q And was there anything to make you remember his face
10 after that car pulled away and went back out to St. Church
11 (sic) Road and you went back to work that afternoon?

12 A The long time that I had contact with his face I can
13 look at him right now and I can tell you with absolute
14 certainty that that is the man that was in the car.

15 Q Several seconds is the long time that you're talking
16 about?

17 A It is a long time when you sit and stare at something
18 for that long.

19 Q Okay. And did you ever go and make a written
20 statement to the law enforcement officers?

21 A I don't believe I did.

22 MR. FINNEY: One second, please.

23 (Mr. Finney conferring with defendant.)

24 MR. FINNEY: Nothing further. Thank you.

25 THE COURT: Anything further from the State?

1 MS. FANT: No, Your Honor.

2 THE COURT: Okay. Thank you, sir.

3 (Witness left the stand.)

4 THE COURT: Scheduling, maybe y'all need to
5 approach a minute and let's see.

6 (Whereupon a bench conference was held.)

7 THE COURT: Ladies and gentlemen, I was speaking
8 to the attorneys about scheduling, trying my best to
9 finish this case by Friday. And their best guess is
10 that we should be able to do that, so we're going to
11 break for this evening.

12 I need you back in the jury room at 9:30 in the
13 morning. I will remind you you can't discuss this
14 case with anybody. You have got to decide this case
15 based on what you hear in this courtroom.

16 I know that WIS was here today, and I don't know
17 what they're going to put on TV, if anything, but you
18 can't watch it. It's very important that you decide
19 this case based on what you hear from the witness
20 stand and only from what you hear from the witness
21 stand as well as exhibits that have been introduced,
22 so...

23 MS. FANT: Your Honor, may we approach before
24 you dismiss the jury for the day?

25 THE COURT: Okay. Hang on just a minute.

1 (Whereupon a bench conference was held.)

2 *THE COURT:* All right. The weatherman and
3 weather forecasters say -- my understanding we're
4 supposed to have some bad weather. My last report
5 was that the sleet and snow is going to be in the
6 Greenville area and we're not going to have anything
7 but rain here.

8 In the morning if you wake up and it's sleet and
9 ice all over the ground, call the Clerk's office.
10 The message will be there for you as to whether I
11 need you here at 9:30 or we will delay because of
12 weather.

13 I don't, based on my best information, I don't
14 anticipate having this weather that would prohibit
15 y'all from getting here. But having said that, if
16 you wake up and there is hazardous weather, we will
17 have some type of message on the Clerk's phone number
18 to tell you either to come on in at 9:30 or wait till
19 10:30 or something.

20 So if the weather is clear and everything is
21 straight, then be here at 9:30. If you wake up and
22 we do have snow and the weatherman misses it and we
23 have an issue and the power goes out, if you call --
24 I understand also, the power is out, you can't get
25 in.

1 We'll figure out somehow to get the message to
2 you. But right now be here at 9:30 unless you wake
3 up and it's serious weather issues, and I will have
4 contacted the Clerk's office.

5 But as I told you, please don't discuss this
6 case yet. Have a good evening. I will see you in
7 the morning.

8 (Jury left the courtroom at 5:41 pm.)

9 THE COURT: Anything else from the State?

10 MS. FANT: No, Your Honor.

11 THE COURT: From the defense?

12 MR. FINNEY: No, Your Honor.

13 THE COURT: Okay. We'll be in recess until
14 9:30 in the morning.

15 ***** January 17, 2008 *****

16 THE COURT: State ready?

17 MS. FANT: Yes, Your Honor. Before we start, we
18 would like to get a list of the alibi or other
19 witnesses Mr. Finney intends to call so I can have
20 someone start running criminal histories, get their
21 date of birth and social if they have it.

22 MR. FINNEY: Judge, the only list I can give her
23 is the one I gave her probably 10 days ago.

24 MS. FANT: It's not helpful. It doesn't have
25 any -- it just has a name on it.

1 MR. FINNEY: It has addresses.

2 MS. FANT: White or black. You can't run
3 someone's criminal history using an address.

4 MR. FINNEY: Well, I certainly didn't ask my
5 witnesses their date of birth and social security.
6 There was a witness list provided on Monday when the
7 case started that I handed up that you called out the
8 roll on.

9 MS. FANT: Yes. But what I mean -- what I'm
10 telling you if we don't have their social and or
11 their date of birth and their race, we can't run
12 their record any way.

13 MR. FINNEY: Well, half of them she's already
14 called. I expect there to be nine witnesses called,
15 some of them police officers...

16 MS. FANT: Well, hopefully we don't have to
17 worry about them.

18 THE COURT: Okay. Well, do you know based on --
19 all right. You have given me a list of 19 witnesses.

20 MR. FINNEY: Yes, sir. Let me -- I can give you
21 a quick scenario. Do you have your list,
22 Ms. Solicitor?

23 MS. FANT: Yes.

24 MR. FINNEY: Judge, if things -- if needed, I
25 would need number one, number two, number four,

1 number five, number seven, number eight, number nine,
2 number 11 maybe.

3 *THE COURT:* She's already testified.

4 *MR. FINNEY:* Yes, sir. And this will be a
5 recall for one issue on -- number 13, number 14,
6 number 15 and number 18.

7 *THE COURT:* All right. Are any of those
8 witnesses in the courtroom now?

9 *MR. FINNEY:* I don't expect so because I told
10 them to be here at 2:00 today.

11 *THE COURT:* I hope you didn't because I promise
12 you we ain't waiting till 2:00 to get to your case.
13 We'll be here Sunday if we do that.

14 *MR. FINNEY:* Well, I understand. I have some
15 coming at 11 and the rest of them are coming at two.

16 *THE COURT:* Okay.

17 *MR. FINNEY:* The first one, two and 15 are
18 coming at 11.

19 *THE COURT:* Okay. Well, when they get here,
20 they -- then you need to apprise the State.

21 *MR. FINNEY:* I will get their date of births and
22 their social security numbers.

23 *THE COURT:* Okay. That's 12 -- potentially 12
24 witnesses, so we've got 13 more witnesses to go. And
25 -- and...

1 MR. FINNEY: Yes, sir. And I...

2 THE COURT: Okay. Anything else before we bring
3 the jury in?

4 MS. FANT: No, Your Honor.

5 THE COURT: All right, sir. If you'll get us
6 the jury.

7 (Jury entered the courtroom at 9:47 am.)

8 THE COURT: Madam Solicitor, you may call your
9 next witness.

10 MS. FANT: Your Honor, the State calls Sergeant
11 Clarence McMillan.

12 CLARENCE MCMILLAN, after being
13 duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. FANT:

16 Q Good morning, Sergeant McMillan. Can you tell us
17 where you work?

18 A I'm currently employed with the Sumter County
19 Sheriff's Office here in Sumter.

20 Q And how long have you worked there?

21 A Approximately 12 and a half years.

22 Q What do you do at the Sheriff's Office?

23 A I'm currently assigned to the criminal investigations
24 division. I have currently -- it's been about seven years
25 since I was assigned to actually investigations. I work

1 property crimes, assist on violent crimes, and -- as well
2 as arson.

3 Q And is an investigator at the Sheriff's Department
4 pretty much like a detective?

5 A Yes, just different titles, detective and
6 investigations is the only distinguish.

7 Q Sergeant McMillan, how did you become involved in
8 this case?

9 A On Monday the May the 23rd, 2005 we got a report of a
10 possible body in Boyle's Pond, a fisherman called 911 and
11 advised law enforcement of that. At that time Captain
12 Turner, who is the commander of the Investigation
13 Division, he dispatched several investigators out there to
14 the scene to see what was going on.

15 At that time Investigator Barfield, he was the first
16 investigator that respond to the scene, he responded
17 there. He saw what appeared to be a body in Boyle's Pond.
18 It was submerged, and he stated that it looked funny.

19 He then called back to the commander, which is
20 Captain Turner, and he in turn sent more investigators out
21 there. Myself along with other investigators responded
22 there.

23 Q Okay. At this point I'm going to have you step down
24 briefly and I will show you what's been marked as State's
25 Exhibit 60. I'm not going to bring the podium, but do you

1 recognize this map?

2 A Yes, ma'am.

3 Q What does it depict?

4 A It's an areal view of St. Paul's Church Road,
5 Cobblestone and Boyle's Pond bridge and Boyle's Pond
6 itself.

7 Q And can you point out where the bridge is that we're
8 talking about?

9 A Boyle's Pond is going to be -- bridge is right here,
10 it's right here. Boyle's Pond itself and this is the
11 bridge right here that we're making reference to.

12 Q Okay. And where is Cobblestone in reference to that?

13 A Cobblestone is right here, runs from down...

14 Q And that would be where Mr. Koenig was.

15 A Right.

16 Q And that bridge is where the body was found? Could
17 you just point out -- it's hard -- I know it's not the
18 detail.

19 A Right. Yes, ma'am. This is the bridge right here.
20 The body was found about right up in here off to the left.

21 Q Okay.

22 A Mr. Lunberg, I think it was -- he was going to fish
23 right up in here.

24 Q And that's what he saw?

25 A That's when he saw it, came up and saw it. You could

1 see -- got to stand on the bridge right here to look down,
2 and you could actually see the top of the victim's head.

3 Q Okay.

4 MS. FANT: Your Honor, at this time I would
5 offer State's Exhibit 60 into evidence.

6 THE COURT: What says the defense? No
7 objection.

8 THE COURT: It is in. I'm sorry. I just
9 checked my notes.

10 BY MS. FANT:

11 Q And also, since we're dealing a lot with time here...

12 (WHEREUPON, State's Exhibit No. 61 was marked
13 for identification only.)

14 MS. FANT: Your honor, at this time I just would
15 ask that you take judicial notice -- this is a
16 calendar for the year 2005 including the month of
17 May, 2005.

18 THE COURT: Any objection?

19 MR. FINNEY: No objection.

20 THE COURT: Okay. Court takes judicial notice
21 of the -- calendar is May of 2005, it being
22 introduced. You -- going to introduce it as an
23 exhibit?

24 MS. FANT: Yes, your Honor.

25 THE COURT: Which Exhibit?

1 (WHEREUPON, State's Exhibit 61 was admitted into
2 evidence.)

3 BY MS. FANT:

4 Q Now, after the call came in from investigator
5 barfield that there was in fact a body, what happened
6 next?

7 A Like I said, we -- the commander of the division,
8 Captain Turner, he dispatched the investigators out,
9 myself and Lieutenant Florence -- think was about five or
10 six of us. I can't really recall who all -- without
11 looking at my crime scene log. But any way, I got there
12 about 3:00.

13 Q Okay.

14 A Sergeant Mackessy got there some time after that as
15 well as the Coroner. Captain Turner himself responded.
16 Captain Turner came out in his scuba gear. He looked at
17 the body. He swam out. He surveyed what he had.

18 He retrieved the body from the pond which was --
19 appeared to have a cement block and a wire clothes hanger
20 anchored to his feet.

21 Q Would that be the cement block and hanger here,
22 State's Exhibits 30 and 31, that are already in evidence?

23 A Appears to be, yes, ma'am.

24 Q Okay. What happened next?

25 A EMS was there. The -- they took a look at the

1 victim. At that point they stated that we needed to
2 contact the Coroner, Verna Moore. Verna Moore responded
3 out there to the scene while we were there. She
4 pronounced Mr. James dead.

5 We -- Sergeant Mackessy took photographs of the -- of
6 the scene as the body -- as it was in the water, also when
7 they brought it to shore, took different angles, took
8 pictures of the bridge.

9 Q Once -- once the body was brought ashore, could y'all
10 tell that there were obvious injuries?

11 A Yes, you could see injury to his head and look like
12 his arm and somewhere around his side.

13 Q Okay. And what did y'all do next?

14 A Okay. After photographing the victim, I think it was
15 Captain Turner or either the Coroner, they -- we found a
16 wallet in Mr. James' pocket. He had a South Carolina
17 identification -- ID card with his picture on it. It
18 clearly looked like the victim on the picture, and he had
19 a Hillcrest Mobile Home Park address.

20 Mrs. Moore took possession of the belongings as far
21 as the wallet and its contents.

22 They removed the body from the water, and Mrs. Moore
23 transported or had the body transported to either the
24 hospital or to the morgue.

25 Q Okay.

1 (WHEREUPON, State's Exhibits Nos. 62, 63 were
2 marked for identification only.)

3 BY MS. FANT:

4 Q Sergeant McMillan, I will ask you at this time to
5 step down.

6 A (Complied.)

7 Q And do you recognize this bag?

8 A Yes, ma'am, it's -- it's exactly a Food Lion bag, but
9 it's a paper bag that has Ernest James' pants in it,
10 should have his pants in it.

11 Q And why would y'all put it in a paper bag as opposed
12 to plastic?

13 A To preserve it and might -- it was wet and probably
14 blood-stained.

15 Q I'm going to ask you to take out the... do you
16 recognize those shorts?

17 A Yes, ma'am.

18 Q And how do you recognize them?

19 A They appear to be the short pants that the victim had
20 on at the time we retrieved him from Boyle's Pond.

21 Q Were those taken into evidence by Ray Mackessy?

22 A Yes, ma'am.

23 MS. FANT: Your Honor, at this time we would
24 offer State's Exhibit 62 into evidence.

25 THE COURT: What says the defense?

1 MR. FINNEY: No objection.

2 THE COURT: Okay. Exhibit 62 is in without
3 objection.

4 (WHEREUPON, State's Exhibit 62 was admitted into
5 evidence.)

6 BY MS. FANT:

7 Q And I will have you do the same thing for State's
8 Exhibit 63. Do you recognize the -- that bag?

9 A Yes, ma'am, same packaging. It's marked with Ernest
10 James, and it should have been the shirt that he had --

11 Q Okay.

12 A -- the time he was in Boyle's Pond.

13 Q Okay. I will ask you to remove that, please.

14 A (Complied.)

15 Q And do you recognize that jersey?

16 A Yes, ma'am. It appears to be the jersey that the
17 victim had on when we retrieved him from Boyle's Pond.

18 Q And was that the jersey that Mr. Mackessy took into
19 evidence?

20 A Yes, he did.

21 MS. FANT: Your Honor, at this time we would
22 offer State's 62 into evidence.

23 THE COURT: What says--

24 MS. FANT: Sixty-three, I'm sorry.

25 THE COURT: Sixty-three is in without objection.

1 (WHEREUPON, State's Exhibit 63 was admitted into
2 evidence.)

3 BY MS. FANT:

4 Q Now, in addition to taking the photographs that we
5 have actually already seen into evidence, Sergeant
6 Mackessy in fact collected a swab that he deemed suspected
7 blood. Could you tell us about why that was collected?

8 A While out there on the scene at the bridge, we were
9 standing on the bridge and we were trying to see if there
10 was any signs of a struggle, any signs of any blood
11 splatter, any drag marks, any -- anything that would have
12 put up some type of struggle.

13 And as we was looking, myself and the other
14 investigator was looking along the bridge and the roadway,
15 we didn't find any signs or any blood splatter or anything
16 in the roadway, so we start going up the side of the
17 bridge.

18 As we was going up the side of the bridge, you could
19 notice a little speck that pinkish in color, reddish in
20 color, and Sergeant Mackessy then -- we pointed that out
21 to him, he then -- it was on the side of the bridge. He
22 then swabbed that and took it into evidence.

23 Q And what's the normal procedure for the Sheriff's
24 Office when that happens?

25 A Well, normally any -- any evidence that's collected

1 is accompanied with a chain of custody form that we
2 call -- and that we use with any evidence that we take in.
3 In turn, if we deem it to be -- that it need to be sent to
4 SLED for analysis, we will complete a SLED form.

5 That would accompany the chain of custody form as
6 well as the SLED analysis form, and we would turn that
7 into the forensic technician which would be Sergeant
8 Mackessy.

9 Q And who sends it to SLED typically?

10 A Sergeant Mackessy.

11 Q And as we have heard earlier, in this case it wasn't
12 actually sent; was it?

13 A No, ma'am.

14 Q In hindsight, what would you have done?

15 A In hindsight it should have been sent for analysis to
16 either rule out whether it was human blood, animal blood,
17 or if it was blood at all.

18 Q Did you in fact think it was blood?

19 A When I got there, no. Me personally I didn't.

20 Q Why not?

21 A But -- I really -- it was kind of peculiar where it
22 was at on the bridge. That one speck was on the -- on the
23 bridge, didn't have a -- didn't show any signs of a
24 splatter or anything, nowhere else up along the bridge, no
25 smudge, no droplets, no splattering, nothing on top of the

1 bridge, on the side of the bridge, just that one -- one
2 spot and it was kind of odd, but we felt as though it
3 still needed to be collected.

4 Q And in your opinion it could have ruled it out. Do
5 you think it would have actually been totally important in
6 this case?

7 A No, other than to say whether it was human blood or
8 it was -- wasn't blood at all.

9 Q And if someone is standing up and dripping blood,
10 what do you typically see as a result?

11 A In my experience you would -- it would be like a
12 splatter, you -- like a splash. In this case right here
13 we didn't see that. It was just -- it was a speck. No
14 signs of drippings, no -- no splatter, no other patterns
15 in that area on the bridge that we could see.

16 Q And I will show you State's -- let's see what we have
17 here -- 24, 27, 28 and 29. Twenty-nine is again what?

18 A Okay. That would be the -- the speck of blood or
19 suspected blood or reddish substance, pinkish substance.

20 Q And that again was done with the measurements by
21 Sergeant Mackessy?

22 A Correct.

23 Q And what is the measurement of the ruler that's in
24 the photo?

25 A It's a -- the sticker is a 2-inch sticker.

1 Q That's what I meant. I'm sorry, sticker.

2 A Yeah. Yeah, it's a 2-inch sticker.

3 Q And how big is the speck in comparison to that?

4 A It appears to be like a 16th of an inch.

5 Q And then these are 24, 27 and State's 28. Could you
6 tell us what those are?

7 A Okay. The picture marked 24 is -- that's the side of
8 the bridge that the speck was on, and of course you could
9 see other investigators there on the -- standing on the
10 bridge. Captain Turner is standing where marker number
11 one, and I believe that the speck was in that general
12 area.

13 Q What--

14 A It shows a picture of Boyle's Pond in relation to
15 where the body was found in Boyle's Pond.

16 Q Okay. And the other two?

17 A Twenty-seven, the picture labeled 27 is depicting the
18 side of the bridge as you face it standing toward it, and
19 it's showing a picture of Boyle's Pond and the condition
20 that the water was in, and it also shows a picture of the
21 speck on the bridge.

22 Q Do any of those photos show other markings, big
23 markings, evidence of blood splatter or anything?

24 A No, ma'am.

25 Q Okay. Is that the same for the next photo?

1 A The same. I would testify to the same on that. It's
2 just a shot further back and showing another extra column
3 on the bridge.

4 Q Okay.

5 A But the same view.

6 Q Now, following the actual recovery of the body and
7 Mr. -- Mrs. Moore's actions, what did you do next?

8 A Based on the information that was attained from off
9 of Mr. James' South Carolina ID, I went by Ms. Jean
10 Spann's residence and made contact with her.

11 Q Now who is -- who is Jean Spann?

12 A Jean Spann, she stated that she was Ernest James'
13 ex-girlfriend and that they had cohabitated together for
14 about eight years before he met his -- the current
15 girlfriend before his death.

16 Q Okay. And what was Ms. -- what information was
17 Ms. Spann able to provide?

18 A I spoke with Ms. Spann and she stated that her and --
19 that -- first of all she stated that the Coroner had just
20 left there, the Coroner just left shortly before I got
21 there, and advised her of Mr. James' death.

22 She stated that she in turn told Mrs. Moore that
23 Ernest hadn't lived there for quite a while and that he in
24 fact was seeing a female named Martha Ransom that lived on
25 [REDACTED] Springhill Road. And then she provided me some other

1 people that I might wanted to speak to in reference to
2 Ernest James.

3 Q And following your conversation with Ms. Spann, what
4 did you do?

5 A After I left Ms. Spann, I went to 67 -- myself and
6 Investigator Gardner with me at the time as well -- I
7 neglected to say that -- but we went to [REDACTED] Springhill
8 Road to make contact with Martha Ransom.

9 We arrived there. It was kind of dark, it was
10 getting dark. As a matter of fact, it was dark. I spoke
11 with Ms. Ransom briefly, gave her my card. I told her
12 that -- and Mrs. Moore, spoke with Mrs. Moore.

13 And she agreed that at that particular time it
14 wouldn't be suitable that, you know, to talk to her about
15 the case based on she just got notified of her boyfriend
16 dying and wanted to give her some time to grieve.

17 But I left my card there and I told her that we'd be
18 back in touch with her.

19 Q Did you do anything else that evening?

20 A Then we went back to -- we met back up at the office,
21 myself and Investigator Gardner, and we pretty much tried
22 to come up with some things that we were going to do for
23 the next day.

24 Q Okay. And on -- the next day would have been Tuesday
25 the 24th?

1 A Tuesday the 24th.

2 Q What did you do on Tuesday? What did you start out
3 doing?

4 A Tuesday the 24th I went by Boyle's -- Boyle's Pay
5 Here, Buy Here, which was the place that the blue Volvo
6 was purchased from. I spoke to Mr. Fields. I think it
7 was James Fields I spoke with, and I advised him about the
8 investigation and that I had information that a Martha
9 Ransom purchased a blue Volvo from that particular
10 business.

11 He confirmed that and gave me description of the
12 vehicle, gave me the actual vin number for it, and stated
13 that it should have -- well, at the time of purchase it
14 had bright yellow Easy Auto paper tag on it.

15 Q Was he able to -- to tell you anything else about
16 attempting to locate the vehicle?

17 A Yes, ma'am. Mr. Fields advised me that that
18 particular vehicle -- the vehicles that they sell there,
19 they have like GPS tracking system that was a livetime.
20 And what he meant by livetime, it wouldn't -- it wouldn't
21 track the vehicle's every whereabouts, but if the vehicle
22 is parked at a particular place or that they could
23 pinpoint where it is.

24 But they use that for if an individual customer is
25 late on their payments and they don't pay it, they got a

1 chip in there where they can shut the vehicle down and in
2 turn it would tell them how to come by and pick up that
3 vehicle -- where the vehicle is located for them to pick
4 it up.

5 But in this case Mr. Fields advised me that he wasn't
6 getting a signal and that the vehicle probably was either
7 destroyed or parked in a parking garage somewhere and the
8 signal is not getting out.

9 Q After you talked to Mr. Fields, what happened next?

10 A After I spoke with Mr. Fields, we did a few other
11 things, went around and tried to gather a little more
12 information. But I met with the Hughes family at the law
13 enforcement center. They came by the law enforcement
14 center.

15 And myself, Sheriff Dennis, Gwen Herod I think was in
16 there, and Captain Barron--

17 Q Now, when you refer to the Hughes family, who are
18 they?

19 A I'm sorry. The victim's family, Ernest James'
20 family.

21 Q Okay. Their last name is Hughes?

22 A I think so, Hughes. We met with them at the
23 Sheriff's Office in the classroom, upstairs classroom.
24 While there, we spoke with them, we spoke with Bobby Lee
25 Hughes, which we end up getting -- he provided us a

1 statement.

2 He advised me that he had spoke with Nate Bradley and
3 that Mr. Bradley told them that he last saw Ernest James
4 at Martha Ann and them house which is at Springhill
5 Road, and that as he was going to Martha Ann's house,
6 there was this unknown guy that he didn't know walking
7 down the driveway that leads back to Ms. Ransom and them
8 house. He gave him a ride.

9 Went up to the house. Supposedly, according to
10 Mr. Hughes, that they were going there and they were
11 supposed to get together and supposed to go rob some drug
12 dealer according to the statement that was provided.

13 But he didn't go. Mr. Bradley advised Mr. Hughes
14 that he didn't go because his girlfriend's daughter, he
15 had to pick her up at the hair dresser.

16 Q And this -- this again is what the defendant told
17 Mr. Hughes?

18 A According to Mr. Hughes' statement, yes, ma'am.

19 Q Yes. Okay. And as a result of your conversation
20 with Bobby Lee, what did you do?

21 A Myself and the victim advocate, Gwen Herod, we took
22 Mr. Hughes around to my office and with assistance from
23 Gwen we typed up Mr. Hughes' statement and obtained the
24 statement from him.

25 Q Now, did he give you some -- some information that

1 was helpful in locating Mr. Bradley?

2 A Yes, ma'am.

3 Q Or how did that come about?

4 A Okay. While we were in the classroom at the law
5 enforcement center, Mr. Hughes provided a card with
6 Mr. Bradley's business telephone numbers on it, his
7 painting business numbers on it.

8 At that time Sheriff Dennis stated that he knew the
9 family and that he would try calling to see if he could
10 get Mr. Bradley to come in and talk with us being that we
11 had information that he was the only -- he was one of the
12 last people seen with Mr. Bradley -- Mr. James alive.

13 Q And did that in fact happen?

14 A Yes. At some point Sheriff Dennis made contact with
15 Mr. Bradley or somebody affiliated with Mr. Bradley, and
16 at about 2:30, 3:00 on that same day, which would have
17 been the 24th, Mr. Bradley came up to the Sumter County
18 Sheriff's Office.

19 Q And who actually conducted the interview with the
20 defendant?

21 A There were several people in the -- in the classroom
22 because that's where we initially talked to them at, in
23 the classroom. It was Sheriff Dennis, Lieutenant
24 Florence, myself, and Investigator Gardner.

25 Q And what did the defendant tell you at that time

1 about what he knew?

2 A Okay. At the -- at the time that Mr. Bradley came to
3 the law enforcement center on the 24th he stated that --
4 well, we asked him when was the last time that he saw
5 Ernest James alive.

6 Mr. Bradley advised us that he last saw Ernest on the
7 21st I think it was, Saturday the 21st, May the 21st,
8 2005, and that he met -- he went by Martha Ransom's house
9 at Springhill Road, this unknown guy again was
10 walking down the driveway going back to Ms. Ransom's
11 residence, he picked him up and gave him a ride back
12 there. At that time...

13 Q Did he mention anything about being at Henry
14 Kirkland's place?

15 A No, not at that time he didn't. He didn't tell me he
16 was at Henry Kirkland's place.

17 Q Okay.

18 A Then he said that Ernest came out, got into the blue
19 Volvo, drove off. He and this -- this guy that he didn't
20 know drove off in his vehicle. They came to the end of
21 the driveway.

22 The unknown guy got out and got into the Volvo that
23 Ernest James was driving, and that was the last time that
24 he seen him.

25 Q I will ask you to step down again. And we'll just

1 look at this from here. This is State's Exhibit 58
2 depicting the Rembert area where the Springhill Road is.
3 According to Mr. Bradley, show us the road that he'd be
4 talking about and where this alleged unknown guy got into
5 the vehicle with Mr. James.

6 A Okay. This right here is 521 North going toward
7 Camden. Springhill Road is right here. Take a right on
8 Springhill Road, drive down, come down. This right here
9 is the victim's lane right here. You got to drive down.
10 It's a winding lane. The residence sits right here.

11 Q Okay. Can you see the house from the road?

12 A No, can't see the house from the road.

13 Q And it's not really a road; is it?

14 A No it's -- it's a bumpy, bumpy holey lane. It's kind
15 of -- kind of rough getting back there.

16 Q So according to the defendant, where did he drop this
17 unknown guy off?

18 A Coming up here, he would have dropped him off here at
19 the house right here. This is the residence. Going back
20 out--

21 Q Did he say the guy actually got out of the residence,
22 he dropped him off there?

23 A No, huh-uh. Stated that -- well, he stated -- he
24 stated two things. In one of the statements that was
25 provided to us, he said that when he got to the residence

1 this unknown guy was already there.

2 Q Okay.

3 A Okay. But what he told me was that this unknown guy
4 was walking down this lane right here, so he picked him
5 up, took him to the house. At some point a conversation
6 exchanged between William McCray and Mr. Bradley, the
7 defendant --

8 Q The defendant?

9 A -- Mr. James then came out the house, got into the
10 Volvo, and they drove back out to right here ahead of
11 Mr. James and this unknown person. Mr. James and unknown
12 person drove up -- I'm sorry, Mr. Bradley and the unknown
13 person drove up to the end of the road right here, and
14 Mr. Bradley stated that right here at the end of the road
15 this unknown person got out the vehicle, got in the
16 vehicle with Mr. James and left. That was the last time
17 he seen him.

18 Q Okay. Now, did he make any further statements at
19 that time? Let me back up a minute. Let me make this
20 clear. Had you mirandised Mr. Bradley at this time?

21 A No, he wasn't under arrest at that time. He was free
22 to go and come as he pled (sic).

23 Q This was a voluntary conversation?

24 A Right.

25 Q Okay. And what else did y'all ask him about and what

1 did he tell you?

2 A We asked him where did he spend -- where was he at
3 Saturday night. Mr. Bradley stated that he spent the
4 night with his girlfriend, Donna McDuffie, who stayed in
5 Bishopville, ■ -- later found out it was ■ Spann, Spann
6 Road, which is actually in Lee County.

7 Q Did he actually indicate that he had gone to her
8 house right after that incident -- allegedly with the
9 road? Or did he say he went there later?

10 A No, he just he stated that he went there. He didn't
11 really give a specific time as when he went, but he stated
12 that he spent the night there.

13 Q Okay. And would you, I guess, look at the summary of
14 the statement that he gave, if you have one. If not, I'll
15 just use it to refresh your memory --

16 A Okay.

17 Q -- about the specific question that y'all asked him.

18 A Okay. You making reference to 24?

19 Q That's correct. The -- after he had told you about
20 this, you know, alleged unknown person, what did y'all ask
21 him?

22 A Okay. After leaving Ernest James' residence, where
23 did you go? Bradley stated that he stayed with his
24 girlfriend, Donna McDuffie, who lives at ■ Spann Road in
25 Bishopville, South Carolina.

1 Q So is it fair to say he might have been indicating
2 that he left there and went?

3 A Could. Could have, could have. Could have been,
4 yes, ma'am.

5 Q Was he giving you any specifics at all?

6 A No. He basically said that he stayed at Donna
7 McDuffie's residence. He didn't offer anything else.

8 Q Now, did you know who Donna McDuffie was?

9 A No, no, ma'am.

10 Q And after he made that statement to you, what
11 happened?

12 A Lieutenant Florence was in there and we asked him
13 could he call his girlfriend, you know, to verify this
14 information. Mr. Bradley stated that his phone was dead I
15 think. And Lieutenant Florence handed him his telephone,
16 his cellphone. Mr. Bradley dialed some -- some numbers
17 and hung up and said that nobody answered.

18 Q Okay. And what did -- what happened next as a result
19 of that?

20 A At that time Lieutenant Florence, he stepped out of
21 the classroom. Shortly after that he called, came back
22 and asked me to step out. I stepped out and he mashed
23 re-dial and presented a telephone number to me.

24 I in turn got that telephone number, stepped back to
25 my office real quick, dialed that number, and Ms.

1 McDuffie -- well, a female answered the phone, and I asked
2 her was she Donna McDuffie, and she told me -- she stated
3 yes.

4 I asked her did she know Nathaniel Bradley, and she
5 told me she did. I asked her did he spend the night there
6 on Saturday night, and she stated that he didn't spend the
7 night there, but he did call -- stated that he called
8 there and asked to come by, and she told him no, it was
9 late, you're not coming by and -- but she was adamant
10 about that he didn't spend the night there.

11 Q Did she indicate that he was her boyfriend?

12 A No. I asked her was -- did they have a relationship,
13 was he her boyfriend, and she stated no, that she met him
14 through a neutral party and that they just friends.

15 Q Now, after you made that call, what did you do?

16 A Uh-huh. I stepped back in the classroom and Mr. -- I
17 spoke with Lieutenant Florence and I advised him about it.
18 But Mr. Bradley, he seemed to be a little agitated, and he
19 asked us was he being placed under arrest, and we told him
20 no, that you're free to go, and he got up and he left
21 shortly after that.

22 Q Did you tell him at that time what you had learned
23 when you were outside the room?

24 A No, ma'am. I didn't tell him about that.

25 Q And he left at that point?

1 A Shortly after that he left.

2 Q What did you do next -- or let me ask you something
3 else actually about Ms. McDuffie. You said that you
4 didn't know her?

5 A No, I didn't, not prior to that.

6 Q Had you never even -- had you ever heard her name
7 before?

8 A No, ma'am.

9 Q And what was the sole reason that you called her?

10 A To verify his whereabouts on Saturday. He stated
11 that he spent the night with Donna McDuffie, and we wanted
12 to verify that that's in fact where he -- he stayed at.

13 Q And y'all were talking about Saturday on May the
14 21st, 2005?

15 A Correct.

16 Q What did you do after that, after the defendant left?

17 A On the 24th?

18 Q Uh-huh.

19 A At some -- at some point on the 24th Simon -- Major
20 Simon from -- I'm sorry, I was going to say Simon Major,
21 but--

22 Q Easy to do in Sumter.

23 A Major Simon of the Lee County Sheriff's Office called
24 the Sumter County Sheriff's Office and advised Sheriff
25 Dennis that he believed that they found a Volvo in a

1 cemetery that was completely burned in their jurisdiction.

2 At that point Sheriff Dennis contacted me, Wesley
3 Gardner -- I think it was just me, him, and Wesley
4 Gardner. We went down there and met up with Major Simon
5 at Slater's Garage. They had the vehicle towed there.

6 We asked Major Simon could he store it in a secure
7 place. They moved the vehicle down to the fire department
8 in Lee County which they stored it on the inside to
9 preserve it from the weather.

10 Q Okay.

11 (WHEREUPON, State's Exhibit Nos. 64-74 were
12 marked for identification only.)

13 BY MS. FANT:

14 Q Sergeant McMillan, I'm going to show you a series of
15 photographs. These would be State's 64, 65, 66, 67 and 68
16 first of all. Do you recognize that?

17 A Yes, ma'am.

18 Q And how do you recognize it?

19 A That appears to be the burnt Volvo that was located
20 in the cemetery in Lee County.

21 Q And is it in the same condition and does that photo
22 fairly and accurately depict it as you saw it that day?

23 A Yes, ma'am.

24 MS. FANT: Your Honor, I would offer these items
25 into evidence.

1 MR. FINNEY: No objection.

2 THE COURT: Okay. Exhibit 64, 65, 66 and what?
3 How many are there?

4 THE WITNESS: Sixty-eight.

5 THE COURT: Sixty-four, 65, 66, 67 and 68 are in
6 without objection.

7 (WHEREUPON, State's Exhibits 64-68 were admitted
8 into evidence.)

9 MS. FANT: Permission to publish these, Your
10 Honor?

11 THE COURT: Okay.

12 BY MS. FANT:

13 Q I will also show you what has been marked as State's
14 69, 70, 71, 72, 73 and 74. If you can take a look at
15 those and see if you recognize that.

16 A Yes, ma'am.

17 Q And how do you recognize it?

18 A It's photographs of the interior of the burnt Volvo.

19 Q And do those photographs fairly and accurately depict
20 the inside of the car as you saw it that day?

21 A Yes, ma'am, from different -- different angles.

22 MS. FANT: Your Honor, I would move those
23 photographs into evidence.

24 THE COURT: What says--

25 MR. FINNEY: No objection.

1 THE COURT: Okay. 69, 70 through 74 in without
2 objection.

3 (WHEREUPON, State's Exhibits 69-74 were admitted
4 into evidence.)

5 MS. FANT: May I publish, Your Honor?

6 THE COURT: Yes, ma'am.

7 BY MS. FANT:

8 Q What could you tell by looking at the vehicle at that
9 point?

10 A You could tell that some type of accelerant probably
11 was used in burning it and that it was -- it was burnt
12 beyond recognition really. You -- it was totaled.

13 Q Did -- as a result of that, did you or Sheriff Dennis
14 contact SLED?

15 A I didn't contact them, but I believe Sheriff Dennis
16 or somebody that he designated contacted SLED and advised
17 them that he wanted them to come down and process the
18 vehicle.

19 Q And on -- after y'all looked at the vehicle that day,
20 which would have been still the 24th, what else did you
21 do?

22 A On the 24th?

23 Q Yeah.

24 A We went back to the Law Enforcement Center and...

25 Q Let me ask you one thing that I just realized --

1 A Okay.

2 Q -- I think. Did you go to the scene at the cemetery
3 where the vehicle was burned?

4 A Yes, ma'am. That was on the 25th when SLED actually
5 came down on the 25th, the -- to process the vehicle.

6 (WHEREUPON, State's Exhibits Nos. 75-79 were
7 marked for identification only.)

8 BY MS. FANT:

9 Q So you didn't actually go to look at the scene in the
10 cemetery that day, the 24th?

11 A No, ma'am. It was -- it was late in the evening, and
12 we went down there to view the vehicle and ask them to put
13 it inside a secure location.

14 Q And where did you go after that? I'm sorry.

15 A After that we went back to the Sheriff's Office and,
16 like I said, we discussed what we was going to do for the
17 next day.

18 Q And the next day would be...

19 A The 25th.

20 Q Okay. Tell us what happened on the 25th.

21 A On the 25th when we arrived at the Sheriff's Office
22 for work that day, I gave Mr. Bradley a call to see if he
23 would be willing to come back up to speak with me.

24 And I wanted him to come back up so I could confront
25 him with the information that we had about Ms. McDuffie

1 and him not being there, spending the night there.

2 I got his voicemail. I left a message that I needed
3 to talk with him again, and if he would, could he come up
4 and speak with me. Some time later he called me back and
5 stated that he was tied up at that moment, but he would
6 come by some time that evening to speak with me.

7 Q And what happened during the interim before he
8 arrived?

9 A Prior to him arriving there, myself, Captain Barron,
10 which was the Captain of Investigation at that time,
11 Investigator Bradley, Investigator Barfield, and myself,
12 we met up in the -- the classroom and we assigned
13 particular people, particular investigators certain things
14 that we needed for them to do.

15 And as a result of that, some of them went out to
16 take statements with different people, and they would
17 report back to me, you know, their findings if they found
18 anything that was significant to the case.

19 Q And the -- did you actually go out doing that or were
20 you working on other things?

21 A I pretty much was working on other things. I
22 couldn't do everything by myself, so I needed some help.
23 And in turn, the Captain and them got me help that I
24 needed and those guys, they went out and -- and pretty
25 much gathered some information for me.

1 Q Now, at this time did you have a description of the
2 vehicle that the defendant normally drove?

3 A Yes, ma'am. We got information that he was possibly
4 in a blue Beretta, a Chevy Beretta, and that it was a --
5 possibly seen in -- or that it was located in Windsor City
6 Mobile Home Park.

7 Q And did you actually go out there and look for the
8 vehicle at that time?

9 A Not at that time I didn't. We sent some patrol guys,
10 I can't recall who actually went, but they -- they were
11 dispatched out there to the area and they sat on the
12 vehicle and watched the vehicle.

13 Q Do you know where they actually located it?

14 A I can't remember the exact address, but it was going
15 to be the defendant's daughter residence. I can't
16 remember her number.

17 Q Okay.

18 (WHEREUPON, State's Exhibit No. 80 was marked
19 for identification only.)

20 BY MS. FANT:

21 Q I will show you what's been marked as State's Exhibit
22 80. Do you recognize that?

23 A Yes, ma'am. It appears to be the blue Chevy Baretta
24 that that was located in Windsor City that was supposed to
25 been driven by the defendant, Mr. Bradley.

1 Q Okay. Now, and does it fairly and accurately depict
2 it as you saw it that day?

3 A Yes, ma'am. We were able to identify the owner of it
4 by running the tag and -- and the vin.

5 Q And who does the car actually belong to?

6 A It actually wasn't registered in Mr. Bradley's name,
7 it was in Barbara Jean, Barbara Jean -- can't think of her
8 last name right now -- Barbara Jean Williams I think it
9 is. It came back registered in her name.

10 Q Okay. And during this time period I guess, at some
11 point did you obtain a search warrant to just look inside
12 the vehicle?

13 A Yes, I did. Based on the information that I had
14 passed on to me on the vehicle, I felt as though we needed
15 to obtain a search warrant to actually search the vehicle
16 to see if we could find maybe a gun, blood, fibers, DNA,
17 anything that would assist us in the investigation.

18 Q And who conducted the search of the Beretta?

19 A Actually Agent Gantt, he -- from SLED, he arrived
20 there at the scene and I met him there shortly after that
21 and he processed the vehicle.

22 And after he got through processing the vehicle, I
23 looked inside and took a few pieces of paper that I had
24 listed that I thought was of importance and -- but after
25 Agent Gantt finished processing it for blood, I think came

1 up negative.

2 Q Okay. Did Agent Gantt also process the burned
3 vehicle?

4 A Yes, ma'am. He processed the burnt vehicle that was
5 located in Lee County. And the vehicle was burnt so
6 severe that Agent Gantt wasn't able to obtain any physical
7 evidence that would link it to any particular person or
8 persons.

9 MS. FANT: Your Honor, at this time the State
10 would introduce a stipulation between the counsel for
11 the defendant and the State if -- I would like to
12 enter it into evidence and have you read it at this
13 time.

14 THE COURT: Okay. What says the defense?

15 MR. FINNEY: We consent to it, Your Honor.

16 (WHEREUPON, State's Exhibit 81 was admitted into
17 evidence.)

18 THE COURT: The State and the attorney for the
19 defendant hereby agree and stipulate that on May the
20 25th, 2005 Special Agent Bruce Gantt, South Carolina
21 Law Enforcement Division, Forensic Service
22 Laboratory, conducted crime scene processing on the
23 following vehicles.

24 A 1990 Volvo 240 sedan, vin number V -- I
25 mean -- sorry -- YV18A8844L1417010, a 1992 Chevrolet

1 Baretta registered to Barbara Jean Williams.

2 Number two, that Special Agent Gantt issued a
3 forensic service laboratory report dated May the
4 26th, 2005 that reads -- that read as follows:

5 No physical evidence suitable for scientific
6 analysis by the South Carolina Law Enforcement
7 Forensic Lab Services Lab, Laboratory was collected.

8 Special Agent Gantt died unexpectedly in 2007.
9 And both the attorney for the defendant and the State
10 have signed this stipulation.

11 MS. FANT: Thank you, Your Honor.

12 MR. FINNEY: Would that have an exhibit number?

13 MS. FANT: Eighty-one I think.

14 THE COURT: Eighty-one.

15 MR. FINNEY: Thank you.

16 BY MS. FANT:

17 Q Now, had you already gone to Lee County to view the
18 scene at the cemetery at this point?

19 A Yes, ma'am. We -- myself and Captain Barron went to
20 Lee County and Major Simon took us out to the cemetery or
21 the location where the vehicle was located at. I in turn
22 took some photographs of that general area.

23 The vehicle wasn't there, but you could still see
24 where it was burnt at and some other articles that were --
25 that came off the vehicle.

1 Q I will show you what's been marked as State's 75, 76,
2 77 and 78. Do you recognize those?

3 A Yes, ma'am.

4 Q And how do you recognize them?

5 A These are the photographs that I took of the -- the
6 area in the cemetery where the vehicle was burnt. It
7 depicts -- look like some metal and something that
8 probably came off the undercarriage of the vehicle, also
9 some broken glass.

10 Had some of the Volvo emblems 240DL on there. Also
11 has Volvo written out in -- it's the metal emblem, and a
12 view of the area where the vehicle was parked at and the
13 area that's -- that's behind it.

14 MS. FANT: Your Honor, at this time I would
15 offer these photographs into evidence.

16 MR. FINNEY: No objection.

17 THE COURT: That's 75 through 78?

18 THE WITNESS: Seventy-nine.

19 THE COURT: Seventy-nine.

20 THE WITNESS: Yes, sir.

21 THE COURT: They are in without objection.

22 (WHEREUPON, State's Exhibits 75-79 were admitted
23 into evidence.)

24 MS. FANT: I'd like to publish these, Your
25 Honor.

1 THE COURT: Granted.

2 BY MS. FANT:

3 Q Now, from your investigation in conjunction with --
4 with Major Simon, did you determine that that in fact was
5 Martha Ann Ransom's Volvo?

6 A Yes, ma'am, with a high degree of certainty the Lee
7 County Deputy Lloyd, he was able to get the majority of
8 the vin numbers that were on the vehicle, and except for I
9 think one or two, all the other numbers matched up to what
10 we had provided to us from Easy Credit Auto Loan.

11 Q Okay. Now, you had indicated earlier that Wednesday,
12 May the 25th, the defendant -- you had called the
13 defendant and asked him to come back in?

14 A Yes, ma'am.

15 Q And did he -- did he do that?

16 A Yes, ma'am. But prior to him coming in, like I
17 stated, we had several investigators do certain task.
18 Investigator Bradley went out to -- we had -- we had
19 information that Barbara Jean Williams was one of his
20 girlfriends.

21 Q One of the defendant's--

22 A One of Mr. Bradley's girlfriends. Melissa Bradley,
23 she went out there to number ■ South Forge Apartments
24 which is located off of Highway 261 south of Sumter, going
25 toward Columbia, the intersection of 378, turn left, go

1 down, South Forge Apartments is down there on the right.

2 She went down there and she made contact with
3 Ms. Barbara Jean Williams as well as Tanisha Williams and
4 I think it was Mrs. Sinkler, Eloise Sinkler.

5 Q Uh-huh.

6 A And all three provided her with written statements.
7 She in turn called me back and told me that she had just
8 completed taking statements from -- from the three, and
9 that Barbara Jean stated that--

10 Q Don't tell us what she said.

11 A Okay.

12 Q Don't tell us what she said.

13 A All right.

14 Q But she was able to relay that information?

15 A Right, she was able to relay that information to me.

16 Q So at that point you knew what they had told
17 Investigator Bradley, and the defendant came back in?

18 A Correct. He came -- like I said, he came back in
19 around the same time he did on that Tuesday, it was
20 between 2:30 and 3:00.

21 Q And what happened -- again, was he under arrest at
22 this point?

23 A No, he wasn't under arrest. He was never advised of
24 his Miranda. He was again told that he was free to leave.

25 Q And did you conduct another interview at that point?

1 A Yes, ma'am. I spoke with -- or I told Mr. Bradley
2 the reason why I called him up there is that I wanted just
3 to clarify some things that he had told me on Tuesday.

4 And I confronted him -- well, I asked him was he sure
5 that he stayed at Donna McDuffie's house? And he stated
6 yes. At that time I told him that I spoke with Donna
7 McDuffie and that she in fact told me that he didn't stay
8 there, that you called there, but you didn't stay there.

9 Okay. At that time he changed his story that he
10 stayed with -- at Barbara Jean Williams' house and that he
11 took -- he went on and stated that he took Tanisha
12 Williams to the -- the hair dresser. And at some point
13 during that time he went to visit one of his daughters.

14 Q Now, that inconsistent with the information you
15 already had?

16 A That was inconsistent with -- what the information I
17 had back. Referring back to Sergeant -- I'm sorry --
18 Investigator Bradley, she advised me that--

19 Q Without saying what she told you.

20 A Okay. Investigator Bradley -- with information that
21 Investigator Bradley provided me with, I advised
22 Mr. Bradley that we in fact had spoke with those
23 individuals and that -- that he didn't stay there.

24 Q And what did he do at that point?

25 A At that point he stated that he stayed at a house

1 that he was doing some painting on. At that time he
2 didn't tell me where the residence was that he was doing
3 any painting on, but supposedly he was at a residence,
4 they were doing some painting, and that when he left that
5 morning, some white guy was out watering the lawn.

6 Q Did he indicate what time that was in the morning?

7 A I -- the best I can recall I think he said it was
8 about 6:45.

9 Q And so at this point he had -- he told -- told you he
10 stayed with Donna McDuffie, he had told you he stayed with
11 Ms. Williams, and then he now switched it to a third
12 place?

13 A The house that he was doing some painting in.

14 Q Okay. And taking you back actually to the interview
15 from the day before, had he mentioned either Barbara Jean
16 Williams or the -- this alleged empty house on the day
17 before?

18 A No, he didn't.

19 Q And in fact, on that day did you -- in addition to
20 talking to him, notice an injury to Mr. Bradley?

21 A Referring to the 24th?

22 Q Yeah.

23 A Yes, ma'am. Myself, Sergeant Florence, and Sergeant
24 Gardner all observed it. I asked Mr. Bradley what
25 happened to his eye.

1 Q What was wrong with his eye?

2 A It was bloodshot, it was red and--

3 Q More than just like an allergy type reaction or...

4 A It was bloodshot red. And he stated that he was
5 doing some painting and a limb caught him in the eye.

6 Q And was it just one of his eyes that looked injured
7 or both of them?

8 A No, just one.

9 Q Okay.

10 A Just one. The left eye best I can recall.

11 Q Now, when he came in and discussed with you on the
12 25th and changed his story, what happened after that? Did
13 you indicate to him the -- that there was a problem?

14 A Yeah. I told him that the inconsistencies in his
15 story didn't match up with the -- the information that we
16 had. And like he said, he got agitated. He asked me was
17 he under arrest. I said, no. Then he said, well, he was
18 getting the hell out of there, and he got up and he left.

19 Q Okay. Do you know about what time that was?

20 A It was -- it was before 4:00. It was after three,
21 3:30, 3:40, somewhere up in there.

22 Q And did you ever actually talk to Mr. Bradley again
23 about the facts of the case?

24 A Not really about the facts. On the 27th -- well,
25 jump to the 27th. On the 27th when Mr. Bradley was

1 arrested, he was transported back to the Sumter County
2 Sheriff's Office, to my office, and I explained to him
3 about the warrant and advised him that I still wanted to
4 talk to him about some inconsistencies that we had, and he
5 made reference to a -- a residence that I went to on
6 McCrays Mill Road.

7 If I'm talking about that -- that crackhead, what --
8 in reference to the female house that I went on McCrays
9 Mill, he said if I'm referring to that crackhead--

10 MR. FINNEY: I'm going to object to this.

11 THE COURT: Okay. Sustained.

12 MR. FINNEY: And I want to put something on the
13 record.

14 THE COURT: Okay. Ladies and gentlemen, I need
15 y'all to go to the jury room for a few minutes.

16 (Jury left the courtroom at 10:52 AM.)

17 THE COURT: Yes, sir.

18 MR. FINNEY: On behalf of Mr. Bradley, I
19 strongly object to the prosecutor asking questions to
20 this witness regarding this information. Before this
21 trial started on Monday we had a record, we had a --
22 a discussion on the record where she told us that she
23 was not going to ask any questions about the third
24 paragraph in this supplement.

25 Now she's standing up here doing this. I think

1 it is prosecutorial misconduct for her to do that on
2 the record at this time.

3 And I would like for the Court to instruct the
4 jury that they are to disregard the question,
5 disregard any answers that were given, and that
6 the -- improper and -- for the prosecutor to do that.

7 *THE COURT:* What says the State?

8 *MS. FANT:* Your Honor, that was obviously not
9 the answer that I was intending to elicit. I think
10 Sergeant McMillan recognizes that now.

11 *THE WITNESS:* Yes, sir.

12 *MS. FANT:* I was attempting to get him to say
13 just that, no, that that was -- he was arrested and
14 he never had another opportunity to talk to him. And
15 I certainly would not oppose an instruction. It
16 was -- it was certainly I don't believe intentional
17 on his part and certainly --

18 *THE WITNESS:* It wasn't deliberate.

19 *MS. FANT:* -- on mine. And I -- if you do
20 recall, the question was not about, you know, did he
21 tell you anything about this. I tried in general to
22 just say, you know, did you have a further
23 conversation with him, no, and that was kind of what
24 I was expecting, so... I -- whatever the Court
25 desires at this point.

1 *THE COURT:* And I -- I can certainly bring the
2 jury back in and instruct them that you had objected
3 to that line of questioning, I sustained your
4 objection and ordered it to be stricken from the
5 record and do not consider it in any way in their
6 deliberation. You think that's satisfactory?

7 *MR. FINNEY:* Yes, sir.

8 *THE COURT:* Okay. Anything else?

9 *MS. FANT:* No, Your Honor. We will move on from
10 that line of questioning.

11 *THE COURT:* Anything else, Mr. Finney?

12 *MR. FINNEY:* No, Your Honor.

13 *THE COURT:* Well, since it's -- it is -- we have
14 been going at it maybe an hour and a half, maybe
15 before I bring them back it's probably a good time
16 for us to have a break.

17 So we'll take about a 10 minute break since we
18 have already sent the jury out, then I will bring
19 them back in and charge them. We will be in recess
20 10 minutes.

21 (Whereupon a recess was had.)

22 *THE COURT:* Anything before we bring in the
23 jury?

24 *MS. FANT:* Nothing from the State, Your Honor.

25 *MR. FINNEY:* No, Your Honor.

1 THE COURT: Okay. Bring us the jury.

2 (Jury entered the courtroom at 11:25 am.)

3 THE COURT: Ladies and gentlemen, the last
4 question and answer that you heard before the break,
5 the defense counsel objected to that question and
6 answer.

7 I sustained his objection and ordered that to be
8 stricken from the record, therefore you're not to
9 consider that in any way in your deliberations in
10 determining the true facts of this case. Madam
11 Solicitor?

12 BY MS. FANT:

13 Q Sergeant McMillan, before I forget, let me ask you
14 about a sketch that was prepared in this case. Did you in
15 fact have somebody attempt to do a sketch?

16 A Um...

17 Q Of this person that nobody knew who he was?

18 A Yes, ma'am. In reference to the unknown person that
19 allegedly left with the victim, Ernest James, we have a
20 sketch artist in the department, Deputy Tony Brown.

21 Based on the information -- based on the description
22 given by William McCray, Investigator Brown at that time
23 was able to do a composite sketch of the alleged unknown
24 person using identification provided by William McCray.

25 Q And was anyone ever able to identify anyone from

1 looking at the sketch?

2 A No, ma'am.

3 Q Did it have any impact on the case at all?

4 A No, ma'am.

5 Q Now, on -- let's go back to Wednesday, the 25th of
6 May, 2005. After Mr. Bradley left -- or on that day when
7 you had talked to him and he then left --

8 A Uh-huh.

9 Q -- did someone come in contact with Mr. Darrell
10 Koenig who testified yesterday?

11 A Yes, ma'am. As I stated, earlier that morning, a
12 couple of the investigators, we got together and we met at
13 the classroom and Bennie Barfield made contact with
14 Mr. Koenig and--

15 Q Now, how did he know to contact Darrell Koenig?

16 A We received a call in reference to an individual
17 stating that he believes that he saw -- well, that he saw
18 that vehicle on Boyle's Pond I believe it was on that
19 Sunday with that yellow, bright yellow paper tag and the
20 blue Volvo.

21 Q And that was Mr. Koenig that called in?

22 A Yes, ma'am, uh-huh.

23 Q And what did y'all do as a result of him making that
24 move and calling?

25 A As a result of that, Bennie Barfield was one of the

1 investigators that was helping me with the investigation
2 initially. He went out, he made contact with Mr. Koenig
3 with the telephone number that was provided, and he met
4 with him out there. I think he met out there on
5 Cobblestone off of St. Paul Church Road.

6 Q And without saying, you know, what Investigator
7 Barfield may have told you, what did you do as a result of
8 the information that he provided?

9 A Based on the information that Investigator Barfield
10 provided, I felt as though it was a -- significant to the
11 case in term -- I got a photo line-up, a SLED photo
12 line-up.

13 Q Now, tell us how that's -- how that's done. What's
14 the procedure for -- for getting --

15 A For obtaining that?

16 Q -- that line-up.

17 A You have -- when you request a photo line-up, we have
18 an individual that have access to the -- the file, they
19 would e-mail SLED personnel a copy of the report, case
20 number telling them what it's in reference to, and that we
21 need a photo of Mr. -- the defendant, Nathaniel Bradley, in
22 a photo line-up.

23 And what they would do, they would provide pictures
24 of similar people of features that Mr. Bradley would have
25 and put them in a six photo line-up, and then we in turn

1 would get that.

2 Q Now, do you know where SLED draws the pictures from
3 that it puts into the array?

4 A From the DMV files.

5 Q And is that done by computer or does somebody sit
6 down and pick out which photo?

7 A It's done in random by the computer.

8 Q And so in this array, it would have been the
9 defendant's picture and five other people who you didn't
10 know?

11 A Correct.

12 Q And after you obtained the line-up from SLED, what
13 did you do?

14 A I obtained a telephone number from Investigator
15 Barfield. I called Mr. Koenig and asked him would he be
16 willing to provide -- would he be willing to view a photo
17 line-up from us.

18 Q And did he agree?

19 A Yes, ma'am.

20 Q And who -- who went out to conduct that line-up
21 interview?

22 A Myself and Investigator Gardner, we met up with
23 Mr. Koenig at his residence.

24 Q And his residence, that wasn't the Cobblestone house
25 was it, or the road?

1 A No, ma'am. It was another residence I think off of
2 Richardson Street in the city of Sumter.

3 Q Now, tell us about how that proceeded when y'all
4 arrived, what you did and how you conducted the line-up
5 interview.

6 A Okay. Initially when we got there, of course, we
7 introduced ourselves. Mr. Koenig, we sat at his table. I
8 talked to him about the information that he provided Mr.
9 Barfield.

10 Based on that, I told him I obtained a photo line-up
11 that I wanted him to view. He in turn described what he
12 saw, the individual that he saw driving the Volvo.

13 Q Now, this was before you showed him any pictures?

14 A Before any pictures were shown.

15 Q Now, without saying the specific identification that
16 he gave you, what did you think after he -- after he gave
17 you that description?

18 A After -- after -- after him and Investigator Barfield
19 gave me that description, it was similar, it fit the
20 description of Mr. Bradley.

21 Q And -- excuse me -- what did you do as a result then?

22 A I went over a form that we have. I had a -- the
23 photo line-up in a folder, covered with a blank sheet of
24 paper that which he couldn't see. It's a form we have. I
25 read that off to him to make sure that he understood what

1 he was doing as far as selecting a photograph.

2 Q What is the purpose of reading the form to him?

3 A Excuse me?

4 Q Why do you read him that form?

5 A I wanted to make sure that -- when -- that he
6 understood when the photo line-up was presented to him
7 that if he selected whatever number picture it would
8 correspond with the circle that we had on that form,
9 wanted him to put an X in that -- in that slot, sign and
10 date it as being the one that he selected.

11 Q So you wanted him to look at them and then in the
12 circle make an X and put his initials by it?

13 A Right.

14 Q And at any point did you provide a description of the
15 defendant to him?

16 A No, I didn't.

17 Q Did he indicate to you that he had seen any
18 photographs or ever known the defendant?

19 A No, he didn't.

20 Q And when you showed it to him -- I guess first let me
21 show you what's been entered as State's 59. Do you
22 recognize that?

23 A Yes, ma'am. It's a photo with the photo line-up in
24 it and the witness line-up identification form.

25 Q Okay. And when you showed that to Mr. Koenig, the

1 photographs, how long did it take him to pick out the
2 defendant?

3 A Not long at all. When I presented him with the photo
4 and removed the -- the paper covering -- the blank paper
5 covering the photographs, he scanned the pictures and went
6 directly to number three.

7 Q But he did look at all of them?

8 A Yes, ma'am.

9 Q And who in fact is number three?

10 A Number three is the defendant, Nathaniel Bradley.

11 Q Was -- did Mr. Koenig hesitate at all?

12 A No, ma'am. It didn't take him long to -- to scan the
13 pictures, and he went straight to number three.

14 Q And how certain did he tell you he was?

15 A We asked him how certain he was and he said he's a
16 hundred percent sure that that was the person that was
17 driving that vehicle at that time.

18 Q Okay. Now, on the -- the form that Mr. Koenig
19 checked off --

20 A Uh-huh.

21 Q -- did he make a mistake on that?

22 A Yes, he did. He circled -- he circled the number
23 three above the circle that he was supposed to put the X
24 in.

25 Q And what happened as a result of that?

1 A He corrected hisself and scratched in the circle
2 below number three and signed and dated it.

3 Q But there -- is there any mark on that form that
4 indicates anyone other than number three was selected?

5 A No, ma'am.

6 Q And the person that he selected, do you see him in
7 the courtroom today?

8 A Yes, ma'am, I do.

9 Q And could you point him out for us?

10 A He's sitting over there beside Mr. Finney at the
11 defendant's table (pointed.)

12 Q Now, Mr. Koenig -- I'm sorry -- had indicated
13 yesterday that one of the things that he had told y'all
14 was that the -- the defendant or the person he saw driving
15 the vehicle had a -- a slim face. Was the defendant at
16 the same weight back in 2005 as he is now?

17 A It doesn't appear to be. Look like he might have put
18 on a little weight now.

19 Q Okay. And in your opinion was his face a good bit
20 thinner back then?

21 A In my opinion a little.

22 Q Now, at this point when Mr. Koenig made the selection
23 and identified the defendant as driving the victim's car
24 on Sunday morning on Cobblestone Road near Boyle's Pond,
25 did -- had there been any release through the media or

1 anything else about the defendant's name or a photo of
2 him, any way that Mr. Koenig could have known who y'all
3 were looking at as a suspect?

4 A No, ma'am, nothing was -- was released.

5 Q Did you do anything else on -- that was Thursday the
6 26th, 2005 --

7 A Uh-huh.

8 Q -- when you showed him the line-up; is that correct?

9 A Correct.

10 Q What else did you do that day or how did that day
11 develop?

12 A After having Mr. Koenig view the photo line-up, once
13 he positively identified the possible suspected person
14 that was driving the vehicle, I -- based on that
15 information along with some other inconsistencies that we
16 had during the investigation, I obtained a -- I'm sorry --
17 a warrant based on that and entered it in NCIC and did a
18 bolo for Mr. Bradley.

19 Q That was an arrest warrant?

20 A Right, an arrest warrant.

21 Q And then did you do anything else on that Thursday in
22 particular?

23 A Yes, ma'am. On Thursday the 27th -- I'm not sure
24 exactly what time it was, but--

25 Q Thursday the 27th?

1 A I'm sorry. On that -- the 27th, Friday the 27th, I
2 went to -- myself and Investigator Gardner, we went to Lee
3 County Sheriff's Office.

4 Q And what was your purpose for going there?

5 A To meet with Major Simon and Donna McDuffie.

6 Q And that's the Donna McDuffie that was in court
7 earlier this week?

8 A Yes, ma'am.

9 Q And why did you want to meet with her?

10 A Based on the conversation that -- that we had on the
11 telephone in reference to him spending Saturday night
12 there, I wanted to get a statement from her in written
13 form.

14 Q And did you in fact do that?

15 A Yes, ma'am.

16 Q Did she write the statement?

17 A No. At -- at her request she asked me to write it.

18 Q And did you just write down what you wanted to write
19 down?

20 A No, I wrote down what she advised me.

21 Q And was she given an opportunity to read it
22 afterward?

23 A Yes, ma'am.

24 Q And did she in fact sign it?

25 A Yes, she did.

1 Q And did she indicate at that time there was anything
2 else that she needed to tell you?

3 A No. Generally when taking a statement, I -- I ask
4 the individual are they currently under the influence of
5 any alcohol or drugs that would interfere with them giving
6 me a truthful and accurate statement, and she said no, so
7 I advised her that I was going to put that in it, that's
8 how I was going to start it off.

9 And then I go into the questioning and she'll tell me
10 what she was saying, then I paraphrase it back to her,
11 write it down, go a little ways, paraphrase it back down
12 to her, and make sure that's what she said.

13 At the end of the statement I have her initial at the
14 top signifying that she advised me to write the statement
15 and that she understood what was in the statement and she
16 agreed with what was in the statement, also at the end of
17 it, so she couldn't say -- nobody could say that I added
18 anything in there to -- had her initial at the end, too,
19 and sign and date it.

20 Q Investigator McMillan, I will show you what's been
21 entered as State's Exhibit 42 into evidence. Do you
22 recognize that?

23 A Yes, ma'am.

24 Q And what is it?

25 A It's a Sumter County Sheriff's Office voluntary

1 statement form.

2 Q And who gave that statement?

3 A Donna McDuffie.

4 Q Is that the statement you took on Friday, May 27th,
5 2005?

6 A Yes, ma'am.

7 Q Could you read please what you wrote that she told
8 you?

9 A Yes, ma'am. Okay. On the form it says here, I,
10 Donna McDuffie, am not under arrest, for -- nor am I being
11 detained for any criminal offenses concerning the events
12 I'm about to make known to Investigator McMillan.

13 I understand I am free to walk away without saying
14 anything and I volunteer the following information of my
15 own free will for whatever purpose it may serve.

16 I am 44 years of age and I live at ■ Spann Road,
17 Bishopville South Carolina, 29010. She -- and here on the
18 form it says -- I asked her can -- like can you or can you
19 not read, and she circled I can, read and write, and
20 completed the 12th grade in school.

21 Date of birth she put down there. This statement is
22 being written by Investigator CL McMillan at my request.
23 I'm not under the influence of any drugs or alcohol that
24 would prevent me from giving a truthful statement.

25 On Friday, May the 20th, 2005 I spoke with Nate by

1 telephone and he was talking that crazy talk and said I'm
2 tired of him -- I'm tired of him -- referring to Ernest --
3 doing whatever he was doing. Nate then said he'll take
4 care of it.

5 I told him not to do anything stupid. Nate then
6 replied, if I get in trouble, call my sister, and gave me
7 this number which is 803-408-2355. He said her name was
8 Betty. I believe he said her husband was a bail
9 bondsman -- was a bondsman.

10 We also spoke again Friday night. He stated that he
11 was lost in the woods and trying to find his car. He said
12 that he was at the end of the road and he said give me a
13 ride. I don't know who he was talking to.

14 He called me early Saturday morning and said that he
15 was at a friend house and was thinking about painting a
16 lady house. In the background I could hear a lady
17 cursing. He then said that he'll talk to me later.

18 Nate called -- excuse me -- called me back Saturday
19 around 1 pm and said that he needed to talk to me, but I
20 told him I wasn't going to be home and my cousin was
21 staying with me. He said okay and hung up.

22 Nate called me around nine am Sunday leaving a
23 message for me to leave \$10 for him. I called him back
24 and left a message for him that the money would be under
25 the flower pot. I then went to church.

1 I returned home around 6 p.m. and checked the flower
2 pot and the money was gone. After Sunday I hadn't talked
3 to Nate until about 9 pm Monday. He came by my house to
4 talk with me. He acted like he was upset or scared.

5 He said that something happened to Ernest. He said
6 that Ernest was killed. I asked him what happened, what
7 happened to Ernest, and he said that he couldn't talk to
8 me. He said that he wasn't going to get me in any
9 trouble, and he left.

10 I told him to call me later. I asked about his eye,
11 and he said that he hit it on a -- a cabinet. Nate called
12 back Monday night about 10 pm saying that he needed to
13 talk to me.

14 I asked him what happened to Ernest, but he said that
15 he couldn't talk to me on the telephone and that he needed
16 to talk to me in person. He said that the phones might be
17 tapped. He asked me to come -- to come out, but I told
18 him I couldn't, so he hung up saying -- he hung up --
19 excuse me -- saying that he couldn't talk to me.

20 After this conversation I hadn't talked to him since.
21 I noticed my .38 caliber pistol missing on Thursday, May
22 the 26th, 2005. I bought it from Brooks in Bishopville
23 and reported it missing today, May the 27th, 2005. Nate
24 knew where I kept the gun and my key that I had outside.

25 That's the end of the statement. She then initialed

1 at the end of it and signed both forms.

2 Q Now, after you took this statement down for her, did
3 you ask Ms. McDuffie what she meant by crazy talk?

4 A I did. I asked her what was she referring to. I
5 said, what exactly was he saying? I said, was he
6 referring to doing any bodily harm, did he say that he was
7 going to kill him? And she said, yeah, stuff like that,
8 that crazy stuff.

9 MR. FINNEY: Your honor, I object to anything
10 that the witness told him about what she said or
11 heard from somebody else.

12 MS. FANT: Your Honor, offered for impeachment
13 purposes. She denied that she told him that she
14 defined what crazy talk was.

15 THE COURT: I'm going to overrule your
16 objection. I think that's admissible under 801D1
17 that -- because she has already testified in this
18 trial, under A under that section it is allowable, so
19 I will allow the conversation. Thank you.

20 BY MS. FANT:

21 Q Did you -- after you actually took the statement from
22 Donna, did you ask her anything about the -- a cement
23 block?

24 A At that time while we were still at the Lee County
25 Sheriff's Office I asked her was -- did she have any

1 cement blocks in her yard, and she told me yes. I asked
2 her was she missing any, and she told me she wasn't sure.

3 At that point myself, Investigator Gardner and Major
4 Simon of the Lee County Sheriff's Office followed Ms.
5 McDuffie back to her residence at ■ Spann Road.

6 Q And what happened when y'all got to her house at
7 Spann Road?

8 A When we arrived at her residence on Spann Road,
9 myself, Investigator Gardner, Major Simon and Ms. McDuffie
10 we exited the vehicles all -- all of us, we was in three
11 vehicles, her vehicle, Major Simon and me and Investigator
12 Gardner rode together, we stepped out.

13 When we got out, if you look down the property line
14 that separate her house and her neighbor's house, there
15 were a row of cement blocks similar to that one right
16 there in her yard.

17 You could see three -- see one -- forget the exact
18 order, but you could see one was missing there between...

19 Q First I will show you State's Exhibit 35. Do you
20 recognize that?

21 A Yes, ma'am. That's the photograph that I took of the
22 front part of Ms. McDuffie's house which is ■ Spann Road.

23 Q And State's 39 and 40.

24 A Okay. 39. Yeah, photograph 39 is a photograph of me
25 standing in Ms. McDuffie's yard facing her neighbor's

1 property taking pictures of the row of bricks. It's a
2 space in between, it's -- if you count, it's one, two,
3 then a space, then another brick that's missing.

4 Q And what did -- what did Donna say at that time?

5 A When we pointed that out to her and stuff, she was
6 surprised.

7 MR. FINNEY: This also impeachment, Your Honor,
8 what she said to the officer about the brick?

9 MS. FANT: Yes, because she said she didn't know
10 what she said to him.

11 THE COURT: I will allow it under 801.

12 THE WITNESS: Okay. She stated to me that she
13 didn't realize that the brick was missing.

14 BY MS. FANT:

15 Q And did she indicate who actually cut her yard?

16 A She stated that she had someone cut her yard. She
17 didn't give me an exact name. Some man cuts her yard, the
18 guy -- her and her neighbor takes turns paying to getting
19 the yard -- both yards done.

20 Q So she didn't indicate she actually cut it?

21 A No, she said she don't cut it. She didn't cut it.
22 She had somebody cut it.

23 (WHEREUPON, State's Exhibit No. 82 was marked
24 for identification only.)

25 BY MS. FANT:

1 Q Sergeant McMillan, I will show you at this time
2 what's marked as State's 82. Can you identify that?

3 A Yes.

4 Q Or do you recognize that?

5 A Yes, ma'am, I recognize it.

6 Q And how do you recognize it?

7 A It's a photograph that I took. I took a close-up of
8 the area that was outlined by the pattern of the brick.
9 And I felt as though I needed to take a picture of that
10 because it -- it would show that the brick was freshly
11 removed.

12 The grass that you see here appeared to be the grass
13 that was growing up between the two -- two holes in the
14 block.

15 Q And does that fairly and accurately depict what you
16 saw at that time?

17 A As it was at that time that day.

18 MS. FANT: Your Honor, I'd offer State's 82 into
19 evidence.

20 MR. FINNEY: No objection.

21 THE COURT: Okay. It's in without objection.

22 (WHEREUPON, State's Exhibit 82 was admitted into
23 evidence.)

24 BY MS. FANT:

25 Q Now, if you would indicate on here -- and frankly,

1 for someone who wasn't there, it looks just like a
2 photograph of some grass. So if you don't mind stepping
3 down and holding it up and explaining to the jury why you
4 actually took that photograph.

5 A Can't really see right now, but the area -- the
6 outlined area right here that's faded, you can see the
7 grass was mashed down. I took a close-up picture of that
8 right there with this grass right up in here because the
9 grass that -- as the grass -- if you don't move this
10 brick, the grass is going to continue to grow up in here,
11 trim down a little bit, and I thought that was significant
12 in taking this photograph of that right here, but right up
13 in this area right here, outline right there would be why
14 I took the photograph.

15 Q Okay. Thank you.

16 MS. FANT: Permission to publish, Your Honor.

17 THE COURT: I'm sorry. I was talking to my law
18 Clerk. Certainly.

19 BY MS. FANT:

20 Q And even though the photograph obviously doesn't
21 depict exactly what you saw, were you pretty certain of
22 what it -- what you saw?

23 A Yes. Myself and the other investigators that were
24 there and Major Simon, we--

25 Q So y'all agreed on that?

1 A Right, that it was freshly removed.

2 Q And did y'all at some point look under the house,
3 Donna's house?

4 A Yes.

5 Q And did you observe any of the paint under there from
6 the former painting episode?

7 A At that particular time it was a -- a paint bucket up
8 under there. I can't recall the type, the color, but it
9 was a -- a bucket under there.

10 Q It was some paint --

11 A Some paint.

12 Q -- supply under there? Now, in the statement that --
13 that Donna gave, did she ever -- did she ever call you and
14 ask you to take it back, that it wasn't true?

15 A No, ma'am.

16 Q And were you able to determine who was assigned the
17 phone number that she mentioned in there, 408-2355?

18 A Yes, ma'am.

19 Q Who was that number assigned to?

20 A I think it came back to a Dorothy Nelson Bradley.

21 Q Dorothy Bradley Nelson?

22 A Yeah, Dorothy Bradley Nelson.

23 Q And so it wasn't -- it didn't come back to someone
24 named Betty?

25 A No, ma'am.

1 Q Please answer any questions Mr. Finney may have.

2 THE COURT: Mr. Finney?

3 MR. FINNEY: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. FINNEY:

6 Q Mr. McMillan, tell the ladies and gentlemen of the
7 jury what is your theory of the case as to how Mr. James
8 died.

9 A My theory?

10 Q Yes, sir. You have a theory; don't you?

11 MS. FANT: Objection, Your Honor. That's not a
12 proper question.

13 BY MR. FINNEY:

14 Q Do you have an eye witness that saw Mr. Bradley kill
15 Mr. James?

16 A No, sir.

17 Q Do you have anybody that saw Mr. Bradley with a gun?

18 A No, sir.

19 Q Do you have any evidence from the scene or from the
20 body of Mr. James that Mr. Bradley killed him?

21 A No, sir.

22 Q Tell the jury what day Mr. James died.

23 A I can't give you a precise date.

24 Q Tell the jury what county Mr. James died in.

25 A I couldn't tell them what county, only the county

1 that he was recovered in, which was Sumter County and
2 Boyle's Pond.

3 Q So you don't know what day he died; do you?

4 A The only thing I can say in reference to that is that
5 he was last seen on May the 21st.

6 Q You testified to that.

7 A Right. Correct. And that he was found on May the
8 23rd.

9 Q And you have testified to that.

10 A Correct.

11 Q Now, tell the jury how do you know Mr. Bradley killed
12 Mr. James. What is your theory of the case?

13 A The theory of the case? Basically with the evidence
14 that -- that was compiled, the eye witness --

15 Q Eye witness of what?

16 A -- the eye witness, Mr. Koenig, that stated that he
17 saw him driving the victim's vehicle on Sunday in the area
18 that the body was located in.

19 Q All right. And what time was that that Mr. Koenig
20 told you all that he saw the car on Sunday morning?

21 A I'm not sure. I don't have that before me right now.

22 Q You're the chief investigator and you don't know what
23 time Mr. Koenig says he saw the car on Sunday morning?

24 A I deal with a lot of times here. If you give me a
25 second, I will be able to tell you.

1 Q All right, sir. Tell us.

2 A According to the statement that I have here from Mr.
3 Barfield, he has on here between 9 am and 11 am.

4 Q Between 9 am?

5 A And 11 am.

6 Q And 11 am. Koenig sees the car.

7 A Correct.

8 Q So what's your theory as to where Mr. James was when
9 Mr. Bradley was driving the car?

10 MS. FANT: Objection, Your Honor. That's not a
11 proper question. He can ask him what the evidence is
12 and he can list that, but not what your theory is.

13 BY MR. FINNEY:

14 Q Do you have any evidence of where Mr. James was
15 Sunday morning between 9 and 11?

16 A No, I don't.

17 Q Do you have any evidence of where Mr. James was at
18 all on Sunday?

19 A No, I don't.

20 Q Do you have any evidence of where Mr. James was on
21 Monday up until the time he was pulled out of the pond?

22 A Other than where we found him at in the pond, I
23 can't--

24 Q Do you have any evidence of when Mr. James got put in
25 the pond?

1 A No evidence of that.

2 Q Do you have any evidence of who put Mr. James in the
3 pond?

4 A No, I don't.

5 Q Do you have a blood spot on the side of the bridge
6 that you found on Monday the 23rd?

7 A No, I don't.

8 Q Where is it?

9 A That hadn't been confirmed that that's a blood spot.

10 Q And who's got it?

11 A Who's got...

12 Q Who's got the blood spot?

13 A We don't know that it is a blood spot. If you're
14 referring to the spot that was removed from the side of
15 the bridge--

16 Q That's the only spot we have talked about.

17 A Okay, but it wasn't confirmed to be blood.

18 Q And who didn't confirm it?

19 A Okay. It was swabbed and placed into evidence, and
20 it was not sent to SLED for analysis.

21 Q So the man who works for you at the Sumter County
22 Sheriff's Department has had that evidence for two and a
23 half years?

24 A He don't work for me.

25 Q Who does he work for?

1 Q Did Sergeant Mackessy tell you he sent it to the lab?

2 A No, he didn't.

3 Q Did you ask Sergeant Mackessy, have you sent this to
4 the lab?

5 A No, I didn't.

6 Q All right. But you knew you had something in
7 evidence in November when we tried to get this case ready?

8 A Excuse me?

9 Q You knew you had it in evidence in November when the
10 case was being prepared in November.

11 A I knew it was removed. I wasn't sure if it was sent
12 to SLED or not.

13 Q And so between November and today you haven't done
14 anything to send it to SLED?

15 A I hadn't.

16 Q And Mr. Mackessy hasn't?

17 A He hasn't.

18 Q And that evidence could help this jury determine
19 whether that man is innocent.

20 A It could and it couldn't.

21 Q It could convict that man?

22 A I'm--

23 Q Couldn't it?

24 A I'm not sure of that. I can't say with any certainty
25 that it would or that it wouldn't.

1 Q Well, sir, if it's human blood and it's Nate
2 Bradley's blood and it's on the side of the bridge, don't
3 you think that would be important for this jury to know?

4 A If that's your theory, that's your theory, but
5 according to your theory, yes.

6 Q No, sir. I'm not asking -- I'm asking you, if it's
7 Nate -- if it's human blood and if it's Nate Bradley's
8 blood, wouldn't that be important for the chief
9 investigator to give to this jury?

10 A Sure it would.

11 Q All right.

12 A Sure it would.

13 Q If it's human blood --

14 A Uh-huh.

15 Q -- and it belonged to somebody else who you could
16 determine through the DNA testing --

17 A Uh-huh.

18 Q -- and that person was there --

19 A Uh-huh.

20 Q -- wouldn't that be important to tell the jury?

21 A If it was a significant amount and in fact tested,
22 yes. And it could disprove whether it was human blood at
23 all, your client or anybody else's.

24 Q So we have possibilities?

25 A Possibilities.

1 Q It hasn't been checked out?

2 A Possibilities, yes.

3 Q And whose fault is it that it wasn't checked out?

4 A I don't know who fault it is, but the fact that
5 the -- the fact of the matter is it didn't get -- I'm not
6 placing blame on anyone, but the fact of the matter is it
7 didn't get analyzed at SLED.

8 Q And it should have been.

9 A It should have been sent, yes, it should have.

10 Q All right, sir. So your theory of the case -- based
11 on what you believe the evidence shows that on Saturday
12 night the 21st, late into the night past midnight over
13 into early morning on the 22nd a man heard a dog bark up
14 in -- up in Lee county.

15 His dog was barking at the cemetery that you visited.

16 Do you remember the name of the cemetery?

17 A It was Broad Branch--

18 Q Broad Branch Cemetery.

19 A Yes.

20 Q What significance does that have to this jury? What
21 is your theory of the dog barking? Why was it important
22 for you to tell--

23 MS. FANT: Objection, Your Honor. He's not the
24 attorney. He can ask him questions of what evidence
25 we have, but not a theory of the case.

1 MR. FINNEY: Judge, this is the chief
2 investigating officer. This is -- they have already
3 told you that it's a circumstantial case--

4 THE COURT: I think the question is proper.

5 BY MR. FINNEY:

6 Q Could you answer the question or would you like me to
7 repeat it?

8 A Yeah, if you would.

9 Q Yes. On the 22nd, early in the morning hours between
10 midnight and 1:30 a dog was barking at the cemetery that
11 you visited.

12 A Uh-huh.

13 Q What is the significance of that to this case?

14 A It could -- it could indicate that the dog's barking
15 at animals or it could -- it could indicate that somebody
16 may have been in the cemetery.

17 Q And do you have a -- any evidence as to what they
18 were doing?

19 A No.

20 Q All right.

21 A I don't.

22 Q Do you have a theory as to what the jury should
23 believe that that evidence shows?

24 A It would be inappropriate for me to say that because
25 I'm not sure. I don't know.

1 Q So you don't want to say to the jury what your theory
2 is?

3 A In reference to what you are making reference to, I--

4 Q In reference to this whole case. How did Mr. Bradley
5 kill Mr. James?

6 A Again, referring back to the question that you just
7 asked -- that you asked me previously, my answers would be
8 the same.

9 Q You don't know.

10 A Correct. I wouldn't be able to tell you how he--

11 Q All right. So you don't know what was going on in
12 the cemetery early morning hours of Sunday morning. Do
13 you know when the car got burned up?

14 A I know when it got recovered. I don't know when it
15 got burned up. I weren't there. Don't have any
16 information dictating when it burned.

17 Q Do you know how long it took it to burn?

18 A No, I don't.

19 Q Do you know how much smoke would have come off of it
20 with four burning tires and a total catastrophe burn like
21 you saw in the pictures?

22 A I'm sure the burn would have been intense for a short
23 period of time, yeah, would have been intense.

24 Q All right. What kind of short period of time are you
25 talking about?

1 A I hate to say it, but it -- it would have burned, and
2 either the fire would have been intense and the smoke from
3 the tires, of course.

4 Q All right. Well, given Mr. Koenig's testimony, the
5 car would have had to burn up after 11:00 Sunday morning;
6 wouldn't it?

7 A I don't -- I don't believe Mr. Koenig said that.

8 Q Well, sir, didn't Mr. Koenig just tell you and your
9 investigators and tell this jury that he saw the car
10 Sunday morning between nine and 11?

11 A If you're -- if you're making reference to that, I
12 wasn't sure what you was talking about, you still talking
13 about the burning car.

14 Q Well, isn't that -- aren't we talking about the same
15 car?

16 A Yeah, but what I'm saying is I didn't understand the
17 question that you -- you were asking in reference to the
18 burning car because we are still talking about the intense
19 burn.

20 Q Okay. So, I'm talking about, you believe -- if I'm
21 understanding you -- that Mr. Koenig saw the car in a
22 operable condition between nine and 11 on Sunday morning?

23 A According to his testimony.

24 Q Well, do you believe that?

25 A He provided me with that testimony, sure, I believe

1 it.

2 Q All right. And did you also believe that the car was
3 discovered between 2:30 and 3:00 by the McCutchens in the
4 cemetery in Lee County? You believe that?

5 A According to the report.

6 Q All right. So the car couldn't have been burned up
7 before Mr. Koenig saw it?

8 A Excuse me?

9 Q The car couldn't have been burned up before
10 Mr. Koenig saw it?

11 A No, huh-uh.

12 Q So the car was burned up, according to your evidence,
13 between 11:00 Sunday morning and 2:30 Sunday afternoon.

14 A From the time that Mr. Koenig saw the vehicle and the
15 time that it was recovered in Lee County.

16 Q Okay. So from 11:00, 12 noon, 1 pm, 2 pm, 2:30, that
17 would have been three hours and a half?

18 A Uh-huh.

19 Q Do you believe that somebody could have taken the car
20 up to the cemetery, set it on fire in the middle of the
21 day on Sunday, nobody saw anything burning, nobody saw any
22 smoke, nobody smelled anything, and the car was discovered
23 at 2:30 by the McCutchens walking, and it was cold or not
24 showing any heat. Do you believe that?

25 A According to your theory, but I -- it would be hard

1 for me to say. It's possible. I'm not certain.

2 Q You don't have any evidence that it went that way.

3 A Excuse me?

4 Q Do you have any evidence to support that the car was
5 burned after Mr. Koenig saw it on Sunday morning in the
6 cemetery in broad daylight on Sunday with nobody seeing
7 any smoke or nobody smelling anything?

8 A Sometime after that it was burnt after Mr. Koenig saw
9 the vehicle.

10 Q Did you talk to the McCutchens?

11 A The McCutchen...

12 Q The McCutchens were people who lived down the street
13 from the cemetery.

14 A The ones that testified on--

15 Q Yes.

16 A Yes, we talked to them.

17 Q Did you talk to the other gentleman, I think his name
18 was Bramlett?

19 A I don't recall talking to Mr. Bramlett.

20 Q You didn't talk to Mr. Bramlett?

21 A Can't recall.

22 Q Do you ever remember asking them if the car was seen
23 in Sumter at 11:00 by Mr. Koenig and the car was
24 discovered at 2:30 in the afternoon and it was burned up,
25 then the car must have been burned up Sunday morning

1 around noon time.

2 Do you remember asking any of those people did they
3 see any smoke, did they hear anything, did they see
4 anything Sunday between 11 and 2:30?

5 A You're referring to the husband and wife that
6 testified on the other day? We spoke with them and I
7 asked him would it be uncommon if he saw smoke or anything
8 burning, and he stated no because that area that they were
9 clearing out back there, those loggers and stuff would
10 burn the debris.

11 Q That's what he told you?

12 A That's what he told me.

13 Q All right. Now, you believe that Mr. James was last
14 seen about 5:30 on Saturday.

15 A According to the information that I had.

16 Q You don't have any information as to where he was
17 Saturday night?

18 A No, I don't.

19 Q You know he came home -- I mean, excuse me -- you
20 know he didn't come home Saturday night. You talked to--

21 A According to the information that we had, he didn't
22 come home Saturday night.

23 Q All right. And Sunday morning nobody saw him?

24 A Correct.

25 Q All day Sunday nobody saw him?

1 A Correct.

2 Q All right. And then Monday he turns up in the pond
3 at 1:30.

4 A I'm not sure on the exact time. I would have to
5 refer back to the incident report.

6 Q Well, if you want to trust me, I think it was 1:30,
7 but you look--

8 A No, I'll take a look any way.

9 Q All right. On Monday, the 23rd, the body is
10 discovered. Did you all, your team of investigators, did
11 you all ever think that it was highly unusual for a man to
12 be found in a pond with a brick tied to his ankle when he
13 had been missing for 48 hours?

14 A Excuse me? Could you -- I didn't understand that.

15 Q You knew that he had been missing for about 48 hours
16 based on what your information was?

17 A From --

18 Q From the --

19 A -- they -- May the -- the evening of--

20 Q -- of the girlfriend.

21 A If you let me finish, I'm trying to explain it. From
22 May the 21st, the end of -- from between 4:30, 5:00 on the
23 21st, when he was last seen by his girlfriend and some
24 other family members until the time that we found him
25 about 1:54 pm on Monday morning -- Monday evening.

1 Q All right. And since you didn't have -- wasn't it
2 unusual -- how many bodies have you found in Sumter County
3 with a brick tied to it that you have been working on that
4 you--

5 A This is -- this is the first for me.

6 Q Kind of unusual.

7 A Yeah.

8 Q All right. And did you all call in any specialist
9 from SLED, FBI, ask Dr....

10 A Sexton.

11 Q Sexton to come down?

12 A No, we didn't.

13 Q Y'all didn't do any of that?

14 A We didn't do that. And really that's -- that's --
15 that's a -- a call that -- that's above me to make that in
16 reference to calling in SLED or any other assistance or--

17 Q All right. But it was an unusual case.

18 A As far as finding an individual in the pond with a
19 brick to his -- tied to his feet, yeah.

20 Q And it -- and you didn't have a time of death?

21 A No.

22 Q All right.

23 A Not approximate time of death.

24 Q Is it your -- is it your belief or I -- you don't
25 like me asking you about your theory, so let me ask you

1 this. Do you have any information that Mr. James -- do
2 you have any evidence that Mr. James was put in the water
3 at the pond Sunday morning when the car was down at
4 Mr. Koenig's house?

5 A No, I don't.

6 Q When Mr. Sexton received a call from the Coroner and
7 Dr. Sexton wrote up the report, he put the cause of the --
8 the date of death as the 23rd, Monday, the same day the
9 man was found.

10 MS. FANT: Objection, Your Honor. He can't ask
11 him about Dr. Sexton, what he put -- he's already
12 testified.

13 MR. FINNEY: It's in evidence.

14 MS. FANT: Well then, you can--

15 MR. FINNEY: Well, I'm asking the question.

16 THE COURT: You can ask the question.

17 MR. FINNEY: Based on what's in evidence.

18 THE COURT: You just made a statement. You
19 haven't asked him a question.

20 MR. FINNEY: That's what -- I'm laying the
21 foundation for the question.

22 BY MR. FINNEY:

23 Q Did you hear Dr. Sexton testify that he put on the
24 date of death, Monday the 23rd?

25 A Yeah, I did.

1 Q And did you then hear Dr. Sexton testify that he
2 received a fax from the Coroner saying, change it to the
3 22nd?

4 A I did.

5 Q Did you have anything to do with the Coroner -- did
6 you have -- you or anybody in your Sheriff's Department
7 that you know of --

8 A Uh-huh.

9 Q -- ask the Coroner to ask Dr. Sexton to change the
10 date back to the 22nd?

11 A No, I didn't. And I wasn't made of aware of anybody
12 in the Sheriff's Office that did that.

13 Q All right. So you all didn't have anything to do
14 with the Coroner making that request to Dr. Sexton?

15 A I didn't and I'm not aware -- I can't speak on
16 anybody else behalf. I'm not aware of that.

17 Q All right. You don't have any evidence, Dr.
18 Sexton -- the first report he made said the date of death
19 was Monday --

20 A Uh-huh.

21 Q -- then he got something from the Coroner and changed
22 it to Sunday --

23 A Uh-huh.

24 Q -- then he came to court and said, well, it could
25 have been Saturday --

1 A Uh-huh.

2 Q -- Sunday or Monday --

3 A Uh-huh.

4 Q -- based on his looking at the body. Do you have any
5 evidence to tell the jury that it did happen, that he did
6 die and get put in the pond on Sunday?

7 A What I feel can't supercede what the--

8 Q Not asking you what you feel. You telling me you
9 want --

10 A Okay.

11 Q -- I'm asking you, do you have any evidence--

12 A No, I don't. I'm not medically -- I don't have that
13 background to do that.

14 Q Well, you said medically. Do you have any
15 investigator information that leads you to believe that he
16 was put in the pond on Sunday?

17 A Only -- he only thing I have is that we suspect
18 sometime between the time he left on the 21st and the time
19 that he was recovered on Monday, and I think --

20 Q All right.

21 A -- the -- Dr. Sexton kind of clarified that also.

22 Q All right. Dr. Sexton said it was a -- Dr. Sexton
23 made it a three day window instead of a one day window;
24 didn't he?

25 A Correct. He explained that it could have happened on

1 either one of those days and...

2 Q All right. Now, I asked you starting off what your
3 theory of the case was. You don't have a theory of the
4 case. So I asked you whether you had evidence that
5 Mr. James was killed in Sumter.

6 You don't have any evidence of that. And you don't
7 have any evidence as to when Mr. James was killed.

8 Correct?

9 A The only thing we have is --

10 Q Day-wise --

11 A -- right. No.

12 Q -- time?

13 A No.

14 Q Now, you don't know -- you would agree that the car
15 had to be burned between Mr. -- when Mr. Koenig saw it and
16 when the car was discovered in the cemetery.

17 A I would--

18 Q If you believe Mr. Koenig.

19 A I would say the vehicle was burned some time after
20 Mr. Koenig saw it and --

21 Q Sunday?

22 A -- and the time that it was recovered in Lee County.

23 Q During the daylight hours of Sunday?

24 A Right.

25 Q All right. Now, would you also agree that at this

1 point after you got the body -- and let's say by Tuesday
2 the 24th -- you went through a long -- Ms. Fant asked you
3 a lot of questions.

4 A Excuse me.

5 Q At the time that you were standing on that bridge on
6 Monday, the investigation was just starting when you
7 pulled the body of Mr. James out.

8 A The investigation -- well, it started when
9 Investigator Barfield first arrived there.

10 Q Barfield?

11 A He was the first one at the scene on the bridge, the
12 location that the body was found.

13 Q All right.

14 A The first investigator.

15 Q Because it was a brand new investigation and because
16 there was a brick tied to this man's body that made it
17 unusual, wouldn't it have been important for you to check
18 out everything that you had going for you at that hour on
19 that bridge?

20 A And I think we did that.

21 Q Except for the blood or the spot -- except for the
22 spot?

23 A Well, we swabbed that, so we did what we did --

24 Q Drew a picture of it?

25 A -- and it was swabbed.

1 Q And you swabbed?

2 A And it was swabbed.

3 Q But you didn't test it?

4 A We would have had to send it off. But yeah, if
5 you're referring to whether or not it got tested, no, it
6 didn't.

7 Q Okay. So in the early part of the investigation that
8 would have been something to have done. You started the
9 process; right?

10 A Yeah, we started the process, yeah.

11 Q Just didn't get finished.

12 A Yes.

13 Q Now, after -- after Tuesday the 24th, you say you
14 found out about the car.

15 A Excuse me?

16 Q Tuesday the 24th you went to Bishopville and saw the
17 car?

18 A The actual burnt car --

19 Q Yes.

20 A -- yeah.

21 Q Now, the first witness that you say you spoke with
22 was on the 24th. You talked to Nate Bradley. He
23 voluntarily came in and talked to you.

24 A That wasn't the first witness I talked to. No, I
25 didn't say that. Martha -- Maria Spann -- Maria Spann was

1 the first person I talked to, which was the 23rd, and
2 Martha Ransom, the second, also on the 23rd.

3 Q All right. Lets talk about Mr. Bradley.

4 A Okay.

5 Q You did not -- you did not meet with Mr. Bradley at
6 his house; did you?

7 A No, I didn't.

8 Q You met with him at your office.

9 A He came to the Sheriff's Office voluntarily.

10 Q Voluntarily?

11 A Yes.

12 Q And at the Sheriff's Office you have videotape.

13 A No.

14 Q Capabilities to videotape interviews.

15 A No, we don't.

16 Q You don't?

17 A We don't do that.

18 Q You have a videotape machine; don't you?

19 A No.

20 Q Oh. You have a tape recorder?

21 A Do we have a tape recorder?

22 Q Do you tape recorder?

23 A I have one personally, but yeah, we didn't--

24 Q Did you use it?

25 A When I -- yes, I do sometimes.

1 Q Okay. And you had it available to you on Tuesday the
2 24th?

3 A I can't say I did have it available.

4 Q Can't say?

5 A I have one, but I can't say I -- I -- some people
6 borrow from me, some of my other co-workers, but I might
7 have had it.

8 Q You see this form here? I will show you one that's
9 in evidence. This is State's Exhibit 42.

10 A Yeah.

11 Q You see that form?

12 A Yeah.

13 Q It says on there, voluntary statement, not under
14 arrest.

15 A Uh-huh.

16 Q That's a form you guys have at the Sheriff's
17 Department?

18 A Yes, it is.

19 Q You have a lot of them; don't you?

20 A Got plenty of them.

21 Q All right. And on the 24th you could have gotten
22 Nate Bradley to fill out one.

23 A He could have volunteer -- he didn't -- he didn't
24 want to provide one. He could have provided one.

25 Q Hold on, now. You didn't ask him; did you?

1 A When he came in we explained to him what we wanted to
2 talk to him about. Okay. He in turn -- we -- we asked
3 him some questions. He in turn gave us some answers.

4 Q And that's a voluntary statement; isn't it?

5 A He came in voluntarily, oral -- provided orally--

6 Q Wasn't under arrest; was he?

7 A No, he wasn't.

8 Q And you have a form for that procedure; don't you?

9 A If he wanted to provide one in writing, he could have
10 done that.

11 Q Okay. But you didn't get one in writing?

12 A No, I didn't.

13 Q And you didn't use your tape recorder.

14 A No, I didn't.

15 Q And y'all don't have a video.

16 A No.

17 Q Okay. So what we have to do today is we have to
18 believe you at your word as the chief investigator that
19 you talked to Nate Bradley and he told you a lie because
20 he told you he had been to Donna Bradley's house Saturday
21 night.

22 A Well, you don't have to just believe me. We got
23 other investigator -- but we had other investigators that
24 were there.

25 Q Other--

1 A Not just mine, but mine as well as the other
2 investigators.

3 Q They were sitting with you in the room?

4 A They were in the room.

5 Q And they didn't have a voluntary form to fill out.

6 A No, they didn't.

7 Q And they didn't have a video?

8 A A video.

9 Q And they didn't have a tape recorder.

10 A No tape recorder.

11 Q So we got to believe them --

12 A Excuse me.

13 Q -- too. We got to believe them that you all saw and
14 heard the same thing.

15 A That he came in, correct.

16 Q Okay. Bobby Lee Hughes told you -- if I'm
17 understanding your testimony, Bobby Lee Hughes told you up
18 at Jean's house on the -- was that on the 24th? When did
19 you talk to Bobby Lee Hughes and he told you what Nate had
20 told him?

21 A At the Sheriff's Office. They came up--

22 Q When was that?

23 A They came up about I think it was 1:00, around noon
24 on the 24th.

25 Q Okay. And that would have been before Nate?

1 A They came -- he -- advised them that we was going to
2 have -- excuse me. After we talked to them, we got the
3 card from I think it was Mr. Bobby Lee. The Sheriff
4 called your client, Mr. Bradley --

5 Q Okay.

6 A -- and he came back in the classroom and stated that
7 Mr. Bradley agreed to come down to talk to us --

8 Q Okay.

9 A -- and -- that evening. Okay?

10 Q Okay.

11 A We advised the family of that. We in turn took the
12 statement from Mr. Hughes and we wanted them to exit the
13 Sheriff's Office before Mr. Bradley in fact got there.

14 Q Okay. So you talked to Mr. Bradley and Mr. Hughes on
15 the same day.

16 A Same day.

17 Q And you talked to Mr. Hughes first.

18 A Yeah, being that they came to the Sheriff's Office
19 first, yes.

20 Q Okay. And Mr. Hughes told you that Bradley had told
21 him at -- up at Jean's house that he had been to the lane
22 to pick up or to see Ernest, talk to Ernest, saw this
23 unknown man, and he had seen Ernest and the unknown man
24 leave.

25 That's what -- that's what Hughes told you. Hughes

1 told you that -- is what I'm asking -- before Bradley told
2 you that.

3 A Yes.

4 Q And then Bradley came in the same day, not even
5 knowing you had talked to Hughes, and he told you the same
6 story?

7 A That he had left, yeah, basically.

8 Q Okay.

9 A That he left with an unknown person.

10 Q All right. Now, when Mr. Bradley came in on the
11 first day --

12 A The 24th you're referring to?

13 Q -- and you talked to him, did you make notes?

14 A As far as...

15 Q As far as what you said to him.

16 A Basically -- yeah.

17 Q Did you make notes?

18 A Yes, I did.

19 Q Did you give those notes to the Solicitor?

20 A I was unaware that they needed to be provided at that
21 time based on Mr. Bradley wasn't placed under arrest, the
22 statement --

23 Q Okay.

24 A -- voluntarily and he--

25 Q The Solicitor's office notified you in November that

1 you needed to write them down.

2 A While we were preparing for the case.

3 Q In November.

4 A Okay. When we was preparing for the case in November
5 it was brought to my attention -- we was going over the
6 case, and that came about, and we -- I was made aware that
7 the oral statements, even though he wasn't made -- wasn't
8 under arrest, needed to be in written form and submitted
9 for herself and for --

10 Q And for me.

11 A -- yes, sir.

12 Q And so the first time Nate Bradley's lawyer knew that
13 he had said anything to the police officer was November,
14 2007; is that correct?

15 A According to you now. I don't know if he told you
16 that or not, but if you're making reference from law
17 enforcement or the --

18 Q Yeah.

19 A -- paperwork that we submitted, yes --

20 Q The first time --

21 A -- yes.

22 Q -- the police had notified the Solicitor -- the first
23 time she knew about oral statements was two years after
24 they were made because they hadn't been written down.
25 They were in your head; right?

1 A No, they wasn't in my head. I had them written down
2 on paper.

3 Q Okay. So you had some notes?

4 A I had some notes.

5 Q And you -- you had to make up a little what they call
6 summary.

7 A To submit or -- what he said orally --

8 Q To the Solicitor.

9 A -- the Solicitor.

10 Q And then she gave me a copy?

11 A Correct.

12 Q So that's the first time we knew that Nate Bradley
13 had made a -- statements to you officially?

14 A Officially.

15 Q Okay. And in that statement, in that summary that
16 you testified to this morning --

17 A Uh-huh.

18 Q -- you said nothing about his eye being injured; did
19 you?

20 A Not on the initial one.

21 Q Not on the initial one. When did you come up with
22 the eye injury summary?

23 A Going back talking to some of the witnesses that we
24 interviewed --

25 Q Right.

1 A -- and in my notes.

2 Q Right.

3 A It was in there and--

4 Q It was in your notes --

5 A Right.

6 Q -- and those are the notes you used to make the first

7 summary.

8 A Right.

9 Q But it didn't get in the first summary.

10 A I got a bunch of notes that I had to -- that I go

11 over.

12 Q So didn't get the first summary?

13 A Right.

14 Q So when was the second summary given to Ms. Fant?

15 A I -- the exact date I can't recall --

16 Q Did you --

17 A -- if you have a date--

18 Q -- giving me my copy last Friday?

19 A When we met at the --

20 Q At the jail --

21 A -- technology center down there, yeah.

22 Q -- last Friday and you had just prepared that; hadn't

23 you?

24 A Excuse me?

25 Q Hadn't you just prepared it --

1 A Shortly thereafter or before --

2 Q -- shortly --

3 A -- yes.

4 Q -- before last Friday?

5 A Right.

6 Q Okay. So you got one set of papers that came out as
7 a result of your going through the file and recollection.

8 A I wanted to make sure you had that.

9 Q Okay. And I had it in November. And there was
10 nothing in that first set of papers about him having an
11 injury to his eye.

12 A Not on the first statement you got.

13 Q Okay. Now, also in the second set of papers that you
14 gave me last week you mentioned something new about him
15 telling you he had gone to a house and stayed on the floor
16 or he -- he was painting in the house and stayed there a
17 few hours.

18 A Correct.

19 Q Nothing in the first statement about that; was there,
20 investigator?

21 A No.

22 Q That wasn't mentioned?

23 A Huh-uh.

24 Q Okay. So all of this new information came out since
25 November.

1 A Yes.

2 Q Now, do you remember testifying at a preliminary
3 hearing in Magistrate's Court after Mr. Bradley first got
4 charged?

5 A Yes.

6 Q Do you remember me asking you whether you went to the
7 house that he was painting and looked inside?

8 A Went to it -- a house.

9 Q Went to a house.

10 A A house.

11 Q All right. And you looked inside to see if his
12 alibi -- if he had told you the truth about painting that
13 house.

14 A Uh-huh.

15 Q Do you remember him -- do you remember that
16 testimony?

17 A I remember the preliminary hearing. I remember the
18 preliminary hearing.

19 Q And did you tell the Judge that day at the
20 preliminary hearing that you had been inside the house and
21 you had seen where he made a bed on the floor?

22 A No, I don't recall that.

23 Q You don't recall?

24 A I don't recall that as a -- and that particular
25 residence, that information didn't come from Bradley. It

1 came from another individual that I -- that I interviewed.

2 Q Okay. And you went to the house as a result of
3 talking to this other individual?

4 A Talking to him --

5 Q Okay.

6 A -- and he gave me the directions to the house that
7 they supposedly was painting.

8 Q Okay.

9 A Went there, went in. You could see where somebody I
10 guess prepped the house. They had -- they was doing some
11 painting. Wasn't -- I didn't see any clothes or anything
12 else that indicated somebody --

13 Q Didn't see clothes?

14 A -- that somebody spent the night there.

15 Q You didn't see a little palate had been made on the
16 floor?

17 A A palate?

18 Q Yeah.

19 A No. I saw some -- some knee pads, had like some knee
20 pads, painting knee pads I believe it was.

21 Q Did you take any of that --

22 A No.

23 Q -- into evidence?

24 A I didn't.

25 Q All right.

1 A I didn't.

2 Q Let me ask you this. When you got to investigating
3 this -- you were told that by Donna McDuffie that she did
4 not spend the night with Nate Bradley on Saturday night.

5 A That he didn't spend the night with her on Saturday
6 night.

7 Q And you were told that when you met with her on the
8 27th.

9 A Telephone call on the 24th when he came up.

10 Q All right. On the 24 you were told by Donna --

11 A That--

12 Q -- that she didn't spend the night with him.

13 A Right.

14 Q Okay. Now, did you also...

15 A Thank you.

16 Q As a result of -- did you confirm that Mr. Bradley
17 had given you the right number when he told you -- when he
18 dialed that number into your co-worker's cellphone,
19 Mr. Florence --

20 A Uh-huh.

21 Q -- that he had given the right number?

22 A It was the McDuffie -- yes, so it was the right
23 number.

24 Q And what was the number?

25 A I can't recall off the top of my head.

1 Q You have her number in your file; don't you?

2 A I should. You making reference to a cell number or a
3 home telephone number? Bear with me. I'm trying to
4 locate it.

5 Q Well, while you're looking, if you don't mind I will
6 try to ask you a question so we can keep going.

7 A Okay.

8 MS. FANT: Your Honor, I would object to that.

9 MR. FINNEY: I will be glad to wait.

10 MS. FANT: He's supposed to keep looking for
11 information and talking to him at the same time.

12 MR. FINNEY: I will be glad to wait.

13 THE WITNESS: I have a number of 428-6547 which
14 would have been her home and 459-4345 which would
15 have been cell.

16 BY MR. FINNEY:

17 Q Forty-three what? 459...

18 A 4375.

19 Q So you got both of her numbers. Now, you have a
20 witness, Mr. Bradley, saying that I -- I spent the night
21 with her and you have a witness Ms. McDuffie saying, he
22 didn't spend the night with me. What does a good
23 investigator do when you got that dilemma?

24 A I'm not sure what you're getting at. She said -- if
25 the female said that -- that the person that he said that

1 he stayed with and she said that he didn't, he didn't.

2 Q You just believe her?

3 A She said that he didn't stay there, he didn't stay
4 there.

5 Q And he said he did.

6 A That's what he said.

7 Q So you just believe her.

8 A She ought to know who stayed at her house, so yeah, I
9 asked her, she said no, he didn't stay there.

10 Q But you're a criminal investigator and there's a man
11 in the pond with a brick --

12 A Uh-huh.

13 Q -- tied to his foot.

14 A Right.

15 Q Did you --

16 A We--

17 Q -- did you check out Mr. Bradley's story to see if he
18 had called up there or spent the night with her?

19 A Called. She confirmed that he called there --

20 Q Okay.

21 A -- and stated that it was late and that he wasn't
22 coming over.

23 Q All right.

24 A She said it was too late.

25 Q So again, you're telling the jury that he said one

1 thing, she said something different, you believed her.

2 A I believe that he didn't stay there based on her
3 testimony that he didn't stay there, yeah.

4 Q You believe her?

5 A Yeah.

6 Q Okay. Did you -- did you check her cellphone records
7 or his cellphone records?

8 A I obtained some cellphone records.

9 Q All right. You in fact subpoenaed all of the
10 cellphone records for Nate Bradley's cellphone for the
11 month of May, 2005.

12 A As well as the victim's.

13 Q As well as the victim's. What did you find out about
14 the victim's cellphone?

15 MS. FANT: Objection, Your Honor. Those records
16 aren't in evidence.

17 MR. FINNEY: If you don't mind, Your Honor, I
18 will need to take a five minute break so I can put
19 some things on the record, and then we could -- if
20 you'd like, we could take the lunch break now and
21 come back or...

22 THE COURT: Well, y'all approach a minute.

23 (Whereupon a bench conference was held.)

24 BY MR. FINNEY:

25 Q Mr. McMillan, you -- as a result of your

1 investigation, you got a search warrant to search Nate
2 Bradley's car, the Beretta, which was I think maybe at his
3 daughter's house.

4 A Correct.

5 Q And as a part of that search warrant, did you go out
6 and search the car?

7 A Along with Agent Gantt of South Carolina Law
8 Enforcement Division.

9 Q All right. And what did you find in that car?

10 A Some paperwork with a -- some cellphone paperwork,
11 like a contract and a ticket and just some miscellaneous
12 paperwork.

13 Q Nathaniel Bradley's papers.

14 A Right.

15 Q And as a result of finding out that he had a
16 cellphone --

17 A Uh-huh.

18 Q -- you subpoenaed from the -- from the cellphone
19 company all of the cellphone records from May, 2005.

20 A Correct.

21 Q And do you have those records?

22 A I might. Got them?

23 MS. FANT: Which one are you looking for?

24 MR. FINNEY: May 2005.

25 MS. FANT: The victim or the defendant?

1 MR. FINNEY: The defendant, Mr. Bradley. It
2 would look like that.

3 BY MR. FINNEY:

4 Q Do you know when you received these -- these records
5 were sent directly to your office?

6 A Yes.

7 Q And they came from Suncom Wireless?

8 A Or they affiliates, yes.

9 Q All right. And they show all of the calls
10 Mr. Bradley made on his cellphone in May of 2005.

11 A According to them, yes.

12 Q I would move that these -- look at these documents,
13 sir, and see if that is a account information sheet that
14 has Nathaniel Bradley's name on it.

15 A Yes, it does.

16 Q And underneath that sheet does it have a record of
17 all of the cellphone calls made by Mr. Bradley in the
18 month of May, 2005?

19 A I don't know if this is the billing cycle or not, but
20 they are actually from May the 16th, 2005 until the May
21 the 24th of '05.

22 Q All right. May the 16th through May 24th. All
23 right, sir. And you have -- you received those when, from
24 Suncom?

25 A Shortly after I sent them the subpoena.

1 Q You don't know?

2 A It was a...

3 Q What...

4 A What date I got on the search warrant.

5 Q Look right there. See if it's on there. The search
6 warrant is not in there. You had it in your hands.

7 A Uh-huh. According to this date it's got June the
8 first of '05 on here.

9 Q June the first of '05. So within a -- within four or
10 five days of the investigation beginning, you had the
11 cellphone records.

12 A A few days.

13 Q All right.

14 MR. FINNEY: I'd like to introduce these as a
15 Defendant's Exhibit one.

16 THE COURT: What says the State?

17 MS. FANT: No objection, Your Honor.

18 MR. FINNEY: Can we staple them together, Judge,
19 and make them one exhibit?

20 THE COURT: Yes, sir.

21 (WHEREUPON, Defendant's Exhibit 1 was admitted
22 into evidence.)

23 BY MR. FINNEY:

24 Q Investigator McMillan, did you do an analysis of
25 Mr. Bradley's cellphone records?

1 A Excuse me?

2 Q Did you do an analysis of Mr. Bradley's cellphone
3 records?

4 A I looked over it.

5 Q You have had the records for two and half years.
6 Have you ever looked on the detail sheet to see who he was
7 calling on Saturday the 21st and Sunday the 22nd and
8 Monday the 23rd?

9 A Yes, I did. I looked over it.

10 Q All right. How many times did he call Donna McDuffie
11 on Saturday, Sunday and Monday?

12 A I didn't count them, but according to you you said it
13 was 80 something calls on yesterday. 80 plus--

14 Q Well, that's -- that might have been for the month.
15 I was wondering if you might have done some checking
16 yourself.

17 A Give me a second here, I could count them, but off
18 the top of my head I don't, but I did look over them.

19 Q Well, let me help you out because you have got the
20 sheets in your hand.

21 A Uh-huh.

22 Q If you would look on the bottom of that detail sheet,
23 sir.

24 A Which page?

25 Q Page three. Do you see on the far left side it

1 has -- at the column it says a number, and each call has
2 got a number starting with 81 and going all the way down?

3 A Excuse me. When you're referring to the third page,
4 are you counting the coversheet first and then -- or--

5 Q Well, sir, I'm asking you to look from May.

6 A I'm looking.

7 Q Okay.

8 A From the 21st.

9 Q Yeah.

10 A Okay.

11 Q And at the top of the page I'm talking about the
12 number is 81. The call number would be 81.

13 A Okay.

14 Q Now you go down to 91.

15 A Okay.

16 Q You testified that Donna's cellphone was 459-4375 and
17 her home number was 428-6547.

18 A Still making reference to number 91?

19 Q All right. I'll tell you where I really want you to
20 go.

21 A Uh-huh.

22 Q I want you to go to page two at the bottom, May 22nd.
23 We can start there.

24 A All the way the bottom, number 80?

25 Q Yeah, number 80.

- 1 A Okay.
- 2 Q Now, May 22nd is Sunday. What time did Mr. Bradley
- 3 make the first call that morning, Sunday morning, the
- 4 22nd?
- 5 A It appears as if he checked his voicemail at 6:39 am.
- 6 Q 6:39 am he checked his voicemail.
- 7 A That's what it appears to be.
- 8 Q All right. And that would be call number 80.
- 9 A Correct.
- 10 Q The next call is call -- is marked as call number 79.
- 11 A Keep going back up, okay.
- 12 Q Right above it.
- 13 A I see it.
- 14 Q Right above it. And what time was that call made?
- 15 A It appears to be 7:16 am.
- 16 Q 7:16 am, about 17 minutes after he made his --
- 17 checked his e-mail.
- 18 A Yes.
- 19 Q And who would he make the call to, the very first
- 20 call he talked to that morning?
- 21 A When he got up, okay, 65 -- Donna McDuffie.
- 22 Q Talked to Donna McDuffie.
- 23 A Yes.
- 24 Q Now, Investigator--
- 25 A He called Donna.

1 Q Okay. Did you know that before just now? Had you
2 gone through these to see how many times he called her
3 that Sunday morning?

4 A I knew her telephone number. I didn't get the exact
5 count of how many times he called.

6 Q All right. Now, every cellphone call that's made is
7 made to a tower, right?

8 MS. FANT: Your honor, I object to him asking
9 him technical questions about cellphones. He's an
10 investigator.

11 THE COURT: He knows the answer, then he can
12 answer. If he doesn't, he can tell him he doesn't.

13 BY MR. FINNEY:

14 Q Do you know that cellphones are operated by towers
15 that they have located all over the county. You know
16 that; don't you?

17 A I know that there are cellphone towers.

18 Q All right. And when you got these records from the
19 cellphone company, you also asked them to provide you with
20 addresses for all the cell towers in Sumter County; didn't
21 you?

22 A No, I--

23 Q And company -- Suncom sent them to you.

24 A I asked I spoke with a Mr. Ide.

25 Q Mr. Ide, Mr. David Ide.

1 A Yeah, I spoke with him on the phone.

2 Q And he sent you the addresses for all of the cell
3 sites in Sumter County.

4 A No, he didn't send them to me. We spoke over the
5 telephone.

6 Q Okay. You go--

7 A And he provided me with some of them, not all of
8 them.

9 Q Well, did you -- you were looking for the sites for a
10 certain area? Were you looking for the sites for Rembert
11 or Donna McDuffie's house or what? What did he send you?

12 A He didn't -- he sent me the telephone records, but we
13 talked over the phone as -- as I asked him to explain to
14 me these numbers and everything, then he went into the
15 way -- where some of them was located at.

16 Q All right. Now, on the detail sheet for the -- in
17 the evidence of State's -- Defendant's Exhibit number 1 --

18 A Uh-huh.

19 Q -- the detail sheet for Mr. Bradley, on Sunday
20 morning there are numbers that tell you which tower the
21 call went to.

22 A Uh-huh.

23 Q And why does that make a difference, Investigator
24 McMillan?

25 A Those numbers would indicate where that tower -- that

1 particular tower is located at.

2 Q All right. And if you look at Sunday morning
3 starting with the first call, what is the tower number on
4 the first call, number 80?

5 A When you say the first call, you making reference to
6 as far as the tower number itself?

7 Q Yes, the tower number.

8 A It's 6455.

9 Q And on the information that you received from Suncom,
10 where is tower 6455?

11 A Should be around Tacoma Lane.

12 Q Tacoma Lane in what city?

13 A Sumter.

14 Q So the first city (sic) that you know he made that
15 morning was on a tower out in Sumter?

16 A I don't know that it was him. I know that his
17 cellphone was used to hit--

18 Q All right. And did you -- did you investigate to see
19 whether Mr. Bradley had his cellphone or -- during this
20 period of time when this Mr. James was missing? Did you
21 investigate that to see if he had his cellphone and he--

22 A He had his -- he had a cell -- cellphone when he was
23 arrested, and we seized that phone.

24 Q You got the phone; don't you?

25 A We seized the phone.

1 Q Okay. Now, the next call that was made that Sunday
2 morning to Ms. Donna was made at 7:16 in the morning.

3 What tower number did it come from?

4 A Referring to number 79?

5 Q Yes, sir, 79.

6 A 6472.

7 Q 6472 is a different tower number from the first call.

8 A Yes, it is.

9 Q And so where does 6472 on the list that was sent to
10 you by Suncom?

11 A According to that that would be -- that tower would
12 be located at 1510 -- I'm sorry -- Sumter Highway,
13 Bishopville.

14 Q Sumter Highway, Bishopville, South Carolina; is that
15 right?

16 A Correct.

17 Q Okay. Now, Bishopville, South Carolina is where
18 Donna McDuffie lives; right?

19 A Correct.

20 Q All right. Now, for the rest of that morning if you
21 look from number 79 all the way up to number 62 --

22 A Okay.

23 Q -- are all of the calls made by Mr. Bradley's
24 cellphone that Sunday morning in the Bishopville tower?

25 A And we talking from 79; right?

1 Q From 79 going up to 62.

2 A No, not all -- all of them is not on that -- on that
3 one tower.

4 Q All right. There -- is there a different tower
5 number you see there? What tower number do you see that's
6 not 6472?

7 A You got 6473, 6471.

8 Q All right. Just let's do those. 6473 would be what
9 towers according to the list you received?

10 A That would be 480 Wisacky Road. That would be also
11 in Lee County, Bishopville.

12 Q That's also in Lee County.

13 A Yes, correct.

14 Q And the number -- is the number one tower different?
15 In other words, the first tower we were talking about is
16 6472. The one you just mentioned to me in Wisacky is
17 6473.

18 A Correct.

19 Q All right. And you said you saw one on there that
20 says 6471.

21 A Yes, but I can't confirm that those towers are in
22 sequence --

23 Q I understand.

24 A -- going yeah, but it's--

25 Q Can you confirm that the 6471 has an address in

1 Camden, South Carolina? 6471.

2 A Excuse me just a second. 6471?

3 Q Uh-huh.

4 A That would be 969 Horse Pen Road in Camden.

5 Q All right. Now, would you tell the ladies and
6 gentlemen of the jury from your review of that record that
7 we're talking about from Sunday morning, what period of
8 time do the calls cover from number 79, the first call
9 that morning we talked about.

10 A We talked about number 80 -- from 80--

11 Q Okay. Well, from 80 -- the first call was made at
12 6:39 all the way to number 62. What time was number 62
13 made?

14 A Sixty-two was made at 10:32 am.

15 Q So from 6:39 -- well, let -- let me be specific.

16 A Uh-huh.

17 Q Call number 79 was made at 7:16 in the morning; is
18 that correct?

19 A 7:16, correct.

20 Q And from 7:16 all the way up to 10:32 Mr. Bradley's
21 cellphone was being used several times. Several calls
22 were made.

23 A According to the records.

24 Q All right. And all of those calls were made on the
25 three towers that you have told the jury about, Sumter

1 Highway, Bishopville, Wisacky Road, Bishopville, Horse Pen
2 Branch, Camden. All of those calls from 7:16 to 10:32?

3 A Had about four towers.

4 Q Four towers?

5 A You got 6455, six--

6 Q No, sir. That call -- not talking about that--

7 A You talking about from 79 then.

8 Q From 79.

9 A Okay. From 79.

10 Q To 62, those calls were all made on the three towers,
11 Bishopville, Wisacky, Camden; is that correct?

12 A According to the records.

13 Q All the way up to 10:32.

14 A According to the records.

15 Q All right. Now, before we move, let me -- let me ask
16 you, do you have this document right here which is the
17 cell site address sheet sent to you by Suncom?

18 A Again you're referring to me, but it wasn't sent to
19 me, but I -- I have that, I believe. Let me see that.

20 Q All right. The cell site address sheet.

21 A All right.

22 Q Does it list a number, probably 15 different cell
23 sites?

24 A I didn't count, but yeah, it looks to be that way.

25 MR. FINNEY: I would move that that be

1 introduced into evidence to go along with the phone
2 records, Your Honor, Defendant's Exhibit two.

3 THE COURT: What says the State?

4 MS. FANT: No objection, Your Honor.

5 THE COURT: All right. That will be Defense
6 Exhibit number two?

7 (WHEREUPON, Defendant's Exhibit 2 was admitted
8 into evidence.)

9 BY MR. FINNEY:

10 Q Now, we got the phone records from Sunday morning.
11 We got the tower showing where the phonecalls were made.
12 I'm going to show you State's Exhibit number 54, which is
13 a map. It's been called the Lee County map. Are you able
14 to determine where Highway 15 is on this map? Do you
15 think you could point that out for the jury?

16 A I don't know. I could take a look, but I can't
17 promise you anything. Say Highway 15?

18 Q Yes, sir. Mr. McMillan, that map is kind of -- maybe
19 not that clear. I think I've got a better map for you to
20 look at.

21 MR. FINNEY: Your Honor, please, could I ask the
22 Court to take a lunch break now so we could get the
23 other map up here and continue with this questioning
24 after lunch?

25 THE COURT: Yes, sir. Can you give me an idea

1 about how much longer you think cross is going to be?

2 MR. FINNEY: I would say 30 minutes or less.

3 THE COURT: Okay. All right. Ladies and
4 gentlemen, we'll take our lunch hour. You think you
5 can make it back by 2:15? If you can -- I'm going to
6 try my best to keep you out of Saturday.

7 We'll try to start back at 2:15. Usually it's a
8 matter -- many times I say 2:15 and it's 10 or 15
9 minutes after that by the time I deal with all the
10 issues.

11 So we will try to start back at 2:15 if we can.
12 Y'all have a nice lunch. I remind you don't discuss
13 this case yet. Don't read anything about it.

14 (Jury left the courtroom at 12:57 pm.)

15 THE COURT: Anything before we break for lunch?

16 MS. FANT: Nothing from the State, Your Honor.

17 MR. FINNEY: No, Your Honor.

18 THE COURT: What about your witnesses? Are they
19 here and -- to deal with whatever--

20 MS. FANT: We never did get the--

21 THE COURT: We need to deal with that.

22 MR. FINNEY: Mr. Paul Bradley -- I got two
23 witnesses here, Your Honor. I can get through those,
24 that information for--

25 THE COURT: Okay.

1 MR. FINNEY: The others won't be coming until
2 2:00.

3 THE COURT: You don't need to give them to me,
4 if you will provide them to the Solicitor's office.

5 MR. FINNEY: I will give them to the State.

6 THE COURT: Okay. And I hope, Mr. Finney, you
7 don't need 12 witnesses.

8 MR. FINNEY: I hope I don't either.

9 THE COURT: If you think you are, you need to
10 let me know because we are going to have to
11 re-arrange. We're going to be here a long time.

12 MR. FINNEY: All right.

13 THE COURT: Okay. We'll be in recess until
14 2:15.

15 (Court was in recess for lunch.)

16 THE COURT: Ready?

17 MR. FINNEY: Yes, sir.

18 THE COURT: State ready?

19 MS. FANT: Yes, Your Honor.

20 THE COURT: Have y'all had an opportunity to
21 exchange witness information?

22 MR. FINNEY: I gave her what I had before lunch.
23 Everybody -- the only one -- do you want the officer?

24 MS. FANT: I think we know.

25 MR. FINNEY: That's the only one I can give her

1 right now. Tim Leon is here. I can get that one.

2 (Whereupon there was a pause.)

3 THE COURT: Ready for the jury?

4 MS. FANT: Yes, Your Honor.

5 MR. FINNEY: Yes, Your Honor.

6 THE COURT: Bring us the jury.

7 (Jury entered the courtroom at 2:22 p.m.)

8 THE COURT: Thank you, sir. Mr. Finney?

9 MR. FINNEY: Thank you, Your Honor.

10 BY MR. FINNEY:

11 Q Investigator McMillan, we were talking about the item
12 that we had just put into evidence which was the
13 Defendant's Exhibit number two, the tower sheet addresses
14 for several towers in Sumter County.

15 And just to refresh the jury's recollection, down
16 here on call number 80 that was made on Mr. Bradley's
17 cellphone bill, the tower that started at the calls on
18 Sunday morning was tower number 6455?

19 A Have to look at that. Oh, 6455? Correct.

20 Q Is that what it says?

21 A Tacoma Lane, Sumter.

22 Q Tacoma Lane. Do you know where Tacoma Lane is?

23 A Not right off, no, sir.

24 Q Tacoma Lane in Sumter, you don't know where it is?

25 A I would have to look. I...

1 Q And you didn't do any research to see where he was
2 when that call -- where the phone was when that call was
3 made Sunday morning?

4 A Excuse me? I'm not sure I understand what you're
5 saying.

6 Q I want to know, have you gone out with that sheet to
7 see where those towers are in Sumter so that you could
8 determine where the phone was -- was when it made the call
9 Sunday morning?

10 A No, I haven't.

11 Q All right. That would be true for all the calls that
12 were made Sunday morning between nine and 11, all the
13 calls that were made between nine and 11 that morning on
14 tower 6472, which is the Sumter Highway, Bishopville,
15 South Carolina tower?

16 A 6472?

17 Q Yes, sir.

18 A It says here -- yeah, that would be 1510 Sumter
19 Highway, Bishopville.

20 Q 1510. So you didn't go out and check that out.

21 A No, other than looking -- talking to Mr. Ard and him
22 giving me the location of it.

23 Q And so that tower, you can't tell the ladies and
24 gentlemen of the jury today where in Lee County in
25 Bishopville that tower is in association with this map,

1 State's Exhibit number 54, and the area that we have been
2 talking about for the last two days?

3 A I'd have -- let me see the map. Not at the -- not at
4 this time. I couldn't just pinpoint it out on that
5 particular map there, no, sir.

6 Q All right. And the other towers that we were talking
7 about that show up on that bill between nine and 11, the
8 one that's at Horse Pen Branch Road, Camden, South
9 Carolina, and the one that's at Wisacky Highway,
10 Bishopville, you don't know where those towers are?

11 A Not in relation to the map, no, sir.

12 Q All right, sir. Now, this is a little map I have
13 from the Chamber of Commerce that shows the city of
14 Sumter. Could you look at that map right there and become
15 familiar with it and tell me if it's -- it's not to scale,
16 but you could tell me if it represents what you know about
17 the city of Sumter, how it's laid out.

18 A It looks like it. I would have to have a little
19 paper to see so I could you know where--

20 Q Well, do you see Shaw Air Force Base on there?

21 A Right here.

22 Q You see Shaw Air Force Base on the map?

23 A Yeah.

24 Q Do you see Boyle's Pond on the map? See Boyle's
25 Pond?

1 A Uh-huh.

2 Q Do you see St. Paul's Church Road crossing Boyle's
3 Pond? Do you see that? Where is that right there where
4 you're pointing? That's where you found Mr. James?

5 A Here.

6 Q All right. Now, keep your pointer there. If I told
7 you this was Highway 15 here going to Bishopville and the
8 Sumter County line crosses into Lee County line not even
9 on this map -- it's up a little further -- would you agree
10 that that's the area that going 15 North that's described
11 in those cell towers?

12 A I would agree that that's 15 North.

13 MS. FANT: Objection, Your Honor. If there's a
14 specific address up there -- that map does not have
15 any address points on it. There's no way he would
16 know what -- what the exact address is on the map.

17 BY MR. FINNEY:

18 Q Well, let me just refer specifically, sir --

19 A Uh-huh.

20 Q -- to the tower that's called 6473 Wisacky Highway in
21 Bishopville. You have been on that highway; haven't you?

22 A In Lee County.

23 Q Yes, sir, in Bishopville. Lee County -- Bishopville
24 is in Lee County; right?

25 A Right, correct.

1 Q And this map right here, the Lee County map is shown
2 in 54...

3 A Manville Wisacky.

4 Q Manville Wisacky Highway is on that map 54 that --
5 State's Exhibit 54; is that right?

6 A Wisacky Road, I believe it is.

7 Q All right, sir. And that would be close up in the
8 proximity of where Donna McDuffie lives.

9 A If I'm not mistaken, Manville Road runs through 15.

10 Q All right. And 15 would be on this side of the map
11 if we're looking -- it says north is at the top. So if
12 north is at the top, 15 would be here and Wisacky Road
13 would run off to the east?

14 A Off of 15 and make a right, right here.

15 Q Right there?

16 A Right, right here, and it run down there.

17 Q All right.

18 A Run to--

19 Q All right. And the address on that tower is Wisacky
20 Road, Bishopville; is this correct?

21 A Let me get it.

22 Q Now, could you tell the ladies and gentlemen of the
23 jury how far it is from Boyle's Pond up Highway 15 to
24 Wisacky Road?

25 A I wouldn't be exact. I would -- several miles.

1 Q Well sir, is it -- when you say several, is it
2 20 miles?

3 A No, I wouldn't say it's 20 miles.

4 Q More than 10 miles?

5 A Probably in that ball park.

6 Q All right. So it would be fair to say that you
7 haven't investigated the calls that were made from Nate
8 Bradley's cellphone on Sunday and -- as far as where the
9 phone was in relationship to these towers from nine to 11?

10 A As far as getting out there, physically going out
11 there dealing with these towers, no.

12 Q No. Okay. I understand. Now, would you agree with
13 me that if Mr. Bradley had a cellphone and he was making
14 calls from the Wisacky Road Sunday morning between nine
15 and 11 that he couldn't be at Boyle's Pond driving the car
16 that Mr. Koenig saw?

17 A Could you repeat that?

18 Q If Mr. Bradley was making phonecalls according to
19 Defendant's Exhibit number one in the Bishopville Wisacky
20 Road area --

21 A Uh-huh.

22 Q -- on Sunday morning --

23 A Uh-huh.

24 Q -- between nine and 11, he couldn't be at Boyle's
25 Pond and Cobblestone driving Mr -- driving the Volvo that

1 Mr. Koenig saw?

2 A If you are comparing it to the record in the time
3 that the call was made, I would say that the -- that if
4 Mr. Bradley was using the phone, if he was -- we don't
5 have any proof of that -- I would say he couldn't be in
6 two places at one time.

7 Q All right. When Mr. Bradley's car was searched by
8 you and the SLED agent, you were looking for blood, fibers
9 or a gun.

10 A Uh-huh.

11 Q Did you find any of those items in the car?

12 A No, sir. According to Agent Gantt, no, sir.

13 Q He was with you that day? I mean, you were with him?

14 A I was with him.

15 Q He was the expert so to speak?

16 A Right.

17 Q Did he spray some chemical in the car to see if it
18 reacted to blood?

19 MS. FANT: Objection, Your Honor. We stipulated
20 to the whole extent of what we know about what he
21 did.

22 MR. FINNEY: All right. I will move on, Your
23 Honor.

24 BY MR. FINNEY:

25 Q Let me ask you this. Before I move away from the

1 cell tower, last question. Did you ever look on that
2 list, State's Exhibit -- Defendant's Exhibit number two,
3 to determine if there was a tower on this list that was
4 near Boyle's Pond?

5 A Excuse me for just a second.

6 Q Yes, sir.

7 A There is a call 6117, 3940 Horse Trail Lane which is
8 North St. Paul's Church Road near the tracks.

9 Q I didn't understand that, sir. What -- 6117 is the
10 tower?

11 A Correct.

12 Q And--

13 A It's 3490 Horse Trail Lane, North St. Paul's Church
14 Road near the tracks.

15 Q That's the tower location?

16 A That I have, yes.

17 Q All right, sir. And you say that's North St. Paul's
18 Church Road?

19 A Yes.

20 Q All right.

21 A At the tracks.

22 Q And do you know when calls were made from that tower?

23 A I'd have to view. I did say 6117?

24 Q Yes, sir.

25 A Okay. Several. The first that I see here is on May

1 the 22nd at about 3:23 pm.

2 Q May the 22nd. All right. That's in the afternoon on
3 Sunday?

4 A Uh-huh.

5 Q And you say that those calls were made from a tower
6 on -- off of North St. Paul's Church Road?

7 A Correct.

8 Q All right, sir.

9 A Tracks.

10 Q Come down to this map for a second, please sir.

11 A Uh-huh (complied.)

12 Q Got your pointer? This is Boyle's Pond. St. Paul's
13 Church Road runs through Boyle's Pond?

14 A Yeah.

15 Q Does St. Paul's Church Road go all the way north
16 across the Wedgefield Road?

17 A Goes up to Wedgefield.

18 Q And does it continue on up to--

19 A It goes out north. It goes to 378.

20 Q Goes all the way to Broad Street?

21 A Broad Street all the way down to intersect at
22 Pinewood Road going south.

23 Q All right. Does it stop at Broad Street?

24 A It starts there--

25 Q So it stops there. Going north, it would stop there?

1 A Yeah, that's going north it stop. Going south it
2 would stop over at Pinewood Road.

3 Q And is there an indication on this map right here
4 that there's an area up there at the end of St. Paul's
5 Church Road called Wintergreen?

6 A I see that.

7 Q You see Wintergreen?

8 A Yeah.

9 Q And that's right before it dead ends at Broad Street.

10 A Correct.

11 Q All right. Did you know that Nathaniel Bradley was
12 painting at Wintergreen on Sunday at about 3:00 in the
13 afternoon?

14 A Painting?

15 Q Painting a house up there.

16 A No.

17 Q You didn't know that?

18 A Huh-uh.

19 Q Okay. Thank you, sir. Just a few more questions,
20 investigator, and I will be finished. In your
21 investigation, did you have a chance back in 2005 to talk
22 to a man named Calvin Davis that lived on Wisacky Road in
23 Lee County?

24 A Not in 2005.

25 Q When did you talk to him?

1 A I was aware of him -- made aware of him this past
2 weekend, Saturday.

3 Q All right. Was that as a result of Mr. Bradley and
4 his lawyer giving the State some information about
5 witnesses? That's how you learned about Mr. Davis?

6 A You provided me a list.

7 Q All right. Did you also learn about a guy named
8 Terrell Johnson?

9 A Not as a result from him.

10 Q Did you know Terrell -- did you know about Terrell
11 Johnson before we released the list to you?

12 A Yes.

13 Q Okay. Had you talked with Terrell?

14 A Yes.

15 Q Did you get a statement from Terrell?

16 A Yes.

17 Q Did you actually get the statement?

18 A He wrote it.

19 Q Did you -- I mean, were you the supervising officer?

20 A While he was writing the statement. Is that what
21 you're saying?

22 Q Yes.

23 A Yes, I was in his presence when he wrote the
24 statement.

25 Q I thought another investigator might have taken the

1 statement.

2 A No, it's at the end of the--

3 Q You took the statement from Terrell?

4 A He wrote it and -- in my presence, yes.

5 Q Do you remember when you talked to Terrell Johnson?

6 A Should have been on -- on the 15th.

7 Q Fifteenth of what month?

8 A July.

9 Q What year?

10 A '05.

11 Q 2005.

12 A Correct.

13 Q So that's been two months, May, June, July, two
14 months after the deceased?

15 A Correct.

16 Q All right. And Mr. Johnson gave you a statement
17 about him being--

18 MS. FANT: Objection, Your Honor. He cannot say
19 what Mr. Johnson said.

20 MR. FINNEY: I will rephrase the question.

21 THE WITNESS: Uh-huh.

22 BY MR. FINNEY:

23 Q All right. Mr. Johnson gave you a signed statement
24 about information revolving around Mr. James' death and
25 Mr. Bradley; is that right?

1 MS. FANT: Objection to anything he said.

2 MR. FINNEY: All right. I will rephrase the
3 question.

4 THE COURT: Okay.

5 BY MR. FINNEY:

6 Q Mr. Johnson gave you a statement.

7 A He gave me a statement.

8 Q All right. Did you talk to Calvin Davis last week
9 after you got his name as a witness?

10 A Yes.

11 Q And you spoke to him about the events of Sunday, May
12 22nd, Monday, May 23rd, that time period, 2005?

13 A Not Monday. I talked to him about Sunday.

14 Q Sunday. Okay. Good. And did you ever talk to
15 anybody in Camden, South Carolina, about how much money it
16 would have cost to get the van that Mr. James had been
17 arrested in out of the impound up there?

18 A No. I talked to -- there's an officer from Camden,
19 but I can't recall what his name is.

20 Q Did anybody tell you how much it would have cost to
21 get the van out?

22 A Other than Donna, I think she said that -- Donna
23 McDuffie I'm referring to -- said that she thought it was
24 like 240 something dollars.

25 Q But you never verified that?

1 A I didn't have a need as far as the van at that
2 particular time.

3 Q All right. Mean, it would have made a difference
4 between \$50 and 250 dollars, wouldn't it, as far as how
5 much it cost to get the van out? If you found out that it
6 was \$50 to get the van out, wouldn't that have made a
7 difference to you as far as the people telling you that
8 Nate was upset because the van was in impound and it would
9 cost \$50 to get it out?

10 A Not really because I don't know what dollar amount
11 would set him off.

12 Q All right. Talking about Donna. Donna says you all
13 visited her and went around the house, took pictures?

14 A Excuse me?

15 Q Donna McDuffie --

16 A Uh-huh.

17 Q -- testified you went around the house, took
18 pictures, visited her house.

19 A Correct.

20 Q She testified that you got a bullet from her.

21 A I don't know where she got that from.

22 Q You don't know where she got that?

23 A No.

24 Q You don't? All right. So that's not something you
25 remember?

1 A I didn't get a bullet.

2 Q And you didn't get a brick out of her yard?

3 A Didn't get a brick out of her yard.

4 Q And when Mr. Bradley was in your office talking to
5 you and you were making some notes, but you didn't have a
6 tape recorder or anything else, you noticed that his eye
7 was injured. You didn't take a picture of his eye?

8 A That was on the 24th. No, I didn't.

9 Q Do you have any evidence that Nate Bradley killed
10 Mr. James with the assistance of another man?

11 A Physically, no.

12 Q Physically, no. Mentally do you have any?

13 A No.

14 Q All right. Did you charge Nate Bradley with criminal
15 conspiracy as a result of the investigation in this case?

16 A No, I didn't.

17 Q Did you charge him with theft of property as being
18 Donna's gun?

19 A No, I didn't.

20 Q Did you charge him with arson as a result of the
21 Volvo?

22 A No, I didn't.

23 Q When you went up to Donna's house and you say you
24 took pictures of the brick that was missing, then you
25 looked under her house and saw some paint bucket, did you

1 take any pictures of that?

2 A Didn't take any pictures of the paint.

3 Q Investigator, I appreciate your cooperation. That's
4 all I have.

5 A Thank you.

6 REDIRECT EXAMINATION

7 BY MS. FANT:

8 Q Sergeant McMillan, let's get a few things straight.
9 The arson of the Volvo occurred where?

10 A In Lee County.

11 Q And can you issue an arrest warrant for a Lee County
12 crime?

13 A No, ma'am.

14 Q And the gun theft occurred where?

15 A In Lee County.

16 Q And you authorized to issue a warrant for that?

17 A No, ma'am.

18 Q And did you ever find out who the defendant's partner
19 was?

20 A No, ma'am.

21 Q Was there anyone to actually charge with criminal
22 conspiracy?

23 A No, ma'am.

24 Q On -- a couple of things I wanted to clarify. The
25 burning a vehicle report. Mr. Finney repeatedly referred

1 to 2:30 as being the time of that and you agreed, but I
2 wanted to show you the actual incident report. See if
3 that refreshes your memory about the date and time that
4 the McCutchens found the Volvo.

5 A According to the incident report it was May the 22nd,
6 2005, it was dispatched at 1535, which is 3:35 pm. Time
7 that -- time arrived was 3:45. Depart time 4:15 pm.

8 Q So it was in fact 3:45 not 2:30 on Sunday?

9 A Correct.

10 Q Now, concerning the conversation that you had with
11 the defendant, did -- on the 24th of May did he call you
12 and tell you he wanted to talk about the murder of his
13 best friend?

14 A No, ma'am.

15 Q How did -- who initiated the contact with the
16 defendant?

17 A We did. When I say we, referring to Sheriff Dennis.

18 Q And when he actually came to the Law Enforcement
19 Center, who was there?

20 A Myself, Sheriff Dennis, Lieutenant Florence and
21 Investigator Gardner.

22 Q And all four of you were there when he talked to you?

23 A Yes, ma'am.

24 Q And after Lieutenant Florence stepped out and you
25 made the call to Donna McDuffie, who terminated the

1 interview?

2 A He did. He terminated the interview.

3 Q And did you ask the defendant if he would provide a
4 written statement?

5 A Well, during the conversation we was talking, I
6 didn't ask him to provide one. We just called him in,
7 asked him some questions. He never offered to write one
8 and tell his story, and we didn't ask him to write one.

9 Q Did you attempt to detain him and make him write a
10 statement?

11 A No, ma'am. He wasn't under arrest at the time, so he
12 was free to go.

13 Q Okay. And at any time that he was there did he
14 express any sentiment about the death of his best friend?

15 A No, he didn't.

16 Q Now, I'd like to talk to you a little about the phone
17 records that are in evidence. I have prepared some charts
18 based on those records and would like to discuss them with
19 you, so let me get my copy.

20 (WHEREUPON, State's Exhibit no. 84 was marked
21 for identification only.)

22 BY MS. FANT:

23 Q Now let's talk about cellphones in general and
24 cellphone records. What is the importance of getting
25 cellphone records?

1 A Just to get a general idea of the area that the calls
2 were -- that the tower is in and the cellphone hit off of.

3 Q Does it ever tell you exactly where the person was?

4 A No, ma'am.

5 Q Does it ever tell you who actually had the phone?

6 A No, ma'am.

7 Q And is it -- well, let me go ahead and show you
8 what's been marked as... State's Exhibit 83. Can you tell
9 us what that is?

10 A That's a list of calls to Donna McDuffie's cellphone
11 number 236 -- from 236-6215 which would be the defendant's
12 cellphone.

13 Q And whose cellphone number is that?

14 A That's Mr. Bradley's cellphone, the defendant.

15 Q That's his number any way?

16 A His number.

17 Q And on Monday, May the 16th, 2005, when does the
18 defendant call or -- or the phonecall, Donna McDuffie,
19 that number -- the first call to her?

20 A The first call would have been May the 16th, 2005 at
21 10:48 pm.

22 Q You can be specific, 10:48 34 exactly?

23 A 10:48 pm., 10:48:34 pm.

24 Q Okay. The 34 is the seconds; correct?

25 A Thirty-four seconds, correct.

1 Q And how long do the records state that that phonecall
2 lasted?

3 A On this day seven minutes 12 seconds.

4 Q Okay. And when is the next call to Donna McDuffie's
5 house?

6 A May the 16th, 2005 at 11:16:16 and it lasted for 33
7 seconds.

8 Q And the call to Donna McDuffie's house, were there
9 any further calls should I say to her house that day?

10 A It was one more made at 11:17:12 and that lasted for
11 three seconds -- .03 seconds.

12 Q Yeah. Actually I think that it's .03 out of the
13 minute.

14 A Right, of minute.

15 Q Not seconds.

16 A Okay.

17 Q If you could read what the exhibit says.

18 A It says 11:17:12 point 03 minute.

19 Q Okay. Now, were there any other calls on Monday, May
20 the 16th, from his cellphone to Donna's numbers?

21 A No more calls on the 16th.

22 Q Okay. And those three calls on Monday, were they to
23 Donna's house or her cellphone?

24 A Okay. Those -- those three were to her house phone.

25 Q Okay. Now beginning on Tuesday, May the 17th, how

1 many calls in total did the defendant's phone make that
2 day?

3 A On Tuesday, May the 17th, 2005, he made 36 total
4 calls.

5 Q And how many of them were to Donna McDuffie?

6 A Three.

7 Q And when were those calls?

8 A The following calls was called to a cellphone. The
9 first one was 10:35:31 pm. It lasted 7.77 minutes. The
10 next one was to a cellphone again. It was 12:08:36 pm.

11 Q Now, are you going backwards on this?

12 A I'm starting from the bottom on Tuesday, May the
13 17th, 2005.

14 Q Pm at 12 noon, that's before--

15 A I got ya. Okay. Yeah, the call came into a
16 cellphone at 12:07 point 17 pm, point 6 minutes. The
17 second call came in at 12:08:36, point 36, and it lasted
18 point 7 minutes. The third call was 10:35 point 31 pm and
19 that lasted 7.77 minutes.

20 Q Okay. Was there any further calls to either number
21 of Donna McDuffie from the defendant's cell number on that
22 date?

23 A No, ma'am.

24 Q On Wednesday, May the 18th, how many calls are
25 reflected on the defendant's call records?

- 1 A He made 39 total calls.
- 2 Q And how many calls were to Donna McDuffie?
- 3 A Three.
- 4 Q And when were those calls?
- 5 A They were all to a cellphone. The first call was
- 6 12:56 point 13 pm, and that lasted point 35 minute. The
- 7 second call was at 1:42 pm -- 1:42 point 45, pm, and that
- 8 lasted point 02 minute. The third call was to a
- 9 cellphone, it was at 10:36 point 15 pm, and that also
- 10 lasted point 02 minutes.
- 11 Q Did he make any further calls or was that number used
- 12 to make any further calls on Wednesday, May the 18th?
- 13 A No, ma'am.
- 14 Q What about Thursday, May the 19th, how many calls are
- 15 reflected from that cell number?
- 16 A On a Thursday? Sixty-eight total calls.
- 17 Q And how many of them are to Donna McDuffie's
- 18 cellphone?
- 19 A Seventeen calls were to her cellphone.
- 20 Q And when did they begin?
- 21 A They began at 12:41 point 16 pm, and it lasted point
- 22 02 minutes.
- 23 Q And what is the last call indicated to -- from that
- 24 number to her cell on the 19th?
- 25 A It was last phone -- last call was to her cellphone

1 at 6:47 point 15 pm, and that lasted point 15 minutes,
2 point 15 minutes.

3 Q Did he call Donna McDuffie's house as well or was
4 that number used to call Donna McDuffie's house?

5 A Yes, ma'am. There were three calls to her house,
6 made to her house. It started at 8:02 point 07 pm, and it
7 lasted 1.77 minutes. The second call was at 9:04 pm --
8 9:04 point 29 pm, and that lasted point 48 minutes.

9 The third call was to her house. It started at 9:06
10 point 38 pm, and it lasted point 1 minute.

11 Q Were -- is that all the calls from that number to
12 either Donna McDuffie's cell or house number on that day?

13 A Yes, ma'am, on that Thursday, the 19th.

14 Q Now, on Friday, May the 20th, 2005, how many total
15 calls were there from the defendant's cell number?

16 A There were 86 total calls made.

17 Q And how many of those were to Donna McDuffie?

18 A On Friday, May the 20th, 2005, there were one, two,
19 three, four -- four calls made to her and they were all to
20 her house phone.

21 Q Okay. Did he call her any other time on Friday, May
22 the 20th, or did that number make a call to either of her
23 numbers on the 20th?

24 A No, ma'am.

25 Q Now, on Saturday, May 21st, 2005, the day that Ernest

1 went missing, how many total calls are reflected on the --
2 as going to the defendant's cellphone number?

3 A It was 99 total calls.

4 Q And how many of those calls went to Donna McDuffie's
5 house?

6 A Eleven.

7 Q And how many went to her cellphone?

8 A Eighteen.

9 Q And what is the last -- the time of the last call
10 that's reflected on there?

11 A The last call would have been made to her cellphone
12 at 7:31 point 04 pm, and the duration of that call was
13 point 4 minutes.

14 Q Okay. What about Sunday, May the 22nd, 2005. What
15 are the total number of calls from the defendant's number,
16 cellphone number?

17 A There were 62 -- correction -- 63 total calls.

18 Q And how many of those went to Donna McDuffie either
19 at her house or at her cellphone?

20 A Fourteen.

21 Q When is the last call on that Sunday?

22 A The last call was made to her house and it was at
23 8:26 point 26 pm. The duration of that call was point 05
24 minutes.

25 Q How about on Monday the 23rd?

1 A On Monday the 23rd, 2005, nine total calls were made.

2 Q And was -- were any calls made to Donna McDuffie's
3 cellphone?

4 A One call was made to Ms. McDuffie's cellphone, and
5 that was at 6:26 point 43 am. The duration of that call
6 was point 13 minutes.

7 Q Excuse me. Let me look at the records that are
8 actually -- are these -- these the ones, he left them up
9 here? Is that it?

10 A Yes, ma'am.

11 Q Okay. Okay. Did he call Donna McDuffie more than
12 once on Monday?

13 A According to the records he only made one -- one
14 phonecall on Monday to her and that was to her cellphone.

15 Q And on Tuesday, May the 24th, that was the last day I
16 believe that there was a -- call information. How many
17 calls from the defendant's cellphone number?

18 A There were eight total calls made.

19 Q And were either of those -- any of those to Donna
20 McDuffie's house?

21 A Two calls were placed to Ms. McDuffie's house. The
22 first call being placed at 9:00 point 48 pm. The duration
23 of that call was 6.07 minutes. The second call was made
24 to her house and that was at 11:40 point 08 pm, and the
25 duration of that call was .26 minutes.

1 MS. FANT: Your Honor, at this time I would
2 offer the State's Exhibits -- what's the number on
3 it?

4 THE WITNESS: It's right here, 83.

5 MS. FANT: Eighty-three into evidence.

6 MR. FINNEY: Would the Court allow me to ask a
7 couple questions of the witness regarding this
8 exhibit?

9 MS. FANT: I guess on his cross-examination.

10 MR. FINNEY: Well, I object to it coming in.

11 THE COURT: Okay. Then--

12 MS. FANT: It's -- it's admissible as a summary
13 of the voluminous records under rule of evidence
14 1006. The contents of voluminous writings may be
15 presented in the form of a chart, summary, or
16 calculation providing the underlying data are
17 admissible. The underlying data in this case have
18 already been admitted.

19 MR. FINNEY: Well, I'd like to know who prepared
20 the report for the witness. That was--

21 MS. FANT: That is irrelevant.

22 MR. FINNEY: Well, he didn't prepare it, then he
23 doesn't know what's in it.

24 MS. FANT: He's reading--

25 MR. FINNEY: Can't refer to accuracy of it for

1 it to come into evidence if he didn't prepare it.

2 MS. FANT: Your Honor, it's not offered for the
3 accuracy. It's offered as a summary.

4 MR. FINNEY: If it's not accurate, I don't want
5 it in evidence.

6 MS. FANT: They can check it.

7 THE COURT: The--

8 MR. FINNEY: The best evidence rule would be to
9 allow the Suncom cell records. They are already in.

10 THE COURT: I understand. She -- she is
11 offering it as a chart of the evidence that's already
12 in is what I assume she's doing, summary of the
13 charts that you offered.

14 MS. FANT: That is correct. It is offered under
15 rule 1006 as a summary, and it -- the rule clearly
16 states that if the underlying info, which is the
17 cellphone numbers, which are in evidence already, the
18 cellphone information, that a chart, summary, or
19 calculation is admissible in evidence.

20 The originals or duplicates shall be made for
21 examination. I gave him a copy of it. I don't
22 think--

23 MR. FINNEY: Well, I just got a copy of it. And
24 the witness apparently didn't prepare it, and I don't
25 think it's proper to bring it into evidence when he

1 doesn't know who -- who made it or when they made it
2 or where they made it from, especially since the best
3 evidence is that the phone records themselves are
4 already in evidence.

5 MS. FANT: Your Honor, do we need a moment?

6 THE COURT: Hang on just a minute.

7 MS. FANT: I will just respond that the best
8 evidence rule applies to whether he put the originals
9 in or not, and we did in fact enter -- Mr. Finney
10 entered the original phone records that Sergeant
11 McMillan received from Suncom.

12 It does not mean that you can't offer a summary
13 or a chart because it's not the actual evidence.
14 That would be the purpose of the rule.

15 MR. FINNEY: And my objection is that whoever
16 prepared this report can come in and admit it, but
17 this man cannot because he didn't prepare it.

18 THE COURT: I understand that. But I don't
19 think that the preparation is a prerequisite because
20 in many trials the attorneys and attorney's office
21 prepare charts and reports. The question is whether
22 it's accurate or not.

23 MR. FINNEY: Well, he doesn't know because he
24 didn't prepare it.

25 MS. FANT: But if -- that's why the underlying

1 records are admitted because you can -- if you think
2 there's a question of accuracy, you can refer to the
3 underlying records.

4 THE COURT: Just a minute. Cite me that rule
5 again.

6 MS. FANT: This is South Carolina rules of
7 evidence 1006.

8 THE COURT: Okay. I think -- 106 she's gone
9 over the charts. They have all been introduced in
10 evidence and this is a chart, and I think it's
11 admissible.

12 You certainly have a right to cross-examine him
13 based -- what he did is publish that chart. You
14 certainly can cross-examine him or anyone else
15 concerning whether those numbers accurately reflect
16 what's in evidence.

17 MR. FINNEY: Please note our objection, Your
18 Honor.

19 THE COURT: Yes, sir.

20 (WHEREUPON, State's Exhibit 83 was admitted into
21 evidence.)

22 BY MS. FANT:

23 Q Sergeant McMillan, I will also show you what has been
24 identified as State's Exhibit 24. Can you tell us what
25 that is?

1 A Yes, ma'am. It's a -- calls to Ernest James'
2 cellphone from cellphone number 803-236-6215.

3 Q And when -- when does that chart reflect that those
4 calls began? How many calls were on Tuesday, May the
5 17th, 2005?

6 A There was -- on May 17th of 2005, there were 36 total
7 calls made.

8 Q And how many to Ernest James' cellphone?

9 A One call.

10 Q When -- any other calls to him that day?

11 A No other calls.

12 Q On Wednesday, May the 18th of 2005, how many total
13 calls?

14 A On Wednesday, May the 18th, 2005, there were 39 total
15 calls made.

16 Q And how many of them were to Ernest James' cellphone?

17 A Three calls.

18 Q On Thursday, May the 19th of 2005, how many total
19 phonecalls?

20 A There was 68 total phonecalls.

21 Q And how many of them to Ernest James' cellphone?

22 A There were two calls.

23 Q On Friday, May the 20th, 2005, out of 86 -- excuse
24 me -- how many total calls were there?

25 A On Friday, May the 20th, 2005, there was 86 total

1 calls made.

2 Q And how many of them were to Ernest James' cellphone?

3 A There was 10 calls made.

4 Q How about Saturday, May the 21st, 2005, the day he
5 went missing, how many total calls?

6 A Ninety-nine total calls.

7 Q And how many of them were to Ernest James' cellphone?

8 A On Saturday, May the 21st, 2005, there was four calls
9 placed to Mr. James' cellphone.

10 Q And what is the time of the last phonecall made to
11 Ernest James' cellphone on Saturday, May the 21st, 2005?

12 A On Saturday, May the 21st, 2005, the last telephone
13 call made to Ernest James' cellphone was at 5:28 point 11
14 pm, and the duration of that call was point 2 minutes.

15 Q Now, were there any calls to the phone on Sunday, May
16 the 22nd? How many total cell calls on the number that
17 was assigned to Mr. Bradley?

18 A On Sunday, May the 22nd, 2005, there was 63 total
19 calls made.

20 Q And when is the first call to Ernest James' cellphone
21 made?

22 A The first call on -- was made on Sunday, May the
23 22nd, 2005 at 11:02 point 49 am. The duration of that
24 call was point was -- correction, 2.15 minutes.

25 Q Excuse me. If you can look on here, which is all of

1 the calls in the log on May the 22nd and look for the call
2 from that cell number to Ernest James' phone and tell us
3 what time it was -- well, actually we knew what time it
4 was. It was 11:14:59. You already said that. I'm sorry
5 11:02:49.

6 A Could you repeat what you needed, Ms. Fant?

7 Q Okay. On Sunday, May the 22nd, 2005, there -- you
8 indicated there was a call to -- the first call to Ernest
9 James' cell based on the chart was 11:02:49 am.

10 A Yes, ma'am.

11 Q And then the lasted for 2.15 minutes?

12 A Correct.

13 Q And that was from the defendant's cellphone number
14 which is (803)236-6215.

15 A Correct.

16 Q To what number?

17 A It was placed to (803)236-4895.

18 Q Now, is that our understanding from what Mr. James'
19 cellphone is -- of what his number is?

20 A Yes, ma'am.

21 Q And immediately preceding, before the call that the
22 defendant made to Ernest James' cellphone, what was the
23 call that came into his cellphone?

24 A Prior to the 11:02 call?

25 Q Correct.

1 A (803)236-4695.

2 Q So there was a call from Ernest James' -- the number
3 assigned to Ernest James to the defendant's cellphone just
4 prior to him making the call to Ernest James.

5 A Correct.

6 Q Okay. Were there any more calls to Ernest James'
7 cell number on Sunday?

8 A Yes, ma'am.

9 Q And on -- approximately how many calls were there?

10 A There was 63 total calls made on that day, May the
11 22nd, 2005. Six calls were placed to Mr. James' cellphone
12 number.

13 Q Okay. And on Monday, May the 23rd, 2005, how many
14 total calls were there?

15 A On May -- on Monday, May the 23rd, 2005 there was a
16 total of nine calls.

17 Q And how many were to Ernest James' cellphone?

18 A On Monday, May the 23rd, 2005 three calls was placed
19 in Mr. James' cellphone number.

20 Q And what was the time of the first and then the time
21 of the last?

22 A The first call to Mr. James' cellphone number was
23 Monday, May 23rd, 2005 at 6:36.49 am. The duration of
24 that call was 1.52 minutes. On Monday, May the 23rd,
25 2005, the last call made to Mr. James' cellphone was at

1 8:53.18 am. The duration of that call was .55 minutes.

2 MS. FANT: Your Honor, at this time I would
3 offer State's 84 into evidence.

4 MR. FINNEY: Same objection as...

5 THE COURT: Subject to the defense objection.

6 (WHEREUPON, State's Exhibit 84 was admitted into
7 evidence.)

8 BY MS. FANT:

9 Q Were you ever able to obtain any evidence that the
10 cellphone was actually in that -- the number that belonged
11to the defendant was ever actually in his possession at
12any particular time?

13 A No, ma'am, not during these calls.

14 Q And so they could have been from him, they might not
15could have been from him?

16 A Correct.

17 Q And during the course of this case did you talk to a
18number of witnesses -- I mean, far more than we presented
19in court today?

20 A Yes, ma'am.

21 Q And did you continue to receive some information even
22up until this week?

23 A Yes, ma'am.

24 Q And during that time did you find anyone, anyone who
25saw Ernest James alive after 5:30 pm on Saturday, May

1 21st, 2005?

2 A No, ma'am.

3 Q Thank you.

4 RECROSS-EXAMINATION

5 BY MR. FINNEY:

6 Q Mr. McMillan, who prepared those two reports you just
7 read to the jury?

8 MS. FANT: Objection. Irrelevant, Your Honor.

9 MR. FINNEY: You told me I could cross-examine
10 him, Judge, on whether they were accurate or not.

11 THE COURT: I will let him ask.

12 BY MR. FINNEY:

13 Q Who prepared the reports?

14 A I'm unsure who exactly prepared them.

15 Q Unsure who--

16 A The State.

17 Q The State -- somebody to your -- for the Solicitor or
18 your Sheriff's Department?

19 A Correct.

20 Q And you didn't help them do it? You didn't help them
21 do it?

22 A No.

23 Q You didn't sit down and say the bill says this, so
24 let's put this on the sheet?

25 A No, we discussed the cellphone list itself.

1 Q All right. Do the sheets that you just read from --
2 let me give you the number, so the record will be complete.

3 MS. FANT: 'Sitting on the bar.

4 BY MR. FINNEY:

5 Q Thank you. Exhibit number 84 and 83. Eighty-three
6 is calls to Donna McDuffie's cell. This sheet right here,
7 number 83, shows calls from Nate Bradley's number to Donna
8 McDuffie's house and cell; right? That's what it
9 supposedly says.

10 A Can't see that far. Let me see.

11 Q Excuse me.

12 A Yes.

13 Q Does it show how many calls Donna McDuffie made to
14 Nate Bradley during that period of time on any of those
15 days?

16 A Not on this form.

17 Q Doesn't show that?

18 A No, not on this form.

19 Q Okay. The same thing with Ernest James. Doesn't
20 show how many calls Ernest James made to Mr. Bradley's
21 phone on those days that are on that sheet; does it?

22 A No.

23 Q Okay. And a lot of these calls last just a second or
24 two; don't they?

25 A Correct.

1 Q So that's an indication that there may not have been
2 any conversation. Is that true?

3 A Correct.

4 Q And somebody had to call back several times before
5 they could get somebody to pick up the cellphone? Is that
6 correct?

7 A I -- I'm not sure of that.

8 Q All right. Now, on the sheets that we put into
9 evidence, was Nate Bradley's cellphone bill that you had
10 for two and a half years, every call that came into Nate
11 Bradley and every call that came out of Nate Bradley's
12 account is on that phone record, right, as far as you
13 know?

14 A Far as I know.

15 Q But that's not true of these sheets on these calls on
16 83 and 84. That only shows what went out. Doesn't show
17 what came in. Isn't that right?

18 A Excuse me? They show what came in. I mean--

19 Q Doesn't show what came in.

20 A The calls that was placed from.

21 Q Just the calls that were made out.

22 A Correct.

23 Q Who was using Ernest James' cellphone after he was
24 last seen on Friday -- excuse me -- Saturday, May 21st?
25 Who was making these calls on Sunday and Monday?

1 A From...

2 MS. FANT: Your Honor, I believe he misstated a
3 chart.

4 BY MR. FINNEY:

5 Q Ernest James -- well, let me -- you just asked him,
6 there were -- there were several calls. There were
7 several calls on Exhibit 84 made from Nate Bradley's phone
8 to Ernest James' phone on Saturday -- after Saturday --
9 let's just talk about Sunday.

10 Sunday and Monday, bunch of phonecalls were made from
11 Mr. Bradley to Mr. Ernest James' phone. Who was making
12 those? Who was Ernest James -- who was answering Ernest
13 James' phone when Mr. Bradley's phone was calling?

14 A I can't account for that. I can -- only thing I can
15 tell you is that during the course of the investigation
16 Martha Ransom stated that she had Mrs. -- Mr. James'
17 cellphone.

18 Q So Nathaniel Bradley or whoever had Nathaniel
19 Bradley's phone was talking to Martha Ransom all day
20 Sunday and all day Monday?

21 A I wouldn't agree with all day, no, sir.

22 Q The first call on Sunday was 11 am. The last call
23 was at 11 pm. Is that right?

24 A There was a total of six calls in between the time
25 that you mentioned.

1 Q I just asked you, was the first call at 11 am and the
2 last one at 11 pm?

3 A Yes, sir.

4 Q Thank you, investigator. Nothing further.

5 THE COURT: Anything further from the State?

6 MS. FANT: No, Your Honor. At this time the
7 State would rest.

8 MR. FINNEY: Motions, Your Honor.

9 THE COURT: All right. Mr. McMillan, you can
10 step down.

11 (Witness left the stand.)

12 THE COURT: Ladies and gentlemen, I have some
13 matters of law that I need to take up with the
14 attorneys at this time so I'm going to let you go to
15 the jury room.

16 I will get you back out just as quick as I can.
17 I don't have any idea how long it's going to last,
18 but please do not discuss this case yet. You can
19 discuss the terrible weather and how -- I guess if we
20 got to be inside today, it's as good a day as any to
21 be in. So I will get you back out just as quickly as
22 I can.

23 (Jury left the courtroom at 3:21 pm.)

24 MS. FANT: Major Florence, can we ask you--

25 THE COURT: Make your motion.

1 MS. FANT: Could we ask you for a favor, please.

2 MR. FINNEY: Restroom.

3 THE COURT: Sure. Hurry.

4 (Whereupon there was a pause.)

5 MR. FINNEY: Your Honor, please. On behalf of
6 Mr. Bradley, the defense would move at this time for
7 a directed verdict of not guilty as to the charge of
8 murder and possession of a handgun during a violent
9 crime.

10 The State has failed to show in the light most
11 favorable to the defendant that Mr. Bradley had
12 anything to do with the death of Mr. James.

13 The best evidence, the only evidence is that
14 Mr. James got in his car on his lane some time on
15 Saturday afternoon at 5:30 and drove away from his
16 house and wasn't seen again until he was recovered in
17 the pond on Monday.

18 The best evidence is that there's no connection
19 to Mr. Bradley to that death. The best evidence is
20 that there's -- no assistance was given to or by
21 Mr. Bradley to anyone who caused Mr. James' death.

22 The best evidence is that they -- the State has
23 failed to prove the county that Mr. James died in.
24 The State has failed to prove what day he died on or
25 what time or place he died at.

1 For these reasons, Your Honor, it would be our
2 position that the evidence has failed to produce a
3 scintilla of evidence that Mr. Bradley could have or
4 should be determined to have -- to go in front of a
5 jury to determine whether or not there is any
6 evidence for them to weigh because there is no
7 evidence for them to weigh.

8 The only evidence is that this man met his death
9 through some forces between Saturday afternoon at
10 5:30 and Monday when he was recovered.

11 THE COURT: All right. And what says the State?

12 MR. FINNEY: Request that--

13 THE COURT: I'm sorry. I thought--

14 MR. FINNEY: There was a motion made back in
15 November to quash the indictment. We would renew
16 that motion at this point based on the same grounds
17 and on the fact that under our understanding of the
18 case law, especially the case of State versus
19 Crocker, 2005 South Carolina case, there has to be a
20 minimum amount, a small amount, some evidence for the
21 case to go forward from this point on, that the
22 gentleman was killed in Sumter County and that he was
23 not -- not only that he was -- that he was killed in
24 Sumter County and that venue probably lies in Sumter
25 County for the trial of this case.

1 THE COURT: All right. You want to respond to
2 that?

3 MS. FANT: Your Honor, I will just point out the
4 cases of State v Evans, State v Williams, State v
5 Brisborn, the State v Mcleod and the State v Owens
6 all of which indicate that it is a very threshold, a
7 slight threshold for -- to establish venue, and if
8 the State shows that the body has been found in a
9 county and there is some additional evidence, then it
10 in fact is venue proper in that county.

11 And in this case we have an eye witness who saw
12 him driving the victim's car in Sumter County, it was
13 near -- very near the location of the pond where the
14 victim's body was found, and there also are cellphone
15 records obviously now in evidence that will place the
16 defendant's activities in Sumter County.

17 We would argue that under those cases and the
18 very low threshold that venue is proper in Sumter
19 County.

20 MR. FINNEY: Well, she's right. It's a low
21 threshold according to the case, but you have got to
22 have something to cross the fence.

23 I asked the investigator, who was the only
24 witness in this case who is a -- in a position to
25 know all of the evidence -- what evidence they had

1 that he died in Sumter County. He said they had
2 none.

3 What evidence did they have that he died on a
4 particular day or place in Sumter County. He had
5 none. I asked him whether or not he had any evidence
6 that Mr. -- Mr. James was killed by Mr. Bradley or
7 with the assistance of somebody else, and he had
8 none.

9 The threshold has not been met. But more
10 importantly, the evidence of driving a car that
11 belonged to a man who was either A missing or may be
12 dead -- they don't know if he was dead on Sunday
13 morning or not.

14 There is no evidence he was dead on Sunday
15 morning. The most Mr. Bradley could be charged with
16 is use of motor vehicle without the owner's consent
17 or grand larceny depending on the facts, if they had
18 any.

19 The other thing is cellphone records don't say
20 anything. They don't -- I mean, there's no evidence
21 that he was speaking to Mr. James on Sunday morning
22 or Saturday morning or anything, just that one number
23 was calling the other number.

24 That's not evidence of a violation of law. She
25 has been quick to point out all afternoon that none

1 of the calls that came from Mr. Bradley's phone had
2 to be made by Mr. Bradley.

3 So by that same logic, none of the calls that
4 went to Mr. James' phone had to be answered or made
5 by him. It's just a -- I mean, a very unusual case,
6 Your Honor, obviously.

7 You don't -- this officer has never seen a death
8 case like this before. And -- and there's a paucity
9 of evidence that connects Mr. Bradley, but there's no
10 evidence that connects him to the death.

11 *THE COURT:* All right, sir. As far as the venue
12 issue, time is not an element of the crime of murder,
13 that I think it suffices that the State has
14 introduced evidence that the victim was last seen on
15 Saturday afternoon and that his body turned up on
16 Monday during that period of time.

17 And so time is not -- and there's case law that
18 backs that up as you well know -- that is not an
19 element of the offense the State has to prove, that
20 they have narrowed it down to a window from the last
21 time he was seen and when he was found dead in
22 Boyle's Pond.

23 Now, as far as venue is concerned, if venue
24 under State v Brisborn as well as State v Owens,
25 venue in a criminal case need not be affirmatively

1 proved where there is sufficient evidence that can be
2 inferred.

3 I certainly feel that there's a -- sufficient
4 evidence that venue can be inferred in this case.
5 The last place the victim was seen alive was Sumter
6 County. The -- where his body was found was in
7 Sumter County.

8 And I certainly feel that the Court as well as
9 the jury can infer that he died in Sumter County.
10 There is no evidence in this record to the contrary
11 that he was seen in any other county.

12 MR. FINNEY: Excuse me, Your Honor. May it
13 please the Court. I will wait, but there is a matter
14 of the Volvo which is his car--

15 THE COURT: And the vehicle was -- that's
16 correct. The vehicle was in another county. The
17 evidence before this jury was that it -- around
18 9:30 that Sunday morning your client was allegedly
19 driving that vehicle in or near Boyle's Pond.

20 Some time between Sunday morning and 2, 3:30 on
21 Sunday afternoon the vehicle was found in Lee County
22 having been burned. So there is evidence that the
23 vehicle had been in Lee County, but I certainly feel
24 like that -- that the jury can infer that the death,
25 based on the evidence in this trial, that the death

1 occurred in Sumter County.

2 He's last seen in Sumter County. His body was
3 found in Sumter County. And there's a plethora of
4 cases where whatever county the body was found in --
5 and that's in McLeod, State v McLeod, that that's
6 sufficient outside of contradicting evidence to
7 establish venue.

8 Okay. Now, your motion for directed verdict.
9 Do you want to address that? Do you want to address
10 that motion?

11 MS. FANT: Well, I'd certainly like to point out
12 a few things, Your Honor. As you know, the standard
13 is the -- the evidence taken in the light most
14 favorable to the State, not the defendant.

15 That would be my first concern in that it is not
16 necessary that there be any physical evidence of a
17 crime. Circumstantial evidence -- in this case we do
18 believe we have some physical evidence. We have some
19 direct evidence. But obviously, most of it is
20 circumstantial.

21 We have him being the last person to see
22 Mr. James alive. We have him driving Mr. James' car.
23 And it's not to -- to weigh the evidence at this
24 point is there any evidence in the record, and there
25 was testimony from Mr. Koenig he clearly identified

1 the defendant driving that Volvo.

2 In addition, we have other circumstantial
3 evidence, the missing block from Donna McDuffie's
4 house, the missing gun from Donna McDuffie's house,
5 cellphone records which indicate a number of calls at
6 odd times to Ms. McDuffie.

7 The lie that the defendant told himself, the
8 fact that he was not under arrest and he voluntarily
9 provided three different stories about when he last
10 saw the victim and where he went after that.

11 And we think that -- that the threshold, which
12 is just any evidence, however slight, is enough to
13 send a case like this to the jury.

14 *THE COURT:* Okay. And the standard at this
15 point is -- is whether there is any credible evidence
16 at all, and not necessarily -- I have to make the
17 determination before I can grant a directed verdict
18 that I have to -- just as Ms. Fant has said -- I have
19 to like the light in -- most favorable to the State,
20 and whether its existence of any credible evidence.

21 Now, what weight that evidence -- the jury gives
22 that evidence is certainly up to the jury, but at
23 this point I have to determine whether there's any
24 evidence.

25 And I find that the circumstantial evidence is

1 the victim was last seen with the defendant in this
2 case. There's also evidence from Ms. Gloria Portee,
3 who spent the night of May the 19th with the
4 defendant in this case, and based on her testimony
5 the defendant threatened the victim, which is, you
6 know, something -- the Thursday or Friday before he
7 was missing.

8 And certainly the -- there is a threat. Based
9 on her testimony she appeared to take that threat
10 seriously, that she didn't think he was joking, that
11 she had some concerns with that threat, as well as
12 the statements that the defendant gave Bobby Lee
13 Hughes concerning the third person, and then he told
14 the police officer a different story concerning the
15 third person.

16 But there's at least evidence existing in that.
17 And then the other evidence in existence in this case
18 is the circumstantial evidence, as you know, is
19 Mr. Koenig's eye witness identification of him near
20 Boyle's Pond on Sunday morning.

21 And based on his testimony he was a hundred
22 percent certain that that in fact was the defendant
23 driving the victim's car. And within a few hours
24 after he was seen near where the body was dumped, the
25 car was located totally burned in Lee County.

1 So I think that there is evidence in this record
2 that a jury may infer his guilt in -- at least at
3 this point, even though it's circumstantial evidence,
4 that there is credible evidence.

5 What weight, if any, the jury gives that
6 evidence, I don't know, but it -- I think it meets
7 the -- it gets past the directed verdict stage, so I
8 respectfully deny your motion.

9 MR. FINNEY: Thank you, Your Honor.

10 THE COURT: Anything else?

11 MR. FINNEY: No, sir.

12 THE COURT: All right. Now, from a scheduling
13 standpoint. It's 3:30. You have any idea about --
14 if you had time to -- well, first of all, is your
15 client going to testify and do I need to review his
16 rights with him and whether he's going to offer any
17 evidence and how long you think this is going to
18 take?

19 MR. FINNEY: I think that would be better done
20 in the morning, Your Honor, because I believe the
21 rest of the afternoon I will be calling up witnesses
22 that are on the witness list.

23 THE COURT: All right, sir. So -- and that's
24 certainly -- he obviously -- the reason I was
25 addressing that at this point, I assume he may was

1 going to testify first, but that's not going to be
2 the case?

3 MR. FINNEY: No, sir, he'd be last.

4 THE COURT: Okay. We certainly can do that at
5 the appropriate time, and I will read his rights with
6 him and explain what, you know, what happened if he
7 took the stand and what would happen if he did not
8 take the stand.

9 Now, but simply after you have heard the State's
10 case, are you in the situation you still have 12
11 witnesses? Because if you do -- and the reason I --
12 we need to make some arrangements because we're not
13 going to finish this case tomorrow it appears if you
14 are going to call 12 witnesses.

15 MR. FINNEY: Your Honor, I would tell you that I
16 have five witnesses in the courtroom right now
17 sitting... seven, eight? I have eight witnesses in
18 the courtroom right now.

19 I will run as far this evening as you allow me
20 to run, and then I can make a better determination in
21 the morning --

22 THE COURT: Okay.

23 MR. FINNEY: -- as to if I'm going to call
24 anybody else.

25 THE COURT: All right, sir. Then we will press

1 forward as far as that is concerned.

2 MS. FANT: Your Honor, if any of these
3 individuals -- excuse me -- individuals are alibi
4 witnesses, I would request a hearing on the alibi
5 notice that was given to us and which witnesses
6 intend to testify about alibi, and that there would
7 not be any testimony outside of what was provided to
8 the State in his alibi notice.

9 THE COURT: I thought we dealt with all of that
10 first of the week.

11 MR. FINNEY: Everything that I put in that
12 notice is what we're going to be talking about people
13 going...

14 MS. FANT: Okay. What I wanted very clear is in
15 that notice is something that only the defendant
16 could testify to. If he does not testify, I expect
17 nothing to come in about that.

18 MR. FINNEY: In other words, if my client was
19 with his niece on Saturday night taking her around
20 the different places to get her ready for a prom, she
21 can testify to that.

22 MS. FANT: The specific things like -- if I can
23 find -- I'm looking right now, Your Honor, for the --
24 the notice --

25 THE COURT: I mean, on certain things in his

1 notice I guess you're referring to, maybe he spent
2 the night or -- some house he was painting and he was
3 the only one there, then obviously he can be the only
4 one testifying about -- testify about that.

5 MR. FINNEY: The only one testifying on that.

6 THE COURT: But I assume if it was other people
7 present with him, they certainly could tell whether
8 or not he was present with them and what timeframe.

9 MS. FANT: And as long as it's included in the
10 notice, Your Honor, we don't have a problem with
11 that.

12 MR. FINNEY: I'm ready to go, Your Honor.

13 THE COURT: Okay. I assumed we dealt with that
14 at the beginning of this week, so I'm taking both of
15 y'all's word and we will press forward accordingly.
16 All right. Anything before I bring the jury back?

17 MR. FINNEY: No, sir.

18 MS. FANT: Did we get all the information on the
19 witnesses so we can run their criminal history?

20 THE COURT: I don't know. I will take -- since
21 it is -- Kathy, I -- we will all take a quick break
22 then bring the jury back and press on. Any objection
23 to the bailiff telling the jury that we may run late
24 tonight in case they need to make arrangements?

25 MS. FANT: Nothing from the State, Your Honor.

1 (Whereupon a brief recess was had.)

2 THE COURT: All right. We ready for the jury,
3 ladies and gentlemen? All right. Bring them in.

4 (Jury entered the courtroom at 3:57 pm.)

5 THE COURT: Thank you, sir.

6 MR. FINNEY: May it please the Court. We'd call
7 Tanisha Williams to the stand.

8 THE COURT: Come around, please ma'am.

9 TANISHA WILLIAMS, after being duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. FINNEY:

13 Q Ms. Williams, sit back, relax. Just talk loud and
14 we'll be able to hear you.

15 A Okay.

16 Q Your name is Tanisha Williams?

17 A Yes, sir.

18 Q You live in Sumter?

19 A Yes, sir.

20 Q How long have you lived here?

21 A My whole life.

22 Q How old are you?

23 A Twenty-one years. Twenty-one.

24 Q Where do you work?

25 A Kangaroo.

- 1 Q What do you do there?
- 2 A Work on the cash register.
- 3 Q Did you graduate high school?
- 4 A Yes, sir.
- 5 Q What year?
- 6 A '05.
- 7 Q 2005?
- 8 A Yes, sir.
- 9 Q What school?
- 10 A Lakewood High School.
- 11 Q All right. And do you have family members in the
- 12 court this morning?
- 13 A Yes, sir.
- 14 Q This afternoon?
- 15 A Yes, sir.
- 16 Q Is your mom here?
- 17 A Yes, sir.
- 18 Q What's her name?
- 19 A Barbara Jean Williams.
- 20 Q And she's sitting in the courtroom?
- 21 A Yes, sir.
- 22 Q And next to your mom, who is that?
- 23 A My grandmother, her mom.
- 24 Q And her name is what?
- 25 A Eloise Sinkler.

- 1 Q Eloise Sinkler. Who do you live with?
- 2 A My grandma.
- 3 Q Ms. Sinkler?
- 4 A Yes, sir.
- 5 Q You all live at some apartments called South Forge
- 6 Apartments?
- 7 A Yes, sir.
- 8 Q And is it off of 261, Highway 261?
- 9 A Yes, sir.
- 10 Q In Sumter?
- 11 A Yes, sir.
- 12 Q All right. How do you know Nate Bradley?
- 13 A That was my mom boyfriend. I consider him as my
- 14 father.
- 15 Q All right. How long you known Nate Bradley?
- 16 A Ever since about -- I was like 17.
- 17 Q Okay.
- 18 A Seventeen.
- 19 Q And you're 20 now?
- 20 A I'm 21 now.
- 21 Q Twenty-one now?
- 22 A Yes, sir.
- 23 Q About four years?
- 24 A Yes, sir.
- 25 Q All right. Now, did you see -- you have an

1 opportunity to see Nate Bradley on a frequent basis?

2 A Yes, sir.

3 Q Do you happen to remember -- you happen to remember
4 what was going on in your life on May the 21st, Saturday,
5 May 21st, 2005?

6 A Yes, sir.

7 Q What was going on?

8 A That was my prom night.

9 Q Your prom night. Where did they have the prom at?

10 A What the name of the -- I can't remember the name of
11 the place. I can't remember.

12 Q What kind of place was it? Was it like a ballroom or
13 was it at the school in the gym?

14 A No, it wasn't at the school. It was like a big place
15 in Sumter.

16 Q Like the Exhibition Center?

17 A No, it wasn't the Exhibition Center.

18 MS. FANT: Objection, Your Honor. He can ask
19 her. That's fine.

20 BY MR. FINNEY:

21 Q Did you go to the prom?

22 A Yes, sir.

23 Q And it was on Saturday the 21st?

24 A Yes, sir.

25 Q How do you remember that?

1 A How I remember going to the prom?

2 Q Yes. How do you remember it was Saturday?

3 A Oh, because it was the 21st in May and it was a
4 Saturday.

5 Q All right. Did you have a opportunity to talk to a
6 police officer a few days later --

7 A Yes.

8 Q -- about Nate and being with Nate?

9 A Yes, sir.

10 Q Is that how you remember?

11 A Yes, sir.

12 Q All right. Now, on Saturday the 21st, did you see
13 Nate that day?

14 A Yes, sir.

15 Q Who was the -- about what time was it that day you
16 saw him?

17 A It was like early that morning because he took me --
18 I got -- he got my nails done for me--

19 MS. FANT: Objection, your Honor. May we -- may
20 we approach?

21 MR. FINNEY: I think I can clear it up.

22 BY MR. FINNEY:

23 Q Did you have an opportunity to see Nate that evening
24 around the evening hours of Saturday --

25 A Yes, sir.

- 1 Q -- before you went to the prom?
- 2 A Yes, sir.
- 3 Q Where did you see him at that time?
- 4 A He came and got me from my grandmother house and took
- 5 me to got my nails done, and then after that he took me to
- 6 got my hair done, and I called him to pick me up from my
- 7 -- from the hair dresser.
- 8 Q All right. Where was the hair dresser?
- 9 A It was Artistic.
- 10 Q Artisticks is the name of the shop?
- 11 A Yes, sir.
- 12 Q Where is that located?
- 13 A Ma, where that located?
- 14 Q No, talk to me now.
- 15 A In Sumter --
- 16 Q You know--
- 17 A -- like around here, around this area.
- 18 Q Downtown Sumter?
- 19 A Yes, sir.
- 20 Q All right. And you -- you were there at the shop?
- 21 A Yes, sir.
- 22 Q What were you doing at the shop?
- 23 A Getting my hair done for the prom.
- 24 Q All right. What time did you get picked up by Nate
- 25 that evening?

1 A Like -- like around 6:30, 7:00.

2 Q Okay. 6:30, 7:00 in the evening. And I'm just going
3 to put your name is?

4 A Tanisha.

5 Q Tanisha?

6 A Williams.

7 Q TW. I'm going to put TW down there. Now, after you
8 got in the car with him at the beauty shop, that was right
9 downtown?

10 A Yes, sir.

11 Q Where did y'all go?

12 A We went to Mr. Paul house. That's his brother. And
13 he -- he got some money from Mr. Paul to bought me a
14 camera for my prom and went to Food Lion and we got the
15 camera.

16 Q Hold on. Slow down. You went to Mr. Paul's house?

17 A Yes, sir.

18 Q And you know Mr. Paul?

19 A That's his brother.

20 Q Whose brother?

21 A Nathaniel Bradley.

22 Q Nathaniel Bradley's brother. You went to his house?

23 A Yes, sir.

24 Q And what kind of car were you in?

25 A The blue Beretta.

1 Q All right. Show you a picture, State's Exhibit 33.

2 You recognize what's in that?

3 A Yes, sir, we was in that car.

4 Q The blue Beretta?

5 A Yes, sir.

6 Q All right. And Nate took you over to his brother's
7 house. Y'all picked up some money?

8 A Yes, sir.

9 Q Then where did y'all go?

10 A We went to Food Lion so he could have bought me a
11 camera for the prom.

12 Q All right. Were you still downtown when you went to
13 Food Lion?

14 A No, we was like over there by the apartments where I
15 stay.

16 Q Okay. Is that out Broad Street? To go to -- to go
17 from downtown to go to your house, do you go down -- out
18 Broad Street area?

19 A No. No, sir.

20 Q Is it past Shaw Field?

21 A Yes, sir.

22 Q Okay. Is the Food Lion out past Shaw Field?

23 A Yes, sir.

24 Q All right. You went -- did you buy the camera?

25 A He bought the camera for -- me and him went in the

1 store together, but he bought it for me.

2 Q All right. And then after you bought the camera at
3 the Food Lion, where did you go?

4 A Back to my grandmother house so I could get dressed
5 for the prom.

6 Q All right. And did you have a beautiful gown?

7 A Yes, sir.

8 Q All right. And did you have a date?

9 A Yes, sir.

10 Q All right. Now, how did you get to the prom?

11 A We drove the blue Beretta.

12 Q And did Nate go in the car with you to the prom?

13 A No. He stayed at my grandmother house until I got
14 back that night.

15 Q All right. So Nate was at the apartments called
16 South Forge Apartments?

17 A Yes, sir.

18 Q What time did you leave for the prom?

19 A Around I say about 8:30.

20 Q 8:30. Okay. So he was at South Forge Apartments
21 from 8:30 till you got back. What time did you get back?

22 A Like 1:30.

23 Q All right. And you were in the blue Beretta?

24 A Yes, sir.

25 Q Who drove?

- 1 A My friend Edmi (sic) Edmonds.
- 2 Q And I'm just going to put on here that Nate was at
3 TW's house from 8:30 in the evening till 1:30 in the
4 morning.
- 5 A Yes, sir.
- 6 Q Now, 1:30 in the morning would make it Sunday morning
7 now. Is that right?
- 8 A Yes, sir.
- 9 Q When you came back in to your grandmother's
10 apartment, was Nate there?
- 11 A Yes, sir.
- 12 Q As -- and you don't know where he had been since
13 you -- since 8:30?
- 14 A No, sir.
- 15 Q But you left him at 8:30?
- 16 A Yes, sir.
- 17 Q Saw him again at 1:30 Sunday morning?
- 18 A Yes, sir.
- 19 Q Now, what happened to him after you got back at 1:30?
- 20 A He stayed there with me for a while and he asked me
21 did I had a good time, and he left and I left, me and my
22 friends left.
- 23 Q Where did you go?
- 24 A We went to a nightclub.
- 25 Q All right. And who drove then?

1 A We was riding with Donna Lee.

2 Q All right. And what happened to Nate?

3 MS. FANT: Objection, Your Honor.

4 BY MR. FINNEY:

5 Q Well, did you see Nate any more?

6 A Not that -- no, sir.

7 Q All right. And so on Sunday did you have any
8 opportunity to talk to Nate on Sunday?

9 A I can't remember if I talked to him or not. I don't
10 think I did.

11 Q All right. Now, do you remember giving a statement
12 to a officer named Bradley, a lady officer?

13 A Yes, sir.

14 Q All right. And if I showed you a copy of it, would
15 it refresh your memory?

16 MS. FANT: Objection, Your Honor. She just said
17 she remembered it. He can't show her the copy unless
18 she said she doesn't remember it.

19 BY MR. FINNEY:

20 Q Do you remember giving a statement to the officer?

21 A Yes, sir.

22 Q And everything you told us just now, was it in the
23 statement?

24 A Yes, sir.

25 Q All right. And did you tell the officer everything

1 you knew about being with Nate Bradley that night?

2 A Yes, sir.

3 MR. FINNEY: I have to ask her if this is the
4 statement so I can put it in evidence.

5 MS. FANT: That statement isn't coming into
6 evidence. Objection, Your Honor.

7 THE COURT: All right. Y'all approach.

8 (Whereupon a bench conference was held.)

9 BY MR. FINNEY:

10 Q Ms. Williams, did you tell the police officers
11 everything on -- you remember what day you -- you gave the
12 statement?

13 A I think it was that Monday.

14 Q Monday was the 23rd.

15 A Yes, sir.

16 Q They didn't find Mr. James' body until 1:30 on
17 Monday. You think it was Monday the same day they found
18 the body?

19 A No, it could have been Tuesday.

20 MR. FINNEY: Could I show her the statement to
21 refresh her memory as to what day she gave the
22 statement?

23 THE COURT: Yes.

24 BY MR. FINNEY:

25 Q Look and see if you can tell on there what day you

1 gave the statement.

2 A The 25th day of May.

3 Q The 25th day of May. That would have been Wednesday.

4 Is that -- is that correct?

5 A Yes, sir.

6 Q Tuesday was the 24th?

7 A Yes, sir.

8 Q Wednesday would have been the 25th. Where did you
9 give the statement at? Did you go the police station or
10 were they coming out to your house?

11 A At my grandmother's house.

12 Q And the officer talked to you that day?

13 A Yes, sir.

14 Q All right. Thank you, ma'am. Answer any questions
15 the Solicitor has.

16 CROSS-EXAMINATION

17 BY MS. FANT:

18 Q Ms. Williams.

19 A Yes, ma'am.

20 Q You indicated you're 21 years old now?

21 A Yes, ma'am.

22 Q And so you have known the defendant, Nate Bradley,
23 since you were 17?

24 A Around that time, yes, ma'am.

25 Q So when this happened, you had known him a couple of

1 years?

2 A Yes, ma'am.

3 Q And during that time he became like a father to you?

4 A Yes, ma'am.

5 Q And so you're very close to him; aren't you?

6 A Yes, ma'am.

7 Q And you don't want to see anything happen to him; do
8 you?

9 A No, ma'am.

10 Q And so you're up here today trying to help him;
11 aren't you?

12 A Yes, ma'am.

13 Q Exactly. Interestingly when he asked you about when
14 you gave the statement, you first said Monday the 23rd.
15 We know that's not correct; don't we?

16 A Yes, ma'am.

17 Q And then he said, could be Tuesday. And you said,
18 yeah, could have been Tuesday. But we know that's not
19 correct; don't we?

20 A Yes, ma'am.

21 Q And then he said, oh, Wednesday, let me show it to
22 you. And it was in fact Wednesday; wasn't it?

23 A Yes, ma'am.

24 Q Do you remember what time it was on Wednesday?

25 A No, ma'am.

1 Q Would it surprise you if I told you it was at
2 11:16 am on May the 25th, 2005?

3 A Yes, ma'am.

4 Q That would surprise you?

5 A I mean, I don't know what time it been, but...

6 Q Would you agree with me that that's what time it was?

7 A Yes, ma'am.

8 Q Okay. In the morning 11:16 am on the 25th of May,
9 2005, and that was a Wednesday. Interestingly you had --
10 you testified to some specific times in here about when
11 the defendant, like a father to you, was helping you with
12 the prom, but you couldn't remember where the prom was
13 held?

14 A I can't remember where the prom was.

15 Q Did you actually read over your statement before you
16 came to court today?

17 A No, ma'am.

18 Q So nobody told you what the significant dates were?

19 A No, ma'am.

20 Q So it's your testimony that you don't remember where
21 the prom was, but you remember specifically when it was.

22 A Yes, ma'am.

23 Q Okay. And you indicated that your -- the defendant
24 took you and picked you up from the hair dressers?

25 A Yes, ma'am.

1 Q But you didn't even know where the hair dressers was.
2 Isn't that correct?

3 A Yes, ma'am.

4 Q Okay. And you indicated -- I believe you said that
5 was, what, six or 6:30? What was the time that you gave?
6 What time did you just tell Mr. Finney that he picked you
7 up from the hair dresser?

8 A About 6:30.

9 Q Okay. Do you recall in your statement what time you
10 said he picked you up?

11 A No, ma'am, I don't think so.

12 Q Yeah, you did. Would it surprise you to find out
13 that you said he picked you up about 7:30 or 8:00?

14 A I mean, I can't remember. That was a long time ago.

15 Q Exactly. Exactly. But you definitely remember it
16 was Saturday, May the 21st, 2005; don't you?

17 A Yes, ma'am.

18 Q But you can't remember much else; can you?

19 A No, ma'am.

20 Q And you told him that it was about 1:30 when you got
21 back?

22 A Yes, ma'am.

23 Q And that you -- you talked to the defendant for a
24 while and then he left?

25 A Yes, ma'am.

1 Q But that's not what you said in your statement; is
2 it?

3 A Yes, ma'am.

4 Q You didn't say in your statement that I got home
5 around one and then Nathaniel left?

6 A Yes, ma'am. We talked, then he left.

7 Q You -- you didn't say, though, that you talked.
8 Would you agree with me that your statement says about --
9 after that, we came home, I took a couple more pictures
10 about one and Nathaniel left. Would you agree that that's
11 what your statement says?

12 A Yes.

13 Q Okay. I didn't see him any more until Monday night.
14 Is that correct?

15 A Yes, ma'am.

16 Q So in fact, you have no idea where he was when he was
17 not in the car with you picking you up for approximately
18 half an hour and then seeing you at one or 1:30 or
19 whatever your testimony is now on Sunday morning?

20 A Yes, ma'am.

21 Q And interestingly you indicated that you went by --
22 after he picked you up from the hair dressers, y'all went
23 by his brother's house, Paul Bradley's house?

24 A Yes, ma'am.

25 Q And why did you go by there?

1 A So he could get some money to buy me a camera for the
2 prom.

3 Q Okay. So he didn't have enough money to go to Food
4 Lion to buy a disposable camera to take your prom
5 pictures?

6 A No, because he done spend it all on my hair and my
7 nails.

8 Q Nothing further.

9 REDIRECT EXAMINATION

10 BY MR. FINNEY:

11 Q Did you call Mr. Bradley while you were at the beauty
12 shop to see when he was coming to get you?

13 A Yes, sir.

14 MR. FINNEY: You got a phone book?

15 BY MR. FINNEY:

16 Q Do you know the name of the store that you were
17 getting your hair done at?

18 A Artistics Hair Design.

19 Q Have you had your hair done there in the last year?

20 A No, I go somewhere else now.

21 Q Okay. And when you were saying to the Solicitor that
22 you -- when you came back from the prom, y'all took
23 pictures?

24 MS. FANT: Objection, Your Honor, if he intends
25 to use the phone book here.

1 MR. FINNEY: I intend to see if she can tell me
2 what the number at the place is.

3 MS. FANT: She can tell you from her own memory.

4 BY MR. FINNEY:

5 Q Do you remember the number at the beauty shop?

6 A No, sir, because I hadn't been there since I got my
7 hair done for the prom. I go to someone else now.

8 Q All right. And when you called from the beauty shop,
9 did you call -- did you call Nate Bradley at home or on
10 his cell?

11 A On his cellphone.

12 Q Okay. Do you happen to remember his cellphone
13 number?

14 A No, sir.

15 Q Okay.

16 MR. FINNEY: Court's indulgence, Your Honor.

17 (Whereupon there was a pause.)

18 BY MR. FINNEY:

19 Q What's the name of the place?

20 A Artistics Hair Design.

21 MS. FANT: Your Honor, if he intends to show the
22 phone book which is not from the year 2005 which
23 would be the correct time, I object.

24 THE COURT: I understand. I don't know what he
25 intends to do at this point. He has a phone book in

1 his hand. He's asking her a question.

2 BY MR. FINNEY:

3 Q Do you know how to use the phone book?

4 A Yes, sir.

5 Q Can you look up the number for Artistic Hair Design?

6 A Yes, sir.

7 Q Can you tell the Judge what the number is in the
8 phone book?

9 MS. FANT: Objection, Your Honor. This is not a
10 phone book from the year 2005.

11 MR. FINNEY: Judge--

12 THE COURT: Okay. I--

13 MR. FINNEY: The records that are in, the
14 cellphone records, are in evidence. Mr. Bradley's
15 cellphone records shows that this number was called
16 that night at 7:30.

17 MS. FANT: But it does not show that it came
18 from Artistic Design, that he has to prove that.

19 MR. FINNEY: It's the same number.

20 THE COURT: I'll -- I will allow the question.

21 BY MR. FINNEY:

22 Q Look up -- if you can tell the jury the number for
23 Artistic Designs.

24 A 775-8244.

25 Q And look at State's Exhibit number -- Defendant's

1 Exhibit number 1, May 21st, 2005, at 7:37 pm. What's that
2 number that shows on line 84?

3 A 775-8244.

4 Q Is that the same number from Artistic?

5 A Yes, sir.

6 Q Answer any other questions she has.

7 MS. FANT: Just one.

8 RE CROSS-EXAMINATION

9 BY MS. FANT:

10 Q So the testimony that you gave that he picked you up
11 at six or 6:30, that was false; wasn't it?

12 A I don't -- I wasn't looking at the time. I just
13 was -- he said guess the time, so I guessed around six or
14 6:30, yes, ma'am.

15 Q And you don't remember anything else, but you
16 remember the day?

17 A Yes, ma'am.

18 Q Okay.

19 MS. FANT: Nothing further, Your Honor.

20 MR. FINNEY: Thank you. Come down, please
21 ma'am. Give me that book.

22 (Witness left the stand.)

23 MR. FINNEY: Call Mrs. Eloise Sinkler.

24 ELOISE SINKLER, after being duly
25 sworn, testified as follows:

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DIRECT EXAMINATION

BY MR. FINNEY:

Q Mrs. Sinkler, you live in Sumter?

A Yes, sir.

Q And Tanisha Williams is your granddaughter?

A Yes, sir.

Q Has she lived with you most of her life?

A Yes, sir.

Q All right. What do you do for a living? Retired?

A Housekeeper.

Q All right. Now, you know Nathaniel Bradley?

A Yes, sir.

Q How did you know him?

A By going with my daughter.

Q He was going with your daughter?

A Yes, uh-huh.

Q Back in 2005 was he going with your daughter?

A 2005? Yes, sir.

Q In May of 2005 when Tanisha had her prom, did you have an apartment in Sumter?

A Right, Spanish Garden.

Q Spanish Garden? It's now called something else?

A It called South Forge right now.

Q South Forge Apartments?

A Right.

1 Q How long you been living there?

2 A Oh, long time, long time.

3 Q More than five years?

4 A Yes, sir.

5 Q All right. Did you have occasion to see Nathaniel

6 Bradley at your house at South Forge the night of

7 Tanisha's prom?

8 A Yes, sir.

9 Q And do you by the way know where Tanisha's prom was

10 at?

11 A I don't know.

12 Q Okay. What time did Nathaniel Bradley get to your

13 house that evening?

14 A For Tanisha to go to the prom?

15 Q Yes, ma'am. The night that she went to the prom.

16 A I don't know, around about nine.

17 Q You think it's about 9:00?

18 A I really don't know.

19 Q When he came in the door, did he have Tanisha with

20 him?

21 A I -- yes, sir.

22 Q All right. And where had they been? Where had she

23 been?

24 A To the hair dresser.

25 Q All right. And did she get her hair done?

- 1 A Yes, sir.
- 2 Q Did it look nice?
- 3 A Looked nice.
- 4 Q All right. Nathaniel came in and sat down and stayed
5 at your house all evening that evening?
- 6 A Yes, sir. They went to the prom and come back from
7 the prom.
- 8 Q All right. So when Tanisha left from your house, did
9 anybody else leave with Tanisha to go to the prom?
- 10 A Her and her friend Ebony and Nadia.
- 11 Q Okay. So a couple of three girls left?
- 12 A Right.
- 13 Q Whose car did they leave in?
- 14 A They -- Nate.
- 15 Q All right. And after they left to go to the prom,
16 did Nate spend all of the hours with you in your
17 apartment --
- 18 A Right.
- 19 Q -- until they got back from the prom?
- 20 A Yes, sir, that's correct.
- 21 Q Did you tell the police officers that about five days
22 later when the police came to your house to ask you that?
- 23 A I told them that, yes, sir, on the paper.
- 24 Q Did you give a signed statement?
- 25 A They didn't ask that. They just said... had to make

1 a statement or something.

2 Q Yes, ma'am. I'm saying, did they write down
3 something or did you write down something and give a
4 statement to--

5 A The lady was there, uh-huh.

6 Q You did?

7 A Yes, sir.

8 Q All right. And you told her that Nate was at your
9 house all that evening.

10 A Right, uh-huh.

11 Q Now, when the girls came back from the prom, was Nate
12 still there?

13 A He was there.

14 Q All right. And that would have been over past
15 midnight?

16 A Right.

17 Q So now we're talking about Sunday morning?

18 A Right.

19 Q And when he left, did he leave in his car? He took
20 his car then?

21 A He took his car then, yeah.

22 Q All right. And then you didn't see him any more
23 Sunday? Did you see him any more Sunday?

24 A No, I didn't.

25 Q All right. After Nate left your house that night,

1 did you see him any more until he got arrested?

2 A No.

3 Q All right. And do you know what kind of work Nate
4 did back then during that time, May of 2005?

5 A Painting.

6 Q Painting?

7 A Right.

8 Q Thank you, ma'am. Answer any questions the Solicitor
9 has for you.

10 CROSS-EXAMINATION

11 BY MS. FANT:

12 Q Do you recall -- you indicated to Mr. Finney that you
13 don't remember what time he -- he got there with Tanisha?

14 A I don't remember what time.

15 Q Okay. And you indicated that he left when she got
16 back from her prom?

17 A Right.

18 Q What time was that?

19 A But they took pictures and everything before he
20 leave, and I guess that was about -- I don't know, about
21 1:30 or two. I really don't know.

22 Q 1:30 or two?

23 A Something like that. I don't know.

24 Q Okay. Well, would it surprise you that in your
25 statement you told them that Nate stayed until Tanisha got

1 back from the prom which was about 12:30 or 12:45?

2 A Then they took pictures. Yes, ma'am.

3 Q For an hour and a half?

4 A No, ma'am. Not that long, no, ma'am.

5 Q So he probably left shortly after that even under

6 your version of events?

7 A Yeah, around then, yes, ma'am.

8 Q All right. And you didn't see him at all until

9 Tuesday, May the 24th, 2005?

10 A Yes, ma'am.

11 Q Okay. And when you saw him that day, what did you

12 ask him?

13 A Well, my -- my daughter asked him if he heard that

14 Ernest was, you know...

15 Q I didn't ask you what your daughter asked him. I

16 asked you what you asked him.

17 A I didn't ask him nothing. I didn't speak to him, how

18 you doing--

19 Q You didn't ask him nothing.

20 A No, ma'am.

21 Q Okay. But you admit you gave a statement to

22 Investigator Bradley with the Sheriff's Office --

23 A Yes, ma'am.

24 Q -- and you gave that statement the next day on

25 Wednesday, May the 25th.

- 1 A Yes, ma'am.
- 2 Q Would you agree that was at 11:42 am?
- 3 A I think that was about the time she came, yes, ma'am.
- 4 Q Okay. So we're talking about the next day. Not even
- 5 24 hours later.
- 6 A Uh-huh.
- 7 Q And isn't it true that you told her on that
- 8 Wednesday --
- 9 A Uh-huh.
- 10 Q -- the Tuesday, the day before, you asked Nathaniel
- 11 if he knew what had happened to Ernest, and he dropped his
- 12 head, grabbed his chest and said, yes. Is that what you
- 13 said?
- 14 A That's...
- 15 Q That's right. That's what he did; isn't it?
- 16 A Uh-huh.
- 17 Q And that's what you told the officer?
- 18 A (Nodded.)
- 19 Q Thank you.

20 REDIRECT EXAMINATION

- 21 BY MR. FINNEY:
- 22 Q Ms. Sinkler --
- 23 A Yes, sir.
- 24 Q -- did you write the statement or did the officer
- 25 write the statement?

1 A Officer write it.

2 Q Okay. Nothing further. Answer any questions the
3 Solicitor has.

4 MS. FANT: Nothing, Your Honor.

5 THE COURT: Thank you, ma'am. You can step
6 down. Be careful.

7 (Witness left the stand.)

8 MR. FINNEY: Mr. Calvin Davis.

9 CALVIN DAVIS, JR., after being duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. FINNEY:

13 Q Mr. Davis, how are you today?

14 A Not too good.

15 Q You hate to be in Sumter today; don't you?

16 A You got that right, especially the weather bad.

17 Q Yes, sir. Mr. Davis, where do you live?

18 A Place called -- I lives in Bishopville.

19 Q All right. Do you live off the Wisacky Road in
20 Bishopville?

21 A Right.

22 Q How long have you lived there?

23 A About 47 years.

24 Q All right. You a working man?

25 A Huh-uh.

1 Q Disabled.

2 A I'm disabled. Sixty-five year old man don't do no
3 work.

4 Q Retired. What kind of work did you do when you were
5 a young man?

6 A Drive truck, some of everything.

7 Q All right. You know a young lady named Donna
8 McDuffie?

9 A Yes, sir.

10 Q Where does she live from your house?

11 A About a mile, ain't quite a mile.

12 Q All right. Does she live off of Wisacky Road?

13 A That's right, on this side of church, she on other
14 side.

15 Q You on one side of a church --

16 A Right.

17 Q -- she's on the other side of a church?

18 A Back in the woods.

19 Q Back in the woods. I got a map here, Mr. Davis, but
20 I don't know if we can read it, so I'm going to skip that.
21 Did you have occasion back in May of 2005 to have this
22 gentleman over here, Mr. Nate Bradley, come to your house?

23 A See, I don't keep up with the date and month, and I
24 try to be smart, and I -- I don't know him. I know him
25 when I, you know, see him. I don't know him.

1 Q Let me drop this down here. Maybe you can't see that
2 either. You see that man right there in the blue suit?

3 A Uh-huh.

4 Q Do you know him?

5 A He don't look like the same one to me.

6 Q Sir?

7 A He don't look like the same one to me.

8 Q He don't look like the same one?

9 A Huh-uh.

10 Q He never been to your house sitting in your front
11 yard?

12 A Oh, he been to my house -- he in my house, in my back
13 yard. He look different with a haircut.

14 Q He had more hair then?

15 A Little bit.

16 Q Okay. You want him to stand up? You don't -- you
17 hadn't talked with him, have you, before?

18 A I ain't seen him, what -- according to what date that
19 been to now.

20 Q About two years you ain't seen him?

21 A Look like it been longer than that to me.

22 Q Two years and a half?

23 A I don't know.

24 Q Okay.

25 A I don't keep up with them dates like that.

1 Q All right. You remember him coming up to your house
2 one Sunday morning?

3 A Right.

4 Q Sitting in the yard with you?

5 A Yeah.

6 Q What was he doing there?

7 A Well, he come by and see me and speak to me, and he
8 sat in the back yard.

9 Q Did you know him before he got there that day?

10 A Yeah, I see him every once in a while.

11 Q Okay. And you had some conversation with him before?

12 A Right.

13 Q Did he -- did you know that he knew Donna?

14 A I didn't know that.

15 Q Okay. Did he tell you that Sunday morning when he
16 was up there--

17 MS. FANT: Objection, Your Honor. Leading. He
18 can ask him what he told him.

19 BY MR. FINNEY:

20 Q Did you have a conversation that Sunday morning when
21 you saw him up there at your place?

22 A Yeah.

23 Q Was he driving -- if I showed you a picture of a blue
24 car, could you tell--

25 A A little blue Celebrity Chevrolet.

1 Q Blue what?

2 A I call it's a Levity (sic) or whatever it is, a
3 Chevrolet.

4 Q Celebrity or something like that?

5 A Whatever.

6 Q I'm showing you State's Exhibit 33.

7 A That look like...

8 Q Blue car like that, Chevrolet?

9 A Uh-huh.

10 Q That's what he was driving?

11 A To me it is, yeah.

12 Q Okay. And did you have occasion to help him with his
13 cellphone?

14 A Huh-uh.

15 Q Okay. You don't remember anything about that?

16 A Huh-uh. He had his own phone.

17 Q Yeah, but I didn't say you gave him a phone.

18 Something about the battery or the charger or anything
19 like that?

20 A I ain't know nothing about that.

21 Q Don't remember that? How long would you say he was
22 at your house?

23 A Well, I ain't watched the time when he left. I know
24 it around -- it a little after 10.

25 Q Little after 10?

- 1 A I know that.
- 2 Q And where was he going when he left?
- 3 A I ain't asked him that.
- 4 Q Okay. What did y'all talk about?
- 5 A Well, like man talk.
- 6 Q Okay. How long would you say he was up there with
- 7 you?
- 8 A I ain't see what time he come, now.
- 9 Q Okay. You were sitting out there with him the whole
- 10 time?
- 11 A Yeah.
- 12 Q All right. Now, you -- your house is on the Wisacky
- 13 Road in Bishopville.
- 14 A Right.
- 15 Q How far is it from your house to this courthouse?
- 16 A Well, I clock it up a while ago at 24 miles.
- 17 Q 24 miles to this courthouse?
- 18 A Right.
- 19 Q All right. And you don't know, you weren't looking
- 20 at your watch. You wear a watch?
- 21 A Huh-uh, can't. Can't wear none.
- 22 Q All right. So you don't know what time he got to
- 23 your house?
- 24 A No.
- 25 Q He stayed there for a while and then he left.

1 A Right.

2 Q And he was driving.

3 A Right.

4 Q Was he alone?

5 A Right.

6 Q Okay. And that would have been -- do you know if it

7 was a Sunday morning?

8 A I know it was Sunday morning. I know that.

9 Q How do you know that?

10 A I ain't -- why -- how -- I ain't quite dumb. I ain't

11 know what date this is, I ain't know what year it been. I

12 ain't know what year it been really. The only date I know

13 is the third of the month. That the only date I know.

14 Q But the day you saw him at your house was a Sunday

15 morning.

16 A It was a Sunday morning.

17 Q Okay. So I'm just going to put your name on the

18 board here. Calvin Davis; right?

19 A Right. All of them call me Bozo.

20 Q Bozo is your name?

21 A B-O-Z-O.

22 Q I'm going to put Bozo on here Sunday morning. Now,

23 did you -- did you see Ms. Donna that morning?

24 A Huh-uh.

25 Q And he didn't talk to you that morning and tell you

1 what he was doing up there?

2 A Right.

3 Q He didn't?

4 A He told me.

5 Q That's what I need for you to tell the jury. I'm
6 trying to help this man out.

7 A He said he was going to get some paint he leave
8 there.

9 Q Some what?

10 A Some paint.

11 Q Some paint?

12 A See, I thought -- he was -- he said he paint her
13 house, but I ain't know he paint her house.

14 Q Okay.

15 A And he ain't been want to go there while her friend
16 there.

17 Q What friend was at Donna's house?

18 A I don't know that.

19 Q Okay. But he said to you --

20 A I don't know that.

21 Q -- he didn't want to go over to Donna's house while
22 her friend was there.

23 A Right.

24 Q So he was waiting--

25 A Till he leave her or whatever.

1 Q All right. So did you see Donna and her friend
2 leave?

3 A No, neither one.

4 Q All right. And after a while he got up and left?

5 A Right.

6 Q Did he make phonecalls on his cellphone?

7 MS. FANT: Objection, Your Honor.

8 THE WITNESS: Right.

9 MS. FANT: This is clearly leading.

10 THE COURT: He's -- I will--

11 MR. FINNEY: I will rephrase the question.

12 THE COURT: Go ahead.

13 BY MR. FINNEY:

14 Q What was he doing sitting in your yard for those
15 minutes or hours, or how long, what was he doing?

16 A I tell you we was talking.

17 Q Did you do anything else? Did you smoke?

18 A No. I ain't know he smoke or not. I ain't seen him
19 smoke. I smoke.

20 Q You smoke?

21 A Yeah, I smoke.

22 Q Did you drink?

23 A Yeah, every once in a while. Well, that too early.

24 Q That morning.

25 A No, I don't drink on Sunday morning.

- 1 Q You don't drink on Sunday morning?
- 2 A Huh-uh.
- 3 Q Did he drink anything?
- 4 A Huh-uh.
- 5 Q All right. Did he do anything else?
- 6 A Use the phone and--
- 7 Q Whose phone?
- 8 A His. He had a cellphone. .
- 9 Q Do you remember how many times he used the phone?
- 10 A I ain't know about how--
- 11 Q I know. But I'm just saying, was it one time or was
- 12 he on the phone a lot?
- 13 A He was on the phone -- no, ain't no lot.
- 14 Q Not a lot?
- 15 A Huh-uh.
- 16 Q Okay.
- 17 (Mr. Finney conferring with defendant.)
- 18 BY MR. FINNEY:
- 19 Q Just a couple more questions. Do you remember eating
- 20 something that morning when he was there?
- 21 A That's so long, I can't remember. I might have eat
- 22 breakfast, but I ain't --
- 23 Q All right.
- 24 A -- I ain't keep up with that.
- 25 Q That's all right. After he left --

1 A Uh-huh.

2 Q -- did you see him any more for the next couple of
3 days after that?

4 A I ain't seen no more till now.

5 Q Till now?

6 A Right.

7 Q Did the police officers ever come up to your house
8 and talk to you about this case?

9 A Huh-uh. His who? I think that fellow there.

10 Q This fellow with the red tie on?

11 A I think that him, and that lady.

12 Q And the lady?

13 A And I think it been you come there one time.

14 Q I came there one time. I sure did.

15 A Right.

16 Q I sure did.

17 A And then somebody else come there Sunday. I ain't
18 know who that is.

19 Q Sunday somebody came?

20 A Yeah, driving a black truck.

21 Q Okay. From the time -- from the time that you saw
22 him back -- back before -- the first time you saw him --
23 well, not the first, the last time you saw him before
24 today --

25 A Right.

1 Q -- was in your yard.

2 A Uh-huh.

3 Q Did any officers or police officers come and talk to
4 you the week or two weeks after that?

5 A One come in about last month, and I -- it been you
6 and who -- somebody -- a man know me.

7 Q My investigator was with me.

8 A All right. Then the next time it was...

9 Q These gentlemen?

10 A Them two there. And Sunday fellow come driving a
11 black truck, I don't know who he was.

12 Q Did you talk to the fellow in the black truck?

13 A He give me a--

14 Q He gave you the subpoena to be here today.

15 A See, I tell her, I ain't know where that is. I ain't
16 never had to be in no court like that before.

17 Q All right. Answer any question--

18 A In fact, I tell him I ain't much know the man, what
19 he got me up there for.

20 Q I understand. Answer any questions this lady might
21 have.

22 CROSS-EXAMINATION

23 BY MS. FANT:

24 Q Mr. Davis, it is true that in fact we came to see you
25 on Saturday; isn't it?

1 A I think that was Saturday.

2 Q You think it was me?

3 A You had the same coat on look like.

4 Q Was it me?

5 A Look like the same coat on look like.

6 Q And was it him?

7 A He looked like -- he like my brother.

8 Q You're not even sure if we just saw you this past

9 Saturday?

10 A I don't keep my eye on nobody I ain't know. I ain't

11 doing nothing.

12 Q All right. Well, if you don't really keep that, how

13 do you know what happened on Sunday two years ago?

14 A I don't know that neither. I know he been there and

15 talked to me.

16 Q Okay.

17 A And that's it. I don't know anybody come, you know,

18 see -- about seven or eight house up in there.

19 Q All right. And you did indicate that you knew it was

20 a Sunday morning when that man came there --

21 A Right.

22 Q -- two years ago. What was -- what date was it?

23 A I tell you it was Sunday, ma'am. I don't know.

24 Q Was it April, February, January?

25 A I still don't know what -- what month it been.

1 Q Okay. And he came there to get a drink; didn't he?

2 A He ain't drink none there.

3 Q Do you recall Saturday when Sergeant McMillan was
4 talking to you and you told him that he came there to get
5 a drink on Sunday?

6 A The other boy had a beer, not him, now. Didn't make
7 me story on that man there.

8 Q I'm not making you start on anything.

9 A He ain't drink near beer, not to my house, not him.
10 Ask him.

11 Q No. Do you recall Saturday -- this was last
12 Saturday.

13 A I tell he sat in my back yard and drink, ma'am.

14 Q Exactly. You said--

15 A Carry up and down the road and drink, and I got a
16 place -- if you want to drink, you can bring your drink
17 and sit it back there and I will help you up -- drink it.

18 Q Oh, okay. So you didn't -- you didn't provide a
19 drink.

20 A That's right.

21 Q Is that correct? But he was drinking?

22 A I ain't see that. I don't keep my eye on him the
23 whole time.

24 Q That's what I'm asking you, though.

25 A Ma'am?

1 Q Did you -- last Saturday when we talked to you,
2 myself and Sergeant McMillan, do you remember -- and this
3 is like five days ago, six days ago --

4 A Right.

5 Q -- telling him that when he was there that Sunday, he
6 was drinking?

7 A He probably had a something -- he might have bring
8 one there when he come --

9 Q All right --

10 A -- but I ain't --

11 Q -- he wasn't drinking--

12 A -- ain't pay attention, see him drinking, now. Only
13 thing I see he had a cellphone.

14 Q Okay. You don't see -- you didn't see him drink
15 anything even though you told McMillan that he was
16 drinking. But you do remember a cellphone?

17 A If you got a can in your hand, you must be a drink
18 had or something.

19 Q Okay. And how do you remember this cellphone? What
20 did it look like?

21 A Ma'am, I'm 65 years old and I ain't quite dumb. I
22 ain't went to school that much, but I can remember a
23 little bit in my head.

24 Q Okay. Tell--

25 A I don't worry about the days. Whatever happen--

- 1 Q Tell us what you remember.
- 2 A I don't worry about the day or the -- what day it is
- 3 or a -- what month it is because right now I don't know
- 4 what day of the month it is right now.
- 5 Q Okay.
- 6 A I don't look at the calendar like that every day.
- 7 Q Okay. I want you to tell me how you remember the
- 8 phone.
- 9 A I see he had a phone in his hand, ma'am.
- 10 Q Okay. What did it look like?
- 11 A A cellphone, now -- on the -- his side.
- 12 Q What kind? Was it a flip cellphone? What color was
- 13 it?
- 14 A I ain't know all that. I ain't asked that.
- 15 Q Because nobody told you that; isn't that true?
- 16 A He had a phone in his hand, ma'am.
- 17 Q Exactly. Who told you that?
- 18 A Who told me what?
- 19 Q That he had a phone in his hand.
- 20 A I see that.
- 21 Q You remember that part of it.
- 22 A Right.
- 23 Q And how do you know it was his phone?
- 24 A I ain't know who phone it is.
- 25 Q You don't know whose phone it--

1 A No, don't tell that story.

2 Q Okay. So you have a phone. You say you had a phone
3 that you --

4 A I don't know what kind it is--

5 Q -- what color it was or what it looked like?

6 A Huh-uh.

7 Q But he had a phone.

8 A Right.

9 Q Okay. And do you know whether it was a prepaid
10 cellphone? You don't know that; do you?

11 A No. I got a phone. I don't ask nobody what kind of
12 phone he got.

13 Q Okay. So as far as you know he could have gone to
14 the store, purchased one, put some minutes on it, and it
15 would be totally untraceable?

16 A There you go.

17 Q Exactly. Did you tell Sergeant McMillan on Saturday
18 when we talked to you just this last week, that the
19 defendant, when he came -- whatever Sunday it was, he left
20 before 9:30?

21 A No, ma'am. I tell him -- much about 10 -- right at
22 10 or 11 when he leave. I don't know the exact time.

23 Q Okay.

24 A And I -- that's what I told him.

25 Q So you did not tell him that you knew that he left at

1 9:30 --

2 A No, not -- I knew.

3 Q -- because you were getting ready for church.

4 A Right. But see, I don't watch the time and all, what
5 when they leave, then I know about.

6 Q That's right. And what time did your church start on
7 Sunday morning?

8 A Some -- depending upon what time I go, 10, 11.

9 Q Oh, okay. It changes depending on where you are?

10 A If want to go to Sunday school, if you want to go to
11 whatever, you know, or preacher--

12 Q What did you tell Sergeant McMillan this past
13 Saturday about when your church started?

14 A Right. But see, I ain't been to church in a good
15 while.

16 Q Oh--

17 A He use to go to my brother church.

18 Q Oh, so you know him and your brother knows him?

19 A I ain't know him. I know him when I see him.

20 Q Yeah. Yeah. But do you recall telling him that your
21 church started at 9:30 and that you went inside and got
22 dressed and went to church?

23 A Hold it. Hold it. Hold it, ma'am. No, ma'am.

24 Donna go to church at 10:00. Listen what I'm saying
25 close, everybody. He said Donna go to church at 10:00.

1 And he -- when I called Donna or something. And then
2 Donna and never did call back or whatever.

3 And he went down the road, didn't see. Donna must be
4 went the other way, he come back by my way. And her
5 generally go to church at 10:00. And knowing her
6 boyfriend now going, went the other way because her ain't
7 come by my way. See, two left at--

8 Q Right. Did you -- did we ask you or did Sergeant
9 McMillan ask you a single question about Donna, about what
10 time she went to church?

11 A See, I can't tell that.

12 Q From last Saturday?

13 A Ma'am. Look, she still back in that hole. Two or
14 three come out there. And I don't know everybody pass.
15 Sheriff ain't fond of me. And his -- from my house to
16 Donna house, I bet you, oh, about 70 houses.

17 And we ain't live about a quarter of a mile. Just
18 pull out my lane, cross the way around back in there.

19 Q Right. And you can't see her house from your house;
20 can you?

21 A No, but you go down the road you can see.

22 Q Right.

23 A And I pass -- all the people come out that house, I
24 don't know when them people leave--

25 Q But -- not talking about when Donna went to church.

1 I'm talking about when you told Sergeant McMillan that you
2 went to church.

3 A I know what time she go. No, ma'am. I say I know
4 what time she generally go, about 10.

5 Q You know what time someone else goes to church but
6 not what time you go.

7 A If you got a special time, we mostly know that.
8 That's the way...

9 Q Okay. Do you also -- tell us what you told Sergeant
10 McMillan about the way he was acting that morning.

11 A Look--

12 Q If in fact it is the morning.

13 A Sitting there looking see if that her car passing the
14 road, and he ain't never did come by.

15 Q And--

16 A And he get on the phone and call one time and I ain't
17 know what he talked or what, then after that he leave.

18 Q Did you recall telling us he seemed nervous?

19 A I can't tell he nervous or not. I don't know him.
20 He looked the same way now to me.

21 Q Did you or did you not tell Sergeant McMillan on
22 Saturday, five, six days ago, that he was nervous on that
23 Sunday, whichever one you're talking about--

24 A I said, well, he been looking -- he been looking
25 mighty hard. That's what I said.

1 Q Okay. And--

2 A I don't know whether he nervous. I tell you I don't
3 know him.

4 Q Okay.

5 A Because I don't know how they get to questioning me
6 or who tell them to come to me or whatever.

7 Q Well, I believe I know who told you what to say.

8 A Yeah. But see, I -- I ain't even much know the man.

9 Q Right. Did you tell us anything about going over to
10 get some paint?

11 A Right.

12 Q Okay.

13 A He said he leave some paint there, and that's what he
14 said, about to leave.

15 Q He was nervous about going to Donna's house to get
16 some--

17 A Not going -- something he leave.

18 Q Pardon?

19 A He leave it there, he should not have been nervous
20 going there and getting it. He just ain't want to go
21 there while her friend is there I reckon.

22 Q Right. It doesn't make any sense; does it? If he
23 was going by to get some paint, why didn't he just go get
24 it?

25 A Well, if your man there, I ain't coming there

1 neither. I'm going to tell you the truth.

2 Q Do you know whether he ever even got the paint from
3 Donna's house?

4 A I ain't seen no more and I ain't hear nothing else
5 about it.

6 Q Oh, okay.

7 MR. FINNEY: Mr. Calvin, thank you for coming,
8 sir. You can come back down and sit down.

9 (Witness left the stand.)

10 THE WITNESS: Go back to Bishopville in the
11 rain. Don't like to drive in the rain.

12 MR. FINNEY: Call Deputy Robert Jones.

13 THE WITNESS: I don't like to drive in the rain.

14 ROBERT JONES, after being duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. FANT:

18 Q Officer, we can tell where you work. How long you
19 been a deputy?

20 A Nineteen years next month.

21 Q And you with the Sumter County...

22 A Yes, sir.

23 Q Did you have occasion to build a house in 2005?

24 A Yes, sir.

25 Q Where did you build a house at?

- 1 A Canvasback Cove, [REDACTED]
- 2 Q And is that in Sumter County?
- 3 A Yes, sir, Sumter County, the city.
- 4 Q Tell us, is it in a subdivision?
- 5 A Yes, sir, Idlewild.
- 6 Q Idlewild. That would be off Loring Mill Road?
- 7 A Yes, sir.
- 8 Q All right. Who built the house?
- 9 A Donnie Hawkins.
- 10 Q Donnie?
- 11 A Hawkins.
- 12 Q Hawkins. And did you have a friend of yours, a
- 13 police officer named Rick Nelson do some work on it?
- 14 A Yes, sir.
- 15 Q And what kind of work did Rick Nelson do?
- 16 A Roofing and vinyl.
- 17 Q Vinyl and roofing.
- 18 A Yes, sir.
- 19 Q And who did the painting?
- 20 A I can't remember his last name now.
- 21 Q All right. Let me ask you this. You know this
- 22 gentleman here, Mr. Bradley?
- 23 A Yes, sir.
- 24 Q Where did you know him from?
- 25 A From painting for Donnie Hawkins.

1. Q All right. And did you have an occasion to meet with
2 Nate Bradley at your house at ■ Canvasback?

3 A He showed up one Sunday afternoon when I was over
4 there cleaning up.

5 Q All right. And could you tell us whether you think
6 that might be Sunday, May 22nd?

7 A It was the Sunday before he was arrested.

8 Q All right. And if he got arrested on the 27th, then
9 the Sunday before would be the 22nd?

10 A I believe so, sir. I'm not sure about the date.

11 Q He showed up at your house that was being built?

12 A Yes, sir. I was cleaning the yard up and he showed
13 up.

14 Q Had Donnie Hawkins put the roof on the house yet?

15 A The framers was still framing. I don't think they
16 had finished putting the roof on yet.

17 Q So was it possible for him to do any painting at that
18 time?

19 A No, sir.

20 Q All right. So he had come by to see what the house
21 looked like?

22 A Yes, sir. I'm assuming so.

23 Q All right. Now, you wouldn't have been paying him.

24 A No, sir.

25 Q Donnie Hawkins would have paid him?

- 1 A Correct.
- 2 Q All right. And is that the first time you met with
3 Nate Bradley?
- 4 A No, sir. I met Nate several times prior to that.
- 5 Q Okay. So over the years you have known him?
- 6 A No, sir.
- 7 Q Just prior to that -- during that time period?
- 8 A That's correct. During the time period that
9 Mr. Hawkins was going to build my house.
- 10 Q Did Nate Bradley drive over there?
- 11 A Yes, sir.
- 12 Q Did he drive in a blue car?
- 13 A I can't remember the color of the car.
- 14 Q You don't know anything about the car?
- 15 A I remember the car, but I can't remember the color.
- 16 Q If I showed you State's Exhibit 33 and asked you to
17 look at it...
- 18 A It was a two door car, but I can't remember the car.
- 19 Q Okay. Very good. And is the car in this picture a
20 two door car?
- 21 A Yes, sir.
- 22 Q All right. Now, when Mr. Bradley got there, was he
23 by himself?
- 24 A No, sir.
- 25 Q Who else was with him?

1 A There was a -- some guy in the car, a black male in
2 the car with him setting in the passenger side.

3 Q Okay. And did Mr. Bradley get out?

4 A Yes, sir.

5 Q And how long -- can you tell the ladies and gentlemen
6 of the jury about what time he would have gotten to your
7 house on Sunday, the 22nd?

8 A It was late afternoon.

9 Q After 12:00?

10 A Yes, sir.

11 Q All right. Would you -- can you give me anything
12 else besides...

13 A It was probably between three and six.

14 Q Between three and six. All right. Three and 6 pm --
15 and -- pm. And you say Idlewild. Now, that would be off
16 Loring Mill?

17 A Yes, sir.

18 Q All right. How long would you say he stayed there at
19 the house with you?

20 A I don't know, maybe 45 minutes.

21 Q All right. And were you showing him different things
22 you were going to need?

23 A Yes, sir. He was looking around.

24 Q All right. Did he have to take measurements?

25 A No, sir.

1 Q All right. And was Lieutenant Rick Nelson there at
2 the house with you?

3 A Yes, sir.

4 Q And Rick Nelson was the man who was going to do the
5 roofing --

6 A Yes, sir.

7 Q -- and the siding.

8 A Yes, sir, that's correct.

9 Q All right. Now, you are aware that after he left --
10 did he leave in the blue car?

11 A He left in the two door car that he was driving, yes,
12 sir.

13 Q Okay. Was a two door car. He left. And did you see
14 him again until he got arrested?

15 A Not till I walked in and saw him this afternoon when
16 I came in the courtroom.

17 Q Thank you, sir. Answer any questions the Solicitor
18 has.

19 CROSS-EXAMINATION

20 BY MS. FANT:

21 Q Just a couple of things. Did he introduce the black
22 male that was in the car to you?

23 A No, ma'am.

24 Q Did that person even get out of the car?

25 A No, ma'am.

1 Q And so if he was there for about 45 minutes, whoever
2 that was stayed in the vehicle?

3 A Yes, ma'am.

4 Q And where did he park the car when he got to your
5 house? Do you remember that?

6 A He pulled down just -- down past the end of my lot
7 next to the neighbor's house --

8 Q You --

9 A -- just before the neighbor's house.

10 Q -- think that was a little odd?

11 A Well, I did at first, but you know, I don't know if
12 there was any reason he had for doing that.

13 Q So he didn't pull into your driveway or pull right up
14 where the rest of you were parked or --

15 A No, ma'am.

16 Q -- where Rick was parked.

17 A I was parked under the tree right there in the yard.
18 There's a big tree in the yard.

19 Q Okay. Thank you.

20 MR. FINNEY: Nothing further. Thank you for
21 coming, sir. Ask the witness be excused.

22 THE COURT: Any objection?

23 MS. FANT: No, Your Honor.

24 THE COURT: Thank you, sir. You can be excused.

25 (Witness left the stand.)

1 MR. FINNEY: Lieutenant Rick Nelson.

2 RICK NELSON, after being duly
3 sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. FINNEY:

6 Q Lieutenant, sir?

7 A Yes, sir.

8 Q You are a lieutenant with the Sheriff's Department in
9 Sumter County?

10 A Yes, I am.

11 Q How long have you been employed there?

12 A About 20 years with Sumter County.

13 Q Twenty years. What do you do as an investigator or
14 police officer?

15 A I am a patrol lieutenant in charge of patrol shift.

16 Q All right. And you currently getting that leg better
17 now. You had surgery --

18 A Yes, sir.

19 Q -- a week ago?

20 A Yes, sir.

21 Q Appreciate very much you coming.

22 A Thank you.

23 Q You have a side business in the construction?

24 A Yes, I do.

25 Q How long you been doing that?

1 A About five years.

2 Q All right. And during that five year period did you
3 have occasion to know Nate Bradley?

4 A Yes, sir.

5 Q Had he done work for you?

6 A He had not worked for me. We've worked on the same
7 job--

8 Q Projects together?

9 A Yes.

10 Q Donnie Hawkins is a builder in Sumter?

11 A Yes, he is.

12 Q And do you do roofing jobs for Donnie Hawkins?

13 A Yes, I did.

14 Q And does Nate Bradley do painting job?

15 A Yes, he did.

16 Q And that's how y'all meet?

17 A Yes, sir.

18 Q All right. You had a project. You were building a
19 house for Bob Jones?

20 A Yes, sir.

21 Q All right. Where was that project?

22 A That was in the Idelwild subdivision off Loring Mill
23 Road.

24 Q All right. And were you building that house in May
25 of 2005?

1 A Yes, we were.

2 Q You were working on it?

3 A Yes, sir.

4 Q Did you have occasion to see Nate Bradley at that

5 house?

6 A Yes, I did.

7 Q All right. Was it on a Sunday?

8 A It was on a Sunday.

9 Q Afternoon?

10 A Afternoon.

11 Q All right, sir. Did he come over to the house in a

12 car?

13 A Yes. He drove up in a small blue car.

14 Q All right. And then do you know what time he got up

15 over to the house?

16 A I can -- I don't really recollect the time. I would

17 say maybe between three and five.

18 Q All right. And while he was there, he was walking

19 around talking about the project when you and Mr. Jones--

20 A He talked to me in the front yard is where I talked

21 to him. We really didn't walk anywhere.

22 Q All right. Did you -- now, you are doing roofing and

23 he's doing painting, so you all are not working together?

24 A No, sir. No, sir.

25 Q Was the house ready for painting at that time?

1 A No, it was not.

2 Q Okay. Was the roof on?

3 A I believe plywood were, and we were getting ready to
4 put shingles on it.

5 Q No shingles on it yet?

6 A No, sir.

7 Q All right. Now, did you have occasion to work other
8 jobs with him --

9 A Yes, I have.

10 Q -- during that same month, May 2005?

11 A Yes.

12 Q Do you remember a place called Wintergreen?

13 A Yes, I do.

14 MS. FANT: Objection, Your Honor. May we
15 approach?

16 THE COURT: Yes.

17 (Whereupon a bench conference was held.)

18 BY MR. FINNEY:

19 Q Investigator, did you have an occasion to be working
20 on a job in a subdivision called Wintergreen?

21 A Yes, I did.

22 Q Who was doing the painting there?

23 A Nate was.

24 Q And was he working kind of under your supervision?

25 A No, sir.

1 Q Okay. Did you have any occasion to talk to Nate
2 before Sunday, before Sunday, like Friday, the 20th?

3 A I talked to him Friday when I went by the job in
4 Wintergreen.

5 Q Which job --

6 A Wintergreen.

7 Q -- Wintergreen?

8 MS. FANT: Your Honor, I would object to him
9 saying the 20th. He hasn't asked him when it was
10 that he saw him.

11 BY MR. FINNEY:

12 Q Was the -- was the day that you saw him at
13 Wintergreen two days before when you met him at Bob Jones'
14 house?

15 A Yes. It was a Friday before. I worked that weekend
16 Friday, Saturday, and Sunday.

17 Q Friday, Saturday, and Sunday you worked?

18 A As a police officer.

19 Q As a police officer?

20 A Yes.

21 Q All right. And so on Friday you talked to Nate at
22 the house?

23 A Yes, sir.

24 Q Did you go in the house?

25 A No, sir. I believe the conversation we had was right

1 in the front yard. I was on duty and just rode by and
2 stopped.

3 Q He was there already?

4 A Yes, he was.

5 Q And was he -- did you all talk about -- did -- it's
6 not a situation where you would have told him that he
7 needed to do A, B, or C?

8 A No, sir. No, sir. It was just, hey, how you doing
9 and--

10 Q All right. And that was your job project and also
11 his job project?

12 A Yes.

13 Q Okay. Now--

14 A My job was actually over with on that house.

15 Q I see. And then he was starting in?

16 A Yes, sir.

17 Q Okay. Now, after you saw him on Sunday at Bob Jones'
18 house, did you see him any more that day?

19 A No, sir, did not.

20 Q All right. And do you know of a -- any jobs that he
21 was working on on Monday the 23rd?

22 A No, sir, I do not.

23 Q All right. Do you know -- so you hadn't -- when you
24 saw him in Bob Jones' house, you didn't talk to him about
25 any kind of work he was scheduled to do the next day?

1 A I don't recall talking to him about that.

2 Q Do you remember a lady that lived over by Sumter
3 Speedway that you had done some work on her house?

4 A Yes, sir, I do.

5 Q All right.

6 A I don't remember names, but I did--

7 Q Stand up, ma'am. Do you know that lady right there?

8 A Yes, I do.

9 Q All right. Did you do work on her house?

10 A Yes, I did.

11 Q All right. And as a result of doing work on her
12 house, did you recommend Bradley to do some work?

13 A She asked me about a painter, and I recommended
14 Mr. Bradley to her.

15 Q Okay. And do you know when he had done the work?
16 Was it before Sunday?

17 A At her house?

18 Q Yeah, at her house.

19 A I don't recall when -- when he had done that work.

20 Q But did you -- you told her about Bradley.

21 A Yes, ma'am. Yes, sir.

22 Q And gave a card or something.

23 A Yes, sir.

24 Q All right. Thank you, sir. Answer any questions --
25 let me ask you this. After Sunday, when did you see Nate

1 Bradley again?

2 MS. FANT: Your Honor, I object to him pointing
3 to that sign. He has not indicated which Sunday this
4 was. There's no indication that it's Sunday the 22nd
5 of May. He said, a Sunday in May.

6 BY MR. FINNEY:

7 Q Do you know when Nate Bradley got arrested?

8 A Yes, I did.

9 Q How did you know that?

10 A Because I was there.

11 Q All right. And do you know if he was arrested --
12 what day he was arrested?

13 A I want to say it was on Thursday morning. I work --
14 like I said, Friday, Saturday, and Sunday. Monday and
15 Tuesday I was off. I came back Wednesday and found out
16 that he was a suspect --

17 Q Yes.

18 A -- and I was asked if I could locate him. At that
19 time they had a warrant --

20 Q Okay.

21 A -- and we went out and located him.

22 Q There's a calendar in here somewhere. If Tuesday was
23 the 24th, Wednesday was the 25th, Thursday was the 26th,
24 Friday was the 27th, what day do you think he got
25 arrested?

1 A I believe it was on Thursday. I'd have to look at
2 the arrest warrant. It will have the date that we
3 actually served the warrant.

4 Q And from the day he was arrested going backwards?

5 A Yes, sir. It was the Sunday before.

6 Q All right. Which would have been the 22nd?

7 A Yes, sir.

8 Q Okay. Answer any questions she may have.

9 CROSS-EXAMINATION

10 BY MS. FANT:

11 Q Excuse me. Was the defendant with someone when he
12 came to Lieutenant Jones' house?

13 A Yes, ma'am. There was another gentleman in the car,
14 but he never got out of the car, and appeared to be
15 sleeping.

16 Q Did you -- did he -- did the defendant introduce you
17 to him?

18 A No, he didn't. I had asked Nate who it was, and he
19 told me his nephew.

20 Q He told you it was his nephew?

21 A Yes.

22 Q And where did they park the car that they drove that
23 day or that he parked?

24 A They parked on the -- if you were looking at
25 Mr. Jones' lot, his driveway is on the right hand side.

1 They parked all the way at the other end of the lot which
2 is maybe 30, 40 feet down the road a little bit.

3 Q Did you think that was a little bit strange?

4 A At the time, no, ma'am, I did not. There were two
5 police cars in the front. And usually we just all pull up
6 to the driveway. But at that time I didn't think it was
7 really much to it.

8 Q But whoever it was that was with him never got out of
9 the vehicle?

10 A No, ma'am, never did get out the car.

11 Q Thank you.

12 MR. FINNEY: Thank you, sir, for coming. Move
13 that he be excused, Your Honor.

14 THE COURT: Any objection?

15 MS. FANT: No, Your Honor.

16 THE COURT: Thank you, you're excused.

17 (Witness left the stand.)

18 MR. FINNEY: Ms. Leon.

19 TINA LEON, after being duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. FINNEY:

23 Q It is L-E-O-N?

24 A Yes.

25 Q All right. Ms. Leon, you live in Sumter?

- 1 A Yes.
- 2 Q Do you live -- tell us your address.
- 3 A [REDACTED] Richardson Road.
- 4 Q All right. Have you ever testified before in court?
- 5 A No. Well, when I was a child.
- 6 Q All right. How long have you lived in Sumter?
- 7 A About 11, going on 12 -- 11 years.
- 8 Q All right. You -- the man that just came off the
- 9 stand, Rick Nelson, he did some work at your house?
- 10 A Yes, he did.
- 11 Q When was that?
- 12 A That wasn't too far from -- I'm not too sure if it
- 13 was in May or April.
- 14 Q All right.
- 15 A But I know that when he gave me Mr. Bradley's name,
- 16 it wasn't too far after he finished the job for me.
- 17 Q All right. Mr. Bradley was contacted by you?
- 18 A Yes.
- 19 Q How did you contact him?
- 20 A I called him on -- I think I called him from my home
- 21 phone.
- 22 Q All right. And--
- 23 A And whatever number it was on the card he gave me,
- 24 that's what I called him on.
- 25 Q Did he come by the house to look at what you needed

- 1 done?
- 2 A Yes. Yes, he did.
- 3 Q All right. And what was it that you were going to
- 4 get done at the house?
- 5 A I needed my window trims painted.
- 6 Q All right. You have a brick home?
- 7 A Yes.
- 8 Q All right. So he was going to do the windows. And
- 9 did you contract with him? You all agreed on a price?
- 10 A Yes.
- 11 Q Okay. Now, do you remember what day in -- did he do
- 12 the work, Mr. Bradley?
- 13 A Yes, Mr. Bradley.
- 14 Q And how long did it take him to do the work?
- 15 A I know he came I would say maybe around 10, 10ish,
- 16 around 10ish, around that time.
- 17 Q Do you know what day it was?
- 18 A It was on Monday.
- 19 Q Monday?
- 20 A The 23rd.
- 21 Q Would you say it was Monday the 23rd --
- 22 A Yes.
- 23 Q -- of May?
- 24 A Yes.
- 25 Q And this was 2005?

1 A Yes.

2 Q Now, I have talked to you before?

3 A Yes.

4 Q Did you confirm that it was May, 2005 by some record
5 you had?

6 A Yes.

7 Q What records do you have?

8 A In my bank statement, I went back. And May -- May
9 23rd, that's when I had made the withdrawal to pay him.

10 Q All right. And was that the day he was at your
11 house?

12 A Yes.

13 Q And you said he got in your house on the morning of
14 the 23rd?

15 A Yes.

16 Q And you say you think it was 10:00?

17 A Maybe about 10 or 10:30, 11ish, around that time.

18 Q Is there any reason why you remember that?

19 A Because I usually get up and take my shower at seven
20 because I expect everybody to be there at 7:00 with me.

21 Q Did he tell you he was going to be there at seven?

22 A I don't think he told me he was going to be there at
23 seven.

24 Q You expecting him?

25 A Around that time. I always like to be prepared just

1 in case.

2 Q So about 10:00 that morning you think he--

3 A Around that time. I'm guessing.

4 Q That would be AM.

5 A AM.

6 Q All right. Did he come with anybody else?

7 A Yes.

8 Q And who did he come with?

9 A There was a young man with him.

10 Q All right.

11 A And he did introduce me to him and...

12 Q If I -- if I could show you that young man, would you
13 remember him?

14 A All I know is I remember him being like a young man.
15 I would say in his -- to me he seemed like he was in his
16 late teens and 20 -- early twenties around that time.

17 Q You wouldn't remember his face?

18 A I'm not a hundred percent sure.

19 Q Okay. All right. So Mr.--

20 A I just remember him being a nice young man, nice
21 looking young man.

22 Q When Mr. Bradley came to your house, was he driving a
23 vehicle?

24 A Yes.

25 Q You remember anything about the vehicle?

1 A In my memory -- I mean, it seemed like it was a
2 smaller type car, two door. I think it was a two door
3 because I remember saying to myself it looked like he had
4 a lot of stuff, like it was cramped.

5 Q All right. Did he have -- did anything happen to the
6 car that day that you remember?

7 A I remember when he was getting ready to leave he had
8 a kind of -- he had a little problem starting the car.

9 Q Okay. And did they have to work on the car?

10 A Yes, a little bit.

11 Q You--

12 A But he got it started.

13 Q You were there then?

14 A Yes.

15 Q All right. From the time he got to your house that
16 Monday, did he leave the house until he finished?

17 A Far as I know he was there.

18 Q At the house?

19 A Oh, yeah.

20 Q What about lunch? Did he leave for lunch?

21 A No, because if my memory serve me correctly, I think
22 I went there by Zaxby -- what is that place -- Sonic --
23 and I believe I brought them something for lunch.

24 Q You paid for it?

25 A Yes.

1 Q And you fed both men?

2 A Yes.

3 Q All right. And did you have to buy the materials to
4 paint for the house?

5 A Yes.

6 Q All right. So it was there when the painter got
7 there?

8 A Yes.

9 Q So he was painting. What time would you say he left
10 that day?

11 A It seems like to me maybe it was around 4ish,
12 somewhere around that time.

13 Q All right. 4 pm, paint job over. And did you pay
14 him?

15 A Yes.

16 Q Paid him cash?

17 A Yes.

18 Q All right. And did you inspect the work?

19 A Work was wonderful.

20 Q All right. And you had -- he did all the windows?

21 A Yes.

22 Q And you're saying that he stayed at your house from
23 10 am till about 4 pm doing windows?

24 A Yes, around that time.

25 Q Were you home -- except for the time you went in

1 Sonic, were you home all that day?

2 A Yes. I know I did go by the bank to pick up the
3 money, and from there I ran around to get something to
4 eat, and then I came back.

5 Q Okay. Do you recognize Mr. Bradley?

6 A Yes.

7 Q Does he look the same now?

8 A His hair -- he looks more clean-cut, and I -- and he
9 had his work clothes on.

10 Q All right. Thank you, Ms. Leon, for coming. Answer
11 any questions the State may have.

12 CROSS-EXAMINATION

13 BY MS. FANT:

14 Q Ms. Leon, you indicated that the defendant painted
15 your window trim?

16 A Yes.

17 Q That's a pretty expensive job; isn't it?

18 A I had -- I thought it was decent long as I didn't
19 have to do it.

20 Q You thought it was decent. But you couldn't recall
21 how much it was?

22 A Oh, I know how much it was.

23 Q Oh, how much was it?

24 A It was \$650.

25 Q Okay. And isn't that what the defendant -- the

1 defense attorney asked you earlier, how much it was, and
2 you said you didn't know?

3 A No, I don't remember him asking me that.

4 Q And when did you -- you remember specifically that it
5 was the 23rd of 2005?

6 A Yes.

7 Q And when did you notify the police that you were
8 there with him all day on that day?

9 A I know -- I was never contacted by anybody.

10 Q And would that be because nobody knew who you were?

11 A I don't know. I -- I just heard about this case, you
12 know, not too long ago, so I -- nobody--

13 Q Not too long ago. When was that?

14 A Let's see. It was -- think it was early -- was it
15 early this week? Think it was early this week --

16 Q So earlier this week?

17 A -- whenever I was subpoenaed.

18 Q Okay. And who subpoenaed you?

19 A I got a subpoena from you, from the Solicitor's --

20 Q Uh-huh.

21 A -- office, and I think it was either the day
22 before -- the night before or the afternoon before my
23 husband called me and said that someone had come by the
24 house looking for me and -- about the case.

25 Q Okay.

1 A And I think that was Mr. Finney.

2 Q So for two years, almost three years, no one ever
3 asked you for that information, the defense attorney
4 didn't come talk to you --

5 A No.

6 Q -- didn't indicate that they needed that information?

7 A No.

8 Q And were you aware when this incident occurred, do
9 you remember? It was in the paper a lot.

10 A No, I sure didn't.

11 Q So you don't even remember when the body was found in
12 Boyle's Pond?

13 A No.

14 Q Okay. Nothing further.

15 MR. FINNEY: Thank you, Mrs. Leon. May she be
16 excused?

17 THE COURT: Any objection?

18 MS. FANT: No, Your Honor.

19 THE COURT: Yes, ma'am, you can be excused.

20 THE WITNESS: Thank you.

21 (Witness left the stand.)

22 MR. FINNEY: Call Mr. Terrell Johnston.

23 TERRELL JOHNSTON, after being
24 duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. FINNEY:

2 Q Mr. Johnston, keep your voice up, please sir --

3 A Okay.

4 Q -- then you won't have to worry about that

5 microphone.

6 A All right.

7 Q How are you today?

8 A All right.

9 Q Where do you live?

10 A Sumter.

11 Q And how long have you lived here?

12 A About all my life about.

13 Q All right. And do you know Nate Bradley?

14 A Yeah.

15 Q Are you related to him?

16 A No, sir.

17 Q Okay. How do you know him?

18 A I used to work with him.

19 Q And that lady that just left here, Ms. Leon, did you

20 know her?

21 A I don't know her. I don't know her, but...

22 Q You remember her?

23 A I remember her from the house we painted.

24 Q All right. You all painted -- you and Nate Bradley

25 painted her house?

1 A Yes, sir.

2 Q And was that the -- Monday the 23rd --

3 A Yes, sir.

4 Q -- of May, 2005?

5 A Yes, sir. Yes, sir.

6 Q All right. Did you paint as an assistant to Nate?

7 A Both of us did it together.

8 Q All right. And did you do other jobs with Nate?

9 A Yeah, I did one -- I did one other job with him.

10 Q One other job?

11 A In Wintergreen.

12 Q In Wintergreen?

13 A Yes, sir.

14 Q All right. Was that around the same time period?

15 A Wintergreen we did before that.

16 Q Before?

17 A Before, but--

18 Q Was it like a week before --

19 A Yes.

20 Q -- month before?

21 A About a week.

22 Q About a week before. And then after you did this

23 lady's job on Monday -- did you all finish the job on

24 Monday?

25 A Yes, sir.

1 Q What time did you think you knocked off from her
2 house?

3 A Probably about between four and 5:00, something like
4 that.

5 Q All right. And then after 5:00 what did y'all do,
6 you and Nate?

7 A He took me home.

8 Q Okay. Where do you live? Back then where were you?

9 A I was staying on Queen Chappel Road.

10 Q Queen Chappel.

11 A In Dalzell.

12 Q Dalzell?

13 A Yes, sir.

14 Q Now, this lady's house here is over where? Do you
15 remember?

16 A In Sumter by the Sumter Speedway. .

17 Q Off the Wedgefield Highway?

18 A I don't know the name of the roadway.

19 Q Okay. Her house is near Sumter Speedway?

20 A Yes, sir.

21 Q Okay. So how were you going to get paid for this
22 job?

23 A He paid when she paid us.

24 Q She paid --

25 A Yeah.

1 Q -- Nate?
2 A Me and him, yeah.
3 Q Nate paid you?
4 A Yeah.
5 Q Did you get your money?
6 A Yes, sir.
7 Q All right. Nate took you home?
8 A Yes, sir.
9 Q To Dalzell?
10 A Yes, sir.
11 Q What did y'all do when you got there?
12 A We had stopped by the store before we got there and
13 got a couple beers --
14 Q All right.
15 A -- and he sat at my house, we drunk a couple beers,
16 whatever like that. Then after we finished them he said,
17 let's go get some more, so we went to Dalzell Grocery on
18 521 and went and got another case of beer.
19 Q All right. And did anything happen unusual that
20 afternoon?
21 A He said he was trying to call -- he was trying to get
22 contact with his friend or whatever. So he use the phone,
23 and he -- he -- I guess he couldn't get in contact with
24 him, or whatever, like that.
25 So after that he said he was going to try to call

1 somebody else and see if they had saw him or heard from
2 him.

3 So when he called that person, he just came back to
4 the car, I mean like crying, he's busting out in tears,
5 and I was like, what was wrong? He said, man, they
6 said -- somebody told him that they found his friend dead.

7 Q All right. This all happened on Monday, the same day
8 y'all--

9 A Right after we got off from work.

10 Q So you knocked off about five?

11 A Yes, sir.

12 Q Went out and got a couple beers?

13 A Yes, sir.

14 Q And he was trying to make some calls?

15 A Yes, sir.

16 Q Was he trying to make calls on his cellphone?

17 A No. His cellphone was dead all that day.

18 Q All that day?

19 A Yeah. Like most of that day. I don't know -- like
20 probably from -- sometime from the time we went to work
21 till the time we got off work, but he was using my phone,
22 too, during that -- that time.

23 Q All right. And then he made a call. Were you all at
24 the store when he made the call?

25 A Yeah.

1 Q And what kind of phone was he using then?

2 A Used a pay phone that time --

3 Q At the store?

4 A -- I think -- yeah, because I think I left my phone
5 home or either mine was about to go dead or something like
6 that --

7 Q Okay.

8 A -- but he used a pay phone at that time.

9 Q All right. And where were you when he was using the
10 pay phone?

11 A I was sitting in the car.

12 Q All right. You all had already bought the beer?

13 A I can't remember. I think. I don't -- I think so.

14 Q Okay. And your plan was after leaving the store to
15 go back to your house and drink a beer--

16 A Drink a few more beers, he was going to go -- go home
17 or wherever he was going to go at.

18 Q Whose car were you in when you got to the store?

19 A Was in my car.

20 Q So he wasn't driving?

21 A No, his car was at the house. He left his car.

22 Q And you all had just got paid?

23 A Yes, sir.

24 Q Had a couple beers?

25 A Yes, sir.

1 Q Were you -- do you know if -- can you remember -- do
2 you have -- if you had a schedule for working the next
3 day, the 24th, had you all talked about?

4 A No, I don't recall. No, no, no.

5 Q All right. He came back to the car. You say he was
6 crying?

7 A Yeah.

8 Q And he told you what?

9 A He was like somebody -- somebody told him that his
10 friend was -- friend was dead.

11 Q All right. Did you all go back to the house and
12 drink beer?

13 A No, he couldn't even talk. He was -- I mean, he was,
14 you know what I'm saying, all teared up. He couldn't even
15 talk, so he said he had to leave. He just left the beer
16 and everything, and he just left, and that was the last
17 time I saw him since then.

18 Q All right. Y'all left the store?

19 A Yeah, he left the store and went straight to my house
20 and got in his car, and then he left.

21 Q What kind of car was he driving?

22 A The Beretta.

23 Q State's Exhibit 33, is that the car he was in?

24 A Yup. Yup, that's it.

25 Q You ever see Nate in any other car like that? I

1 mean, any other -- the car that he normally drove, is this
2 the car?

3 A That's the car.

4 Q After you've -- after he got in his car and left that
5 night, did you see him any more that night?

6 A No, I didn't seen him no more since then.

7 Q Did you hear he got arrested?

8 A Yeah, later on down the line I heard. Yeah.

9 Q And the last time you saw him was when he was leaving
10 your house?

11 A Yeah.

12 Q Until just now?

13 A Yeah. He said he had to find -- he was going out --
14 he was going to find out what happened, you know what I'm
15 saying, he was going to find out. So that's the last time
16 I saw or heard from him till -- till, I mean...

17 Q And so the last time you saw him was what time on
18 Monday evening?

19 A I couldn't tell you exactly what time, but I know it
20 was probably between the time we got off work, so it
21 probably been probably about -- I say seven or a little --
22 a little after that. It was probably about to get just --
23 about dusk dark or something like that.

24 Q 7 pm?

25 A I'm not sure. Yeah, I just say around that time.

1 I'm not sure.

2 Q So Nate got a call. Nate got the news. I'm going to
3 put that on -- Nate got the news about 7 pm?

4 A Somewhere around that time.

5 Q Did you know the man who got killed?

6 A No, sir.

7 Q You never worked with him or anything like that?

8 A No, sir.

9 Q All right. You ever seen Nate cry like that before?

10 A No, sir.

11 Q Answer any questions the Solicitor has.

12 CROSS-EXAMINATION

13 BY MS. FANT:

14 Q Mr. Johnston, you have been convicted for failing to
15 stop for blue light from the police; haven't you?

16 A Yeah.

17 Q And in all the whole month that you knew Mr. Bradley,
18 he didn't cry; did he?

19 A Huh?

20 Q How long did you know him?

21 A About a month.

22 Q About a month. So you had a whole month to get to
23 know how much he would cry or wouldn't cry?

24 A No. I ain't saying that. I'm just saying when I --
25 when he found out what happened with his friend, he was

1 crying. He was crying real hard. I mean, I never seen no
2 man cry like that, you know what I mean.

3 Q No, I believe the question was you've never seen him
4 cry like that was the question Mr. Finney asked you.

5 A What I'm saying, I never seen nobody cry like that.

6 Q Okay. That's fine.

7 A Okay.

8 Q And you testified that you were here -- you were --
9 that y'all went out and got some beer?

10 A Yeah.

11 Q In fact, must have been quite a few beers; wasn't it?

12 A A little case of beer.

13 Q A little case of beer?

14 A Yeah, a case of beer.

15 Q How many--

16 A A little 12 -- 12 pack of beer.

17 Q Excuse me. How many little cans of beer are in a
18 little case of beer?

19 A A 12 pack of beer.

20 Q Okay. Okay. So it wasn't a case then?

21 A That's a case, too. They got the little case with
22 the handle on it, 12 -- 12 bottles or whatever in the
23 little case.

24 Q Twelve bottles of beer. And you indicated that you
25 were with the defendant all day painting?

- 1 A Yes, sir. Yes, ma'am.
- 2 Q And you -- in fact, you call him Luke; don't you?
- 3 A Yeah.
- 4 Q And -- rather than Nate?
- 5 A Yeah.
- 6 Q And how many times during that day did he try to
- 7 contact his friend that he was talking about?
- 8 A I'm not sure.
- 9 Q You're not sure?
- 10 A No.
- 11 Q Just estimate.
- 12 A I'm not sure. I don't know. He was using my phone
- 13 earlier. I wasn't asking who he was calling.
- 14 Q You were with him all day.
- 15 A I wasn't asking who he was calling. Every time he
- 16 use my phone, I'm supposed so say, um, who are you calling
- 17 now? I didn't ask him that. I -- only time I knew he
- 18 said he wasn't in contact with his friend all day.
- 19 So when we got to the store, he said he was going to
- 20 try to call him again. He still didn't get in contact
- 21 with him, so he called someone else, and then someone else
- 22 told him that they had found his friend dead.
- 23 Q So you don't know who he was calling?
- 24 A No, I do not.
- 25 Q You know he is using your phone.

1 A Yeah.

2 Q Okay. And did -- did you bring your cellphone
3 records from that day in the Court with you today?

4 A I never got no cellphone records from that phone.

5 Q You never had any cellphone records?

6 A No.

7 Q Okay.

8 A He showed me some cellphone records.

9 Q Who showed you some cellphone records?

10 A Mr. McMillan.

11 Q And -- but you didn't have your cellphone records for
12 your phone, the one that he allegedly used on that day.

13 A No. Why?

14 Q Because it would be helpful to know exactly who he
15 called and when he called them.

16 A Oh, I said I have no records, though.

17 Q Because it's your telephone.

18 MS. FANT: Nothing further, Your Honor.

19 MR. FINNEY: Thank you, Mr. Johnston. You can
20 be excused if there's no objection.

21 THE COURT: Any objection?

22 MS. FANT: None, Your Honor.

23 THE COURT: You can be excused. Thank you, sir.

24 (Witness left the stand.)

25 MR. FINNEY: Cody Rembert.

1 CODY KIND, after being duly
2 sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. FINNEY:

5 Q Spell your last name.

6 A K-I-N-D.

7 Q K-I-N-D?

8 A Yeah, Kind.

9 Q Kind. And your first name is Cody?

10 A Yeah.

11 Q All right, sir. Mr. Kind, you live in Sumter?

12 A Yup.

13 Q And what do you do?

14 A Paint and body.

15 Q How long you been doing that?

16 A Thirty years.

17 Q Thirty years. How long you known Nate Bradley?

18 A About -- been a while. Ever since he came home.

19 Q Ever since he came home? Where was he at?

20 A Sumter County somewhere.

21 Q Oh, okay. But I'm saying, he grew up around Sumter?

22 A Yeah.

23 Q And y'all grew up together?

24 A No.

25 Q Okay. Have you known him more than five years?

1 A Yeah.

2 Q More than 10 years?

3 A No.

4 Q Okay. So somewhere between five and 10 years?

5 A Somewhere up in there.

6 Q All right. Did you -- does he know where you live?

7 A Yeah.

8 Q Has he been to your house a lot?

9 A Yeah.

10 Q Are y'all friends?

11 A More like family.

12 Q Family. And would it be the usual thing for you to

13 see him once a day, once every other day, once a week,

14 once a month? What was your usual pattern of seeing each

15 other?

16 A See him every day.

17 Q Every day. Now, back in May, 2005, did you have an

18 occasion to see him on a Sunday afternoon, the 22nd?

19 A Yup.

20 Q Okay. Do you remember seeing him that day? Where

21 was that that day that you saw him?

22 A He been to my house.

23 Q All right. How did he get to your house?

24 A Drove a car.

25 Q Do what?

- 1 A Drive a car.
- 2 Q You know--
- 3 A Cavalier.
- 4 Q You in the car business. You know what kind of car
- 5 he was in?
- 6 A A blue Cavalier.
- 7 Q Blue Cavalier. Is this, State's Exhibit 33, is that
- 8 a picture of the car?
- 9 A That's it.
- 10 Q Two-door?
- 11 A Yup.
- 12 Q All right. And during this time back in 2005, is
- 13 that the car he drove?
- 14 A Yes, sir.
- 15 Q Did you know Ernest James?
- 16 A Yup.
- 17 Q How did you know him?
- 18 A Been a friend.
- 19 Q He was a friend, too?
- 20 A Yeah.
- 21 Q All right. And would it be unusual for Ernest James
- 22 and Nathaniel Bradley to be together?
- 23 A No.
- 24 Q How did you know they -- what would they be doing if
- 25 they were together?

1 A We'd be sitting there drinking.

2 Q At your house?

3 A He be to my house, too, sometime.

4 Q Who, you and Nate and Ernest?

5 A And Ernest.

6 Q Okay. And where is your house located?

7 A On St. Paul's Church Road.

8 MS. FANT: Your Honor, may we approach?

9 THE COURT: Yes, ma'am.

10 (Whereupon a bench conference was held.)

11 BY MR. FINNEY:

12 Q Mr. Kind, back in 2005, in May of 2005, where did you
13 live?

14 A [REDACTED] Farmers Road off of St. Paul's Church Road.

15 Q Farmers Road is located off of St. Paul's Church
16 Road?

17 A Yup.

18 Q How long have you lived there?

19 A All my life.

20 Q All right. And so for the past 10 years you have
21 been living there?

22 A Yeah.

23 MS. FANT: May we approach, Your Honor?

24 (Whereupon a bench conference was held.)

25 BY MR. FINNEY:

1 Q Cody, do you -- what's the name Rembert?

2 A My name.

3 Q Right. Is your name Cody Rembert Kind?

4 A Junior.

5 Q Junior. And what does Nate call you?

6 A Cody Rembert.

7 Q All right. And you live at Farmers Road?

8 A Yeah.

9 Q And you lived there for more than 10 years?

10 A Yup.

11 Q And Nate comes by your house regular?

12 A Yeah.

13 Q And he--

14 MS. FANT: Objection, Your Honor. I would ask
15 that he not lead at this point. He can ask him the
16 question.

17 BY MR. FINNEY:

18 Q Did he come by -- how often would you see him in May,
19 2005?

20 A Just about every afternoon.

21 Q All right. On Sunday afternoon would it be unusual
22 for him to come by your house?

23 A No.

24 Q All right. Do you remember when the young man Ernest
25 got killed?

1 A Yeah, I heard about it.

2 Q Did you hear about it the same day that they found
3 him?

4 A Yeah. I work right down the road from it.

5 Q All right. The day before that had you seen -- the
6 day before they found Ernest, did you -- had you seen
7 Nathaniel?

8 A Yeah.

9 Q Where?

10 A My house.

11 Q What time?

12 A Around about -- can't recollect the same time, but we
13 sat there and drink beer.

14 Q All right. You and Nathaniel had some beers Sunday
15 afternoon --

16 A Sunday.

17 Q -- at your house?

18 A Yup.

19 Q And did you all talk?

20 A Yeah.

21 Q All right. And how long would you say he was there?

22 A Sat there a good while. Me and him sit there and
23 watch the boys play basketball.

24 Q Who was playing basketball?

25 A My son.

- 1 Q What's his name?
- 2 A Cruise.
- 3 Q Cruise?
- 4 A Cruise Cody Kind.
- 5 Q Cruise Cody Kind.
- 6 A Uh-huh.
- 7 Q Back in 2005, how old was that young man?
- 8 A Cruise -- boy, he's 19 now.
- 9 Q Okay. So he's about 17?
- 10 A Somewhere up in there.
- 11 Q And do y'all have a regular basketball game going?
- 12 A Every Sunday.
- 13 Q Is it a dirt track or paved?
- 14 A Dirt.
- 15 Q Dirt track. And the fellows get at it?
- 16 A Oh, yeah.
- 17 Q All right. And you and Nate were watching the game.
- 18 A Yup.
- 19 Q All right. Was anybody with Nate when he came to
- 20 your house?
- 21 A No.
- 22 Q In the blue car?
- 23 A No.
- 24 Q And he stayed you know how long?
- 25 A Say about two or three hours.

1 Q All right. And then after--

2 MS. FANT: Objection, Your Honor. May we
3 approach again?

4 (Whereupon a bench conference was held.)

5 BY MR. FINNEY:

6 Q When he left your house that afternoon, Mr. Cody
7 Rembert, did he leave alone?

8 A Yeah.

9 Q All right. Do you have -- did you have a cellphone
10 back in May of 2005?

11 A Can't remember.

12 Q Can't remember? If I give you a number, I want you
13 to ask me if you heard this number before. 316-8540.

14 A Don't remember.

15 Q Doesn't ring a bell? All right, sir. And after you
16 saw him that Sunday at your house and he left, did you see
17 him again?

18 A Nope.

19 Q The next day the young man was found in the pond.
20 That would have been Monday. Did you see Ernest -- not
21 Ernest, but Nathaniel after that Monday after they found
22 the young man, Mr. James, before you heard he got
23 arrested?

24 A Ain't going to say yeah or no, but I think -- I ain't
25 sure if he came by Monday or not.

1 Q You're not sure?

2 A No.

3 Q Thank you, sir. Answer any questions she may have.

4 CROSS-EXAMINATION

5 BY MS. FANT:

6 Q What time did the defendant get to your house?

7 A I don't exactly know.

8 Q You don't know?

9 A No.

10 Q Well then, how can you know how long he stayed?

11 A I know what time he left.

12 Q What time did he leave?

13 A Between five -- I mean between four and something
14 like that, a couple of hours.

15 Q About -- you just said two things. He left at what
16 time?

17 A He stayed there, he drink a couple hours, and he
18 left.

19 Q And what time did he leave?

20 A Don't know.

21 Q So you basically have no idea what time he was there?

22 A I know what time we start drinking.

23 Q What time was that?

24 A When we start early in the morning.

25 Q Oh, okay. So he was there all morning then.

1 A Watch the boys play basketball. Isn't that what I
2 just said?

3 Q Okay. So wasn't there all day?

4 A Watch the boys play basketball, then he left.

5 Q I want to know what time he got there.

6 A And I just said I don't know.

7 Q And you don't know?

8 A Yeah.

9 Q And what time did he leave?

10 A I don't know.

11 Q Thank you very much.

12 MR. FINNEY: Thank you, Mr. Cody. You can
13 leave.

14 (Witness left the stand.)

15 MR. FINNEY: Call Paul Bradley.

16 PAUL BRADLEY, after being duly
17 sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. FINNEY:

20 Q Mr. Paul Bradley, are you the older brother of
21 Nathaniel Bradley?

22 A Yes, I am.

23 Q And how long have you lived in Sumter?

24 A All my life just about.

25 Q And what did you do for a living?

- 1 A I was a truck driver.
- 2 Q Truck driver. You retired now?
- 3 A Yes, I am.
- 4 Q All right. Where do you live?
- 5 A I live on [REDACTED] Pearl Court. [REDACTED] Pearl Court.
- 6 Q Pearl Court?
- 7 A That be Shaw Park.
- 8 Q And how long have you lived there?
- 9 A About 10 years.
- 10 Q All right. And Nathaniel is a little bit younger
- 11 than you or a good bit younger than--
- 12 A He's younger than I am.
- 13 Q Now, we were talking this week about these events in
- 14 May of 2005. Do you remember back then?
- 15 A Yes, some of them.
- 16 Q Do you remember the night when Tanisha went to the
- 17 prom?
- 18 A Yes, I did.
- 19 Q Did you happen to see her that night that she went to
- 20 the prom?
- 21 A Saw her in the car, yeah.
- 22 Q In the car?
- 23 A Yeah.
- 24 Q And was that the blue --
- 25 A Blue car.

1 Q -- blue Beretta?

2 A Right.

3 Q Who brought her over there?

4 A My brother, Nate.

5 Q Nate. And why were they at your house that evening?

6 A He came by to borrow some money from me.

7 Q All right. You know how much money you gave him?

8 A \$20.

9 Q \$20. What did he tell you that he needed the money
10 for?

11 A To buy a camera.

12 Q All right. And how long did they stay at your house?

13 A I say 10 minutes the most, 10, 15 minutes.

14 Q All right. And was it unusual for your brother to
15 come by and see you?

16 A No.

17 Q All right. How often during the regular week back in
18 2005 would you all--

19 A I see my brother probably every evening just about.

20 Q Every evening.

21 A Just about, yes.

22 Q Now, what kind of business was he in back then that
23 you knew of?

24 A In the painting business.

25 Q All right. Had he been doing that for a while?

1 A Oh, yeah.

2 Q All right. And did you know Ernest James?

3 A Yeah.

4 Q Ernest was somebody you saw regular?

5 A Yeah, just about every evening, too.

6 Q About every evening?

7 A Yeah, they always together.

8 Q All right. Now, do you know what time they came by
9 your house Saturday evening?

10 A It was between -- anywhere between 6:30 and -- I say
11 6:00, 6:30.

12 Q Somewhere in the first evening?

13 A Right.

14 Q Six and 6:30?

15 A Yeah.

16 Q All right. And you gave him money?

17 A Yes, I did.

18 Q Did you see him any more that night?

19 A No, I didn't.

20 Q All right. Now, the next day was Sunday. Did you
21 have any occasion to see him the next day, Sunday?

22 A I -- I don't think so.

23 Q All right. The next day was Monday. Did you have
24 occasion to see Nate that day?

25 A Yeah, I saw him that day.

1 Q Where at?

2 A When he came to me crying me telling me that his
3 friend got killed.

4 Q All right. Do you know what time that was on Monday?

5 A Around 1:00 in the afternoon.

6 Q 1:00. All right. Now, this happened two and a half
7 years ago?

8 A Yeah.

9 Q You remember when he got arrested?

10 A Well, I don't know the exact time, but I know
11 somebody called me and told me he was driving my car.

12 Q He was driving your car?

13 A Yeah.

14 Q When he got arrested?

15 A One of my car.

16 Q One of your car. All right. Now, let me ask you
17 this. Your mother is the same woman as that -- same
18 mother as Nate's?

19 A Yeah.

20 Q What is was her name?

21 A Julia Bradley.

22 Q Mrs. Julia Bradley. Does she live in Sumter?

23 A Yes, he does.

24 Q And when did she pass away?

25 A 1985.

1 Q And where is she buried?

2 A In Orange -- church yard.

3 Q Orangehill --

4 A Yeah.

5 Q -- is the family church?

6 A Yeah.

7 Q What is that?

8 A In Wedgefield.

9 Q Wedgefield, South Carolina?

10 A Off 261.

11 Q 261. How would you get there if you left the

12 courthouse here today?

13 A If I leave the courthouse, take Wedgefield Road into

14 Wedgefield, get into Wedgefield, take the left, go down

15 about 3 miles and it will be on the left.

16 Q All right. Is it out there going towards the state

17 park?

18 A Yes.

19 Q Poinsette State Park?

20 A Yes.

21 Q All right. So that's 10 or 12 miles west of Sumter?

22 A From here, yeah.

23 Q All right. And when did she pass?

24 A In '85.

25 Q 1985?

1 A Right.

2 Q Now, do you -- you have been in Sumter for the last
3 30 years?

4 A Oh, yeah.

5 Q You all have any relatives in Bishopville, Lee
6 County, any Bradleys you all related to?

7 A No, only my brother live up there now, but he wasn't
8 living there all the time.

9 Q All right. How long has your brother been living up
10 there?

11 A I say about -- he been there now about 10 or 12 years
12 maybe.

13 Q All right. And to your knowledge do you -- have you
14 ever attended any services for any family members in
15 Bishopville or Lee County where they were buried up in Lee
16 County?

17 A Oh, no.

18 Q Answer any questions the Solicitor may have.

19 CROSS-EXAMINATION

20 BY MS. FANT:

21 Q After your -- you obviously know that your brother
22 was arrested.

23 A Yes, when somebody told me.

24 Q Okay. And you know that he's charged with a very
25 serious crime.

1 A Yes, I know what he charge -- they say he did.

2 Q And when did you come forward and let us know that --
3 that you had seen him that night? When did you tell the
4 police that?

5 A Police ain't never talked to me.

6 Q When did you talk to them?

7 A The police?

8 Q Uh-huh.

9 A I never talked to the police.

10 Q You didn't?

11 A No.

12 Q You didn't think it would be important to go to them
13 and tell them--

14 A No, I didn't because nobody never questioned me or
15 nothing.

16 Q Okay. But you knew your brother was arrested?

17 A Yeah, I know that. I went up to get my car from them
18 when they impound it.

19 Q And that -- what kind of car was it?

20 A A 1994 LTD Crown Victoria.

21 Q Okay. That didn't actually belong to Andrea Bradley?

22 A Andrea and Paul Bradley. That was my ex-wife.

23 Q Oh, Andrea and Paul?

24 A Right.

25 Q Would you be surprised to find out that the

1 registration actually was in the name of Andrea Bradley?

2 A No, because I still have the car.

3 Q Okay. And since he most of the time drove the blue
4 Beretta, why was he driving your car that day?

5 A I don't know. He just asked me to use the car
6 because he had some work to do. And I always -- I lend my
7 brother, my nephew, or whoever my car if they need it
8 because I have three or four cars.

9 Q Thank you.

10 A Sure.

11 MR. FINNEY: No further questions.

12 (Witness left the stand.)

13 THE WITNESS: May I be excused?

14 MR. FINNEY: No objection? He's asked to be
15 excused.

16 MS. FANT: No objection, Your Honor.

17 THE COURT: He can be excused. Thank you.

18 MR. FINNEY: Your Honor, can we have a
19 conference?

20 THE COURT: Yes, sir.

21 (Whereupon a bench conference was held.)

22 THE COURT: Ladies and gentlemen, I'm trying to
23 get the scheduling worked out. And I was hoping to
24 get to the lion's share of this case tonight where we
25 can finish it tomorrow.

1 So we are going to take about a ten minute break
2 and these lawyers are going to get me a list of the
3 rest of the witnesses they have got and their best
4 estimate of how long it's going to take, how much
5 more testimony we are going to have in this case
6 where I can figure out from a scheduling standpoint
7 whether we are going to finish it tomorrow, whether
8 we are going to have to work this weekend, or whether
9 we are going to have to come back next week.

10 So while I'm working on that, if y'all want to
11 go take a break, then as soon as I know something
12 I'll get you back out and we'll either take little
13 bit more testimony this afternoon or we will quit for
14 the day.

15 (Jury left the courtroom at 5:37 pm.)

16 THE COURT: All right.

17 MR. FINNEY: Judge, it appears that we could not
18 call the rest of our citizen witnesses and that the
19 only witness we could call in the morning would be
20 Mr. Bradley.

21 THE COURT: Okay.

22 MR. FINNEY: So I would like to be able to go
23 and speak with him this evening about that
24 possibility and let you know in the morning whether
25 he will testify.

1 THE COURT: Okay. And what is the State -- give
2 me an idea of based on what you have heard so far --
3 obviously one advantage you have is you have at least
4 a statement from defense counsel that Mr. Bradley, if
5 he does testify, at least an outline of where he says
6 he was during this period of time.

7 So based on that information -- and I don't know
8 whether he's going to testify or not and I'm sure he
9 probably doesn't know at this point -- how many
10 rebuttal witnesses do you anticipate?

11 MS. FANT: I don't think it will be lengthy,
12 Your Honor. It really -- I was more concerned about
13 the other witnesses if -- that he said he had two or
14 three witnesses he wanted to put up.

15 But if it's just the defendant, I would think
16 one, maybe two. But they would be obviously just in
17 rebuttal, so they wouldn't be long.

18 THE COURT: Okay. Any -- we need to start back
19 earlier in the morning, 9:00 work? I know you got to
20 come from Columbia, but I got to come from Manning,
21 but... or 9:15 at the latest.

22 MR. FINNEY: I will be here at 9:15.

23 THE COURT: Okay. All right. Bring us the
24 jury.

25 (Jury entered the courtroom at 5:54 pm.)

1 *THE COURT:* Thank you, sir. Ladies and
2 gentlemen, I have discussed with counsel what they
3 anticipate as far as witnesses and timeframes are
4 concerned to finish this trial with the testimony you
5 will hear.

6 And it looks like based on the responses they
7 have given me that this -- that we are probably going
8 to have to quit for this evening based -- and I'm
9 doing this in reliance based on the witnesses they
10 tell me they are going to call tomorrow.

11 Hopefully we will be able to get you this case
12 by mid-day tomorrow. So therefore we will be able to
13 finish it and not run into the weekend. I have been
14 doing everything I can to try to keep from either
15 running into the weekend or next week.

16 So hopefully that will happen, so if it's -- I'm
17 going to start a little early in the morning, if we
18 can, about 9:15 therefore we can try to get this case
19 to you by dinner time and where you can, you know,
20 make your decision.

21 And once you get this case, now, you can take as
22 much time as you need, you know. Y'all need to run
23 longer than tomorrow, we will deal with that
24 appropriately.

25 But I want to try to be sure to get this

1 evidence to you and the law to you within a
2 reasonable period of time tomorrow where you can
3 deliberate and make your decisions.

4 So we're going to recess for the day and be back
5 at 9:15 in the morning. Have a good evening. And I
6 remind you, don't discuss this case. Don't read
7 anything or see anything on TV about it.

8 (Jury left the courtroom at 5:57 pm.)

9 *THE COURT:* Just -- and I'm hoping that we will
10 by mid-day tomorrow do closing arguments and charge.
11 So kind of -- and so I'm going to give y'all kind of
12 a heads-up what I think potential charges in this
13 case and where if y'all will have this evening to
14 think about it and add anything.

15 I will give my standard charge that basically --
16 then I will charge criminal intent, circumstantial
17 evidence, expert witness. If the defendant does not
18 testify, I will charge to the jury the failure of the
19 defendant to testify.

20 The hand of one is the hand of all, mere
21 presence, identification, murder, possession of a
22 weapon during a violent crime.

23 *MR. FINNEY:* Hand of one hand of all?

24 *THE COURT:* Hand of one is the hand of all.

25 *MR. FINNEY:* How does that play into this case,

1 Your Honor?

2 THE COURT: Well, there is at least testimony in
3 this case that there were two people involved in this
4 in that the last time the victim was seen alive,
5 alleged with your client and another person.

6 The -- when the eye witness saw your client
7 allegedly driving the car that Sunday morning,
8 another person was in the car with him.

9 It appears at least from the evidence that
10 there's a possibility that two people were involved
11 in this crime. So that's why I thought that the hand
12 of one, hand of all was the appropriate charge.

13 Now, if -- and I don't know what the State -- if
14 both of y'all do not want me to charge that, then I
15 will -- certainly won't. But I think that it's -- at
16 least there's some evidence in this record that it's
17 possibly more than one person potentially involved in
18 this crime. If -- what's the State's position?

19 MS. FANT: Frankly, I would like to think about
20 it, Your Honor.

21 THE COURT: Okay. And if both sides don't want
22 it charged, I won't. But if either side -- unless
23 you can give me some type law to the contrary, it
24 appears it's at least some evidence in this record
25 that two people could have committed this crime.

1 And that's why I was -- I came up with every
2 potential possible charge that I thought the record
3 in this case would invoke. I -- that's why I told
4 y'all this evening, give you a chance to think about
5 it.

6 MR. FINNEY: And I just wanted for you to think
7 about it tonight. Just seems to me that mere
8 presence and hand of one, hand of all do not fit in
9 this case.

10 THE COURT: Well, usually when I charge hand of
11 one is the hand of all, charge mere presence because
12 the fact that you're merely present at the crime
13 scene does not make you guilty. You have to
14 participate in some way.

15 So usually when the hand of one is the hand of
16 all means there's more than one person involved. But
17 mere presence is more of a defense charge, but the
18 jury could determine in fact that if your client was
19 present, his mere presence there was not enough to
20 convict him.

21 That's why I use when I had -- when I usually
22 charge the hand of one is the hand of all, I charge
23 mere presence because the jury has to find two or
24 more people did it, that mere presence at a crime
25 scene is not sufficient, that it would take some type

1 of action on behalf of the party present to be
2 convicted.

3 And usually -- so hand of one, hand of all and
4 mere presence go along and along. If neither one of
5 you want me to charge mere presence, that's fine.

6 And if neither side wants me to charge hand of
7 one is the hand of all, that's -- but I just --
8 reviewing the record and what at least the contention
9 of the State is, that two people were involved in the
10 crime, and that's why I put that in.

11 But if -- y'all certainly can think about it
12 tonight. And if there are any other charges that
13 y'all deem appropriate based on the factual record in
14 this case, I will certainly consider it. Okay.

15 *MR. FINNEY:* Yes, sir.

16 *THE COURT:* I just wanted -- what I want to try
17 to happen tomorrow is this thing run as smooth and
18 fast as possible and we are not for an hour arguing
19 about charges, because I want to get the testimony
20 in, closing arguments, and let's try to get this case
21 to the jury by 2:30, 3:00 at the latest.

22 *MS. FANT:* Did you want to go ahead and give the
23 defendant his warning charge?

24 *THE COURT:* Well, and I certainly can or
25 either -- it depends on what Mr. Finney, whether he

1 wants to talk to him or not.

2 MR. FINNEY: No, sir. You can go ahead give him
3 the warnings, and we can talk after that.

4 THE COURT: Okay. And Mr. Bradley, if you
5 would -- I need you to stand up, please sir, and
6 raise your right hand.

7 NATHANIEL BRADLEY, after being
8 duly sworn, testified as follows:

9 THE COURT: We have reached this point in the
10 trial, Mr. Bradley, where you have a right to testify
11 if you want to. It is your right and your right
12 alone.

13 You can obviously get advice from your attorney,
14 whether in fact you want to testify or not. If you
15 do testify, you will be treated like any other
16 witness. And if you have a criminal record that fits
17 within the criteria, then the State will be able to
18 bring that out against you.

19 And your lawyer can advise you of that, and I
20 can certainly go into more detail if you need me to.

21 But if you -- if you don't testify, I will
22 instruct the jury that they cannot hold that against
23 you. As a matter of fact, they cannot even discuss
24 that in the jury room, and they -- and they cannot
25 consider that in any way the fact that you didn't

1 testify because the burden of proof in this case lies
2 upon the State of South Carolina and you do not have
3 to prove anything.

4 But if you do decide to testify, you will be
5 subject to cross-examination just like any other
6 witness. And so -- and you don't have to make that
7 decision tonight.

8 You will have an opportunity to talk to your
9 lawyer about this case, get his advice as to whether
10 you should testify or not testify. But ultimately it
11 is your decision. Do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Any questions you'd like
14 to ask me concerning that?

15 THE DEFENDANT: No, sir.

16 THE COURT: Any questions, Mr. Finney, you want
17 me to go into?

18 MR. FINNEY: No, Your Honor.

19 THE COURT: All right, sir. So if you will
20 discuss that with your lawyer tonight and make --
21 obviously in the morning you're going to make the
22 decision whether or not you want to testify.

23 I just need you to understand what your rights
24 were concerning that. And if you decide not to
25 testify, I will so instruct the jury.

1 THE DEFENDANT: Thank you, Your Honor.

2 THE COURT: Yes, sir. Anything else?

3 MS. FANT: Nothing from the State, Your Honor.

4 THE COURT: We'll be in recess until 9:15 in the
5 morning.

6 (Court in recess for evening.)

7 ***** January 18, 2008 *****

8 THE COURT: State ready?

9 MS. FANT: Yes, Your Honor, although we do have
10 an issue that we need to bring to the Court's
11 attention.

12 MR. FINNEY: Good morning, Your Honor.

13 THE COURT: Good morning.

14 MR. FINNEY: Your Honor, after speaking with my
15 client, he has decided not to testify, and therefore
16 we are going to rest.

17 THE COURT: Okay.

18 MR. FINNEY: And so we need to talk with him on
19 the record, that would be fine, and then I want to
20 renew my motions before you bring in the jury.

21 THE COURT: Okay. And I don't know what issue
22 the State...

23 MS. FANT: It concerns the jury, Your Honor. We
24 would have -- we need to do it before they come in.

25 THE COURT: Okay. All right. Mr. Bradley, your

1 lawyer tells me that you have had a -- you decided
2 not to testify. Is that correct?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Have you had enough time to talk to
5 him about this decision?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And you are satisfied with that
8 conversation?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And I will instruct the jury that if
11 you do -- in fact, you do not testify, they cannot
12 hold that against you in any way and they can't
13 consider that in the jury room. Do you understand
14 that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: But you do understand you have the
17 right to testify if you want to do so?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right, sir. Thank you.

20 MR. FINNEY: Your Honor, at this point since the
21 defense has rested, we want to renew our motions for
22 quashing the indictment that were made prior to the
23 trial beginning on the issue of the missing evidence
24 of venue, and we think that missing evidence is that
25 there was no evidence that the man met his death in

1 Sumter County and there was no evidence by which we
2 could present our alibi defense on the issue of what
3 time the death occurred because under the rule in
4 State versus McComer, the offense is deemed to have
5 been committed where the injury was inflicted and not
6 where the death occurred. That is a South Carolina
7 case at 60 Southeast 237.

8 And we have maintained throughout this court
9 hearing that there was no evidence of -- sufficient
10 to warrant the Court allowing the jury to hear the
11 case because the venue had not been established,
12 there were no facts to show that the decedent met his
13 injury, his -- the injury was inflicted in this
14 jurisdiction.

15 In addition, Your Honor, we would renew our
16 motion at this time that we made at the close of the
17 State's case which was to direct a verdict feeling
18 that there has been -- in the light most favorable to
19 the State there has been no evidence showing that the
20 defendant committed the crime of murder, that he even
21 circumstantially was around the victim at the time of
22 death, and that he had no way of causing this death
23 through the evidence that's been submitted to this
24 Court.

25 THE COURT: And it's -- it's -- as far as your

1 motion to quash the indictment, I deny that and -- on
2 the same grounds I gave you before, that I think that
3 venue certainly can be inferred from the evidence of
4 the case, and I think there's sufficient evidence in
5 the case that the victim was last seen in Sumter
6 County alive, his body was recovered in Sumter
7 County, and there's testimony in this record that
8 your client was driving the victim's car on that
9 Sunday morning here in Sumter County.

10 So I think there's sufficient evidence to --
11 that the jury may infer venue and this Court can
12 infer venue based on the facts that the only place
13 that the victim -- any testimony was the victim
14 was -- the entire crime was in Sumter County.

15 And the case you cited, many times you'll have a
16 person who has been injured or shot and transported
17 to other counties, to hospitals, and died in other
18 counties, and the Court has quite clearly it is -- it
19 is -- proper venue is place where -- is the county in
20 which the fatal injury or blow occurred and not where
21 the actual death occurred.

22 So I -- you know, there's no evidence in this
23 record that the victim is anywhere else but Sumter
24 County. He was last seen in Sumter County. His body
25 was recovered in Sumter County.

1 And I think at least certainly under State v
2 Walton and State v Owens as well as State v Brisborn
3 that venue is proper here in Sumter County.

4 MR. FINNEY: And Your Honor, just to
5 respectfully disagree with the Court, we think that
6 there's no evidence in the case because the burden is
7 on them that the -- there's no evidence that's been
8 presented in the case that the victim was in Sumter
9 County.

10 There is evidence that the crime could have
11 occurred in Lee County because that's where the
12 victim's car was found in -- inside the window that
13 they have given us in the indictment of when this man
14 was killed.

15 THE COURT: All right, sir. I understand, but
16 even though the car was found in Lee County, there's
17 no evidence whatsoever in this record that the victim
18 was ever in Lee County.

19 And it -- your argument would be stronger if the
20 body was recovered in Lee County, but his body in
21 fact was recovered in Sumter County.

22 MR. FINNEY: All right. Your Honor, just
23 subject to your ruling. We want to be protected on
24 the record.

25 THE COURT: Yes, sir.

1 MR. FINNEY: Your Honor, at this time just so I
2 can give the Court some awareness of where I would
3 like for you to consider going, we have researched
4 the issue of alibi and we would like to hand up to
5 the case -- to the Court several cases that we have
6 found concerning alibi.

7 THE COURT: All right, sir.

8 MR. FINNEY: Your Honor, you may not want to go
9 into this at this point. I'll be glad to do whatever
10 you wanted to do. But I wanted you to know that
11 yesterday afternoon you were talking to the lawyers
12 about getting ready for jury charges, you didn't
13 mention in your proposed charges the defense of
14 alibi.

15 And I did some research on it and I believe that
16 I've got several cases that show that based on the
17 evidence that has been presented to the Court, that
18 the Court is required to charge alibi in this case.

19 I also believe -- I would like to make an
20 argument on the mere presence charge and the hand of
21 one and hand of others charge that you alluded to on
22 yesterday at the proper time.

23 THE COURT: Okay. And I'll read these cases,
24 but I -- but, you know, I agree with you at this
25 point, I -- I'll be glad to charge alibi.

1 MR. FINNEY: Pardon me?

2 THE COURT: I haven't read these cases, and I
3 don't know what the State's position on alibi is, but
4 based on the evidence, I would probably charge alibi.

5 MR. FINNEY: You will?

6 THE COURT: Now, of course, if -- if the State
7 disagrees with that, you need to tell me now.

8 MS. FANT: Your Honor, we would disagree in the
9 sense that I think if you actually read the cases,
10 they indicate that an alibi charge is only
11 appropriate when the alibi covers the entire period
12 during which the crime may have occurred.

13 In this case he's had some witnesses that
14 offered a little -- few hours maybe on Saturday night
15 and a little bit of time on Sunday. In our opinion,
16 that is totally insufficient to meet the burden for
17 requesting a charge on alibi.

18 In cases in particular, State v Anders which
19 says directly a charge on the defense of alibi is not
20 required -- excuse me -- is not necessary when the
21 accused merely denies committing the crime but when
22 his presence is not required to accomplish it.

23 Since an alibi derives its potency as a defense
24 from the fact that it involved physical impossibility
25 of the accused's guilt, a purported alibi which

1 leaves it possible for the accused to be the guilty
2 person is no alibi at all.

3 I would also cite -- and that is State v Anders,
4 326 South Carolina 392, Court of Appeals opinion from
5 1997. It was affirmed by the Supreme Court, 331
6 South Carolina 474 in 1998.

7 In addition, the State v Robbins Supreme Court
8 case from 1990, 275 South Carolina 373, I think is
9 incredibly important language in there. It -- it
10 says alibi means elsewhere and the charge should be
11 given when the accused submits that he could not have
12 performed the criminal act because he was in another
13 place at the time of its commission.

14 Alibi -- excuse me -- they cite an Anders
15 section for that. They go on to say, the literal
16 significance of the word alibi is elsewhere. As used
17 in criminal law it indicates a line of proof by which
18 an accused undertakes to show that because he was not
19 at the scene of the crime at the time of its
20 commission, having been at another place at the time,
21 he could not have committed the crime.

22 In other words, by an alibi, the accused
23 attempts to prove that he was at a place so distant
24 that his participation in the crime was impossible.
25 To be successful, his alibi must cover the entire

1 time when his presence was required for the
2 accomplishment of the crime.

3 To establish alibi, the accused must show that
4 he was at another specified place at the time the
5 crime was committed, thus making it impossible for
6 him to have been at the scene of the crime.

7 It is not enough for the accused to say that he
8 was not at the scene, and therefore must have been
9 elsewhere. The latter statement does not constitute
10 an alibi.

11 And since an alibi derives its potency as a
12 defense from the fact that it involves the physical
13 impossibility of the accused's guilt, a purported
14 alibi which leaves it possible for the accused to be
15 the guilty party or person is no alibi at all.

16 Several other cases also addressed it, Your
17 Honor, in particular State v Mayfield, 253 SC 11, and
18 that is a 1959 case, probably with the earlier cases.

19 And State v Shumpert. In particular there the
20 claim was that -- and that was a child molestation
21 case where the allegation of the indictment was over
22 a several month period.

23 And the Court found that he did not have a right
24 to present -- or it was not an -- infringing on his
25 rights to require him to present an alibi where every

1 day that they claim an event happened over the period
2 of time.

3 In fact, in that case he did, and it wasn't an
4 issue. In this case we have -- as I say -- at most a
5 few hours in which the defendant has an alibi.
6 Without his testimony as to where he was the rest of
7 the time, I just don't think an alibi charge is
8 appropriate.

9 THE COURT: Okay. I will research these cases
10 while we're -- and let y'all know.

11 MR. FINNEY: Just let me know, Judge, because I
12 want -- make an argument based on your decision. If
13 you are going to charge it; I don't need to fill the
14 time now.

15 THE COURT: Okay. All right. Anything else?

16 MR. FINNEY: No, sir, not by me.

17 THE COURT: All right. Anything from the State?

18 MS. FANT: Yes, Your Honor. I hate to bring
19 this to your attention because I know it's not going
20 to make you happy, but I feel it's an ethical
21 obligation of the State.

22 This morning I received information of possible
23 juror misconduct in this case. It appears that one
24 of the jurors -- I don't know his number -- works at
25 Piggly Wiggly over on Lafayette.

1 Investigator Dominic -- was that -- I'm sorry,
2 had the wrong Piggly Wiggly, one on Broad Street --
3 Investigator Dominic West with the Sumter County
4 Sheriff's Office works security at that Piggly Wiggly
5 and he was there, and that juror was discussing the
6 case openly among other people and -- and with him.

7 THE COURT: Okay. Do you know what juror that
8 was?

9 MS. FANT: I can describe him. I don't know his
10 number. It's a young, white male, red hair, I
11 believe.

12 BAILIFF: Ardis. Juror number five.

13 THE COURT: Okay. 105?

14 MS. FANT: Think it's just five.

15 THE COURT: Five? Okay.

16 BAILIFF: We don't have the information sheet on
17 him. He didn't send it back in.

18 MS. FANT: Sean Ardis is his name.

19 BAILIFF: Juror number five is Sean Ardis,
20 small, young fellow, 20 years old, and red hair.

21 THE COURT: How do you -- State propose we deal
22 with it?

23 MS. FANT: I'm not sure what the exact procedure
24 is. I would propose that he be questioned on it and
25 that you take the testimony of Investigator West. We

1 believe he should be removed and an alternate seated.

2 THE COURT: What's the defense position?

3 MR. FINNEY: I would like to hear testimony from
4 the Investigator West before you question the juror.

5 THE COURT: Okay.

6 MR. FINNEY: And then...

7 THE COURT: We'll do that. I will take
8 testimony of Investigator West, then we will -- based
9 on what he testifies to -- bring the juror out,
10 question the juror, and then determine whether, you
11 know, he made any discussions in the jury room with
12 the rest of the jury panel.

13 If he did not, and he has in fact discussed this
14 case outside of my instruction, I will replace him
15 with an alternate. Okay. If you will call the
16 investigator.

17 MS. FANT: Investigator Dominic West.

18 DOMINIC WEST, after being duly
19 sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. FANT:

22 Q Investigator West, could you tell us where you work,
23 please?

24 A I work with the Sumter County Sheriff's Office.

25 Q And how long have you worked there?

1 A Seven years.

2 Q Do you also work security at another job?

3 A I do.

4 Q And where is that?

5 A With Piggly Wiggly at Broad Street.

6 Q And were you working security -- was it last night?

7 A Last night.

8 Q That would be January the...

9 A Seventeenth.

10 Q Thank you. 2008. Can you tell us what happened
11 involving a juror that is sitting in the current trial,
12 State v Nathaniel Bradley?

13 A Well, we have a room that have video camera system in
14 there where we watch the store. And as I was sitting in
15 there, Mr. Ardis -- I didn't know his name till today --
16 but I know he works at Piggly Wiggly. He came in.

17 Can't really say -- the manager asked him how the
18 trial was going. I guess that was the basic question, but
19 he went in and said the State had just circumstantial
20 evidence and he wished they had more.

21 I -- then I looked at him and I told him, I said,
22 well, you know you don't supposed to be talking about that
23 case, it's like a gag order. He said, yeah, well, I just
24 wish the case -- wish the State had circumstantial
25 evidence -- more than circumstantial evidence, it don't

1 even have a gun.

2 He also stated that the testimony yesterday kind of
3 helped the defense a little and that he was eager to -- I
4 guess he done based his opinion about the whole case -- he
5 was eager to give his opinion and hope everybody listens
6 to what he have to say.

7 Q That's what Mr. Ardis said?

8 A That's what he stated.

9 Q Thank you.

10 THE COURT: You want to ask him any questions?

11 CROSS-EXAMINATION

12 BY MR. FINNEY:

13 Q Investigator, the whole conversation that took place
14 was in this little office?

15 A No, it was right there at the -- beside the office,
16 the -- go inside the office where the manager and the
17 person would do the paperwork sits at, and he was right
18 there in between, and the office right here -- he was
19 right there, and the office right there. The manager was
20 standing right there.

21 Q And the conversation was between the manager, this--

22 A The manager initially asked how was the trial going.

23 Q Right. So I'm just -- I'm trying to get an idea of
24 how many people heard this.

25 A It was like four. It was two people in the office,

1 the manager and the guy who does the paperwork and him --

2 Q Right.

3 A -- and then I was right there at the...

4 Q So four people altogether?

5 A Yes, sir.

6 Q And did anybody say anything to the juror about what
7 they had read in the paper or was it just the juror
8 talking to--

9 A Huh-uh. Just the juror. The manager asked that
10 initial question, how was the trial going, and then he
11 went on in and then that's when I told him, you don't
12 supposed to be talking about that, then he went into
13 the -- more circumstantial evidence and no gun was found.

14 Q How long did this conversation between this man and
15 the rest of you all last?

16 A Well, I was trying to get him to end it, but he -- he
17 kept going into, he was eager to give his opinion about
18 the case and...

19 Q Did he give his opinion? He said to you -- he didn't
20 give his opinion?

21 A No. He--

22 Q He said he was hoping he could give--

23 A He was hoping he can -- well, whenever it's over with
24 he can give his opinion based on whatever the evidence is.
25 He stated -- he also stated that he hopes the State has

1 more today so... I don't know.

2 MR. FINNEY: That's all I have.

3 THE COURT: All right. Anything further from
4 the State?

5 MS. FANT: No, Your Honor.

6 THE COURT: All right, sir. You can step down.
7 (Witness left the stand.)

8 THE COURT: Yeah, you can have a seat wherever.
9 All right. Don't leave yet, though. All right. And
10 I -- I propose at this point to bring Mr. Ardis out,
11 question him about this conversation yesterday and
12 find out whether he's had a conversation in the jury
13 room with other jurors about what happened because
14 that will, you know, effect where we go from here.

15 I mean, if it's isolated conversation that he
16 had and it's not tainted the rest of the jury pool,
17 then we probably can replace him with an alternate
18 and keep going.

19 If he's tainted the jury pool, we have got
20 problems. All right. How about bring Mr. Ardis out
21 here for me.

22 (Juror Sean Ardis, white male, entered the
23 courtroom at 9:41 am.)

24 THE COURT: You can sit right there.

25 JUROR: Okay.

1 THE COURT: I need to ask you some questions,
2 but how -- first of all, I'm going to swear you in.
3 How about raise your right hand.

4 SEAN ARDIS, after being duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY THE COURT:

8 Q Yesterday afternoon did you have an occasion at the
9 Piggly Wiggly here in Sumter -- in Sumter to discuss this
10 case?

11 A At Piggly Wiggly? I didn't discuss the case.

12 Q At some grocery store.

13 A Yeah, I was at Piggly Wiggly. My manager said, how
14 is the case going? I said, well, we should be able to
15 finish up today or we might go into Saturday and we could
16 go into next week, I'm not sure.

17 Q Did you talk anything about the facts of the case and
18 the proof that the State had offered versus the defense?

19 A I didn't say anything going on. I said -- what did I
20 say -- (pause) -- I said I believe the State's done with
21 what they have to say, and now the defense is bringing
22 other witnesses in.

23 Q Did you talk about any opinion you may have about the
24 strength of the evidence?

25 A I said I thought the State was doing a pretty good

1 job and now the defense seems to be doing their job. I
2 really didn't say what my opinion was on who I -- I
3 thought was innocent or guilty. I didn't say anything
4 like that.

5 Q Have you had any conversation in the jury room with
6 any of the other jurors --

7 A No, sir.

8 Q -- about this case?

9 A No, sir.

10 Q Did you tell any of the other jurors what had
11 happened last night at the Piggly Wiggly?

12 A No, sir.

13 Q So you haven't had that conversation at all. Has
14 anybody in the jury room discussed this in front of you --

15 A No, sir.

16 Q -- this case?

17 A No, sir.

18 Q All right. All right, sir. How about -- you can
19 step down and just have him seated right out there in the
20 hall.

21 (Juror left the courtroom.)

22 THE COURT: Does the State or defense want me to
23 do any further inquiry as far as the jury -- my
24 inclination at this point is to excuse him, put an
25 alternate in place and proceed. Do you need any

1 further -- any inquiry into the jury panel?

2 MS. FANT: Your Honor, this is the first time
3 this has happened. I'm not familiar with the typical
4 procedure. But our concern would be obviously
5 Mr. Ardis is lying not only because of what
6 Investigator West said, but he could not look you in
7 the eye.

8 He hung his head, his whole demeanor indicated
9 he was lying. I would be somewhat concerned that
10 what he told you about not talking to anyone might be
11 a lie as well, and that would be a concern on the
12 State's part.

13 THE COURT: Well, my option at this point is
14 seat the alternate and go forward or bring each juror
15 out individually and question them as to any
16 conversations that occurred in the jury room or --
17 it's hard to bring the panel out and question them
18 because you -- you need to put each one of them under
19 oath, now.

20 We'll talk -- and I'm certainly willing to do
21 that if both sides think that's necessary. What
22 if -- what is y'all's position?

23 MR. FINNEY: The defense has no objection to the
24 Court replacing the juror with the alternate. I
25 would have no objection to the -- Your Honor asking

1 the jury as a whole whether or not any conversations
2 have taken place regarding the facts of the case
3 between members of the jury or anything like that.

4 *THE COURT:* Okay. So the defense requests that
5 I do it and that the whole panel, not individual?

6 *MR. FINNEY:* I just -- I think that would be
7 efficient, Your Honor.

8 *THE COURT:* Okay. What's the State's position?

9 *MS. FANT:* Your Honor, I do think they need to
10 be asked. I would think, you know, much more about
11 the dynamics of whether it's even effective to
12 question them as a group.

13 And if it's not, then I would ask that we
14 question them individually.

15 *THE COURT:* Any -- if I got any kind of response
16 from anybody else or had any information that it was
17 a conversation going on in the jury room, then I
18 would question them individually.

19 And I can bring them out and question them as a
20 panel. If I get any response that -- that it --
21 something did occur in the jury room, then I probably
22 may need to -- it depends on what I -- kind of
23 responses I get, either go further in questioning
24 them individually or stop this trial and start over.

25 *MS. FANT:* That would be fine, Your Honor.

1 *THE COURT:* Okay.

2 *MR. FINNEY:* The defense would just ask the
3 Court -- would you be inclined to tell them when you
4 bring them out here that you were going to remove one
5 of the jurors because of an inappropriate
6 conversation?

7 *THE COURT:* I'm not going to tell them that till
8 after I question them, but then afterwards if I --
9 you know, if -- what's your position, is to tell them
10 that I have to replace one of the regular jurors with
11 the alternate and proceed. But if I have that
12 conversation, then I need to deal with that.

13 *MR. FINNEY:* I just wanted to know what your
14 thoughts were.

15 *MS. FANT:* Your Honor, we would prefer obviously
16 that you just ask them and then tell them later. We
17 don't want to taint them any more and, you know...

18 *THE COURT:* Well, I'll--

19 *MS. FANT:* Get the first--

20 *THE COURT:* Let me bring them out and ask them,
21 and then -- now, if we decide to replace the
22 alternate, then we need to have the Clerk or
23 something around here drawing as to which one goes in
24 the slot.

25 I think that's what the statute requires in

1 criminal court, that it's not the first alternate
2 picked, but it is that you randomly draw from the
3 pool of alternates who goes in that slot. Do y'all
4 disagree with that?

5 MR. FINNEY: My only understanding was that we
6 drew two and we would -- the first one we drew would
7 be the one that would go in the slot.

8 THE COURT: And that -- and I don't think that's
9 what the statute -- that's the way it is in civil
10 court, but I don't think that's what the statute says
11 in criminal court.

12 I think the statute says I have to draw -- that
13 there is a random drawing of the alternates, but --
14 and I'm almost positive that's what the statute says.
15 So I will just have the Clerk's office randomly draw
16 one of the two names.

17 BAILIFF: I'll get Donna to come.

18 THE COURT: Okay.

19 (Jury entered the courtroom at 9:52 am.)

20 THE COURT: Ladies and gentlemen, before we
21 start the testimony I need to make some inquiries to
22 the panel. I need to know if there was any
23 discussions at all about the facts of this case in
24 the jury room. Anybody?

25 Did -- is any discussion at all about any

1 conversations that may have occurred outside of the
2 jury room and any of the jurors come back and
3 discussed a conversation they may have had about this
4 case with anybody else?

5 There's been no conversation in the jury room
6 about the case? Okay.

7 Now I need you to go back to the jury room just
8 a minute and let me deal with another matter of law,
9 and I will bring you back out in just a second.

10 (Jury left the courtroom at 9:53 am.)

11 THE COURT: Anything from the State?

12 MS. FANT: No, Your Honor.

13 THE COURT: The State satisfied with the
14 response of the jury?

15 MS. FANT: Yes, Your Honor.

16 THE COURT: What about the defense?

17 MR. FINNEY: The defense is satisfied.

18 THE COURT: Okay. And under 14 7 1340 I think
19 the code section, it requires the Court to draw an
20 alternate. 14-7-1340. So if the Clerk's office will
21 draw me an alternate, we will seat that alternate
22 now.

23 Having said that, can you give me -- you go
24 ahead -- what about timeframe now? How many reply
25 witnesses, if any, does the State intend to call?

1 MS. FANT: None, Your Honor, if the defendant in
2 fact does not testify.

3 THE COURT: All right. All right. Then we have
4 got -- we are going to -- obviously we are going into
5 closing arguments and charge, so I guess -- I thought
6 I had a little bit of time to deal with this alibi
7 issue, and I don't, so I need it.

8 Y'all probably need to know the answer to that
9 before you have to do -- are you going to waive
10 opening or are you going to close or you going to
11 open and close?

12 MS. FANT: Unless I'm required, I will just
13 close on the...

14 THE COURT: What says--

15 MR. FINNEY: I'm going to open, and I will need
16 30 minutes.

17 THE COURT: All right. Well, let me -- while
18 he's putting an alternate in place, let me look at
19 these alibi cases real quick and then I'll let you
20 know whatever I think -- what -- well, let me ask you
21 this.

22 Are there any other issues as far as what about
23 the hand of one, the hand of all and the mere
24 presence?

25 MR. FINNEY: The State -- or the defense, Your

1 Honor, would object to the hand of one is the hand of
2 all presentation or charge -- instruction to the jury
3 on that.

4 We don't feel like it's appropriate. We don't
5 feel like it's supported by the evidence. And we
6 feel like it would -- it's like placing an inference
7 that the defendant, just because there was testimony
8 that there might have been another guy, that there
9 was an inference that because there were two guys
10 mentioned, that they were together when the crime
11 occurred, and there's no evidence that the crime
12 occurred with two guys.

13 *THE COURT:* What says the State?

14 *MS. FANT:* Your Honor, we obviously disagree.
15 We think that the fact that the defendant was last
16 seen with another person unknown, that the defendant
17 was seen the next day with a person unknown, that he
18 refused to identify the people that were there,
19 indicates that there was at least circumstantially an
20 inference that two people participated in this crime
21 together.

22 The fact that the defendant was seen driving the
23 car belonging to Ms. Ransom that the defendant had
24 last -- the victim had last been seen in with another
25 black male in the car we think does show that.

1 My only concern yesterday was whether the hand
2 of one, hand of all charge, accomplice liability
3 charge, and I was looking at that last night and am
4 confident that the hand of one, hand of all would be
5 appropriate.

6 *THE COURT:* Okay. And I will look at the cases
7 on that, too. If you will give me a few minutes, I
8 will go back to chambers, look at this, and come back
9 tell you what I think the law requires me to charge.

10 *MR. FINNEY:* Judge, what is your procedure for
11 appointing a foreman or forelady?

12 *THE COURT:* And I normally let them do that
13 simply because now they know each other better than I
14 do and I've found out that if they appoint the
15 foreman, then it seems to run smoother.

16 Sometimes a Judge will appoint a person who
17 is -- due to their personality, very shy and
18 introverted, and they just aren't comfortable and
19 they have hiccups, so I was going to allow them to
20 appoint their own foreperson, and that the -- what I
21 can do then is bring them back out briefly, put the
22 alternate -- have you drawn an alternate yet?

23 *BAILIFF:* Here's the two names.

24 *THE COURT:* Okay. Then just pull one out of the
25 pot, and whatever that name is is who is left. And

1 we'll bring them back and seat the alternate. I will
2 send them back to the jury room to appoint the
3 foreperson, and I will go work on this charge, then
4 we will come back. Do you want to rest in front of
5 the panel?

6 MR. FINNEY: Yes, sir.

7 THE COURT: I will bring them back out, appoint
8 the alternate, let you rest, then send them back to
9 select a foreperson, go do this research, and come
10 back, give y'all a few minutes to get your thoughts
11 together, and we will do closing arguments and
12 charge.

13 And Ernest Wactor is the one that's seated.
14 Okay. So if you will bring them back out and...

15 (Jury entered the courtroom at 9:59 am.)

16 THE COURT: Ladies and gentlemen, I -- I had to
17 replace one of the regular jurors with the alternate.
18 Mr. Wactor, you have been selected from -- both
19 alternate names were put in a pot and you were drawn
20 out. So you're going to be on the regular jury panel
21 to decide this case.

22 The -- all right. And Mr. Finney, I think you
23 were presenting a defense when we left yesterday
24 afternoon.

25 MR. FINNEY: Yes. The defendant would rest at

1 this point, Your Honor.

2 *THE COURT:* Okay. Ladies and gentlemen -- does
3 the State have any reply testimony?

4 *MS. FANT:* No, Your Honor.

5 *THE COURT:* And what that means is, ladies and
6 gentlemen, you have heard all the evidence you're
7 going to hear in this case. Now you will hear the
8 closing arguments of the attorneys and the charge
9 that I will give you on the law.

10 And before we start with that proceedings, I
11 have got a couple of things I have got to take care
12 of. So what I need you to do is -- y'all have been
13 together for about a week now. You have got to know
14 each other pretty good.

15 I need you to go back to the jury room and
16 select a foreperson for this jury. I have found out
17 that juries usually do better if you select your own
18 foreman than the Judge because I don't know any of
19 you.

20 The foreman simply will preside over the
21 deliberations. The foreman doesn't have any stronger
22 vote than anyone else. The foreman simply will
23 preside over deliberations, let each person express
24 his or her opinions.

25 And once you are unanimous on your verdict, then

1 the foreman will write that verdict down on a sheet
2 that I will provide and sign it and date it and knock
3 on the door and tell the bailiff you have reached a
4 verdict, and come back out and hand that verdict up
5 to the bailiff, and we will read the verdict.

6 So if you will go back to your jury room, decide
7 who you want to be foreperson of this jury, and as
8 soon as we can deal with these matters, I will get
9 you back out, you will inform me who the foreperson
10 is, and that person will sit in that chair right
11 there, and we'll proceed with closing arguments and
12 charge.

13 But if you will go to your jury room and make
14 that decision, soon as I can get you back out, I
15 will.

16 (Jury left the courtroom at 10:02 am.)

17 *THE COURT:* All right. We'll be in recess 10 or
18 15 minutes, and let me...

19 *BAILIFF:* Mr. Ardis?

20 *THE COURT:* Don't know what to do about this
21 fellow. Just have him sit a minute and let me deal
22 with these other matters and I will deal with him
23 while the jury is deliberating.

24 *BAILIFF:* We need somewhere to put him. He's
25 sitting right there in the hall.

1 *THE COURT:* All right. Can you find somewhere
2 to put him or let him sit right there, I don't care.
3 Whatever is...

4 *BAILIFF:* I will sit him in the hall.

5 *THE COURT:* He has kind of caused us enough
6 delay. I'm not going to delay this trial any more
7 dealing with him. We're going to get this to the
8 jury.

9 *BAILIFF:* All right.

10 *THE COURT:* All right. I will be back in a few
11 minutes. Let me go read these cases.

12 *THE COURT:* Do you have copies of the cases that
13 you--

14 *MS. FANT:* I have the Robbins and I have the
15 citations to them that I--

16 *MR. FINNEY:* I gave you the Robbins case.

17 *THE COURT:* Okay. Y'all get whatever you think
18 I need to go to my law Clerk. I will go get...

19 (Whereupon there was a brief recess.)

20 *MS. FANT:* Your Honor, at this time the State
21 would move State's number 37, the gun form, from
22 Brooks Gun Shop, and State's 80, a photo, into
23 evidence.

24 I had actually thought they were entered and we
25 went through the evidence, apparently they had not

1 been. So we would like to -- to have State's 37 and
2 80 moved in.

3 *THE COURT:* What says the defense?

4 *MR. FINNEY:* No objection.

5 *THE COURT:* Okay. Then they are in without
6 objection. That's 80?

7 *MS. FANT:* Yes, Your Honor, 80 and 37.

8 (WHEREUPON, State's Exhibits 37, 80 were
9 admitted into evidence.)

10 *THE COURT:* All right. Anything else before
11 we -- and I -- we had a discussion in chambers, and I
12 have reviewed the law, and I am going to charge alibi
13 as well as the hand of one and the hand of all and
14 mere presence.

15 *MR. FINNEY:* Your Honor, let the record reflect
16 that the defense did not want you to charge and
17 objects to your charging the hand of one is the hand
18 of all, sir.

19 *THE COURT:* All right. And what about mere
20 presence? I mean, we discussed that.

21 *MR. FINNEY:* I have no objection to that, Your
22 Honor.

23 *THE COURT:* Okay. All right. Then bring us the
24 jury, please.

25 (Jury entered the courtroom at 10:34 am.)

1 THE COURT: Mr. Finney?

2 MR. FINNEY: Thank you, Your Honor.

3 CLOSING STATEMENT

4 MR. FINNEY: Good morning, ladies and gentlemen.
5 Ladies and gentlemen, the case is now getting ready
6 to come to you. We have been here since Monday
7 morning.

8 And I know the first thing I want to do is thank
9 you because you have been patient and have listened
10 and you have stayed focus on the matters at hand. It
11 is not easy to be on a jury because you are being
12 told to do things with tools that you're not used to
13 handling, so to speak, being in court.

14 You got to examine this, and look at this,
15 figure out where she's going with this piece of
16 evidence, and what is Mr. Finney doing with this, and
17 it's probably not that easy.

18 But thank you because both of us lawyers, judges
19 feel that it's our job. We think it's important. We
20 think the system is a good system and we want it to
21 be effective in resolving conflicts. We have
22 confidence in it.

23 The State of South Carolina has charged my
24 client. My client has pled not guilty and we have to
25 have some help, outside help, and that's where you

1 come in.

2 On Monday when I told you in opening statement
3 that the truth was going to be determined this week,
4 we were going to help you find the truth, and I think
5 we did.

6 Through the course of this week I told you to
7 use some tools that the Court was going to give you,
8 the law gives you. I talked to you about reasonable
9 doubt. I talked to you about the burden of proof.

10 I talked to you about some other tools maybe
11 that come in the course of your hearing the evidence
12 and listening to the evidence.

13 Ladies and gentlemen, the most important tool is
14 what you're going to get when you leave here and go
15 back in that jury room, and that is you're going to
16 use common sense.

17 Common sense is the most important tool a juror
18 can use because it doesn't matter whether a person's
19 got a title or a badge or a gun or an expert witness
20 degree hanging on the wall.

21 What matters is does it make sense to you what
22 that witness brings to court. If it doesn't make
23 sense, you don't have to believe it because the man's
24 been to college, he's a medical trainee, or he's been
25 an investigator or he's been on the police force for

1 22 years, because as you have probably learned in
2 your experiences, when you come into court, things
3 get tested, and things don't always come out smelling
4 good in court. That's why this situation exists.

5 That's why somebody a long time ago decided that
6 we weren't going to just let the king decide how
7 things were going to be run in the kingdom, we were
8 going to let the people because the people have power
9 to decide using their common sense.

10 This whole case, ladies and gentlemen, against
11 Nathaniel Bradley is based on circumstantial
12 evidence -- evidence is what they want to say.

13 Now, usually we have direct evidence. Usually
14 we have somebody who saw somebody do something, we
15 got fingerprints left on something, we have
16 footprints. Direct evidence, something you see,
17 smell, touch, hear. We don't have any of that.

18 Usually in a case by the time I get to this
19 point, I'm going to be able to show you that what --
20 where my client was and what he was doing on the time
21 the crime occurred.

22 This is a very unusual case. You don't know
23 when the crime occurred. They don't know what county
24 the crime occurred in. They don't know what day it
25 occurred on. They don't know who was standing there

1 when the man got shot. They don't know who was
2 holding the gun.

3 They don't know. They haven't proved it. And
4 that's where they say, okay, but we have
5 circumstances that we want you to consider, and those
6 circumstances we think point to this man.

7 Ladies and gentlemen, they don't point to
8 anybody. What they have is circumstances that don't
9 fit together.

10 And in circumstantial evidence the Judge is
11 going to charge you after the lawyers finish their
12 talk this morning, it's -- circumstantial evidence is
13 good evidence.

14 You can convict a man and send him for
15 punishment for certain things, but it has to be
16 circumstances that fit together so tightly that
17 there's only going to be one logical conclusion.

18 And if you get to a point where the
19 circumstances don't fit together, you can't push them
20 together and say, well, if he had this, it would be
21 better, or if we had that. No, that's the point
22 right there where you say, hey, the law says we got
23 to stop because the circumstances don't fit together.

24 Ladies and gentlemen, we have been talking for
25 the last four days, five days about the events in May

1 of 2005. And in those events we have tried to show
2 you that Nathaniel Bradley was going about his course
3 of business in a normal and reasonable fashion.

4 There's so many things that I want to talk to
5 you about this morning. I'm going to try to stay
6 focused on the few days here we have on this little
7 display. This is not evidence.

8 This is my presentation to you to show you in
9 your mind how you need to go through and think about
10 this. Because the man was last seen Saturday
11 afternoon, Mr. James, at his house with other people
12 there.

13 Some of his family, Nate was there for a few
14 minutes, and some other man that they said is an
15 unknown man. All at this house on Springhill Road.
16 Sunday, nobody heard from Mr. James. Monday,
17 Mr. James is found.

18 So this is the window here of when the --
19 Mr. James' life was taken away. What we have tried
20 to show you, ladies and gentlemen, is -- to the best
21 of our ability to the -- where Mr. Bradley was, who
22 he was with, and what he was doing.

23 The importance of that is we don't know when the
24 crime took place. How fair is it to ask a man to
25 show you where he was when you can't tell him when

1 the crime took place.

2 You can't even tell him what -- what road, what
3 county, what street, nothing, just that the man was
4 seen last with you, we don't know where he went, so
5 we're going to charge you because you were the last
6 one.

7 Now, this evidence in this case that Mr. Bradley
8 told Bobby Lee Hughes that the night that they found
9 the body -- Bobby -- I think Ernest went off with
10 another man, I didn't know the guy, but he was over
11 at Ernest's house when I got there, and I think they
12 were going to do something wrong, and that's the last
13 I saw him.

14 That story was told by Bobby to the police
15 officer. Bobby then told -- I mean, to the police
16 officer. The police officer knew that the night they
17 found Ernest, Monday night.

18 Right there. Bobby Lee Hughes talked with Nate.
19 Bobby Lee Hughes talked to the police. The police
20 knew that -- now, look what the State wants you to
21 believe.

22 The State wants you to believe that the next day
23 on Tuesday, this man, Nate Bradley, who killed his
24 best friend and threw him in the pond went down to
25 the police station voluntarily on his own without any

1 kind of warrant because why?

2 Well, Ms. Fant said he didn't want to help.

3 Well, he did want to help. That's why he went down
4 there, to tell the police the same thing. I think
5 Ernest got in the car with a man.

6 I don't know what the man's name was. I was at
7 the house when it happened, and they looked -- they
8 took off. I had to go get Tanisha. I wasn't going
9 with those guys. That's what he told Bobby Lee. I
10 had things to do, I wasn't going with those guys.

11 So what did he do? We brought in Tanisha. The
12 police officer talked to Tanisha. There's been no
13 police officer evidence in this case that Tanisha
14 told a different story to them.

15 She went to the prom. She was helped by Nate to
16 get ready for the prom, to get a camera. They took
17 the pictures. They hung out for a little while.
18 Nate sat down in the house and waited for her to get
19 back in the Beretta because that's the car that took
20 her to the prom.

21 Don't believe Tanisha? What about Mrs. Sinkler?
22 He was there waiting on the girl to come back from
23 the prom because he wanted them to have a good time.
24 This is the last month of her high school career.
25 This was the last prom she was going to be at, and he

1 made it special for her.

2 You hear truth come out every now and then it
3 sounds like music. Did you hear somebody say on the
4 witness stand that the reason he didn't have \$20 to
5 buy a camera is because he had spent all of his money
6 making sure her nails and her hair was pretty that
7 night.

8 Truth. Can't hide it. Can't bend it. Can't
9 break it. Truth. Nate is sitting there at the house
10 looking at TV, talking at Mrs. Sinkler, waiting for
11 the girls to get home.

12 Any evidence in this case that Nate is out on
13 the street driving a Volvo, got Ernest in the back
14 seat tied up? Anything like that? No. No evidence.

15 It's speculation, ladies and gentlemen. It's
16 not circumstantial evidence. It's speculation. Nate
17 leaves the house, according to the girl that
18 testified, Mrs. Sinkler and Ms. Tanisha about one,
19 1:30 in the morning. Now we are talking about Sunday
20 morning.

21 Well, what's going on up there at 24 miles away
22 from here in the cemetery in Lee County? The dog is
23 barking at Mr. Bramlett's house. The same time Nate
24 is leaving the Forge -- South Forge Apartments.

25 How does that fit together? What is the

1 circumstantial evidence of him -- this is -- this is
2 now Sunday morning. What's the dog doing? What's
3 that got to do with anything? That's not evidence.
4 That's speculation.

5 You can't punish a man on speculation. So what
6 does the dog mean? Okay. Well, I thought the dog
7 meant that somebody was over in the cemetery burning
8 up the car.

9 That makes sense. You know why? Because they
10 got the car burned -- they don't know when the car
11 was burned. The lady who was walking, Mrs.
12 McCutchen, she said she doesn't think it was there
13 Saturday.

14 She saw it for the first time on Sunday. She
15 saw it about 2:30 or 3:00 in the afternoon. Well,
16 when did the car get there? Maybe it got there
17 because the dog was barking. Maybe they were putting
18 the car in the cemetery at 1:30.

19 Well, Nate wasn't there. He was just now
20 leaving Mrs. Sinkler's. He had to drive pretty fast
21 to get up there to be messing with that dog.

22 But guess what, circumstantial evidence. It
23 doesn't fit. They couldn't have been burning the car
24 Sunday night because, guess why? Mr. Koenig sees the
25 car down in Sumter with Nate driving it four, five,

1 six hours later. Nate driving it.

2 I'll come back to Koenig in a minute. We're
3 going to talk about him a little bit. But they
4 couldn't have been burning the car. So what was the
5 dog barking at?

6 Now, I thought, well, maybe -- maybe they're
7 saying that Donna McDuffie believed that Nate was --
8 Nate was in the cemetery doing something with his
9 mama's grave. Okay.

10 Well, let's check that out, because here's the
11 one thing I got a problem with. Nothing got checked
12 out in this case. They had two and a half years to
13 get ready to present this case to you and they didn't
14 bring you anything.

15 Did anybody from the Sheriff's Department go out
16 and check to see if Nate Bradley had any relatives
17 buried in that cemetery in Lee County? No. For two
18 and a half years they didn't.

19 All they had to do was ask his family. They got
20 funeral home right there. His mama died in 1985.
21 She got buried in Wedgefield. That's where the
22 family graves (sic) is.

23 If he went to -- this is May, 2005. Look at the
24 calendar. When is Mother's day? Mother's day is in
25 May. If Nate was cleaning off his mother's grave

1 Mother's day weekend which was just 10 days before
2 this, maybe Donna got the dates wrong.

3 Maybe she -- she -- maybe -- we don't know about
4 Donna. We will talk about her in a minute. But
5 listen. Donna's statement is in evidence. They put
6 it in evidence.

7 Donna McDuffie. She says, on Friday night we
8 spoke again. He stated he was lost in the woods and
9 trying to find his car. Friday.

10 They're trying to make you believe that Nate was
11 in the cemetery doing something, we don't know what,
12 Sunday morning. The lady said Friday.

13 Here's what came to me at 5:00 this morning when
14 I couldn't sleep no more because I'm worried about my
15 client so much. You got the phone records. Check
16 the phone records for Friday, May the 20th. Nobody
17 else in this case checked them in two and a half
18 years.

19 You can do it. It takes five minutes to look on
20 the sheet. The first call from Nate's phone on the
21 20th was made -- I'm just going to talk about the
22 afternoon calls -- started about 12:09 pm, he made a
23 lot of calls on Friday.

24 The only call he made -- he made calls from 12
25 noon on the 20th all the way to 11:54 that night,

1 Friday night. And the officer testified that he --
2 he testified what the numbers were for Donna, and the
3 only number on there for Donna is at 8:04 pm.

4 Well, maybe that's night to her. She says he
5 called Friday night. But guess what, got one other
6 thing you can look at that they didn't check out. We
7 got State's Exhibit -- Defendant's Exhibit number
8 two, the cell tower addresses.

9 If Nate was in the woods up in the cemetery
10 making a call to Donna that she don't understand
11 because she didn't understand it, then it would be
12 coming off the tower from where? Wisacky area just
13 like the other calls he made the next -- that
14 morning -- later on that morning when he was with the
15 man you heard from, Calvin Davis.

16 That's why we put these records in. The State
17 didn't offer this evidence for you to hear and see
18 because it doesn't help them. It hurts them.

19 Ladies and gentlemen, there's no address for any
20 cell tower calling Donna on Friday night. Now, you
21 have seen -- and this is the evidence. You check it
22 out.

23 Donna comes to court and she is so, so
24 ambivalent, unsure, or whatever, they have to put her
25 statement in evidence to get you to hear what she

1 said to the officer, not what she wrote, what she
2 said to the officer that the officer wrote down back
3 in May of 2005.

4 She comes to court and says different stuff.
5 They don't like that. So they impeach her with the
6 statement that she made before. She says she doesn't
7 know Nate that well, she doesn't go out with Nate,
8 but the phone records show that they called each
9 other all the time.

10 The State's own phone records show that Nate
11 called her a bunch of times that week. Look at that.
12 And look at this, now. They want you to believe
13 she -- Ms. Fant's going to argue, oh, look, there
14 were so many calls around the time that Ernest James
15 went missing.

16 Well, ladies and gentlemen, we only got cell
17 records from the 16th of May. We didn't get the
18 record -- they didn't review the records for the
19 first 16 days of May or for April.

20 These people been talking for a while. So don't
21 be fooled by this. This is just a snapshot. You
22 don't have the whole movie. The whole movie is those
23 people knew each other real good.

24 Why else would she come to JC Penny to give the
25 man half the towing fee? Why else would he call her

1 on Sunday morning said, I'm going to get the paint
2 from under the house and I got a job to do, and I
3 need \$10, leave me \$10 under the flower pot, and she
4 left it.

5 You didn't hear the whole story from Donna. But
6 they had to impeach Donna. They didn't like the way
7 she came to court and testified. And I know they
8 didn't like the way Donna came to court and said to
9 you, oh yeah, I gave the officer a bullet, I gave
10 them a brick because they wanted to go and check
11 things out.

12 The officer came in here and said, no, she
13 didn't give me a bullet and, no, we didn't take a
14 brick. Now, what you got there? They're trying to
15 send that man away. What you got there?

16 What kind of investigator would go up there to
17 look and see what kind of gun the lady had? The gun
18 is missing. The best evidence they got of the -- of
19 what kind of gun it was is the kind of bullets that
20 were in the gun. She got a box of bullets.

21 One officer from Bishopville says he looked at
22 the bullets. What kind of investigator would leave
23 Donna's house that day without taking one of her
24 bullets so we can compare to the bullets that came
25 out of Mr. James?

1 I'm not asking you to be super-people. I'm
2 asking you to work with what they got. They got
3 bullets. They didn't compare to Donna. Donna said
4 she gave them bullets. He says he didn't take them.

5 Donna says they took a brick to compare to this
6 brick. They said they didn't take it. What kind of
7 investigator wouldn't take a brick to see if there
8 were some marking, some style, something to show that
9 these bricks came from the same place, they were put
10 there at the same time?

11 It's not unusual. It's nothing necessarily out
12 of the ordinary, but bricks are made by different
13 companies. Every company probably got a different
14 mold. The mold makes the brick different.

15 If you got the brick here you're trying to find,
16 you would want to compare it. Nobody ever compared
17 it.

18 So the dog's barking I thought meant that
19 somebody was doing something in the cemetery. We
20 don't have any idea that Nate was in the cemetery.
21 We don't have any idea that the car got in the
22 cemetery that night.

23 But it would make sense that whoever is trying
24 to hide this car from the police or the family of
25 Mr. James, they would burn the car at night because,

1 guess what?

2 There is -- there is no testimony that anybody
3 saw the car burning on the road between the time that
4 Mr. Koenig saw it in Sumter at 9:00 Sunday morning
5 and at 2:30 when the car was seen in Bishopville
6 24 miles away not smoking, not on fire.

7 This is prime time, ladies and gentlemen, for
8 people to be going to church. Listen now. They
9 think that the car got taken up to Bishopville some
10 time after 11:00 Sunday morning, put in a cemetery,
11 burned all completely up, and nobody saw it going to
12 church, coming back from church.

13 And the lady who found it, it is cold, it ain't
14 smoking at 2:30 in the afternoon. That doesn't make
15 sense.

16 So I tried to show you what Mr. Bradley was
17 doing on Sunday because Mr. Koenig has got
18 Mr. Bradley driving the Volvo down on Cobblestone,
19 which coincidentally is, as you look on the map,
20 Cobblestone is the closest street to the bridge.

21 Maybe Mr. Koenig wants to be a hero, get his
22 name in the paper. I don't know Mr. Koenig. I know
23 he comes in here and he says he's a hundred percent
24 sure that he's got a man identified on the several
25 seconds viewing, man he has never seen before, man he

1 wasn't expecting to see, man he hadn't seen since,
2 had four or five days later he's telling the
3 officers, I can pick him out of a line-up, and he
4 doesn't hesitate.

5 I think the ID is bad just on the -- on the
6 facts of that. But here's the big problem. They
7 weren't counting on him -- Nathaniel Bradley was
8 using his cellphone Sunday morning to try to get
9 Donna to open up her door so he could get his paint.

10 And he didn't know Donna was going to have
11 company. Mr. Calvin Davis said her boyfriend was
12 there. Nate had to sit down and cool his heels at
13 the house with him because he couldn't go to Donna.

14 Guess what Nate was doing. He was calling on
15 the phone to Donna, to maybe other people. It's on
16 his cellphone bill. How do we know he was up at
17 Donna's? Because the tower information is on the
18 bill.

19 The officers could have known that two years
20 ago. All of the towers that Nate was using that
21 morning from nine till 11 are listed on the bill, and
22 the addresses for the towers are on this sheet here,
23 Defendant's Exhibit number two.

24 Tower 6471, Horse Pen Road, Camden. Tower 6472,
25 Sumter Highway, Bishopville. Tower 6473, Wisacky

1 Highway, Bishopville.

2 All of the calls were made from the north area
3 of the county, from Bishopville or in Camden. How
4 could the man be driving around on Cobblestone? He's
5 making phonecalls over 24 miles away.

6 The time is not an issue. It's the same time
7 Tony said the man was seen. The car was discovered
8 that afternoon. Testimony of the witnesses who we
9 called was that around the time that the car was
10 discovered, Nate was in Sumter talking to the two
11 officers that testified about giving some estimates
12 for the work he was supposed to be doing.

13 He had left Donna's house. He had -- back in
14 Sumter. He decided on his own -- because he didn't
15 have a phonecall to the officers. They didn't call
16 him, said, hey Nate, what you doing? He went by
17 because that's how he makes his money.

18 He has to go and hustle. They thought that he
19 would be a good guy to do the painting because he had
20 done some other paintings for this crew. He went by
21 on his own to check the house out and the guys were
22 there.

23 He spent 45 minutes talking to the officers
24 about what we going to do and what we going to need,
25 how we going to handle it. According to the officers

1 there was a young nephew in the car asleep outside
2 while Nate was handling his business.

3 They want to make that suspicious. It's -- you
4 parked the car down the street. Maybe it was shady
5 down the road and Nate parked the car down there
6 because the boy was asleep in the car and Nate knew
7 it wasn't going to be no five minute situation with
8 these guys.

9 He was going to try to impress these guys. He
10 wanted to get the job so he could get paid. We're
11 not talking about 50 dollar jobs. That man gets paid
12 six, \$700 a job.

13 That lady, all she -- all he did was her windows
14 on a brick house and he got 600 or \$700 by her
15 testimony. This man is in business, and that's the
16 reason why this man didn't put up with the bullshit
17 that Ernest put out sometimes.

18 Yes, you got people coming to court to say he
19 was upset at Ernest from time to time because Ernest
20 wasn't handling his business. This man wanted to
21 keep the business running smoothly because, guess
22 what, if you got a good reputation, you're going to
23 get more business, more business, more money.

24 He ain't no rich fellow. He needs his money.
25 And he doesn't need any trouble which is why he went

1 and did what he did Saturday night with Tanisha and
2 why he sat on the couch and waited for Tanisha to
3 come back and why he was working Wednesday afternoon
4 sketching out that house and why he went to the
5 cookout and why he went to Cody's house to relax
6 Sunday afternoon after he had done his work and got
7 lined up.

8 When he left Cody's house, apparently he already
9 knew his schedule for the next day because early the
10 next day he was at Ms. Leon's house, and he stayed
11 there all day with Terrell Johnston painting those
12 windows because he knew he was going to get paid
13 after the job was finished. You don't get paid till
14 the job is finished.

15 Ladies and gentlemen, what in here about Nate
16 Bradley makes him sound like somebody who would kill
17 his best friend? Are you going to believe that Nate
18 Bradley got so upset with his friend over a van that
19 got put in the impound because his friend was not
20 thinking and not using good judgment?

21 Apparently -- we don't know for sure, but I
22 think it was mentioned -- that it would cost \$240 to
23 get the van out. So Nate Bradley is going to kill
24 his best friend for \$240, and according to the State,
25 he had help.

1 Well, how much did he have to pay an assistant
2 to a murder? Do you think it's more than \$240? Do
3 you think he just, hey man, I'm going to kill
4 somebody, now come on, go with me. Doesn't work that
5 way.

6 What's more likely than not? More likely than
7 not Nate Bradley met a fellow that night that he
8 didn't know. He went there to talk to Ernest about,
9 let's do this job on Monday because we need to get
10 this money so we can get the van out of the shop.

11 But no, Ernest wanted to go with this other
12 fellow and do something wrong, and we haven't seen
13 him since. But no, they are going to blame Nate
14 Bradley for all of this.

15 Ladies and gentlemen, I don't think your job is
16 hard at all. I think you have got to decide whether
17 or not you believe that the State of South Carolina
18 has proven to you that Nate Bradley was present at
19 the scene of the crime when this man got killed.

20 If they have proved that to you, then you
21 convict him. If they haven't, your duty as a juror
22 is to say, I'm sorry, the proof wasn't brought in, I
23 must do my job as a juror and say not guilty.

24 Here's the theory of the State's case, although
25 they wouldn't testify to it. And I apologize for

1 saying that. They don't have a theory because they
2 don't have a good case.

3 So they couldn't have a theory because the
4 theory starts with a premise and it goes back right
5 on through to a conclusion. The premise is that Nate
6 Bradley killed Ernest James. The conclusion is we
7 found the body in the pond, Boyle's Pond.

8 But what's in the middle is not evidence. Is
9 not circumstantial evidence, any way. When did the
10 body get thrown in the pond, ladies and gentlemen?
11 When?

12 What is the evidence presented to you in this
13 trial that the body got thrown in the pond? When did
14 it get thrown in the pond?

15 Well, your best guess is that he was riding
16 around Cobblestone Monday -- Sunday morning between
17 nine and 11. Cobblestone is two blocks away from the
18 pond.

19 So is the theory of the State in this case that
20 two men, one man, Nate Bradley got out of the car on
21 the bridge on St. Paul Church Road on Sunday morning
22 between nine and 11 which is the busiest hour of the
23 day on Sunday for people going to church, he took a
24 body of his best friend out of the car, tied a brick
25 to it and threw it in Boyle's Pond in broad daylight.