

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Anderson County

Honorable R. Scott Sprouse, Circuit Court Judge

ROBERT FROST,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2020-000604

APPENDIX

ROBERT M. DUDEK
Chief Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

LILLIAN MEADOWS
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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S.C. SUPREME COURT

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STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF ANDERSON	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
v.	)	Case No.
	)	2013-GS-04-00646, 647, 648, 649
Robert Joe Frost	)	
	)	
Defendant	)	

ORIGINAL TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on November 10, 2015, before The Honorable R. Lawton McIntosh, Anderson County Courthouse, 100 South Main Street, Anderson, SC 29622; attended by counsel as follows:

APPEARANCES:

Lauren Davis Price, Esq.,
Appearing for The State.

Gregory Lee Cole, Jr., Esq.,
Appearing for Defendant.

Vivian H. Cross
Circuit Court Reporter – 10th Judicial Circuit
P O Box 704
Belton, South Carolina 29627
vcross@sccourts.org

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I-N-D-E-X

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IDENTIFICATION ENTERED

*****NO EXHIBITS OFFERED*****

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P R O C E E D I N G S

10:11 A.M.

THE COURT: Good morning.

MS. PRICE: Good morning, Your Honor; may it please The Court?

THE COURT: Yes, ma'am.

MS. PRICE: Your Honor, this is Mr. Robert Frost. He's facing charges of murder, attempted murder, armed robbery, burglary in the first degree, and possession of a weapon during the commission of a violent crime.

THE COURT: Okay.

MS. PRICE: He has made a motion, uh, to represent himself. Uh, he is currently, um, represented by Mr. Lee Cole, who is his, uh, fourth attorney---

THE COURT: Fourth?

MS. PRICE: ---in this matter. Fourth attorney in this matter. Uh, he was in front of Your Honor, um, a little over two months ago.

THE COURT: I think you -- I thought you looked familiar, Mr. Frost.

MR. FROST: Yes, sir.

MS. PRICE: Yes, sir; and The Court directed that he, um, follow his medication, uh, as it --

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1 as listed, um, by the jail. Um, and then The
2 Court indicated that we should bring him back
3 before Your Honor, um, to make his Motion once
4 again and to assess him for the right to waive
5 his, uh, right to an attorney.

6 **THE COURT:** And have you been on your
7 medication regiment?

8 **MR. FROST:** Uh, yes, sir; but see, they---

9 **THE COURT:** Just -- let me -- let me do this.
10 Raise your right hand.

11 (WHEREUPON, **ROBERT JOE FROST** WAS DULY SWORN
12 AND TESTIFIED AS FOLLOWS:)

13 **THE COURT:** Don't say anything incriminating
14 at this point, okay?

15 **MR. FROST:** All right.

16 **THE COURT:** All right; go ahead. Have you
17 been on your medication regiment?

18 **MR. FROST:** Yes, sir; but, it ain't the right
19 medication.

20 **THE COURT:** Well, um, do you feel like you
21 are competent to understand what you're doing
22 here?

23 **MR. FROST:** Well, I'd like to be put back on
24 my, uh, Clonidine. The medication---

25 **THE COURT:** Well, that's -- that's really a

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1 separate issue, but we'll address that in a
2 moment.

3 **MR. FROST:** All right.

4 **THE COURT:** The question is---

5 **MR. FROST:** Yes, sir?

6 **THE COURT:** ---the matter before me is that
7 you are, for the fourth time---

8 **MR. FROST:** Yes, sir.

9 **THE COURT:** ---asking to fire your lawyer to
10 represent yourself

11 **MR. FROST:** Yes, sir.

12 **THE COURT:** And do you understand, Mr. Frost,
13 that while you have a right -- a Constitutional
14 right to an attorney, you can, by your actions,
15 waive your right to have an attorney and you'd be
16 required to represent yourself?

17 **MR. FROST:** Yes, sir.

18 **THE COURT:** Do you understand that?

19 **MR. FROST:** Yes, sir.

20 **THE COURT:** And right now, my question is to
21 you, even though you may not have gotten your --
22 your medication that you want to get, do you
23 comprehend and understand where you are and what
24 you're doing and what you're asking me to do?

25 **MR. FROST:** Yes, sir.

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1 **THE COURT:** Okay. Who is this gentleman to
2 your left?

3 **MR. FROST:** Lee Cole, Junior.

4 **THE COURT:** And what does he do?

5 **MR. FROST:** He's a attorney.

6 **THE COURT:** And who is he attorney for?

7 **MR. FROST:** For the State of -- Anderson --
8 Anderson, South Carolina.

9 **THE COURT:** Who does he represent in this
10 case so far?

11 **MR. FROST:** He's representing me---

12 **THE COURT:** Okay.

13 **MR. FROST:** ---so far.

14 **THE COURT:** Okay. And I -- I understand; I
15 just want to make sure you understand.

16 **MR. FROST:** Yeah, I understand.

17 **THE COURT:** Okay. And who is this lady over
18 here to your---

19 **MR. FROST:** That's Ms. Price.

20 **THE COURT:** Okay; and what's her job? Uh,
21 she's a District Attorney -- Solicitor. District
22 Attorney/Solicitor.

23 **THE COURT:** Okay. Mr. Cole, have you met
24 with Mr. Frost?

25 **MR. COLE:** Yes, Your Honor.

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1 **THE COURT:** Do you have any concerns about
2 his competency to make a decision as important as
3 this one?

4 **MR. COLE:** Your Honor, um, I have -- I had
5 gen- -- I -- I had recommended that he have an
6 evaluation and -- and, uh, he failed to follow
7 that advice. I'd had -- from the Court Order last
8 time, I had Doctor Walker -- uh, you know, I
9 directed Doctor Walker to go see him. Got the
10 HIPPA release form, all that. Doctor -- I talked
11 to Doctor Walker afterwards; Doctor Walker has put
12 him on, uh, what he feels is appropriate
13 medication. I think he's been on it for two
14 months.

15 So I, um, from all of that I -- I have to say
16 yes, I feel like he's, um -- I -- I do still feel
17 like he needs an evaluation; however, I feel like
18 he's competent to do what he's doing right now.

19 **THE COURT:** Okay. So, with that being said,
20 I need to go over with you the -- the perils
21 against self-representation---

22 **MR. FROST:** Yes, sir.

23 **THE COURT:** ---in order to make a
24 determination as required.

25 **MR. FROST:** Yes, sir.

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1 **THE COURT:** Okay. Number one, uh, have you
2 ever represented yourself before in criminal
3 actions?

4 **MR. FROST:** No, sir.

5 **THE COURT:** Do you understand the range of
6 the charges against you?

7 **MR. FROST:** Yes, sir.

8 **THE COURT:** And is it murder?

9 **MS. PRICE:** Uh, Your Honor, murder, attempted
10 murder, armed robbery and first degree burglary,
11 and possession of a weapon during the commission
12 of a violent crime. And I want to make The Court
13 aware, he's been served with L-WOP notice. He's
14 been served with life without parole notice.

15 **MR. FROST:** Yes, sir.

16 **THE COURT:** Do you understand that?

17 **MR. FROST:** Yes, sir.

18 **THE COURT:** See, murder could -- is thirty
19 years to life; you serve every day.

20 **MR. FROST:** Yes, sir.

21 **THE COURT:** But if you get here -- hit on
22 a -- a life without possibility of parole---

23 **MR. FROST:** Yes, sir.

24 **THE COURT:** ---the trial Judge, whoever that
25 may be---

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1 **MR. FROST:** Yes, sir.

2 **THE COURT:** ---does not have any discretion
3 and you'll die in prison; do you understand that?

4 **MR. FROST:** Yes, sir; I understand that.

5 **THE COURT:** And you still think you want to
6 represent yourself?

7 **MR. FROST:** Yes, sir; I want to represent
8 myself.

9 **THE COURT:** How far did you go in school?

10 **MR. FROST:** Uh, eighth grade.

11 **THE COURT:** Eighth grade?

12 **MR. FROST:** Yes, sir.

13 **THE COURT:** Well, can you read, write, and
14 understand the English language?

15 **MR. FROST:** Yeah; yeah, I can pretty much
16 read and write.

17 **THE COURT:** Well, I mean, you're talking
18 about -- law is not an easy area, and so---

19 **MR. FROST:** Yeah, I understand.

20 **THE COURT:** ---with an eighth-grade education
21 that -- does that not give you cause to concern?

22 **MR. FROST:** Well, I think I can -- I can
23 handle myself pretty good.

24 **THE COURT:** Let me ask you this. Other
25 than -- do you -- have you, in the past, had any

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1 physical problems?

2 **MR. FROST:** No.

3 **THE COURT:** Do you have any physical problems
4 now?

5 **MR. FROST:** No.

6 **THE COURT:** Obviously, you must have had some
7 psychological issues, intellectual issues, 'cause
8 of the medications I hear that you're taking.

9 **MR. FROST:** Well---

10 **THE COURT:** What is the diagnosis you were --
11 underwent in the past?

12 **MR. FROST:** Uh, bipolar.

13 **THE COURT:** Bipolar?

14 **MR. FROST:** Yes, sir.

15 **THE COURT:** I understand you can control that
16 on medications, but that does not give you concern
17 that you're bipolar and you're gonna try to
18 represent yourself against The State---

19 **MR. FROST:** Yeah.

20 **THE COURT:** ---and they have the power of The
21 State with their investigative apparatus and
22 diagnostic tools and all the things they have?

23 **MR. FROST:** Yeah.

24 **THE COURT:** Do you think you can handle that?

25 **MR. FROST:** Yeah.

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1 **THE COURT:** Do you know how to subpoena
2 people?

3 **MR. FROST:** Put a Motion in.

4 **THE COURT:** Put a Motion in? No, that's not
5 it.

6 **THE COURT:** Do you know how to engage in
7 discovery?

8 **MR. FROST:** I got my discovery.

9 **THE COURT:** You got your discovery?

10 **MR. FROST:** Yeah.

11 **THE COURT:** Have all -- given him all the
12 discovery in this case?

13 **MS. PRICE:** Yes, sir.

14 **THE COURT:** Do you understand that a lawyer,
15 hopefully, is trained in law? And certainly I
16 know Mr. Cole is 'cause I've watched him try a
17 number of cases and he's an excellent lawyer.

18 And I've watched -- a lawyer should be
19 educated in substantive law, procedural law, and
20 evidentiary law and hopefully can look at your
21 case for the possibility of defenses to any of
22 these claims against you as to whether or not any
23 of these claims are -- are valid. Do you
24 understand that?

25 **MR. FROST:** Yes, sir.

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1 **THE COURT:** And they very well have -- may
2 have a working relationship with The State and you
3 might be able to get a better deal or they might
4 be able to get a better deal for you than what
5 you're looking at.

6 **MR. FROST:** I -- I'm not -- I'm not pleading;
7 I'm not guilty.

8 **THE COURT:** I understand that. But even so,
9 during a trial---

10 **MR. FROST:** Yeah, 'cause---

11 **THE COURT:** ---if you decide to represent
12 yourself---

13 **MR. FROST:** Yes, sir.

14 **THE COURT:** ---you're going to be required to
15 understand the evidence -- evidentiary law, the
16 procedures, the substantive law, and it's not
17 going to be an excuse for you to say well, I'm not
18 a lawyer.

19 **MR. FROST:** Yeah.

20 **THE COURT:** That's going to be---

21 **MR. FROST:** I understand that.

22 **THE COURT:** Sir?

23 **MR. FROST:** I understand that.

24 **THE COURT:** And you still want to represent
25 yourself?

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1 **MR. FROST:** Yes, sir.

2 **THE COURT:** Are you sure?

3 **MR. FROST:** Yes, sir.

4 **THE COURT:** Do you understand that if it's
5 determined that you made a knowing, intelligent,
6 and voluntary waiver of your right to an
7 attorney---

8 **MR. FROST:** Yes, sir.

9 **THE COURT:** ---that you'll have no cause to
10 complain, if you are convicted, that you were
11 unrepresented? Do you understand that?

12 **MR. FROST:** Yes, sir.

13 **THE COURT:** Now, what are the reasons you
14 fired your other attorneys?

15 **MR. FROST:** Well, I been out to the County
16 jail going on four years.

17 **THE COURT:** Right?

18 **MR. FROST:** And, uh, I've hadn't so much as
19 had one Motion put in in them four years; not one
20 Motion.

21 **THE COURT:** Okay.

22 **MR. FROST:** No private investigator to go,
23 uh -- you know, to look on the case or nothing
24 since the day I walked up in that courthouse -- I
25 mean, up in the jail. It was -- I hadn't had no

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1 Motions put in, no bond hearings, no nothing in
2 four years. Zero Motions.

3 **THE COURT:** Well, let me just tell you, I --
4 I -- they probably -- I just -- I'll tell you
5 what, I've never given bond on a murder case just
6 because of the nature of the charge when I've done
7 those.

8 **MR. FROST:** I can establish residence at that
9 place, I got money receipts from that place right
10 there where they got me accused of a situation.
11 The -- the investigate -- uh, the investigator, he
12 got locked up for the same thing. My
13 investigator, the one that charged me, he jumped
14 on his own boy with a whip. And, uh, he wasn't
15 even charged with a charge that he should-a been
16 charged with.

17 **THE COURT:** Well, that's not a defense; you
18 understand that?

19 **MR. FROST:** Yeah, but he -- he's putting
20 blame on me and he went and did the same thing. I
21 was jumped on with a weapon, he got -- he jumped
22 on his own boy with a weapon. And he wasn't even
23 charged with a felony; he was charged with a
24 misdemeanor. Anytime a felony's involved in a
25 crime, that's a felony right there. Where a

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1 weapon involved in a crime, that's a felony. He
2 had a stick, jumped on his fourteen-year-old boy
3 and his wife and he wasn't even charged with it.
4 He was charged with misdemeanors.

5 **THE COURT:** Well, Mr. Frost---

6 **MR. FROST:** And he had that swept under the
7 rug too when it first went in front of Christie
8 Adams.

9 **THE COURT:** Well, it may be---

10 **MR. FROST:** I got a letter from the---

11 **THE COURT:** Hang on for me just a second,
12 Mr. Frost. That may very well be, but it's no
13 defense for you and the charges in this case.

14 **MR. FROST:** Why come (sic) it ain't?

15 **THE COURT:** I'm just---

16 **MR. FROST:** If he's the one that brung the
17 charges against me?

18 **THE COURT:** I -- you know, I don't know the
19 facts, but it's kind of like the idea that two
20 people were speeding down the highway, one gets
21 caught. Just 'cause somebody else is speeding
22 doesn't mean you're innocent.

23 **MR. FROST:** Yeah, but his credibility. He
24 sat there and swept his own crime scene up under
25 the rug. He sat there and lied about his own --

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1 his own crime scene. If him being the Chief of
2 Police knowing a weapon's involved, that's a
3 felony. Why come (sic) he wasn't charged with a
4 felony?

5 **THE COURT:** Mr. -- Mr. Cole, what would be
6 your strategy, generally, on this case if you
7 remained on it for Defense?

8 **MR. COLE:** Your Honor, uh, my -- my advice
9 that he should follow would be, uh, to get -- have
10 an evaluation done. That's the main, uh -- that's
11 the main thing right now. And then, obviously, to
12 explore, uh -- obviously to explore self-defense
13 and counsel about some type of, uh, defenses.
14 That would be my advice.

15 But I -- but without the -- I feel like it's
16 essential that -- that the evaluation is done
17 because that opens not only competency, that opens
18 the door to the insanity defense as -- as well.
19 So I think that -- that evaluation opens the door
20 to other things. That -- that we really need to
21 have that done before we can even get to some of
22 these other parts of it.

23 **THE COURT:** Do you know what the Castle
24 Doctrine is?

25 **MR. FROST:** No.

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1 **THE COURT:** That's what I thought.

2 **MR. FROST:** Actually not.

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

4 **MR. FROST:** Uh-huh.

5 **THE COURT:** Well, if I were to require you to
6 undergo a psychiatric exam, would you do it?

7 **MR. FROST:** No, sir.

8 **THE COURT:** You're not going to do it?

9 **MR. FROST:** No, sir.

10 **THE COURT:** You know, the last case I saw
11 like that was one -- you might have been on that
12 case -- and the man is now sitting in the
13 penitentiary for the rest of this life.

14 **MR. FROST:** Yes, sir.

15 **THE COURT:** He represented himself.

16 **MR. FROST:** I understand that; I understand
17 that.

18 **THE COURT:** Are you sure you want to
19 represent yourself?

20 **MR. FROST:** Yes, sir, I want to represent
21 myself.

22 **THE COURT:** All right; here's what I'm going
23 to do. I'm going to grant your Motion.

24 Mr. Cole, I'm going to ask you to sit as
25 standby.

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1 He's not your lawyer; he doesn't speak for
2 you. If you need to ask him a question about
3 something he'll answer your question. But, he's
4 no longer your lawyer.

5 In addition, you're going through the Faretta
6 factors so I think you are -- you -- you have a
7 Constitutional right to represent yourself.

8 **MR. FROST:** Yes, sir.

9 **THE COURT:** I find that by your actions with
10 your other attorneys you've waived your right to
11 have an attorney appointed for you so it's a
12 two-fold analysis for me---

13 **MR. FROST:** Yes, sir.

14 **THE COURT:** ---and that you met Faretta
15 factors and you, by your actions, have waived your
16 right to an attorney.

17 **MR. FROST:** Yes, sir.

18 **THE COURT:** I wish you all the luck,
19 Mr. Frost.

20 **MR. FROST:** Uh, all right. But, uh, how
21 about the medications I should be on, the
22 Clonidine?

23 **THE COURT:** What medications should he be on,
24 Mr. Cole?

25 **MR. COLE:** Your Honor, from my conversations

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1 with Doctor Walker, he thinks -- he put him on a
2 SSRI, an antidepressant, uh, because that's all he
3 felt that he needs at this time.

4 **THE COURT:** Is he on the medications that are
5 prescribed by Doctor Walker?

6 **MR. COLE:** Yes, Your Honor.

7 **THE COURT:** Okay. Well, I'm not a doctor,
8 Mr. Frost. If you think that you should have
9 other medications, you'll need to make a Motion to
10 The Court---

11 **MR. FROST:** Yes, sir---

12 **THE COURT:** ---and give me proof---

13 **MR. FROST:** ---I---

14 **THE COURT:** ---and not your say-so because
15 you're not a doctor either.

16 **MR. FROST:** Yes, sir.

17 **THE COURT:** So you're going to have to give
18 me some kind of proof -- or whoever the sitting
19 Judge is -- proof that you need some other kind of
20 medications.

21 **MR. FROST:** Well, I was taking it on
22 the streets before I come to jail. It's a
23 non-narcotic.

24 **THE COURT:** Well---

25 **MR. FROST:** It's not a narcotic; I was taking

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1 it on the streets.

2 **THE COURT:** ---that's not an issue before me
3 right now. That's...

4 Explain to him what I just told him okay?

5 **MR. COLE:** I will, Your Honor.

6 **THE COURT:** All right, Mr. Frost, thank you
7 and good luck to you.

8 **MR. FROST:** Yes, sir; you have a good day
9 too.

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

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

12 **THE COURT:** All right; thank you.

13 (WHEREUPON, HEARING ENDED AT 10:23 A.M.)

14 *****END OF REQUESTED TRANSCRIPT*****
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1 STATE OF SOUTH CAROLINA)

2) CERTIFICATE OF REPORTER

3 COUNTY OF ANDERSON)

4

5 I, THE UNDERSIGNED VIVIAN H. CROSS, OFFICIAL COURT
6 REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF
7 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS
8 A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THOSE
9 PROCEEDINGS REQUESTED AND EVIDENCE INTRODUCED IN THE
10 TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE
11 COURT OF GENERAL SESSIONS FOR ANDERSON COUNTY, SOUTH
12 CAROLINA, ON THE 10th DAY OF NOVEMBER 2015.

13 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
14 COUNSEL NOR INTEREST TO ANY PARTY HERETO.

15

16

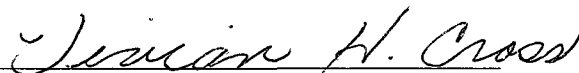
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VIVIAN H. CROSS, COURT REPORTER

23

TENTH CIRCUIT AT LARGE

24

FEBRUARY 1, 2017

25

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF ANDERSON	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
v.	)	Case No.
	)	2013-GS-04-00646, 647, 648, 649
Robert Joe Frost	)	
	)	
Defendant	)	

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The within Hearing in the above-captioned matter was held on January 14, 2016, before The Honorable R. Lawton McIntosh, Anderson County Courthouse, 100 South Main Street, Anderson, SC 29622; attended by counsel as follows:

APPEARANCES:

Lauren Davis Price, Esq.,
Appearing for The State.

Robert Joe Frost,
Defendant, Pro se.

Gregory Lee Cole, Jr., Esq.,
Appearing as standby for Defendant.

Vivian H. Cross
Circuit Court Reporter – 10th Judicial Circuit
P O Box 704
Belton, South Carolina 29627
vcross@sccourts.org

St. of South Carolina v. Robert Joe Frost
Case Nos. 2013-GS-04-00646, 647, 648, 649
Hearing of January 14, 2016
Before The Honorable R. Lawton McIntosh
I-N-D-E-X

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STATE OF SOUTH CAROLINA v. ROBERT JOE FROST
CASE NOS. 2013-GS-04-00646, 647, 648, 649
JANUARY 14, 2016

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IDENTIFICATION ENTERED

*****NO EXHIBITS OFFERED*****

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P R O C E E D I N G S

3:42 P.M.

MS. PRICE: Robert Frost.

(WHEREUPON, PROCEEDINGS WERE INTERRUPTED FOR
A CONFERENCE, OFF THE RECORD, NON-RELATED TO
HEARING.)

(WHEREUPON, PROCEEDINGS CONTINUED.)

THE COURT: Mr. Frost.

MR. FROST: Yes, sir.

THE COURT: Mr. Cole.

MR. COLE: How you doing, Your Honor?

THE COURT: All right. Let me just put on
the record, I have been receiving correspondence
from Mr. Frost---

MR. FROST: Yes, sir.

THE COURT: ---who -- who has alleged he's
representing himself. Mr. Cole is simply standby
Counsel.

MR. FROST: Yes, sir.

THE COURT: For future reference, Mr. Frost,
I'm not the Judge assigned to your case. I just
happen to be the one that you've been in front of
thus far. That this case is subject to being
called in front of any Circuit Court Judge, okay?

MR. FROST: Yes, sir.

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1 **THE COURT:** So, when you file a Motion,
2 you'll certainly serve the Solicitor and you file
3 it with the Clerk of Court; you don't need to send
4 it to me, okay?

5 **MR. FROST:** Yes, sir. They just ain't been
6 sending my copies back.

7 **THE COURT:** Well, we'll make sure they do
8 that, but that's the way you do it; okay?

9 **MR. FROST:** Yes, sir.

10 **THE COURT:** Now, as I read the
11 correspondence, and I have copied it to Ms. Price
12 and I sent copies back to you, Mr. Frost,
13 showing where I sent it to Ms. Price and copies to
14 Mr. Coe (sic).

15 **MR. FROST:** Yes, sir.

16 **THE COURT:** Did I say Coe? I'm sorry; I'm
17 sorry. Anyway---

18 **MR. COLE:** Judge, that's -- I'm -- that's --
19 that's kind of the way people say it where I'm
20 from so don't worry about it.

21 **THE COURT:** You mean Coe? It's not Coe, it's
22 Cole; excuse me.

23 At least one of the Motions seems to be a
24 Motion to Dismiss the charges against you based on
25 the fact that the arresting officer had charges --

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1 or, didn't get charged for some type of abuse of
2 children or something. Okay, is that the nature
3 of your Motion?

4 **MR. FROST:** Uh, no. I never did put a Motion
5 for to dismiss charges.

6 **THE COURT:** Okay, so---

7 **MR. FROST:** That Motion went in to dismiss
8 charges before I became a pro se attorney.

9 **THE COURT:** Sir?

10 **MR. FROST:** That Motion went in -- yeah, that
11 Motion went in probably about two or three months
12 before I came (sic) a pro se attorney.

13 **THE COURT:** Well---

14 **MR. FROST:** If you look at the date.

15 **THE COURT:** ---those are in your handwriting,
16 and so the question I have for you is this---

17 **MR. FROST:** Yes, sir?

18 **THE COURT:** ---then so we're clear on the
19 record. Do you have any pending Motions before
20 this Court that you want me to consider that
21 you've written and filed and copied The State on?

22 **MR. FROST:** Yes, sir; yes, sir, I---

23 **THE COURT:** Okay, sir, what are the nature of
24 those Motions please?

25 **MR. FROST:** They're right here. Uh, that one

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1 right there is rights to a fair and speedy trial.

2 **THE COURT:** All right. Ms. Price, when --
3 how long would it take The State to be ready to
4 try this case?

5 **MS. PRICE:** May it please The Court, Your
6 Honor. Um, I informed Mr. Cole, um, earlier this,
7 uh, afternoon -- um, and just planning to inform
8 The Court, um, I also have a Motion to make before
9 The Court.

10 Um, we had had, as you know, difficulties
11 with Mr. Frost complying with, uh, evaluations by
12 the Department of Mental Health. Um, part of the
13 issue was that he would be transported by our
14 jail, um, get to Columbia -- and, as you know,
15 it's not a -- a lengthy process; I mean, they --
16 they stay but they don't stay for an extended
17 period of time -- and he refused to speak with
18 them. They couldn't perform, um, an adequate
19 evaluation.

20 There were also instances where he just
21 refused to be transported.

22 Um, Mr. Cole and I both expressed concern to
23 The Court that that had not been done. Um, I got
24 in touch with, uh---

25 **THE COURT:** Mr. Frost, hang on for a second;

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1 hang on.

2 **MR. FROST:** Yes, sir.

3 **MS. PRICE:** I got in touch with the, um,
4 Department of Mental Health, um, attorneys and
5 their forensic folks, um, and asked if there was
6 an additional way to handle that. Um, I also
7 spoke with Captain Arlette Jones at our, um,
8 Detention Center and expressed to her my
9 frustration with the transportation situation.

10 Uh, Your Honor, I want to move before The
11 Court, um, to have Mr. Frost transported, um, to
12 the Department of Mental Health for a fifteen-day
13 period.

14 Um, the Department of Mental Health has
15 agreed to do this. They have agreed to have him,
16 um, stay with them for a fifteen-day period of
17 observation. Um, they believe that if they have
18 him under observation, they may be able to
19 adequately, um, evaluate him by that means as
20 opposed to, um, the standard evaluation procedure.

21 **THE COURT:** Well, let me -- and I -- I'm
22 inclined to grant that. I've also looked at State
23 versus Barnes where it discusses, you know,
24 Faretta versus California.

25 **MS. PRICE:** Yes, sir.

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1 **THE COURT:** And, Mr. Frost, I have the
2 inherent authority as -- as the trial Court to
3 order that you undergo an evaluation. And in the
4 past -- I'm not saying this is applicable to you;
5 I think it might be -- well be -- but, in the past
6 those reports are made available to The State and
7 to Defense Counsel so the natural tendency is some
8 of the folks who are somewhat speculative about
9 what's going on or who don't necessarily believe
10 the process is followed, they don't want to speak
11 candidly to people because that's going to be
12 given to the opposing Counsel.

13 So, I have no problem ordering the
14 fifteen-day evaluation and/or evaluation (sic);
15 but, I want it specifically provided that it be
16 provided to me in camera only. Uh, except that
17 Defendant is entitled to receive a copy because
18 it's on his own report. The State is not entitled
19 to it in other words; okay? And I want -- and I
20 want to see that -- I want it specifically copied
21 to me so I can look at it and make a
22 determination.

23 And, Mr. Frost---

24 **MR. FROST:** Yeah?

25 **THE COURT:** ---do you understand what I'm

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1 saying?

2 **MR. FROST:** Yeah, you want me to go for
3 evaluation. I don't need one. I don't see why I
4 have to.

5 **THE COURT:** All right. Well, you know what?
6 I'm not asking.

7 **MR. FROST:** Well I think it got a lot to do
8 with this here, uh, incident report right here on
9 Thomas Miller.

10 **THE COURT:** Well hang on; we're gonna get --
11 we're gonna get there. I'm just telling you, I'm
12 not asking you, you're going to -- I'm ordering
13 that you do that---

14 **MR. FROST:** Yes, sir.

15 **THE COURT:** ---okay? And what I'm saying is,
16 in the evaluation or the observation -- okay, in
17 other words, you get down there, you're gonna
18 stay -- either you're gonna give them an
19 evaluation that's gonna come only to me and to
20 you---

21 **MR. FROST:** Yes, sir.

22 **THE COURT:** ---without going to The State---

23 **MR. FROST:** Yes, sir.

24 **THE COURT:** ---or you're going to stay down
25 there fifteen days and let them observe you to

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1 determine whether or not you're competent to go
2 forward with your trial. I have some real
3 concerns based on the nature and the gravity of
4 the charges against you---

5 **MR. FROST:** Well, I---

6 **THE COURT:** ---allowing you to represent
7 yourself. And, you know -- listen, I don't know
8 you more than Adam's house cat.

9 **MR. FROST:** Truly, I don't -- I don't even
10 know -- look here, it's got all to do with this
11 right here. That man---

12 **THE COURT:** Well, hang on---

13 **MR. FROST:** ---was locked up---

14 **THE COURT:** ---hang on, Mr. Frost.

15 **MR. FROST:** ---for jumping on his son with
16 a---

17 **THE COURT:** Mr. Frost, hang on; hang on.
18 I've already told you I'll be glad to hear you.

19 That's what's gonna be ordered, and you're
20 going; okay?

21 Now, let me just tell you that I re- -- I
22 reserve, and I have the authority to not allow you
23 to represent yourself.

24 **MR. FROST:** You done told me I could
25 represent myself.

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1 **THE COURT:** I can take that back; I have that
2 authority.

3 **MR. FROST:** Well, I done fired him; he done
4 put his Motion in not to represent me. What-ya
5 gonna do, let him come back and represent me?

6 **THE COURT:** I can order that too.

7 **MR. FROST:** Well, you do what you got-a do,
8 but I'm gonna represent myself in this case.

9 **THE COURT:** Well, you know, you think you're
10 gonna run this courtroom, but that's not even
11 close.

12 **MR. FROST:** No, but I -- I got a right to
13 represent myself.

14 **THE COURT:** Not necessarily. You have the
15 right under certain instances.

16 Now, I'm ordering today that he go down for a
17 minimum of fifteen-day evaluation or him to give
18 what they believe to be a -- an evaluation that's
19 sufficient for them to make their determination;
20 okay?

21 **MS. PRICE:** Yes, sir.

22 **THE COURT:** How, if they do that -- if he
23 goes ahead and complies -- if he goes ahead and
24 complies and gives...

25 Mr. Frost, just listen.

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1 If he goes ahead and complies with the
2 evaluation procedure---

3 **MS. PRICE:** Yes, sir.

4 **THE COURT:** ---to their satisfaction, then he
5 doesn't have to stay down there fifteen days.
6 Otherwise he stays down there fifteen days.

7 **MS. PRICE:** Yes, sir.

8 **THE COURT:** Okay?

9 **MS. PRICE:** Yes, sir.

10 **THE COURT:** Now, the question I had to you
11 earlier, and you said you didn't have the Motion,
12 you started arguing again, Mr. Frost, is that,
13 because of the incident report of Officer---

14 **MR. FROST:** Thomas Miller, right here.

15 **THE COURT:** Right.

16 **MR. FROST:** Yeah, Thomas Miller. He should
17 be in jail with the three-strike law. I got it
18 right here; three incidents this man has done did.
19 He jumped on his son with a stick. On video
20 camera; got the DVD on, admitted to it. That
21 should-a been a high and aggravated nature.

22 **THE COURT:** So what -- what -- what relevance
23 did that have in your charge?

24 **MR. FROST:** What had -- 'cause, uh, my
25 step-Dad jumped on me with a ball bat (sic) and I

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1 defended myself. He jumped on his son with a
2 stick and his son didn't defend hisself (sic) but
3 I defended myself.

4 **THE COURT:** Okay; you're talking about in
5 this case?

6 **MR. FROST:** Yes, sir, in this case. Right
7 there I got his incident reports and all that
8 right there. My investigator jumped on his son
9 with a stick---

10 **THE COURT:** Okay, to the extent---

11 **MR. FROST:** ---and it's on---

12 **THE COURT:** ---to the extent that Mr. Frost
13 is making a Motion to Dismiss based on this
14 incident with an investigating officer, it is
15 denied. Prepare me an Order.

16 **MS. PRICE:** Yes, sir.

17 **MR. FROST:** I never did even -- I never did
18 even put in a Motion to, uh, dismiss these
19 charges, not until I get a private investigator to
20 go out here and investigate and get all the
21 evidence I need before I put in a Motion to
22 Dismiss these charges. I ain't never even put in
23 a Motion. Give me the copy of my Motion---

24 **THE COURT:** No sir, you don't---

25 **MR. FROST:** ---that I put in to dismiss these

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1 charges.

2 **THE COURT:** ---you address me; you don't
3 address her.

4 **MR. FROST:** Well, give me the copy of my
5 Motion that I put in to dismiss these charges.

6 **THE COURT:** You -- I've got copies of what
7 you sent me and I'll be glad to provide you
8 copies.

9 **MR. FROST:** There's none of 'em in there---

10 **THE COURT:** Mr. Frost---

11 **MR. FROST:** ---to dismiss these charges.

12 **THE COURT:** ---Mr. Frost, you're going to --
13 you're going to address The Court with courtes- --
14 courteousness or I am going to take you and have
15 you -- take -- escorted out of here; okay? Now,
16 you want to talk to me you can, but you'll do it
17 with civility; okay?

18 **MR. FROST:** I never put a Motion in to
19 dismiss these charges.

20 **THE COURT:** Okay. To the extent that you
21 have, I'm denying that Motion. If you haven't,
22 then it doesn't hurt you in any way; okay?

23 **MR. FROST:** Okay, then I want to put my
24 Motion in later to dismiss these charges---

25 **THE COURT:** Well, then you have a right---

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1 **MR. FROST:** ---once I get a private
2 investigator.

3 **THE COURT:** ---to file your Motions as you
4 think them appropriate if I let you continue to
5 represent yourself.

6 **MR. FROST:** I been filing 'em but they ain't
7 been sending me my copies back. Right there I got
8 'em all right here.

9 **THE COURT:** Well, Mr. Frost, the question I
10 have with you is, what Motions have you filed?

11 **MR. FROST:** I'm going through 'em right here.
12 That one right there and---

13 **THE COURT:** Well, tell me -- tell me -- can
14 you not articulate what they are, please sir?

15 **MR. FROST:** Yeah, I wanted the, uh, murder
16 weapon, ex- -- examined by an expert. They don't
17 hardly think they've got -- he -- he done away
18 with all the evidence. It's a little small town
19 in Iva.

20 **THE COURT:** Okay now, just don't argue --
21 just tell me what the Motion is then we'll hear
22 your arguments on 'em.

23 Do you want the -- you want an expert---

24 **MR. FROST:** Yes, sir.

25 **THE COURT:** ---to examine---

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1 **MR. FROST:** Yes, sir; the murder weapon.

2 **THE COURT:** Murder weapon?

3 **MR. FROST:** Yes, sir. And again---

4 **THE COURT:** What is the nature of the murder
5 weapon in this case?

6 **MS. PRICE:** Um, Your Honor, there is a knife,
7 um, that was used by Mr. Frost -- allegedly.

8 **THE COURT:** So what would be the purpose in
9 the examination? Determine if that was the actual
10 cause of death?

11 **MR. FROST:** Because he said that, uh -- the
12 examiner said he had two cuts on, uh, on the neck
13 and I know I did not put them two cuts on the
14 neck. And, uh, the murder weapon was in there in
15 the kitchen and it said that they -- that was used
16 to put them marks on him. That you can good and
17 well tell that that wasn't the murder weapon that
18 put them marks on the neck.

19 **THE COURT:** Mr. Cole, do you have any idea
20 what kind of expert he would be asking for under
21 the circumstances of this case?

22 **MR. COLE:** Your Honor, the -- the only one
23 he -- he and I talked about is the -- the, uh,
24 possibility of a private investigator. And
25 somebody like that may could suggest, once they

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1 investigate, some other ones. And I was going to
2 assist in -- in filing a -- a proposed Order to
3 try to get a private investigator appointed
4 after he decides who he wants. Um -- he -- he's
5 deciding -- he's gonna -- I'm providing him a list
6 of private investigators. Who he wants to be
7 appointed, and then a proposed Order. But that --
8 that's the only -- you know, if that person was to
9 come back and recommend something further and
10 that's -- that's what I would think, Your Honor.

11 And as far as the---

12 **THE COURT:** Okay, would you assist him in
13 preparing the Order request -- and it's an ex
14 parte Order, I think---

15 **MR. COLE:** Yes, Your Honor.

16 **THE COURT:** ---if I'm not mistaken, uh, for a
17 private investigator?

18 **MR. COLE:** Yes, Judge.

19 **THE COURT:** Mr. Frost, have you looked at --
20 don't say it out loud, but have you looked at the
21 names of the people on that list and determined
22 whom, if anyone, you want off that list to be a
23 private investigator?

24 **MR. FROST:** He---

25 **THE COURT:** Sir?

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1 **MR. COLE:** No, I -- I haven't given him the
2 list yet.

3 **THE COURT:** Oh, you haven't given him.

4 **MR. COLE:** I'm going to give him the list,
5 uh---

6 **THE COURT:** Oh, okay.

7 **MR. COLE:** ---Your Honor.

8 **THE COURT:** Okay. Can you go ahead and look
9 at that?

10 **MR. COLE:** Yes, Judge.

11 **THE COURT:** I know you're a busy guy, but
12 let's go ahead and do that when you can.

13 **MR. COLE:** Yes, Judge.

14 **THE COURT:** So, what he's going to do, he's
15 gonna bring you a list of people and say, these
16 are potential investigators on your case.

17 He's going to prepare an Order by ex parte,
18 meaning it's not going to The State, it's just
19 coming to me. I'm gonna look at it and determine
20 what -- if the request is reasonable or not. If I
21 think it's reasonable, I sign it then the
22 investigator will begin their work on the case.
23 If not, I'll modify it to what I think is the
24 proper -- is appropriate and then they'll start
25 work on the case. Okay?

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1 **MR. FROST:** Okay. I got -- I got this
2 Motion---

3 **THE COURT:** Now, what's your next Motion?

4 **MR. FROST:** This Motion right here, uh -- the
5 investigator right here, when he done his crime
6 with the weapon -- jumped on his boy with that
7 stick -- he was seen on DVD. They have the DVD.
8 Judge Sharp, he issued a search warrant and put it
9 on DVD. I want the DVD and report.

10 **THE COURT:** That's not granted. That has no
11 relevance to this case.

12 **MR. FROST:** It is relevance (sic) to this
13 case.

14 **THE COURT:** No, sir, it is not.

15 **MR. FROST:** It's his credibility.

16 **THE COURT:** Mr. Frost---

17 **MR. FROST:** But it's -- it's part of this---

18 **THE COURT:** ---you -- let me just tell you --
19 let me tell you the rules of Court. And let me
20 tell you, although I've let you represent yourself
21 thus far, you are expected to abide by the rules
22 of Court.

23 **MR. FROST:** Yes, sir.

24 **THE COURT:** And if you don't, that'll be a
25 basis for me to remove you from being your own

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1 lawyer.

2 One of the rules is, once I rule, then you
3 can object to it but you can't continue to argue
4 unless I ask you for further argument. And I'm
5 telling you, I do not want any further argument
6 and I'm not going to grant your Motion for that
7 DVD.

8 Okay, will you prepare me an Order to that
9 effect?

10 **MS. PRICE:** Yes, sir.

11 **MR. FROST:** But still -- hey, I might as well
12 just go on then. Hey, if you ain't gonna let me
13 bring the DVD up here -- he -- he was seen on DVD
14 with a weapon.

15 **THE COURT:** Mr. Frost, again I'm telling you
16 I don't want any more argument. I've ruled.

17 **MR. FROST:** So you just bring me here to
18 railroad me. That's all you're doing is
19 railroading me; that's all you're doing in this
20 Court.

21 **THE COURT:** All right, you-all take Mr. Frost
22 back to the Detention Center.

23 **MR. FROST:** Yes, sir, that's where I'm going.
24 Let me get my paperwork.

25 **THE COURT:** Go ahead and prepare the Order;

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1 have him evaluated please.

2 **MS. PRICE:** Yes, sir.

3 **THE COURT:** And if you would---

4 **MR. FROST:** You're railroading my ass up
5 here.

6 **THE COURT:** ---do that?

7 **MR. COLE:** Yes, Your Honor. And can I say
8 one more thing on the record?

9 **THE COURT:** Yeah, let's do that -- one more.

10 **MR. COLE:** Um, he -- Judge, I have -- uh,
11 he's made a request to me to see the physical
12 evidence. And I talked to the Solicitor and we're
13 going to arrange looking at the physical evidence.

14 **THE COURT:** Okay. I have a folder here of
15 infor- -- these are letters from him. I think
16 I've copied him on everything. I'm gonna give you
17 this folder to let you copy it before you go
18 today---

19 **MR. COLE:** Okay.

20 **THE COURT:** ---and you can take it with you,
21 okay?

22 **MS. PRICE:** Thank you, Judge. I'll do that.
23 Do you want me to leave that in the Clerk's Office
24 or bring it back up here?

25 **THE COURT:** You can leave it in the Clerk's

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1 Office; we'll go down and get it.

2 **MR. COLE:** Okay; thank you, Judge.

3 **MS. PRICE:** May it -- may it please The
4 Court, Your Honor?

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

6 **MS. PRICE:** Um, if -- if it's all right with
7 Mr. Cole, um, and---

8 **THE COURT:** Mr. Cole, at this juncture, is
9 not the attorney of record.

10 **MS. PRICE:** Right; of course. Um, but he is
11 help -- assisting me in making arrangements to
12 view the physical evidence with Mr. Frost.

13 Um, with The Court's permission, I would ask
14 that I be able to, um, have that done after this
15 evaluation. He may just prepare to go ahead and
16 do that with some expediency.

17 **THE COURT:** Sure. Yeah, I -- I think that --
18 let me tell you, I looked at this case today and,
19 you know, I know this gentleman's not here so
20 we've got to be circumspect.

21 **MS. PRICE:** Yes, sir.

22 **THE COURT:** My concern is that I did let --
23 allow him to represent himself and I'm having some
24 severe second thoughts on whether that -- that's
25 going to continue to be the case. He may, I don't

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1 know, be competent to deal with it.

2 But, that being said, that is the first order
3 of business, getting him evaluated---

4 **MS. PRICE:** Yes, sir.

5 **THE COURT:** ---or observed, okay?

6 **MS. PRICE:** Yes, sir.

7 **THE COURT:** Guys, thank you so much; I
8 appreciate your help.

9 **MR. COLE:** Thank you, Judge.

10 **MS. PRICE:** Thank you, Judge.

11 **THE COURT:** Thank you, guys.

12 (WHEREUPON, HEARING ENDED AT 3:59 P.M.)

13 *****END OF REQUESTED TRANSCRIPT*****
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Case Nos. 2013-GS-04-00646, 647, 648, 649
Hearing of January 14, 2016
Before The Honorable R. Lawton McIntosh

24

1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE OF REPORTER
3 COUNTY OF ANDERSON)
4

5 I, THE UNDERSIGNED VIVIAN H. CROSS, OFFICIAL COURT
6 REPORTER FOR THE TENTH JUDICIAL CIRCUIT OF THE STATE OF
7 SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS
8 A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF THOSE
9 PROCEEDINGS REQUESTED AND EVIDENCE INTRODUCED IN THE
10 TRIAL OF THE CAPTIONED CASE, RELATIVE TO APPEAL, IN THE
11 COURT OF GENERAL SESSIONS FOR ANDERSON COUNTY, SOUTH
12 CAROLINA, ON THE 14th DAY OF JANUARY 2016.

13 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
14 COUNSEL NOR INTEREST TO ANY PARTY HERETO.
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21 Vivian H. Cross

22 VIVIAN H. CROSS, COURT REPORTER

23 TENTH CIRCUIT AT LARGE

24 FEBRUARY 6, 2017
25

1 STATE OF SOUTH CAROLINA) IN THE CIRCUIT COURT
2 COUNTY OF ANDERSON) OF THE TENTH
3) JUDICIAL CIRCUIT
4)
4 THE STATE,)
5 Plaintiff,) TRANSCRIPT OF RECORD
6 vs.) 2013-GS-04-0646
7 ROBERT JOE FROST,) 2013-GS-04-0647
8 Defendant.) 2013-GS-04-0648
9) 2013-GS-04-0649
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ORIGINAL

May 24, 2016
Anderson, South Carolina

B E F O R E:

HONORABLE R. LAWTON MCINTOSH, Judge.

A P P E A R A N C E S:

LAUREN D. PRICE, ESQUIRE
For Plaintiff

LEE COLE, ESQUIRE
For Defendant

Julie A. Ashbrook,
Circuit Court Reporter
Seventh Judicial Circuit

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EXHIBITS

MARKED

ENTERED

NO EXHIBITS PROFFERED

1 THE STATE VS. ROBERT JOE FROST

2 MS. PRICE: Robert Frost.

3 THE COURT: All right. This is the State versus
4 Robert Frost in several matters. Previously Mr. Frost
5 has requested and been allowed to represent himself, as
6 is his general right. I did want him to have an
7 evaluation on the blinds. I've received the report on
8 the evaluation and what I'm gonna do is -- do you have a
9 copy, Mr. Cole?

10 MR. COLE: Yes, Your Honor.

11 THE COURT: Okay. I'm going to seal it and make
12 it a part of the record as well as the evaluation which
13 was conducted on May 4th. The other is -- anyway,
14 pursuant to a request from Judge Maddox. Anyway, that
15 being said, Mr. Frost, you do have a right to represent
16 yourself.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Let me tell you this, there's three
19 ways you can lose that right. One, you can request
20 representation. You don't get to keep firing lawyers
21 over and over.

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. Cole represented you. I've been
24 advised you won't allow Mr. Cole to represent you, you
25 have rejected him.

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Okay, sir. So that being said, you
3 can also forfeit the right or waive the right by your
4 conduct, okay?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: So I want to go over a couple things
7 with you so we're on the same page in this matter, okay?
8 Now, first, this is the case of U.S. versus Frazier, and
9 I'm going to read these to you so that you understand,
10 okay? The right to self-representation, it's not
11 licensed to abuse the unity of the court, okay? It's
12 not a license not to comply with revel -- relevant,
13 excuse me, rules and the substantive procedural law and
14 the subject procedure. Okay, sir? Do you understand me
15 so far?

16 THE DEFENDANT: (Nods head up and down.)

17 THE COURT: All right. And it's not used to
18 attack, disrobe, disrupt this court or manipulate the
19 trial process.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay, sir. And I will advise you
22 that if your conduct becomes such then you forfeit or
23 waive your right to an attorney. Do you understand?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. That being said, I want to

1 make sure you're okay with it.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Rules are gonna be expected, it's
4 gonna be required. Rule number one, be candid with the
5 Court, be respectful of participants, including me or
6 any other trial judge of the state. You're gonna be
7 expected to follow the substantive law and the
8 procedural law.

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. So that being said, I received
11 from my Clerk of Court this morning, there would appear
12 to be a subpoena from you that you asked me to counter
13 sign. And quite frankly I'm not sure what it is you're
14 looking for.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: The documents obviously you're
17 requesting it says deputy or incident report.

18 THE DEFENDANT: Yeah, deputy Oher's incident
19 report. When I was sent to mental health, I was
20 separated from my paperwork and some of my paperwork got
21 lost or misplaced or stolen, I don't know which, but I
22 ain't got it.

23 THE COURT: You don't have any of your paperwork?

24 THE DEFENDANT: Well, I've got some of it, yeah,
25 but it was sealed in a trash bag and placed in an

1 office. I just wonder if all of it didn't get thrown
2 away. I mean, I took notes. I mean, I've got a paper
3 right here where they separated me from my paperwork and
4 they like looked at it.

5 THE COURT: Yes, sir, pass it forward. Mr. Cole,
6 would you help him do that.

7 THE DEFENDANT: That's when they took my property
8 and I didn't want to be separated from my paperwork, so
9 I got the officer to sign it. And I'm missing a couple
10 of incident reports. One of them is Deputy ---

11 COURT REPORTER: I can't hear you, sir.

12 THE DEFENDANT: I said, I'm missing a couple of
13 incident reports. One of them is Deputy Oher's
14 (phonetic) and the other one is Chief Miller's progress
15 report, Chief Miller's report.

16 THE COURT: I'm not sure. We'll check on the
17 status of where they are.

18 THE DEFENDANT: All right.

19 THE COURT: And I will get whoever -- Mr. Cole,
20 do you mind communicating with Mr. Frost since that
21 would be an easier way to communicate?

22 MR. COLE: No, Your Honor, I don't mind. And I,
23 I told him that I would look at the discovery items
24 received and see if there -- if there were things that
25 he's asking for that I have that he's -- that's been

1 lost or misplaced and I can give him new copies of it or
2 new copies of the whole thing if he needs it.

3 THE COURT: Okay. Now, previously he asked for
4 some item, if I'm not mistaken; is that correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Ms. Price, it's my understanding he
7 can now get that.

8 MS. PRICE: Yes, sir.

9 THE COURT: That's not relevant in this case and
10 I denied your motion for a subpoena because I do not
11 just sign anything. Okay? It's just not relevant to
12 anything that may end up in this case. Mr. Cole, would
13 you give this back to Mr. Frost.

14 MR. COLE: Yes, Your Honor.

15 THE COURT: All right. So as we stand here now,
16 Mr. Cole, you're gonna check on stuff and I'm gonna
17 check on the whereabouts the detention center about what
18 happened, if you would review. Is there any other
19 matters pending on behalf of Mr. Frost?

20 Mr. Frost, any other matters out there now?

21 THE DEFENDANT: No. I ain't went through all of
22 it. That's a lot of paperwork just to go through one
23 piece at a time.

24 THE COURT: I understand that. But as we stand
25 here today, is there anything pending from you other

1 than these things I've got on my docket?

2 THE DEFENDANT: Yeah, speedy trial in July, first
3 of July.

4 THE COURT: We agreed to address that.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Ms. Price?

7 MS. PRICE: Yes, sir. With respect to that, do
8 you want to address the speedy trial?

9 MS. PRICE: Yes, sir.

10 THE COURT: Anything from the State's perspective
11 that we need to address on that?

12 MS. PRICE: No, sir, other than trial date.

13 THE COURT: Okay. So when do you anticipate
14 putting this case on the trial docket?

15 MS. PRICE: Your Honor, actually we have one
16 witness who has been called to service and will be out
17 until the end of July. So the first term of August is
18 when we will have all of our witnesses available. Now,
19 I will review -- and that happened in the interim of
20 January when this order was done and today. I will
21 review that witness's participation and role and if for
22 some reason I feel I can go forward without that
23 witness, then I will call it for a trial in July,
24 otherwise I will go forward in August.

25 THE COURT: Yes, ma'am.

1 MR. COLE: Your Honor, may I add one thing? He,
2 Mr. Frost just mentioned it to me. He filed a motion
3 yesterday for appointment of private -- or for funding
4 for a private investigator, and I think that was one
5 thing, the only thing that he still wanted to do.

6 THE DEFENDANT: Yeah, private investigator.

7 THE COURT: Would you assist him in putting that
8 together so I can see what it is he's asking for?
9 Normally I don't have a problem with it. Will you make
10 sure it's in proper form. Usually I'm having a
11 difficult time and the clerk is having difficulty
12 understanding what he wants.

13 MR. COLE: Yes, Your Honor. I assisted him with
14 that one yesterday and I have a copy of it.

15 THE COURT: Mr. Frost, again, you are seeking
16 this information on Chief Thomas Miller?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: This is from Iva; is that correct?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: I mean, \$10,000 that first one there.
21 Number two, I want to meet with Mr. Cole and you in just
22 a few minutes *in camera* and we will discuss it further.
23 Right now I deny his subpoena to access this information
24 it's not relevant to anything he may raise in his case
25 as far as I can tell, but just to make sure we'll have

1 conversations between us to determine what investigator
2 fees and what it's for. Okay.

3 That being said, August 1st, the case is coming
4 up for trial the first week in August, the first term of
5 court in August. It potentially may come up in July.
6 Okay, sir? Do you understand?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Okay. Mr. Cole, anything further?

9 MR. COLE: No, Your Honor.

10 THE COURT: Anything further, Ms. Price?

11 MS. PRICE: No, sir.

12 THE COURT: Let's take about a two-minute break.
13 I'm gonna have you come back and talk to these gentleman
14 right quick and come back out.

15 MR. COLE: Yes, Your Honor.

16 (Whereupon, in camera meeting was held off the
17 record.)

18 (Whereupon, hearing concluded at 9:59 a.m.)

19

20

21 --- THIS ENDS REQUESTED TRANSCRIPT ---

22

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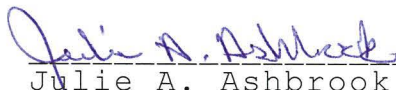
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COURT REPORTER CERTIFICATE

I, the undersigned Julie A. Ashbrook, Court Reporter for the Seventh Judicial Circuit Court of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record to the best of my ability of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Circuit Court for Anderson County, South Carolina, on the 24th day of May, 2016.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.


Julie A. Ashbrook
Circuit Court Reporter
Seventh Judicial Circuit

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF ANDERSON	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 13-GS-04-0646 et al
	)	
Robert Joe Frost,	)	
	)	
Defendant.	)	

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held July 26, 2016, before The Honorable R. Lawton McIntosh in the Court of General Session for Anderson County, South Carolina; attended by counsel as follows:

APPEARANCES:

Lauren Davis Price, Assistant Solicitor
P O Box 8002
Anderson, South Carolina 29622
... Appearing for State of South Carolina

Gregory Lee Cole, Jr., Esq.
P O Box 315
Williamston, South Carolina 29697
... Appearing for Defendant

Transcribed for Vivian Cross, Court Reporter

Deborah Garrison
Circuit Court Reporter – 13th Judicial Circuit
P O Box 27145
Greenville, South Carolina 29616
dgarrison@sccourts.org

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Case No. 13-GS-04-0646 et al

Hearing of July 26, 2016

Before The Honorable R. Lawton McIntosh

1 THE COURT: All right, let's do Mr.
2 Frost right quick.

3 SOLICITOR PRICE: Yes, sir.

4 THE COURT: Thank you for hanging
5 around, Mr. Cole.

6 MR. COLE: Yes, sir.

7 THE COURT: Now, I really don't know
8 much of anything about what's going on. I
9 know that there was e-mailing going back and
10 forth to my clerk saying that I needed to
11 address some issues in this case. Would you
12 bring me up to speed?

13 SOLICITOR PRICE: Yes, sir. Your Honor,
14 we are here before you today per a request
15 from standby counsel, Lee Cole, to have Mr.
16 Frost brought up to address some concerns
17 that he believed needed some court-guidance
18 or intervention. As for the State, uh, we
19 don't have any prior notice of issues. The
20 most recent correspondence between the Court
21 and the State was to make sure that the
22 competency Order would be available to the
23 trial judge, whoever that may be.

24 THE COURT: That's ---

25 SOLICITOR PRICE: That's been

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Hearing of July 26, 2016

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1 handled. The only other Motion that I've
2 received from Mr. Frost recently, uh, was,
3 uh, an objection to any continuance in the
4 trial. I made a copy of that and forwarded
5 that on to standby counsel, Mr. Cole. I
6 assumed the appropriate time to handle that
7 would be if that issue arose. Otherwise, Mr.
8 Cole has the ---

9 THE COURT: All right, let me --
10 Mr. Cole, -- well, let me ask you, Mr. Frost.
11 You are standby counsel, so you are not
12 technically his lawyer. So I'm going to ask
13 Mr. Frost.

14 My understanding is that there's a
15 matter that you're asking me to hear in-
16 camera outside the presence of the State, the
17 courtroom. It's one that you're saying that
18 shouldn't be put on the record in an open
19 courtroom. Is that correct?

20 DEFENDANT FROST: Yes.

21 THE COURT: Mr. Cole?

22 MR. COLE: Your Honor, there is
23 one matter -- they're both basically requests
24 that Mr. Frost has requested me to be
25 consistent with.

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1 THE COURT: I have received one
2 request, that's regarding the investigator.

3 MR. COLE: Yes, Your Honor.
4 There's another request that Mr. Frost has
5 asked me to assist him with. He may have
6 filed a *pro se* Motion on this as well,
7 requesting ---

8 THE COURT: Transcripts?

9 MR. COLE: Yes, transcripts of
10 every hearing, Your Honor. My concern -- I
11 wanted to make sure that the Court knew I --
12 I want to -- whatever Mr. Frost asks me to
13 help him do, I want to do. However, when I
14 started thinking about that, I don't know of
15 any way that that could be done prior to the
16 trial date because of the time ---

17 THE COURT: I haven't been
18 involved in every hearing, I don't think.
19 I've been involved in most of them.

20 SOLICITOR PRICE: Yes, sir.

21 THE COURT: And my independent
22 recollection, I can't imagine -- I can't
23 remember anything that occurred during the
24 hearing that would be relevant or material to
25 a trial in this matter. With that being

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1 said, Mr. Frost, if you want to make
2 arrangements with the court reporter(s) to
3 get these transcripts, by all means.

4 DEFENDANT FROST: Yeah, I've asked
5 the lawyer and I've put a Motion in for all
6 the transcripts.

7 THE COURT: You know, I don't
8 know off the top of my head if that comes
9 from -- I think it probably does.

10 SOLICITOR PRICE: Yes, sir.

11 THE COURT: I would think that
12 you're going to have to make financial
13 arrangements with the court reporter(s). I
14 am not going to give monies to do that from
15 the State coffers, unless I just have to do
16 that.

17 Now, another issue, with the
18 investigator, I'm going to get you to come
19 back in the Grand Jury room and I'm going to
20 chat with you for just one second.

21 Anything else, Mr. Frost, with
22 regard to your transcript requests?

23 DEFENDANT FROST: Yes. I'd like all
24 incident reports from the officers. I don't
25 have all of the incident reports. I've just

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1 got supplementary reports and I need the
2 incident reports, all of them.

3 THE COURT: Well, that is not
4 before me. Have you requested all of that
5 information in discovery?

6 MR. COLE: Yes, Your Honor. We
7 filed a Motion for discovery that includes
8 requesting that information. We forwarded
9 everything that we have to Mr. Frost, and the
10 State has told him that they forwarded
11 everything as well. So ---

12 DEFENDANT FROST: I don't have it.
13 They just gave me supplemental reports. When
14 they sent me these, they sent me somebody
15 else's ---

16 THE COURT: I am not going to get
17 into supplemental reports right now. That's
18 not before me.

19 DEFENDANT FROST: All right.

20 THE COURT: We are dealing with
21 transcripts. The question that I asked of
22 you was there any other issues with regards
23 to transcripts, Mr. Frost?

24 DEFENDANT FROST: No, sir.

25 THE COURT: Okay. Now let's go

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1 back to the Grand Jury room, and I'll talk to
2 you about that other issue. We'll do it in-
3 camera.

4 SOLICITOR PRICE: Yes, sir. I'm
5 prepared if the Court needs my assistance
6 with anything else.

7 THE COURT: Just tell me if there
8 is anything else in discovery that I ---

9 SOLICITOR PRICE: And, Your Honor,
10 I can actually address some of those things.
11 There are ---

12 THE COURT: Stop for a second.

13 SOLICITOR PRICE: There is a
14 difference in ---

15 THE COURT: Hang on. When you
16 start talking, I can't hear her. Okay, go
17 ahead.

18 SOLICITOR PRICE: Thank you, Your
19 Honor. I'm sorry. There's a difference in
20 terminology. The front page is considered an
21 incident report and then additional reports
22 written by others are titled Supplemental
23 Report, so it is simply a matter of -- it's
24 the same thing. It's just a name.

25 However, there are some individuals

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1 who were involved in this case who did not
2 write reports. As to their testimony, I have
3 and am continuing to meet with them. To make
4 sure that Mr. Frost is apprised of what their
5 testimony would be, I'm going to have them
6 summarize it. If there is additional
7 information that I believe will come out at
8 trial, that Mr. Frost doesn't have, I'm going
9 to ensure that he has it prior to trial.

10 THE COURT: So for the record, on
11 behalf of the State you've provided all
12 incident reports or supplemental reports that
13 you have, in discovery?

14 SOLICITOR PRICE: I have provided
15 everything that the State has to Mr. Cole and
16 to Mr. Frost and will continue to do so.

17 THE COURT: All right, let's step
18 back here.

19 (IN CHAMBERS CONFERENCE NOT ON RECORD)

20 THE COURT: Please be seated. All
21 right. We had a meeting back in the jury
22 room. During the course of that meeting, the
23 Defendant was somewhat critical of, not even
24 appointed counsel, but his standby counsel.
25 I told him that I've let you be here, Mr.

State of South Carolina v. Robert Joe Frost

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1 Cole, as a courtesy to him. Mr. Cole, I'll
2 give you an opportunity if you want to get
3 off this case; he's requested to represent
4 himself and I will let him do that. I did
5 that as a courtesy to Mr. Frost. You stuck
6 around because you wanted to help him out.
7 You still can. But if you want off, I'll let
8 you off.

9 MR. COLE: Your Honor, I have no
10 problem continuing as standby counsel.

11 THE COURT: Okay.

12 MR. COLE: I just -- I can only
13 -- you know, I can only do reasonable
14 requests that he asks me, though.

15 THE COURT: That being said, -- is
16 there anything that you want to put on the
17 record, Mr. Frost?

18 MR. FROST: Yes, sir, I'd just
19 like to get me a private investigator. I've
20 been sitting out at the County jail four
21 years without a private investigator.

22 THE COURT: Well, since you
23 brought that up. One of the reasons there
24 has been a delay in getting a private
25 investigator in your case is that you

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1 wouldn't accept one from the geographic
2 location of the Upstate. That's the reason
3 for the denial. So any person that you see
4 on the list up here, if you have the funds
5 then you can use them, but I'm not going to
6 authorize funds for somebody out of the
7 geographic location.

8 DEFENDANT FROST: Well, what list do
9 I pick from? I picked from the list that he
10 sent me.

11 THE COURT: Anyone qualified in
12 the Upstate that is willing and able to
13 serve.

14 MR. COLE: Your Honor, I might be
15 able to ---

16 THE COURT: Since you've delayed
17 this by your actions, this case is not going
18 to be delayed for trial. It's going August
19 22nd, unless there's good reason -- a good
20 reason to continue the case. All right, sir?

21 DEFENDANT FROST: I need ---

22 THE COURT: Mr. Cole, thank you
23 again for being willing to continue. Mr.
24 Frost, what else?

25 DEFENDANT FROST: I need somebody to

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Before The Honorable R. Lawton McIntosh

1 pick from, I picked from the list that he
2 gave me.

3 THE COURT: Well, you know I can't
4 make them do it, Mr. Frost. You indicated
5 that -- I don't even know who those folks
6 are.

7 That being said, Mr. Cole, is there
8 a list out there of PIs that have been
9 licensed, in the Upstate of South Carolina?

10 MR. COLE: Your Honor, I believe
11 that I can get him everybody in Anderson and
12 Greenville counties, probably by tomorrow.
13 If I can get that to him, then he can pick
14 somebody.

15 THE COURT: Anything further, Mr.
16 Frost?

17 DEFENDANT FROST: Yeah, I agree with
18 that. That's fine.

19 THE COURT: Anything further?

20 DEFENDANT FROST: No, sir.

21 THE COURT: All right.

22 MR. COLE: Thank you, Your Honor.

23 THE COURT: Thank you, Mr. Cole.

24 (HEARING CONCLUDED)

25

Before The Honorable R. Lawton McIntosh

Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF ANDERSON	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 13-GS-04-0646 <i>et. al.</i>
	)	
Robert Joe Frost,	)	
	)	
Defendant.	)	

TRANSCRIPT OF JURY TRIAL

The within JURY TRIAL in the above-captioned matter was held August 22-25, 2016, before The Honorable J. Cordell Maddox in Courtroom 4 of the Anderson County Courthouse, Anderson South Carolina; attended by counsel as follows:

APPEARANCES:

Lauren D. Price, Assistant Solicitor
 Chelsea Moore, Assistant Solicitor
 P O Box 8002
 Anderson, South Carolina 29622
 ... Appearing for State of South Carolina

Robert Joe Frost, Defendant
 ... Appearing *Pro Se*

Gregory Lee Cole, Jr., Esq.
 P O Box 315
 Williamston, South Carolina 29697
 ... Appearing for Defendant

Transcribed for Vivian C. Cross, Court Reporter

Deborah Garrison
Circuit Court Reporter – 13th Judicial Circuit
 P O Box 27145
 Greenville, South Carolina 29616
dgarrison@sccourts.org

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Case No. 13-GS-04-0646 through 0649

Jury Trial of August 22-25, 2016

Before The Honorable J. Cordell Maddox

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Qualification & Selection of Jury

1 (STATUTORY JURY QUALIFICATION)

2 (DEFENDANT PRESENT)

3 (JURY PANEL IN @ 12:05 P.M.)

4 THE COURT: Good morning. Let me
5 have the parties up here briefly.

6 In fact, ladies and gentlemen if
7 y'all will excuse us, I'm going to step back
8 here so we don't have to whisper.

9 (IN CHAMBERS CONFERENCE)

10 (COURT AT-EASE)

11 (DEFENDANT PRESENT)

12 THE COURT: After sitting here all
13 morning and listening to Judge McIntosh, I
14 know you're probably about ready to go crazy.
15 I go crazy sitting in the car when I'm
16 driving to Columbia. So -- my name is
17 Cordell Maddox, I've been a Circuit Court
18 Judge for almost fifteen years. And I'll be
19 trying this case this week. He has picked
20 his jury. And I'm sure he explained the
21 problem we have with the (shortage of) court
22 reporters. We're sharing Vivian but she's
23 mine this week. So sorry for all the delays.
24 But I don't think it would be much quicker
25 because we would have ten judges, two court

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Qualification & Selection of Jury

1 reporters. We've got a problem in the court
2 system with court reporters and we found out
3 Friday we didn't have any. So anyway, I
4 apologize for the delay.

5 We will go through a few extra
6 questions here and then we'll select the jury
7 for this case. At that point, and I'm going
8 to send the jurors who are selected to lunch.
9 We have some things we have to take up on the
10 record. And then we'll actually start the
11 case this afternoon, okay?

12 All right. So he's already
13 qualified, you've been statutorily qualified
14 as jurors in this case.

15 Well, you want to go ahead, Ms.
16 Price, and call the case?

17 SOLICITOR PRICE: Yes, Your Honor.
18 May it please the Court, this is the State
19 versus Robert Joe Frost. He is here under
20 indictment numbers 2013-GS-04-00646; 647;
21 648; and, 649. Charges of murder; possession
22 of a weapon during the commission of a
23 violent crime; attempted murder; first degree
24 burglary; and, armed robbery.

25 THE COURT: Okay. All right.

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Jury Trial of August 22-25, 2016

Qualification & Selection of Jury

1 Hold on.

2 (OFF RECORD DISCUSSION)

3 THE COURT: All right. Ladies and
4 gentlemen, as you heard we'll be picking a
5 jury for the case of the State versus Robert
6 Joe Frost charged with murder; possession of
7 a weapon during a violent crime; attempted
8 murder; burglary; and, armed robbery. This
9 all involves an incident that occurred back
10 in July 15th, 2012. So I need to ask you some
11 questions.

12 First, does anyone know anything
13 about this case or have you heard anything
14 about this case whatsoever?

15 (NO RESPONSE)

16 THE COURT: All right. I would
17 ask the attorneys for the State and then Mr.
18 Frost to stand up and introduce themselves.
19 Then I'm going to ask you if you have any
20 close business or personal relationship or
21 are you related by blood or marriage to any
22 of the witnesses or the Defendant in this
23 case.

24 Yes, ma'am?

25 SOLICITOR PRICE: Thank you, Your

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Qualification & Selection of Jury

1 Honor. May it please the Court, my name is
2 Lauren Price. I'm an Assistant Solicitor for
3 the 10th Circuit in South Carolina, serving
4 Anderson and Oconee Counties. Seated with me
5 today is Assistant Solicitor Chelsea Moore,
6 who also works for the Anderson office.

7 THE COURT: All right. Yes, sir.

8 DEFENDANT FROST: I'M Robert Frost.

9 MR. COLE: And I'm Lee Cole, and
10 I am assisting Mr. Frost.

11 THE COURT: All right. Mr. Frost
12 is acting *pro se*, without an attorney this
13 week.

14 All right. So you've seen everyone
15 stand up and introduce themselves. Do any of
16 you have any close business or personal
17 relationship or you're related by blood or
18 marriage to any of the attorneys or Mr.
19 Frost? If so, please stand?

20 JUROR NUMBER 151: (Stands)

21 THE COURT: Yes, sir. Give us
22 your name and number?

23 JUROR NUMBER 151: Number 151.

24 THE COURT: So what's your name?

25 JUROR NUMBER 151: Jordan Smith.

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Qualification & Selection of Jury

1 THE COURT: Okay. And who are you
2 related to?

3 JUROR NUMBER 151: I grew up with
4 Mr. Cole and he performed my brother and
5 sister-in-law's wedding.

6 COURT REPORTER: I didn't hear
7 him.

8 THE COURT: Can you speak up a
9 little bit? I know it's hard to hear you.

10 JUROR NUMBER 151: I said I grew
11 up and went to school with Mr. Cole and he
12 performed my brother and my sister-in-law's
13 wedding ceremony.

14 THE COURT: Okay. Will that
15 prevent you from being fair and impartial in
16 this case?

17 JUROR NUMBER 151: No, sir.

18 THE COURT: And can you put aside
19 any relationship you have with Mr. Cole and
20 render a verdict based only on the evidence
21 that you hear in this courtroom?

22 JUROR NUMBER 151: Yes, sir.

23 THE COURT: Okay. All right.

24 Thank you. Anyone else?

25 (NO RESPONSE)

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Qualification & Selection of Jury

1 THE COURT: All right. I have a
2 long list of witnesses to read out so listen
3 carefully. And I'll ask you the same
4 question whether you're related by blood or
5 marriage or have any close business or
6 personal relationship with any of these
7 potential witnesses.

8 Now, just because I read their name,
9 that doesn't mean they're going to be
10 testifying. These are every witness that
11 possibly could testify.

12 Lieutenant Chris Vaughn, the Iva
13 Police Department;

14 Fayette Davenport;

15 Rebecca Keith;

16 Officer Colin Martin;

17 Captain Tim Richey;

18 Kayla Howington;

19 Julie Roberts;

20 Chief Jason Hawkins;

21 Samantha Tillman;

22 Russell Dennis;

23 Deputy Brent Simpson;

24 Forensic Investigator Chris Wilson;

25 Corporal Dwayne McElrath;

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Qualification & Selection of Jury

1 Lieutenant Chris Scott;

2 Deputy Mark Coyle;

3 Thomas Miller;

4 Anthony Barnett;

5 Joyce Smith;

6 Dr. Brett Woodard;

7 Dione Kelley;

8 Tina Stone;

9 John Bishop;

10 I'm going to skip three. We'll talk
11 about that in a minute.

12 Arlette Jones;

13 Anyone that works in the internal
14 affairs division of the Iva Police
15 Department; or,

16 Anyone who works with the Social
17 Security Office for Anderson County.

18 Does that apply to anyone? Any of
19 you have any close business, or personal
20 relationship with any of those names or
21 anyone that may work at the Social Security
22 Department here in Anderson or in the Iva
23 Police Department Internal Affairs Division?
24 If so, please stand?

25 (NO RESPONSE)

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1 THE COURT: Do any of you know of
2 any reason whatsoever that you could not be a
3 proper juror in this case? In other words,
4 you've been asked a lot of questions today.
5 But this is for the final one. This is a
6 criminal case and this is your last chance to
7 tell me if you think there's some reason why
8 you cannot serve. If so, please stand?

9 (NO RESPONSE)

10 THE COURT: All right. Any other
11 questions by the State?

12 SOLICITOR PRICE: Nothing from the
13 State, sir.

14 THE COURT: Anything else you'd
15 like me to ask?

16 MR. COLE: Your Honor, the
17 Defendant wants to add one witness, Officer
18 Brandon Surratt.

19 THE COURT: Officer Brandon
20 Surratt. Do any of you have any close
21 business or personal relationship or do you
22 personally know Officer Brandon Surratt?

23 (NO RESPONSE)

24 THE COURT: Okay. All right.
25 We're ready to select a jury unless there's

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Qualification & Selection of Jury

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1 anything else we need to take up

2 Anything from the State?

3 SOLICITOR PRICE: No, sir.

4 THE COURT: Mr. Frost?

5 DEFENDANT FROST: No, sir.

6 THE COURT: All right. Again, you
7 watched one jury be selected, I think for a
8 civil case. And that's totally separate from
9 the way we do criminal juries. And there's a
10 reason for it. I won't bore all of you with
11 it, but I'll explain to the jurors that are
12 selected why we do it differently. But the
13 clerk of court will tell you how to proceed
14 and how we're going to pick this jury.

15 Okay. You can select a jury. What
16 are the strikes?

17 SOLICITOR PRICE: Ten and ten. I
18 mean ten and five. I'm sorry.

19 THE COURT: Ten and five?

20 SOLICITOR PRICE: I would love to
21 give myself five more.

22 THE COURT: Okay.

23 SOLICITOR PRICE: And, Your Honor,
24 I'd also like to ask that we pick two
25 alternates.

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Qualification & Selection of Jury

1 THE COURT: Yeah. We'll pick two
2 alternates.

3 While they're printing that out,
4 I'll just say, you know, this takes a little
5 longer than the selection of a civil jury so
6 bear with me.

7 (COURT AT-EASE)

8 THE COURT: All right. We'll
9 start calling names.

10 CLERK: Ladies and gentlemen, this
11 is different from the civil trial that we
12 just picked a jury on whereas the attorneys
13 just simply struck. What we will do here is
14 when I call your name, you will come forward
15 and stand in front of me facing the audience,
16 okay?

17 Our first potential juror is number
18 90, Deanna L. Menegay.

19 THE COURT: Make sure you bring
20 anything you have with you because if you're
21 selected, you won't go back out there. Sorry
22 about that. I should have told you.

23 CLERK: Me too. I apologize.

24 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

25 CLERK: What say you for the State?

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Qualification & Selection of Jury

1 SOLICITOR PRICE: Please present the
2 juror.

3 CLERK: What say you for the
4 Defense?

5 DEFENDANT FROST: Please strike.
6 Strike.

7 CLERK: Strike. You can have a
8 seat back out in the audience, please, ma'am.

9 (JUROR NUMBER 90 EXCUSED)

10 CLERK: The next potential juror is
11 number 105, Donna L. Philyaw.

12 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

13 CLERK: What say you for the State?

14 SOLICITOR PRICE: Please present the
15 juror.

16 CLERK: What say you ---

17 DEFENDANT FROST: Please strike.

18 CLERK: Strike. Ms. Philyaw, you
19 can sit back down in the audience.

20 (JUROR NUMBER 105 EXCUSED)

21 CLERK: Juror number 31, Donald E.
22 Culbertson.

23 (JUROR, WHITE MALE, BEFORE COUNSEL)

24 CLERK: What say you for the State?

25 SOLICITOR PRICE: Please present the

State of South Carolina v. Robert Joe Frost

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Qualification & Selection of Jury

1 juror.

2 CLERK: What say you for the
3 Defense?

4 DEFENDANT FROST: Seat the juror.

5 CLERK: All right. That way, Mr.
6 Culbertson.

7 (JUROR NUMBER 31 SEATED)

8 CLERK: Juror 145, Collin G. Wiles.

9 (JUROR, WHITE MALE, BEFORE COUNSEL)

10 CLERK: What say you for the State?

11 SOLICITOR PRICE: Please present the
12 juror.

13 CLERK: What say you for the
14 Defense?

15 DEFENDANT FROST: Seat the juror.

16 CLERK: Go that way, please, sir.

17 (JUROR NUMBER 145 SEATED)

18 CLERK: Juror number 20, Kathleen
19 A. Brown.

20 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

21 CLERK: What say you for the State?

22 SOLICITOR PRICE: Please present the
23 juror.

24 CLERK: What say you for the
25 defense?

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Qualification & Selection of Jury

1 DEFENDANT FROST: Strike.

2 CLERK: Strike. You may have a
3 seat. Thank you.

4 (JUROR NUMBER 20 EXCUSED)

5 CLERK: Juror number 148. No, I'm
6 sorry. Juror number 10, Helen M. Behnke.

7 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

8 CLERK: What say you for the State?

9 SOLICITOR PRICE: Please present the
10 juror.

11 CLERK: What say you for the
12 Defense?

13 DEFENDANT FROST: Strike.

14 CLERK: Strike. Thank you.

15 (JUROR NUMBER 10 EXCUSED)

16 CLERK: Now we have juror number
17 148, Ann Marie Wirfs.

18 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

19 CLERK: What say you for the State?

20 SOLICITOR PRICE: Please present the
21 juror.

22 CLERK: What ---

23 DEFENDANT FROST: Strike.

24 CLERK: You may have a seat.

25 (JUROR NUMBER 148 EXCUSED)

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Qualification & Selection of Jury

1 CLERK: Juror number 130, Mary B.
2 Taylor.

3 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

4 CLERK: What say you for the State?

5 SOLICITOR PRICE: Please present the
6 juror.

7 CLERK: What say you for the
8 defense?

9 DEFENDANT FROST: Strike.

10 (JUROR NUMBER 130 EXCUSED)

11 CLERK: Juror 151, Jordan C. Smith.

12 (JUROR, WHITE MALE, BEFORE COUNSEL)

13 CLERK: What say you for the State?

14 SOLICITOR PRICE: Please present the
15 juror.

16 CLERK: What say you for the
17 Defense?

18 DEFENDANT FROST: Please have a
19 seat.

20 CLERK: That way, please.

21 (JUROR NUMBER 151 SEATED)

22 CLERK: Juror 82, Larry E. McCall

23 (JUROR, WHITE MALE, BEFORE COUNSEL)

24 CLERK: What say you for the State?

25 SOLICITOR PRICE: Please present the

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1 juror.

2 CLERK: What say you for the
3 Defense?

4 DEFENDANT FROST: Strike.

5 CLERK: Strike.

6 (JUROR NUMBER 82 EXCUSD)

7 CLERK: Juror number 129, Nancy B.
8 Summers.

9 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

10 CLERK: What say you for the State?

11 SOLICITOR PRICE: Please present the
12 juror.

13 CLERK: What say you for the
14 Defense?

15 DEFENDANT FROST: Strike.

16 CLERK: Strike.

17 (JUROR NUMBER 129 EXCUSED)

18 CLERK: Juror number 60, Joshua P.
19 Hollingsworth.

20 (JUROR, WHITE MALE, BEFORE COUNSEL)

21 CLERK: What say you for the State?

22 SOLICITOR PRICE: Please present the
23 juror.

24 CLERK: What say you for the
25 Defense?

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Qualification & Selection of Jury

1 DEFENDANT FROST: I pick.

2 CLERK: That way, Mr. Hollings-
3 worth.

4 (JUROR NUMBER 60 SEATED)

5 CLERK: Juror number 75, David E.
6 Linden.

7 (JUROR, WHITE MALE, BEFORE COUNSEL)

8 CLERK: What say you for the State?

9 SOLICITOR PRICE: Please present the
10 juror.

11 CLERK: What say you for the
12 Defense?

13 DEFENDANT FROST: I pick.

14 CLERK: That way, Mr. Hollings-
15 worth. -- I mean, Mr. Linden. I'm sorry.

16 (JUROR NUMBER 75 SEATED)

17 CLERK: Juror 124, Jerry L. Smith.

18 (JUROR, WHITE MALE, BEFORE COUNSEL)

19 CLERK: What say you for the State?

20 SOLICITOR PRICE: Please present the
21 juror.

22 CLERK: What say you for the
23 Defense?

24 DEFENDANT FROST: Strike.

25 CLERK: Strike.

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Qualification & Selection of Jury

1 You can have a seat back in the
2 audience Mr. Smith.

3 (JUROR NUMBER 124 EXCUSED)

4 CLERK: AND Mr. Frost, I have that
5 that is nine strikes for you. There's one
6 more. Thank you.

7 Juror number 98, John C. Munns.

8 (JUROR, WHITE MALE, BEFORE COUNSEL)

9 CLERK: What say you for the State?

10 SOLICITOR PRICE: Please present the
11 juror.

12 CLERK: What say you for the
13 Defense?

14 DEFENDANT FROST: I pick.

15 (JUROR NUMBER 98 SEATED)

16 CLERK: Juror number 22, Thomas A.
17 Burnett.

18 (JUROR, WHITE MALE, BEFORE COUNSEL)

19 CLERK: What say you for the State?

20 SOLICITOR PRICE: Please present
21 this juror.

22 CLERK: What say you for the
23 Defense?

24 DEFENDANT FROST: Strike.

25 CLERK: Strike. All right.

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1 (JUROR NUMBER 22 EXCUSED)

2 CLERK: And the last of your
3 strikes.

4 Juror number 50, Stephen T. Graham.

5 (JUROR, WHITE MALE, BEFORE COUNSEL)

6 CLERK: What say you for the State?

7 SOLICITOR PRICE: Please present the
8 juror.

9 CLERK: Any reason for cause?

10 DEFENDANT FROST: No, Your Honor.

11 THE COURT: Okay.

12 CLERK: That way.

13 (JUROR NUMBER 50 SEATED)

14 CLERK: Juror number 131, Timothy
15 N. Terhune.

16 (JUROR, WHITE MALE, BEFORE COUNSEL)

17 CLERK: What say you for the State?

18 SOLICITOR PRICE: Please present the
19 juror.

20 CLERK: Any reason for cause?

21 DEFENDANT FROST: Have a seat.

22 CLERK: That way, please sir.

23 (JUROR NUMBER 131 SEATED)

24 CLERK: Juror number 73, Joyce J.
25 Latimer.

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Qualification & Selection of Jury

1 (JUROR, BLACK FEMALE, BEFORE COUNSEL)

2 CLERK: What say you for the State?

3 SOLICITOR PRICE: Please present the
4 juror.

5 CLERK: Any reason for cause?

6 DEFENDANT FROST: I pick.

7 CLERK: That way Ms. Latimer,
8 please.

9 (JUROR NUMBER 73 SEATED)

10 CLERK: Juror number 89, Jesse S.
11 Meece.

12 (JUROR, WHITE MALE, BEFORE COUNSEL)

13 CLERK: What say you for the State?

14 SOLICITOR PRICE: Please present the
15 juror.

16 CLERK: Any reason?

17 DEFENDANT FROST: I pick.

18 CLERK: Mr. Meece, that way,
19 please.

20 (JUROR NUMBER 89 SEATED)

21 CLERK: Juror number 119 Mason T.
22 Rose.

23 (JUROR, WHITE MALE, BEFORE COUNSEL)

24 CLERK: What say you for the State?

25 SOLICITOR PRICE: Please present

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1 this juror.

2 CLERK: Any reason?

3 DEFENDANT FROST: I pick.

4 CLERK: Mr. Rose, that way, please,
5 sir.

6 (JUROR NUMBER 119 SEATED)

7 CLERK: Juror number 42, Richard L.
8 Dunn.

9 (JUROR, WHITE MALE, BEFORE COUNSEL)

10 CLERK: What say you for the State?

11 SOLICITOR PRICE: Please present
12 this juror.

13 CLERK: Any reason?

14 DEFENDANT FROST: Have a seat.

15 CLERK: That way, please, sir.

16 (JUROR NUMBER 42 SEATED)

17 CLERK: Your Honor, I believe that
18 is twelve.

19 THE COURT: All right. We'll take
20 two alternates.

21 CLERK: And I have one strike and
22 two strikes?

23 THE COURT: Yes, sir.

24 CLERK: Now we are picking two
25 alternates. The first potential alternate is

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1 number 47, Jorge L. Fraga.

2 (JUROR, WHITE MALE, BEFORE COUNSEL)

3 CLERK: What say you for the State?

4 SOLICITOR PRICE: Please present the
5 juror.

6 DEFENDANT FROST: I pick.

7 CLERK: We're good. Keep him.

8 DEFENDANT FROST: Right, have a
9 seat.

10 CLERK: All right. That way,
11 please sir.

12 (JUROR NUMBER 47 SEATED)

13 CLERK: The next potential juror is
14 Number 81, Patricia E. McBride.

15 (JUROR, BLACK FEMALE, BEFORE COUNSEL)

16 CLERK: What say you for the State?

17 SOLICITOR PRICE: Please present the
18 juror.

19 CLERK: What say you for the
20 Defense?

21 DEFENDANT FROST: I pick.

22 CLERK: All right. That way,
23 please, ma'am.

24 (JUROR NUMBER 81 SEATED)

25 CLERK: Your Honor, I believe

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1 that's twelve jurors and two alternates.

2 THE COURT: All right. Thank you,
3 sir.

4 All right. Ladies and gentlemen,
5 what I'm going to do now is send you to the
6 back and release everybody. Then I'll bring
7 you back in and sort of tell you what our
8 time schedule is.

9 From this point forward, I will tell
10 you every time you leave the courtroom -- I'm
11 going to say don't talk about this case. You
12 should not talk about this case at all. The
13 facts, the witnesses, anything until both
14 sides have presented their case, both sides
15 have given their opening and closing and I've
16 made rulings on evidence and I've also
17 charged you on the law. And then at that
18 point, I will tell you that you can begin
19 discussing the case. So go back to the jury
20 room. Talk about anything in the world you
21 want except for this case, and I'll bring you
22 back in about five minutes.

23 (JURY OUT @ 12:30 P.M.)

24 THE COURT: Okay. Ladies and
25 gentlemen, at this point I think that it's

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1 safe for me to tell you that you have escaped
2 service on a jury this week. This case that
3 we're going to try will be the only case that
4 I'm trying this week, I'm pretty certain.

5 Judge McIntosh is just in a tizzy
6 because he doesn't have a court reporter and
7 he doesn't know when he's going to start his
8 case. I don't think there's any way that
9 we're going to, each of us, try one case and
10 need a jury for another.

11 Oftentimes, what I will tell you is
12 that you need to call back into the clerk's
13 office each night at 6:00 in case we need to
14 bring you back in to start another trial.
15 I'm confident that isn't going to happen this
16 week. So I'm not even going to tell you
17 that.

18 I guess Judge McIntosh has just got
19 that one case.

20 So you have done two things. You
21 have been very patient in waiting, which I
22 appreciate. And I don't know if Judge
23 McIntosh told you, but if you get called back
24 to jury service anytime in the next three
25 years because you were qualified for jury

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1 services this week, this serves as your once
2 every three years for qualification. So you
3 don't have to serve for at least three more
4 years. So I'll see you in four years. Have
5 a great week and you'll get a letter, I
6 think, from Mr. Shirley's office for you work
7 and also anything else you might need.

8 CLERK: A check.

9 THE COURT: A check. For twelve
10 dollars (\$12) -- you'll get a check for
11 twelve dollars, which is twice what I've made
12 today. So good luck to you. Y'all have a
13 great week, okay?

14 (JURY PANEL OUT @ 12:41 P.M.)

15 THE COURT: Okay. All right.
16 First, I know that we have some motions that
17 we've got to take up. What I'm going to do
18 is call the jury back in. I'm not going to
19 swear them in yet. We'll send them to lunch.
20 We'll start back about 2:00. Is that good
21 for y'all?

22 SOLICITOR PRICE: Yes, sir.

23 THE COURT: I'm going to have the
24 jury come back at 2:30 and between 2:00 and
25 2:30 we'll hear any Motions.

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1 SOLICITOR PRICE: Yes, sir.

2 THE COURT: Now, Mr. Frost, I'll
3 tell you a couple of things. You noticed I
4 went ahead and asked the questions. But I
5 did not ask about Chrissy Adams but why did
6 you want her called as a witness?

7 DEFENDANT FROST: Uh, ---

8 THE COURT: You need to stand up
9 every time because -- and it's not for me but
10 it's for Ms. Cross (court reporter).

11 DEFENDANT FROST: On the charges
12 right here ---

13 COURT REPORTER: I can't hear him,
14 Your Honor.

15 THE COURT: Hold on a minute.
16 You've got to speak up. She's has to hear
17 everything you say.

18 DEFENDANT FROST: On these charges
19 right here, Investigator Thomas Miller, the
20 arresting officer on his charges he shouldn't
21 have charged me with felonies. Three CDVs,
22 non-aggravated nature clearly shows he
23 admitted in his incidents that he jumped on
24 his son with a stick. Well, ---

25 THE COURT: Okay. All right.

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1 Now, wait a minute. Now, I was told and I
2 wasn't the Judge but wasn't this taken up
3 before Judge McIntosh?

4 SOLICITOR PRICE: Yes, sir. May I?

5 THE COURT: Sure. Because this
6 was something, the only thing I was told
7 about this case was that he had already
8 resolved an issue. And I don't know what it
9 was.

10 SOLICITOR PRICE: He resolved
11 several issues that were appropriately
12 addressed at the times that they were brought
13 up.

14 This issue is something that was
15 brought up by Mr. Frost and it is something
16 that is one of the State's pre-trial Motions
17 in fact to address. That would be something
18 to bring up at 2:00 if at not now but the
19 State is going to make a Motion *in limine* to
20 exclude any testimony concerning this
21 incident with Mr. Miller that Mr. Frost has
22 brought up. Judge McIntosh --

23 THE COURT: Who is Mr. Miller?

24 SOLICITOR PRICE: Thomas Miller is
25 the former chief of the Iva Police

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1 Department. He was charged in, I believe it
2 was 2014 of July that year. But those
3 charges he was not convicted. He has had
4 them expunged. It would be inappropriate to
5 bring up the incident itself, because it
6 doesn't go towards his propensity for
7 truthfulness.

8 So the State intends and I guess is
9 currently making a Motion *in limine* to
10 exclude any testimony concerning that
11 incident. There's no bias because it
12 happened and has already been adjudicated as
13 well. That would be the only other, I think,
14 concern. He has no reason to ---

15 THE COURT: Did Judge McIntosh
16 rule on this?

17 SOLICITOR PRICE: Sir?

18 THE COURT: Did Judge McIntosh
19 rule on this?

20 SOLICITOR PRICE: No, sir. What he
21 did was say it would be appropriate for Mr.
22 Frost to bring it up as a pre-trial Motion or
23 for me, really. But that he was not going to
24 address whether or not it was appropriate to
25 deal with Miller's charges, other than pre-

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1 trial. And now we've reached that point.

2 THE COURT: Is Miller going to
3 testify?

4 SOLICITOR PRICE: Your Honor, he is
5 going to testify. I have a copy of the
6 incident report that I would -- this of
7 concern to Mr. Frost, if you'd like to see
8 it. But, again, this charge has been
9 expunged. And under the rules, I believe
10 only a conviction would apply, that under a
11 403 analysis there's no probative value to
12 this. This happened two years after Mr.
13 Cross' charge occurred. There's no
14 connection. And to impeach him with
15 something that isn't a conviction, Mr. Frost
16 would have to prove it had some relevance and
17 it simply does not.

18 Since it's already been adjudicated
19 Mr. Miller has nothing to gain by testifying
20 for the State, so there's no bias. I just
21 don't believe that it is appropriate to bring
22 up in this case and it would be misleading.
23 There's a substantial danger of confusion and
24 certainly a waste of time under 403.

25 THE COURT: Okay. What would you

1 want to ask him?

2 DEFENDANT FROST: You're talking
3 about an officer that ain't been an officer
4 for two years. He was an investigator when
5 he investigated the case.

6 And since then, he should have been
7 charged with a felony. He clearly admitted
8 in an incident report that he jumped on his
9 son with a stick. And he would be biased in
10 the case because I was jumped on by my
11 stepfather with a bat, a ball bat. And he
12 jumped on his stepson with a stick but he was
13 not charged. I mean, it was clearly a
14 felony. CDV is a high-and-aggravated nature
15 when you use a weapon and jump on somebody.

16 THE COURT: But it occurred two
17 years after your charge?

18 DEFENDANT FROST: Let's see. Yes,
19 sir. Yes sir, that's correct. But he had
20 been an investigator on the case for over two
21 years. And he did jump on his son with a
22 stick, when I was jumped on with a bat by my
23 stepfather. And he jumped on his son, his
24 stepson with a stick.

25 THE COURT: Okay.

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1 DEFENDANT FROST: And he wasn't
2 charged with the incident.

3 THE COURT: Okay.

4 DEFENDANT FROST: He was charged
5 with assault and battery but it should have
6 been of a high and aggravated nature. It's
7 all in the incident report.

8 THE COURT: Okay. All right.
9 Well, given the fact that it occurred
10 afterwards and there's no real connection to
11 the case, I would prevent you from asking any
12 questions on that. So we can deal with that
13 now. I just wasn't sure why those two names
14 on there. I went ahead and asked Internal
15 Affairs. I assume that's the same kind of
16 issue you've got?

17 DEFENDANT FROST: Yes, sir.

18 THE COURT: We'll deal with all of
19 that when we come back.

20 Let me just be real clear before we
21 go to lunch. And y'all be back in here at
22 2:00 and I'll tell the jury to be back at
23 2:30.

24 Mr. Frost, you're representing
25 yourself and I'm going to bend over backwards

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1 to protect your interests. But, as I'm sure
2 every Judge has told you up until now, you
3 have to abide by the same rules as every
4 other lawyer in front of me. And I say this
5 to both you and the State. I run this
6 courtroom, period. Period. They don't, you
7 don't. I only say that because I don't want
8 any confusion. If I stop somebody from
9 saying something or if I say overruled, I
10 expect people to sit down and they cannot
11 like my ruling but that's the way it is. And
12 it's going to be all the same thing.

13 And, again, I can give you some
14 leeway, but very little. So what I mean is
15 you're expected to know the rules. And
16 you've got a very good lawyer sitting with
17 you. He would be somebody who I would want
18 sitting there with me. So if you've got a
19 question on something, depend on him, okay?
20 I'm just concerned that -- I can already tell
21 -- y'all both talking over each other a
22 little bit. That won't fly.

23 DEFENDANT FROST: How can I go on
24 this man's credibility on this case? How can
25 I even make an advance on this man's case due

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1 to his ---

2 THE COURT: Well, why would you
3 need to question him about that and what do
4 you think that has to do with your case?

5 DEFENDANT FROST: This is the two
6 officers, Officer Thomas Miller and Deputy is
7 the ones that killed my daddy. They's the
8 ones that caused killed my daddy. Yes, sir.
9 And they wouldn't give me a proper
10 investigator.

11 THE COURT: I'm sorry?

12 DEFENDANT FROST: I done been
13 sitting in here for four years ---

14 COURT REPORTER: I'm sorry, Your
15 Honor.

16 THE COURT: Whoa, whoa. You got
17 to slow down because she's -- start over.
18 Who did you say killed your daddy?

19 DEFENDANT FROST: Thomas A. Miller
20 and Deputy Omar (phonetic). They rode up
21 there on a John Doe call-in and they's the
22 one that killed my daddy. And I've got the
23 evidence file. I can prove it in the
24 evidence file. I asked for a private
25 investigator to take up on his statement and

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1 credibility. To look into the evidence file
2 and I haven't even gotten a private
3 investigator.

4 THE COURT: Well, I was told you
5 had a private investigator.

6 DEFENDANT FROST: No, sir. I have
7 not had no private investigator.

8 THE COURT: Does he have a private
9 investigator?

10 MR. COLE: Your Honor, that was
11 dealt with by Judge McIntosh in an *ex-parte*.
12 He did grant -- Judge McIntosh granted some
13 money for a private investigator. But the
14 issue of a private investigator, Your Honor,
15 is something that Mr. Frost wants to address
16 with the Court. Does the Court want to hear
17 that now or ---

18 THE COURT: No. Here's what I'm
19 am seeing. We'll deal with that. Let me get
20 these people off to lunch. We'll be back
21 here by 2:15. I'll let y'all do your opening
22 statements and we'll get started -- we'll
23 deal with all of that when we come back.

24 But I want to make real clear that
25 I'm not putting up with anything from either

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1 side, period. Don't test me. Don't push me.
2 You'll regret it. I don't mean it as a
3 threat, I'm just saying, you know, these
4 cases people talk over each other, people
5 can't hear when you start arguing with each
6 other, I'm not having any of that.

7 Okay. Let's bring the jury in and
8 then I'll let them go.

9 (JURY IN @ 12:53 P.M.)

10 THE COURT: Okay. Ladies and
11 gentlemen, let me tell you two things.

12 Number one, Mr. Rose, I'm making you
13 foreman of this jury, so you'll be the only
14 person that has an assigned seat and it's
15 that seat right there. You don't have to
16 switch now, but when you come back if you'll
17 sit there.

18 The two alternates, you two here,
19 y'all sit there the whole time. The rest of
20 you can sit wherever you want.

21 All right. I'm going to send you to
22 lunch. We have several things that we have
23 to take up outside your presence. Because
24 everybody, including the court reporter and
25 everybody else who has been waiting, -- I'm

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1 going to send you to lunch now and ask that
2 you come back at 2:30. I can't promise you
3 that we're going to start right at 2:30
4 because I need for them to go eat and then
5 we've got some Motions that I have to take up
6 outside your presence.

7 When we do get started, the very
8 first thing that will happen, just so you'll
9 know, is I've got about a ten-minute snippet
10 of information I want to give you about how a
11 trial proceeds and what everybody's role is.

12 After I do that, which I call the
13 openings, the attorneys, the attorney for the
14 State and Mr. Frost will then give you their
15 opening statements.

16 Then we'll begin hearing the
17 evidence. And I'll explain all of that in my
18 opening charge to you.

19 After we've heard all the evidence
20 in this case, there will be a period of time
21 where I have to send you out for an extended
22 period of time to hear Motions.

23 Then we'll come back and the parties
24 will give you their closing arguments. And,
25 again, this may be a couple of days from now.

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1 I'll go into greater detail when you come
2 back. And then at that point, I have to read
3 to you the law in this state, which is very
4 difficult for you to listen to because it's
5 going to be thirty to forty pages. And I
6 have to literally sit here and read to you.
7 I'm apologizing now. I will apologize at
8 least five times when doing that because as
9 I've told many a jury, I've read to two
10 groups of people in my life, my children to
11 make them go to sleep and to juries to try to
12 keep them from going to sleep.

13 So the last thing you'll hear before
14 you start talking about this is my explana-
15 tion of the law. And, again, I'll explain
16 that when you come back.

17 Go to lunch. I will get you back in
18 here as close to 2:30 as possible. But if
19 you could be back around 2:30, that would be
20 great.

21 If anybody approaches you about this
22 case or talks to you about this case, you let
23 Buck or anybody know, they will let me know
24 because -- they will let me know immediately.
25 No one should talk to you or approach you

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1 about this case. And I want to know as soon
2 as possible if they do. I'll take care of
3 it. I don't mean that to give you the
4 feeling there's any danger, there's not.

5 But lawyers know they're not
6 supposed to talk to you and people at the
7 courthouse shouldn't be talking to you. So
8 keep your little badge on and if anybody
9 tries to talk to you, let me know. They will
10 probably regret it.

11 Have a great lunch. Don't talk
12 about the case and I'll see you as close to
13 2:30 as I can get you.

14 JUROR: Are we allowed to leave the
15 property?

16 THE COURT: Pardon?

17 JUROR: Are we allowed to leave the
18 property?

19 THE COURT: Yeah. No, y'all go
20 each lunch. Go wherever you want. Just keep
21 your badge on, if you don't mind.

22 (JURY OUT @ 12:56 P.M.)

23 THE COURT: Okay. I'll see y'all
24 back here by -- it's going to be 2:15 before
25 I can get back. I've got to run two or three

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1 errands. And then we'll hear whatever
2 Motions we need to hear, okay? All right.

3 (LUNCH RECESS)

4 (DEFENDANT PRESENT)

5 THE COURT: Okay. We've got a
6 couple of things we need to do before we
7 bring the jury in. We've got Motions. I
8 don't have a list of Motions so y'all are
9 going to have to tell me what you've got.
10 We'll start with the State. Solicitor?

11 SOLICITOR PRICE: Thank you, Your
12 Honor. First off, the court signed the Order
13 last week allowing the facility dog, Roma, to
14 take the stand with the witness at trial. I
15 just wanted to make sure we understand ---

16 THE COURT: You mean the dog is
17 going to actually be on the stand?

18 SOLICITOR PRICE: Yes, sir.
19 Pursuant to the Order it will be underneath.
20 It will not be visible to the jury. We will
21 bring it in when the jury is out of the room
22 and bring the jury back in.

23 THE COURT: Okay.

24 SOLICITOR PRICE: And it will be
25 under, with the witness because of anxiety

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1 issues. The witness is present if the Court
2 needs to assess her.

3 THE COURT: No, I trust you. I
4 trust you as an officer of the Court, that
5 what you tell me is ---

6 SOLICITOR PRICE: All right. Thank
7 you. And obviously we wanted to give Defense
8 a chance to object if they object to the use
9 of the canine, since that was an
10 administrative Order. But without objection.

11 DEFENDANT FROST: Okay.

12 THE COURT: Mr. Frost, do you
13 object to them having the day come in with
14 the witness?

15 DEFENDANT FROST: (Negative
16 response).

17 THE COURT: Okay. No objection.
18 Okay. Go ahead.

19 SOLICITOR PRICE: All right. Thank
20 you, Your Honor. Next, there's some
21 redactions that we need to have in a CD of
22 voicemails which were left by this Defendant
23 on a cellphone. And the only way to sort of
24 decide what needs to be redacted, if
25 anything, is to address one of the State's

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1 other Motions, which is there are prior
2 incidents that the State would like to bring
3 up in its case in chief. Prior incidents,
4 bad acts under law, involving this Defendant.

5 One of them is from 2002. I served
6 Mr. Frost with written notice that I intend
7 to impeach him using his conviction. It is
8 for an aggravated assault. The victim in the
9 aggravated assault was, in fact, the victim
10 in this murder. And also ---

11 THE COURT: And that was a
12 conviction?

13 SOLICITOR PRICE: Yes, sir.

14 THE COURT: Okay.

15 SOLICITOR PRICE: A 2002 conviction.
16 I have a copy for the Court ---

17 THE COURT: Okay.

18 SOLICITOR PRICE: And for the
19 Defendant, although he has been provided,
20 some time ago, with these records.

21 THE COURT: Okay.

22 SOLICITOR PRICE: One moment. May
23 I approach?

24 THE COURT: Sure.

25 SOLICITOR PRICE: Your Honor, that

1 is a copy of the certified conviction from
2 2002, (tendering). A copy of the Biloxi
3 Police Department incident report pertaining
4 to the incident.

5 And also three warrants from Iva
6 City involving unlawful use of a telephone,
7 simple assault, and harassing phone calls,
8 that have happened over the past several
9 years. In each of these instances, the
10 Defendant in this case made threats against
11 the victim who was murdered.

12 They are so substantially similar to
13 what eventually occurred, that I think they
14 go directly to his malice and to his intent.

15 Since malice is an element of the
16 crime of murder, I believe under 405(b) it
17 would be admissible, all of these would be
18 admissible to varying degrees. Since state
19 of mind is an issue any time that malice or
20 willfulness is an element of a crime under
21 *State v. Sweat*.

22 Your Honor, we also have -- and I
23 can speak to that additionally if you'd like,
24 Your Honor.

25 THE COURT: At this point, I don't

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1 ---

2 SOLICITOR PRICE: Your Honor,
3 additionally we have a witness who can
4 directly testify to those events. Mr.
5 Frost's mother was present during the 2002
6 incident where Mr. Frost stabbed his
7 stepfather. He was stabbed in this incident
8 as well. In the same general areas, in fact.
9 She can testify to it.

10 We also have investigator -- well,
11 now former-investigator Chief Tommy Miller
12 who can testify to speaking with
13 investigators in Biloxi and getting the
14 certified copies of that conviction. He can
15 verify that that was, in fact, a conviction
16 for the Defendant.

17 And since the standard is clear and
18 convincing evidence for motive, intent,
19 common scheme of plan evidence, I believe
20 that since we have a witness with direct
21 knowledge of the prior bad act, under *State*
22 *v. Aiken* we satisfy that standard.

23 Finally, Your Honor, the date of
24 this incident, the Defendant again made
25 harassing phone calls to his mother and his

1 stepfather and said he was going to come over
2 to the incident location and kill them. He
3 made these threats multiple times.

4 In fact, an officer who will come
5 testify, Captain Tim Richey, responded.

6 There is a report that was written for that
7 incident. He instructed this Defendant not
8 to make those phone calls anymore.

9 Mrs. Davenport will testify that she
10 took her phone off the hook and that it was
11 later that night that he followed through on
12 his threats.

13 So, Your Honor, in addition to again
14 going to motive, absence of mistake, intent
15 in this case, and now, quite frankly,
16 identity now that Mr. Frost has indicated he
17 believes that someone else committed these
18 crimes or is going to bring that up, then
19 that would also go to prove the identity of
20 the individual who committed these crimes. I
21 believe that that afternoon those phone calls
22 are part of the *res gestae* as well.

23 THE COURT: All right. What needs
24 to be redacted?

25 SOLICITOR PRICE: Okay. Well,

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Jury Trial of August 22-25, 2016

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1 first, Your Honor, as to the admissibility of
2 these prior incidents, I would have to know
3 what the admissibility would be because some
4 of the -- the issue is, in particular, one of
5 the phrases he says is, "I'm an ex-convict
6 and I can't take it no more." I have
7 concerns about that being prejudicial unless
8 the State has already been permitted to bring
9 up the fact that he was convicted and did
10 serve time.

11 THE COURT: And I obviously don't
12 have the certified, but you're telling me
13 you've got a certified copies that ---

14 SOLICITOR PRICE: You do have a copy
15 of the -- it has been certified, sir.

16 THE COURT: But it's just that I
17 can't tell from here. So you're telling me
18 you do have it?

19 SOLICITOR PRICE: Yes, sir. Yes,
20 sir. My administrative assistant contacted
21 Mississippi. They faxed us certified copies
22 of the conviction.

23 COURT REPORTER: You contacted?

24 SOLICITOR PRICE: Mississippi.

25 THE COURT: Yes, sir. Do you have

1 a position on that matter?

2 DEFENDANT FROST: Yeah, I got my ---

3 THE COURT: Make sure you stand up
4 so she (court reporter) can hear you?

5 DEFENDANT FROST: Yes, sir. Yeah,
6 it was a vacation down in Mississippi where
7 me and my stepdad had got into it in
8 Mississippi. It was self-defense down there.
9 Me and my stepdad, we'd always had our
10 problems with each other. We just grewed up.
11 I mean, he jumped on me. It's the same
12 situation. I defended myself. We'd get mad
13 with each other. We'd go into words with
14 each other. And he always starts it and when
15 I defend myself everybody points their
16 fingers at me.

17 THE COURT: Okay. But I guess
18 what you're saying is you were convicted down
19 there?

20 DEFENDANT FROST: Yeah. Well, yeah.
21 I don't see how she gets to bring up
22 something in the past with me whenever I
23 can't even bring up something that Mr.
24 Miller, something that he did.

25 THE COURT: Well, there's -- she

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1 can't bring up things in the past unless you
2 meet certain requirements. The case of *State*
3 *v. Lyle* governs that.

4 DEFENDANT FROST: Yeah. I mean, I'd
5 be the first one to admit me and my dad had
6 arguments. He's my stepdad and we always had
7 our arguments. But, you know, that's, you
8 know, beside the -- what happened that day.

9 THE COURT: Well, I think what --
10 she's actually kind of watching out for you
11 because she's obviously got a text statement
12 that she's going to introduce where you say
13 "I'm a convict."

14 DEFENDANT FROST: I might have did.
15 I might have done. I said me and my dad has
16 had many conversations and arguments, you
17 know what I'm saying. Sitting there -- over
18 many things: over cars, over animals, over
19 just motorcycles, over going out doing this,
20 doing this and that, the other, you know what
21 I ---

22 THE COURT: And you did serve down
23 time there in Mississippi for ---

24 DEFENDANT FROST: Yes, sir. Yes,
25 sir, I did serve time in Mississippi.

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1 THE COURT: All right. Well then
2 I'll let it in.

3 DEFENDANT FROST: Yeah, I'm not
4 denying, you know, no conversations or saying
5 no arguments between us.

6 THE COURT: Okay. I understand.

7 DEFENDANT FROST: Yeah.

8 THE COURT: All right. So I'll
9 let that in. What else you got? So you
10 don't need to redact the "convict" comment.

11 SOLICITOR PRICE: Yes, Your Honor,
12 may it please the Court. So, for the record
13 because I think you have to make a finding
14 under a 403 analysis too, you have ruled that
15 it is substantially similar and more
16 probative than prejudicial?

17 THE COURT: Yeah. I think it's
18 more probative than prejudicial. He's
19 admitting he did it.

20 SOLICITOR PRICE: Yes, sir.

21 THE COURT: Yeah. Under 403 it
22 comes in.

23 DEFENDANT FROST: Yeah.

24 SOLICITOR PRICE: Your Honor. I'm
25 just going to read you the few sections from

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1 the voicemails that I have some concerns
2 about, very briefly, then explain ---

3 THE COURT: Okay.

4 SOLICITOR PRICE: At one point he
5 says, "*I don't deal drugs. I ain't never*
6 *dealt no drugs and I just hope you ain't*
7 *setting me up.*" I don't think that's
8 prejudicial but since he's mentioning drug
9 use there is plenty in the reports and in his
10 toxicology that indicates that he was using
11 drugs at the time this occurred. I've
12 instructed my witnesses not to go down that
13 road. Since he's making the statement
14 himself, I just -- I don't think that it
15 prejudices him in any way, but I don't want
16 the Court to be surprised by that. And he's
17 denying using drugs.

18 DEFENDANT FROST: Yeah, I was using
19 drugs. I was on drugs that day. All this --
20 I mean, you know, I admit they was conflict
21 all the way up to the fact that he jumped on
22 me with a ball bat and I defended myself.

23 This is my residence. You know,
24 my money has been going there for thirteen
25 years. My Social Security check has been

1 going to this residence. My money's been
2 going into that house and I've been charged
3 with armed robbery. I've been charged with
4 burglary. How can I burglarize my own house
5 where my money's going in it?

6 THE COURT: Okay. So you're
7 admitting that you were on drugs, so that
8 would come in?

9 DEFENDANT FROST: Yeah, I ---

10 THE COURT: All I'm doing now is
11 trying to figure out what needs to come in so
12 we can kind of streamline.

13 DEFENDANT FROST: Yes, sir. Yes,
14 sir.

15 THE COURT: Okay. Then that'll
16 come in.

17 DEFENDANT FROST: But there's no
18 comment -- there's nothing, you know -- I'm
19 not arguing that there was a conflict or I
20 wasn't on drugs. But he did jump on me
21 first.

22 THE COURT: Yeah. And we're not
23 getting into that at this point.

24 DEFENDANT FROST: That's all I'm
25 saying, maybe we're not getting into that

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1 right now. But how about these charges of
2 first degree burglary and all of my own
3 residence where my own money has going there
4 all these years.

5 THE COURT: Right now all I'm
6 doing is trying to get streamlined a little
7 bit. She's telling me what she wants in.
8 Instead of at the time sending the jury out
9 and doing it, we're going to do it now.

10 DEFENDANT PRICE: Yeah.

11 THE COURT: All right. What else
12 you got?

13 SOLICITOR PRICE: Your Honor, he
14 says at one point "if I heard any kind of
15 voices or anything, I've changed." And I
16 know that ---

17 THE COURT: He said what?

18 SOLICITOR PRICE: He says "if I
19 heard any kind of voices or anything, I've
20 changed."

21 DEFENDANT FROST: I don't even know
22 what ---

23 SOLICITOR PRICE: And so I believe
24 that contextually he's saying something to
25 the effect that he's heard voices. And he is

1 telling his girlfriend in this voicemail that
2 he's fine, essentially. But that's the line.
3 And, again, it could be bringing up some sort
4 of mental health issue. I don't have a
5 problem with it coming in but I wanted to
6 bring it to the Court's attention.

7 DEFENDANT FROST: That's probably
8 some slang talk to the girlfriend.

9 THE COURT: Let's leave that out.
10 Let's redact it.

11 SOLICITOR PRICE: Okay.

12 THE COURT: I don't think that
13 really has anything to do with it, so I'm
14 going to cut that out and I'll let them do
15 that.

16 SOLICITOR PRICE: And, Your Honor,
17 I want to make the Court aware that because
18 of the way the Iva PD recorded this, I will
19 have to physically mute for these sections
20 when it's going on. So I believe that I've
21 got the times down.

22 THE COURT: Okay.

23 SOLICITOR PRICE: But it's going to
24 be a little bit tricky.

25 He mentions several times that he's

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1 going to go to jail for what he's about to
2 do. He says, "I'm going to go to jail for a
3 long time, a very long time"; mentions death
4 row. In fact, at one point in time says,
5 "I'm going to jail. That's where I'm fixing
6 to be for a long time." So he says that
7 three separate times that I made out.

8 THE COURT: Who was he calling?

9 SOLICITOR PRICE: He's calling his
10 now ex-girlfriend.

11 THE COURT: Okay.

12 SOLICITOR PRICE: Who he'd just
13 broken up with. He's threatening to go to
14 his mother's home and do what the State is
15 alleging he did.

16 THE COURT: Do you have any
17 objection to that?

18 DEFENDANT FROST: No, my only
19 objection is that -- she wants to bring all
20 that up. I don't care. There was an
21 argument between me and my girlfriend. And
22 it went from my girlfriend to me and my dad.
23 It was just like back and forth.

24 THE COURT: Okay. All right.

25 Then ---

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1 SOLICITOR PRICE: All right.

2 DEFENDANT FROST: It doesn't bring
3 up -- the arguments ain't got who started the
4 fight. It's got ---

5 THE COURT: Well, the only one
6 keeping out so far ---

7 DEFENDANT FROST: That's right.

8 THE COURT: The only one I'm
9 leaving out so far is one where you talk
10 about voices. That could be prejudicial to
11 you so I'm keeping that out.

12 All right. Go ahead.

13 SOLICITOR PRICE: Finally, Your
14 Honor, he mentions Mississippi at one point
15 during a very broken up phone call. It's
16 very difficult to hear. It sounds like he's
17 talking about the prior incident. But, Your
18 Honor, all I hear at one point is him say
19 something about Mississippi. I can't even
20 make it out myself very well. So I just want
21 to bring it again to the Court's attention
22 out of an abundance of caution.

23 THE COURT: Let's just leave that
24 out then. If you can't hear it, I don't want
25 them to be trying to figure it out.

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1 SOLICITOR PRICE: All right. Okay.

2 And, Your Honor, that -- the voicemails that
3 he leaves her, I want to make the Court aware
4 of, last for a total of thirty-eight minutes.
5 And while there are some that are -- they
6 build up, basically, Your Honor.

7 THE COURT: Okay.

8 SOLICITOR PRICE: So I do think
9 they're all relevant. But I wanted to make
10 the Court aware of what we're getting into
11 when we get started with that witness.

12 THE COURT: All right.

13 SOLICITOR PRICE: Next, Your Honor,
14 I have two officers present for *Jackson v.*
15 *Denno* hearing if the Court would like to
16 begin with those?

17 THE COURT: Yeah. Let's get those
18 done.

19 SOLICITOR PRICE: Okay. Then, Your
20 Honor, the State calls Captain Richey to the
21 stand.

22 THE COURT: Okay.

23 (WITNESS TAKES STAND)

24 TIMOTHY R. RICHEY, having been duly sworn
25 to tell the truth, and nothing but the truth,

1 testified as follows:

2 (WITNESS DULY SWORN)

3 THE COURT: Okay. Before you
4 start, are we going into the facts of this
5 case with these questions? There's a child
6 here that I don't want to be subjected to
7 anything.

8 SOLICITOR PRICE: It's borderline,
9 Judge.

10 THE COURT: Yeah.

11 SOLICITOR PRICE: I think this
12 entire case probably calls for ---

13 THE COURT: Yeah. Take her out.
14 I understand. I don't even know who she is,
15 but I'm worried her more than anything else.

16 (CHILD LEAVING COURTROOM)

17 THE COURT: Honey, thank you. I
18 just -- sometimes we've just got to be
19 careful. And on the break if you need
20 someplace to put the child, you know, we've
21 got Tammy back there. I want to bring that
22 out.

23 Okay. Go ahead.

24 SOLICITOR PRICE: Thank you, Your
25 Honor.

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1 TIMOTHY R. RICHEY, having been duly
2 sworn to tell the truth, and nothing but the
3 truth, testified as follows:

4 DIRECT EXAMINATION

5 BY SOLICITOR PRICE:

6 Q. Captain Richey, who do you work for
7 and in what capacity?

8 A. I work at the Iva Police Department
9 and I'm a captain.

10 Q. And is the Iva Police Department
11 where you worked in July 2012?

12 A. Yes, ma'am.

13 Q. Okay. When you worked for Iva in
14 July of 2012, did you have occasion to come
15 in contact with this defendant?

16 A. I did.

17 Q. Okay. And did you have to, in fact,
18 separate occasions to speak with this
19 defendant on July 15th of 2012?

20 A. I did.

21 Q. After the first incident, can you
22 briefly tell us how you came to be speaking
23 with this defendant?

24 A. I was called to [REDACTED] East Front
25 Street for harassing phone calls.

1 On arrival, I went to the residence,
2 exited my patrol car, checked the area. Got
3 out, went to the dwelling.

4 I was invited in by Mr. and Mrs.
5 Davenport. I went in there. They told me
6 that they had had some threatening phone
7 calls from their son, Mr. Robert Frost.

8 I listened to the recordings they had.
9 There was some threats on there. I had a
10 number. I dialed the number and called Mr.
11 Frost back. When I called him, he answered.
12 As I was talking to him, he said his name
13 was "Jacky." Mrs. Davenport could overhear
14 the conversation. She said, 'No, that's
15 Robert. That's my son.' She said 'Jacky is
16 my son that's passed away, that's deceased.'

17 I talked to Mr. Frost. I told him do not
18 contact them in any kind of way, phone, in
19 person, in any kind of way. No contact at
20 all. Please stop all threatening phone
21 calls. And that was kind of the end of the
22 conversation at that point.

23 Q. Oakly. When you spoke with him, was
24 he in your custody?

25 A. No, ma'am.

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1 Q. Was he anywhere in your vicinity?

2 A. No, ma'am.

3 Q. So when you spoke with him he at no
4 point in time had been taken under arrest?

5 A. No, ma'am.

6 Q. Okay. In fact, he never saw you
7 face-to-face at that moment; is that right?

8 A. (Affirmative nod) -- No, ma'am.

9 Q. Were the statements to you
10 voluntary?

11 A. The statements on the phone?

12 Q. Yes.

13 A. Yes, ma'am. He voluntarily talked
14 with me.

15 Q. Okay. And you didn't elicit them
16 from him by threatening him in any way?

17 A. No, ma'am.

18 Q. Okay. All right. Now, let's talk
19 about the second incident that day. Did you
20 have occasion to come into contact with Mr.
21 Frost again?

22 A. That afternoon, I had ended my tour
23 of duty. I was at my home. I was called
24 back in to report back to [REDACTED] East Front
25 Street for an assault.

1 On arrival, when I came in on the side
2 street, which is East Lake -- which that
3 residence sits on the corner of East Lake and
4 East Front. When I come up to the side of
5 the residence, I could see a suspect with
6 another officer. The suspect was on the
7 ground.

8 I exited my patrol car, got out. When I
9 got out, the other officer was there with
10 him. It was Mr. Frost. Mr. Frost had
11 sustained some damaged. It appeared to be to
12 his head. He had some blood.

13 The other officer said, 'will you please
14 stand by with him until EMS can check him.'
15 I stood by Mr. Frost. EMS checked him. Then
16 he was transported to the emergency room,
17 which I went to the emergency room, which I
18 went to the emergency room with Mr. Frost.
19 I sit in the emergency room area with him,
20 inside a private room.

21 Q. Right. Let's talk about that
22 private room. Were any other officers in
23 the private room with you?

24 A. No, ma'am.

25 Q. How big was the room?

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1 A. It was a regular-sized emergency
2 room. In estimation, I want to say it's ten
3 by twelve, twelve by twelve maybe.

4 Q Was he handcuffed at that time?

5 A. To be honest, ma'am, he was
6 handcuffed when we brought him to the
7 emergency room. Yes, ma'am.

8 Q. Okay. And were you wearing a
9 uniform?

10 A. Yes, ma'am.

11 Q. Did you have a weapon?

12 A. Yes, ma'am.

13 Q. Was it holstered?

14 A. Yes, ma'am.

15 Q. Okay. Did you ask Mr. Frost any
16 questions?

17 A. No, ma'am.

18 Q. Did Mr. Frost make any statements?

19 A. He blurted out several statements on
20 his own, on his own freewill. He asked where
21 -- he said 'I know my father should be here
22 somewhere. I know my dad should be here
23 somewhere.' He said, 'because I know I got
24 him good. I know he's got to be here
25 somewhere.' He said 'he should be down there

1 on a slab in the morgue. I hope that's where
2 he's at, on a slab in the morgue. That's
3 where he needs to be.' And he kept
4 repeating, "I know I got him good. I know
5 he's here somewhere."

6 Q. Okay. And this was occurring where?

7 A. This was occurring inside the
8 emergency room area in the room where he and
9 I were at.

10 Q. And you did nothing to elicit those
11 statements from him?

12 A. No, sir. No, ma'am.

13 Q. Were there any other witnesses to
14 that statement?

15 A. There was a nurse came in and she
16 heard some of the statements. And her name
17 was Julie, I recall.

18 Q Okay. All right. Thank you.
19 Please answer any questions that Mr. Frost
20 has for you.

21 THE COURT: Mr. Frost, do you have
22 any questions about this statement?

23 DEFENDANT FROST: I ain't got none.

24 THE COURT: All right. Thank you.
25 You can step down. Appreciate it.

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1 (WITNESS STEPS DOWN)

2 THE COURT: Okay.

3 SOLICITOR PRICE: Your Honor, the
4 State has one more witness for one more
5 statement that the Defendant. And that is
6 Lieutenant Chris Vaughn.

7 THE COURT: Okay.

8 SOLICITOR PRICE: So the State calls
9 Lieutenant Chris Vaughn at this time.

10 THE COURT: Now, while they're in
11 there, I'd like to sequester the witnesses
12 just because -- do you understand what that
13 means? I don't want witnesses hearing what
14 other witnesses say. So I'm going to ask
15 anybody that has to testify, once the trial
16 starts, to stay out of the courtroom. And
17 that's really to protect you from witnesses
18 coordinating their testimony. I do it in all
19 cases but in this case, particularly.

20 SOLICITOR PRICE: Your Honor, may I
21 also make a request that when the trial
22 begins -- and I don't mean this personally
23 against Mr. Ellis, but I'm hearing some
24 typing and it's distracting to me. So --
25 I'm sorry.

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1 THE COURT: Okay.

2 SOLICITOR PRICE: It's just a little
3 distracting. It's just a little distracting
4 and I'm worried that it's going to distract
5 the jury as well. So if there's a way he can
6 move just a little bit ---

7 THE COURT: Well, Mr. Ellis is
8 well known to the Court. We'll figure this
9 out.

10 SOLICITOR PRICE: Yes, sir. I
11 appreciate it. Thank you.

12 THE COURT: Okay.

13 (WITNESS TAKES STAND)

14 CHRIS VAUGHN, having been duly sworn to
15 tell the truth, and nothing but the truth,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY SOLICITOR PRICE:

19 Q. Lieutenant Vaughn, who do you work
20 for and in what capacity?

21 A. Lieutenant at the Iva Police
22 Department.

23 Q. And did you work for Iva in 2012?

24 A. I did.

25 Q. Did you, in 2012 have occasion to

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1 come into contact with this defendant, Robert
2 Frost?

3 A. I did.

4 Q. Do you remember the day you came in
5 contact with him?

6 A. I believe it was July the 15th, if
7 I'm not mistaken.

8 Q. Very briefly, how did you come into
9 contact with him?

10 A. I responded to a call at his
11 mother's house.

12 Q. Okay. And you came in contact with
13 him at his mother's home?

14 A. I did.

15 Q. Okay. When you became in contact
16 with him, how did that occur?

17 A. I responded to a burglary-in-
18 progress call. As I approached the house --
19 after I arrived on scene, as I approached the
20 house, I could tell that one of the doors
21 appeared to have been kicked in, busted in.
22 As I moved around to kind of cover more of
23 the exits of the home, doors to the home, I
24 heard a female hollering from inside and so I
25 went back. Mr. Frost was sitting on the

1 motorcycle in the yard.

2 Q. And so he was sitting on a
3 motorcycle?

4 A. Yes, ma'am. He was.

5 Q. Did you approach him?

6 A. At that time, the female inside is
7 screaming, "help me!" I did ---

8 Q. But did you approach him?

9 A. Well, I got him at gunpoint and
10 ordered him off the motorcycle.

11 Q. Okay. So you had him gunpoint?

12 A. I did.

13 Q. And when you had him at gunpoint,
14 did he make any statements to you?

15 A. I did. I told him to get off the
16 motorcycle and get on the ground. He made
17 the statement that he'd been hit with a
18 baseball bat, that he couldn't lay down.

19 Q. Did he initially comply with your
20 orders?

21 A. I did. And I told him to get on the
22 ground, which he did at that time.

23 Q. Did he make any additional state-
24 ments to you whatsoever?

25 A. No, he didn't.

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1 Q. Okay. And he did get on the ground?

2 A. Yes, ma'am. He did.

3 Q. But at the time he made the
4 statement he was held at gunpoint?

5 A. That is correct.

6 Q. Were you in uniform?

7 A. I was.

8 Q. Did you ask him to say anything
9 else?

10 A. No, I did not.

11 Q. Did you ask him to make any
12 additional statement(s) whatsoever?

13 A. No, I did not.

14 Q. Was his statement made in response
15 to a question?

16 A. No, it was not.

17 Q. Was it freely and voluntarily given,
18 in your opinion?

19 A. Oh, yes.

20 Q. All right. Please answer any
21 questions that Mr. Frost has for you.

22 THE COURT: Mr. Frost, do you have
23 any questions for him about that statement?

24 DEFENDANT FROST: Yes, I do.

25 THE COURT: Okay. Go ahead.

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1 CROSS-EXAMINATION

2 BY DEFENDANT FROST:

3 Q. So you was the first officer there
4 on the scene besides the other officer who
5 was up there?

6 A. I was the first officer.

7 Q. Is you the officer that went in the
8 back door?

9 A. Sir?

10 Q. Are you the officer that entered
11 into the back door of my mother's residence?
12 After you left me at gunpoint? Was you the
13 officer that went ---

14 THE COURT: Wait a minute. Ask
15 one question and give him a chance to answer.
16 Okay. So ask the question and I'll make him
17 answer it.

18 CROSS-EXAMINATION CONTINUED

19 BY DEFENDANT FROST:

20 Q. Was you the officer that went into
21 my mother's residence?

22 A. I was.

23 Q. You was. When you -- did you go in
24 there and see my dad up in there?

25 DEFENDANT FROST: I mean, I -- I

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1 wasn't expecting this today. That's the
2 officer that killed my daddy right there.
3 That's the officer that went in there and cut
4 my daddy's throat, right there. And I've got
5 proof. Why don't you go get my investigator
6 and -- I got proof.

7 THE COURT: Calm down.

8 DEFENDANT FROST: My mama don't know
9 these other knife impressions that that man
10 left in that house. He cut my daddy, I don't
11 know how many times. He cut his throat and
12 he put cut marks all over my daddy. And I've
13 got ---

14 SOLICITOR PRICE: Your Honor, I'm
15 going to object. This is testimony.

16 THE COURT: Hold on.

17 DEFENDANT FROST: There's knife
18 impressions inside the residence.

19 THE COURT: Hold on, Mr. Frost.
20 Wait a minute. As I told you before the
21 break, I'm not going to have that kind of
22 stuff. You can ask him a question about his,
23 about his testimony regarding your statement.
24 But that's all we're trying to do, is figure
25 out whether your statement was voluntary or

1 not. So go ahead.

2 DEFENDANT FROST: Look here, I don't
3 know what -- I need my evidence file. I can
4 prove all this in my evidence file.

5 THE COURT: Where's your evidence
6 file?

7 DEFENDANT FROST: It's back there at
8 the -- I didn't know I was coming in court
9 today. She told me to just send my subpoenas
10 in. Just to send my subpoenas in.

11 THE COURT: Well, what do you
12 have?

13 DEFENDANT FROST: My evidence file
14 I've got pictures in that they took in that
15 house ---

16 THE COURT: Where is it?

17 DEFENDANT FROST: --- because they
18 thought it was John Doe break in. The lady
19 across the street ---

20 THE COURT: Where is it?

21 DEFENDANT FROST: It's back at the
22 jail. It's back at the jail.

23 THE COURT: Is it in a box or
24 something?

25 DEFENDANT FROST: Well, it's out

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1 there on a bunk. And I was separated from my
2 evidence file.

3 THE COURT: Hold on a minute.

4 DEFENDANT FROST: Of the knife
5 impressions that was ---

6 THE COURT: Hold on a minute.

7 MR. COLE: I have some photo-
8 graphs. I don't know if these are the ones
9 he's referring to. But if they are he can
10 have them.

11 THE COURT: The most recent
12 photographs.

13 DEFENDANT FROST: No, I'm talking
14 about the knife impression -- the knife
15 impression that opened up the the screened
16 glass doors, going ---

17 THE COURT: All right. He's got
18 them. He's helping you. See if you can find
19 them.

20 DEFENDANT FROST: Well, I didn't
21 know I was coming in here today. She told me
22 -- she never did ---

23 THE COURT: Wait a minute. Are
24 you saying you didn't know you had a trial
25 today?

1 DEFENDANT FROST: No, sir. She told
2 me to send my subpoenas in on the 22nd.

3 THE COURT: Okay. All right.

4 DEFENDANT FROST: She told me just
5 'send your subpoenas in on the 22nd.' That's
6 all she told me.

7 THE COURT: Okay.

8 DEFENDANT FROST: She didn't give me
9 no court date or nothing.

10 THE COURT: Wait a minute. Now
11 we're just taking about this statement. This
12 is my concern.

13 You know, you can't go off on
14 tangents in Court. If this jury was in here,
15 that question you just asked would have
16 mistried this case, which is not what you
17 want. Trust me.

18 DEFENDANT FROST: Well, I'm telling
19 the truth. I need my evidence file in the
20 courtroom. The pictures are in there.

21 THE COURT: And I didn't know you
22 had an evidence file.

23 DEFENDANT FROST: Yeah. I do have
24 an evidence file. The pictures are in it but
25 it's back there at the camp because she

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1 didn't tell me I was having a court date.

2 THE COURT: Okay. All right.

3 We'll deal with the evidence file in a
4 minute. Okay. Any questions you want to ask
5 this man about -- the question here is, what
6 she's trying to determine is whether or not
7 your statement to him was voluntary. So you
8 can ask him questions about whether he forced
9 you to answer a question. He's basically
10 said that while he was standing there, you
11 made a statement.

12 What, again, was the statement that
13 you heard him say?

14 WITNESS: He made a statement he
15 couldn't lay on the ground because he'd been
16 hit with a baseball bat.

17 THE COURT: Okay. Then that's --
18 the question is, was that statement
19 voluntary? She says it is.

20 DEFENDANT FROST: Yes, sir. It is.

21 THE COURT: Okay. Do you have any
22 questions you want to ask him about that
23 statement?

24 DEFENDANT FROST: No, sir.

25 THE COURT: Okay. All right.

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1 Anything?

2 SOLICITOR PRICE: Nothing further,
3 Your Honor, from this witness at this time.

4 THE COURT: Okay. You can step
5 down.

6 (WITNESS STEPS DOWN)

7 DEFENDANT FROST: But she -- she
8 didn't tell me I was having a court date
9 today. She told me to send my subpoenas on
10 the 22nd and she was going to put me on the
11 trial docket. That was all that was said to
12 me and no ---

13 THE COURT: Okay. Well, we have a
14 problem with the file, getting it. Do you
15 want to respond to that?

16 SOLICITOR PRICE: Certainly. Your
17 Honor, this Defendant has been on notice for
18 some time that this trial date was the 22nd.
19 Mr. Cole can attest to that as well. He was
20 sent a copy of the court docket and he was
21 also sent notice that his trial was being
22 placed on the docket for the 22nd. As to --
23 I know that he did send some subpoenas
24 because some of my witnesses received
25 subpoenas from Mr. Frost, including his

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1 mother.

2 As to Mr. Frost giving people
3 notice, I can't attest to that. All I can
4 say is that Mr. Frost has known for months
5 now that this trial is going to be held on
6 the 22nd. In fact, we mentioned it in open
7 court in front of Judge McIntosh some time
8 ago.

9 DEFENDANT FROST: No, it wasn't ---

10 THE COURT: No. Hold on. Hold
11 on. Let her finish.

12 DEFENDANT FROST: Yes, sir.

13 SOLICITOR PRICE: And I never --
14 Your Honor, I didn't tell him anything about
15 the subpoenas. I only said ---

16 DEFENDANT FROST: Can I have the
17 last two court transcripts?

18 THE COURT: Hold on a minute.
19 Go ahead.

20 SOLICITOR PRICE: Thank you, Judge.
21 He has had ample notice of this trial date.
22 In fact, he made a motion for a continuance
23 of this trial in writing last week. So I
24 know that he's aware of this trial date.

25 THE COURT: Do you have a copy of

1 that?

2 SOLICITOR PRICE: I do. And, in
3 fact, Your Honor, that was -- you had me go
4 through my Motions first but I thought that
5 the Judge might want to address that next.
6 I've attached it with the several speedy
7 trial Motions and objection to continuance
8 Motions that this Defendant made. Here's the
9 copies of these, Judge, (tendering).

10 DEFENDANT FROST: Well, put it on
11 the trial docket. She didn't say that we was
12 coming in here having a trial, that I was
13 getting put on trial ---

14 THE COURT: Well, Mr. Frost, let
15 me just tell you. What your Motion for
16 continuance that you filed with the court
17 says is the "Defendant, Robert Joe Frost,
18 hereby moves this honorable court for an
19 order continuing the trial of this matter
20 scheduled to begin on August 22nd, 2016."

21 DEFENDANT FROST: I didn't write
22 that. That ain't mine.

23 THE COURT: It's got your
24 signature on it.

25 DEFENDANT FROST: No, sir. That

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1 ain't mine.

2 THE COURT: You didn't make this
3 Motion for a continuance?

4 DEFENDANT FROST: No, sir. I didn't
5 make that Motion. The only Motion I made for
6 continuance is a motion for a private
7 investigator to be ---

8 THE COURT: This mentions here the
9 Defendant seeks a continuance so he can have
10 more time to obtain a private investigator
11 and conduct an independent ---

12 DEFENDANT FROST: Yeah. One that
13 contained the private investigator.

14 THE COURT: So you made this
15 motion?

16 DEFENDANT FROST: Yes, sir, the one
17 to retain a private investigator.

18 THE COURT: Okay. Well, and my
19 understanding is that you -- as far as the
20 private investigator goes, we'll deal with
21 that when we get to you.

22 All right. Do you have any more
23 Motions?

24 The *Jackson v. Denno*, he's admitted
25 he made them. I'll let them in. They don't

1 seem to be coerced. I mean, they seem to be
2 completely voluntarily made and without any
3 kind of threat. And so -- and he's admitted
4 he made them.

5 SOLICITOR PRICE: Yes, sir. Well,
6 Your Honor, on the issue of a mistrial, the
7 only thing that the State would request is
8 that there be an instruction that the
9 intentional causing of a mistrial is not
10 going to happen in this case, that the trial
11 will go on in this matter. This has been a
12 four-year delay. The Defendant has gone
13 through four attorneys. This is the oldest
14 jail case we have and the Defendant refused
15 for many years to get evaluated. He
16 eventually was but only after being observed.
17 There has been substantial delay in this
18 case. We have lost witnesses in this case to
19 death, to moves across the country, to job
20 changes. It is impeding the State's ability
21 to successfully prosecute should we have
22 further delay.

23 And so should the Defendant by his
24 own behavior relinquish his right to either
25 represent himself or continue to be present

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1 in the courtroom, I would ask that then Lee
2 Cole stand in for Mr. Frost and the trial
3 continue.

4 THE COURT: Well, here's the deal
5 for both of y'all. I don't want to mistry
6 it. I have mistried cases before and I have
7 tried to protect a mistrial with curative
8 instructions. I intend to try this case this
9 week. This is what I was put on notice to
10 do. So whatever both of y'all do, you've got
11 to do it right or -- I mean, again, I'm
12 talking to both of y'all on the same -- I'm
13 feeding you both out of the same spoon.

14 DEFENDANT FROST: I don't want a
15 mistrial.

16 THE COURT: Okay. So that's all
17 the Motions you've got, right?

18 SOLICITOR PRICE: Yes, sir. The
19 only other thing is if we need to send
20 somebody to get the evidence that Mr. Frost
21 is insisting he needs, -- certainly we could
22 send an officer of the Court.

23 THE COURT: Is there somebody that
24 can go get the file?

25 DEFENDANT FROST: Yeah. I'd imagine

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1 an officer can go to the jail and get the ---

2 THE COURT: Have y'all got anybody
3 that can bring it in?

4 DEFENDANT FROST: I wouldn't ---

5 THE COURT: Well, here's the deal.
6 It's 3:00. Let me just tell y'all schedule-
7 wise:

8 Tomorrow at 4:15 I have a doctor's
9 appointment I can't miss. I'm fighting
10 something.

11 At 2:30 Thursday I've got a knee
12 injection.

13 Other than that, this is what we're
14 going to try this week. So my intention is
15 I'm not going to push you. In other words,
16 I'm going to intentionally let this thing go
17 along slow and I have my reason for doing it.
18 Number one, to keep everybody from getting
19 too excited.

20 DEFENDANT FROST: I've got this one
21 Motion.

22 THE COURT: Yeah. I'm going to
23 hear your Motion. What I'm wondering is,
24 this afternoon, and -- y'all do your opening
25 statements and then that way, that'll allow

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1 you to go back and look at your evidence
2 tonight and bring it tomorrow. So I won't
3 require you to put anything up today that
4 would -- that you'd need your evidence.

5 DEFENDANT FROST: Okay. I
6 appreciate that.

7 SOLICITOR PRICE: Your Honor, may I
8 tell the witnesses that are present that they
9 are excused for today?

10 THE COURT: I would not tell them.
11 They probably -- hold on. Go ahead and make
12 your Motion because I don't know -- that way
13 I will know what's happening?

14 DEFENDANT FROST: Yeah. I was
15 separated from my evidence file when I went
16 down to get my evaluation. And it turned out
17 good. But I was separated -- My evidence
18 file and all was put in the trashcan in the
19 jailhouse, Ms. Jones -- the captain said she
20 put it in a trash bag.

21 THE COURT: A trash bag?

22 DEFENDANT FROST: A trash bag,
23 (affirmative nod). And I don't know if it's
24 all there or not. That's what I'm working
25 with. I'm having to work that evidence file.

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1 But what I do have, you know, it's a lot of
2 evidence. It's pictures that was took at the
3 crime. And I would like to have a new
4 evidence file, but -- you know, I'm just
5 asking.

6 THE COURT: Well, what I am going
7 to do -- are you okay then with us going
8 ahead, letting me charge this jury, let y'all
9 give your opening statements. And then we'll
10 break for the day. That'll give you time to
11 go back. And then tomorrow if you think
12 something's missing we can deal with it.

13 DEFENDANT FROST: Just on the
14 private investigator, I done been contained
15 (sic) thirty-five hundred dollars (\$3,500).
16 McIntosh gave us the money to contain [sic] a
17 private investigator. And now we put a --
18 Lee Cole put a Motion in for a continuance to
19 get the private investigator for seventy-two
20 hours; or talk to the agent or to let him
21 just look at the evidence by hisself.

22 THE COURT: Here's the problem
23 I've got. I asked Judge McIntosh when he
24 had given you the approval for a private
25 investigator and he said it was five or six

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1 weeks ago. My understanding is you just got
2 a private investigator last week.

3 DEFENDANT FROST: I ain't got one
4 yet. I ain't contained [sic] one. We never
5 contained [sic] no private investigator.

6 THE COURT: Well my understanding
7 was that you wanted somebody from the lower
8 part of the state. And Judge McIntosh dealt
9 with that.

10 DEFENDANT FROST: I had to pick
11 someone else so I picked someone else, Mr.
12 Anderson from the Upstate. He's supposed to
13 contain him. He was paid the money.

14 THE COURT: Anything on that that
15 you can help guide the Court?

16 MR. COLE: Yes, Your Honor.
17 There was -- there's been some considerable
18 discussion with the Court and Mr. Frost about
19 a private investigator.

20 After he was denied the first
21 private investigator or a group of private
22 investigators of his choice, because it was
23 such a restricted group the Court instructed
24 me to give him a list of private
25 investigators in Anderson and Greenville

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1 County in order to help him retain one of
2 those. And Mr. Frost sent me a name last
3 week but I'd given him that list several
4 weeks ago.

5 THE COURT: All right. Have you
6 called that investigator?

7 MR. COLE: I wanted to wait
8 because he didn't -- I didn't get that
9 information until last week. I knew that
10 there would be no way that that investigator
11 could do anything if we went to trial this
12 week. And Mr. Frost said he wanted to make a
13 Motion for a continuance. So my thought is
14 let the Court rule on that before I contacted
15 that person because that's -- and I knew that
16 the person would not be able to do anything
17 in that short period of time.

18 THE COURT: Okay. Well, I mean,
19 I can't continue this case. This case is so
20 old that, you know, we've got to move
21 forward. But you can go ahead and contact
22 someone if you think there's somebody this
23 week that -- if he can give a name and go
24 find somebody. I mean, that's why I'm not
25 going to push to try this case in two days.

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1 DEFENDANT FROST: I'm not getting a
2 fair trial here, Your Honor.

3 THE COURT: Pardon me?

4 DEFENDANT FROST: I'm not getting a
5 fair trial. I can't -- you won't even admit
6 Mr. Miller's incident reports. I can't have
7 a private investigator. Who am I going to
8 put on the stand? I need a private
9 investigator just to look at the evidence
10 file. The credibility on that evidence file
11 was no good. And I can't get a private
12 investigator with good credibility to look at
13 the evidence?

14 THE COURT: Well, the problem is
15 you were given the opportunity -- and I don't
16 know the date. Mr. Cole, do you have the
17 date? I can't keep -- has somebody got the
18 date?

19 SOLICITOR PRICE: Your Honor, it's
20 been since April of this year.

21 DEFENDANT FROST: I picked one in
22 March and they told me that I couldn't have
23 that private investigator. When I picked him
24 in March they told me I couldn't have him,
25 that I got to pick another one. It took me a

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1 couple of ---

2 THE COURT: So why have you
3 waited?

4 DEFENDANT FROST: Because he told me
5 I couldn't pick him -- McIntosh said you
6 can't have the one in Charleston.

7 THE COURT: But he gave you a
8 list?

9 DEFENDANT FROST: He gave me a list?

10 THE COURT: In March?

11 DEFENDANT FROST: And I gave it to
12 him last week. I told him, Mr. Hinson, the
13 list that he gave. I picked one.

14 THE COURT: Well, unfortunately,
15 I mean, I can't delay a trial because of
16 that. You can hire somebody now tonight to
17 help you go through the evidence because your
18 case won't come up for a day or two.

19 How many witnesses have you got?

20 SOLICITOR PRICE: Twelve that I
21 intend to call.

22 THE COURT: And what I'm going to
23 do is just try to get the opening statements
24 in today and then y'all can do whatever you
25 want with that. But I'm not going to

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1 continue the trial because -- I mean, you've
2 had from March to August.

3 DEFENDANT FROST: I did pick one in
4 March. I picked a private investigator in
5 March. Ms. Jones is the witness out there
6 that I picked, the private investigator in
7 March. I sent her the paperwork up there.
8 And he sent me the brochure on her. I did
9 pick one in March.

10 MR. COLE: That was the person
11 who was not available and then ---

12 DEFENDANT FROST: Not available.

13 MR. COLE: Was not available for
14 the amount allocated and then Judge McIntosh
15 denied the ---

16 THE COURT: I'm sort of stuck with
17 what Judge McIntosh did. I think I've got to
18 take it as it is.

19 DEFENDANT FROST: So in other words,
20 I can't have a private investigator neither?

21 THE COURT: You can. But within,
22 I mean -- but I'm not going to continue the
23 trial. I mean, you can hire one right now to
24 help you go through the evidence.

25 DEFENDANT FROST: Can I get a

1 private ---

2 MR. COLE: Your Honor, may I put
3 on the record too that my records appears
4 that the list was -- after our last hearing,
5 the list of private investigators in Anderson
6 and Greenville County, was sent -- I sent it
7 to Mr. Frost approximately the week of July
8 18th. Then I sent another letter to Mr. Frost
9 via fax on August 2nd, telling him to pick
10 someone off that list as well. I just wanted
11 to make sure that it's on the record that
12 that information was given.

13 THE COURT: Okay.

14 DEFENDANT FROST: And I want to make
15 sure that this Motion right here is seen too.
16 This Motion, when I first put in for a
17 private investigator, it was back in August
18 of 2014 that I put that Motion in and I never
19 was heard on that Motion.

20 THE COURT: Well, they gave you
21 the money and an investigator. And, you
22 know, the fact that they're -- if they've got
23 something that they're not ready on, I mean,
24 it's too bad. I mean, I'm holding both of
25 y'all to the same standard.

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1 DEFENDANT FROST: But they never did
2 give me my private investigator. I put my
3 Motion in back in August of 2014 when Mr.
4 Fielders (phonetic) came off my case.

5 THE COURT: Well, and when you --
6 I've just been told that on July 18th you were
7 given a list of those investigator, and that
8 you hired one last week.

9 DEFENDANT FROST: No, we didn't hire
10 one. He was given the money to hire one and
11 he didn't hire one.

12 THE COURT: Well, I can't delay a
13 trial. I mean, again, that's something
14 you've got to do. I mean that's the problem,
15 Mr. Frost, with not having a lawyer. Because
16 this -- you know, I -- what did you do for a
17 living? What was your trade?

18 DEFENDANT FROST: I draw Social
19 Security. I draw SSI.

20 THE COURT: No, I mean, before
21 that what did you do?

22 DEFENDANT FROST: I worked on gas
23 line, pipeline, construction, just odd jobs.

24 THE COURT: I mean, I -- the
25 problem is, if you put me on a gas

1 construction pipeline right now, I'd blow the
2 place up because I don't know anything about
3 it. You're basically in the courtroom and --
4 you've got a good lawyer advising you and I
5 would listen to him. But the rules are the
6 rules for both sides.

7 DEFENDANT FROST: I know. I know
8 that, but I'm not getting a fair trial here,
9 Your Honor.

10 THE COURT: I understand.

11 DEFENDANT FROST: Because I put my
12 Motion in for a private investigator back in
13 August 2014. And they never would look at my
14 private investigator.

15 THE COURT: Well, they ---

16 DEFENDANT FROST: They know the
17 police is involved in killing my daddy.

18 THE COURT: Okay.

19 DEFENDANT FROST: They knowed that
20 and that's why I can't get a private
21 investigator to investigate.

22 THE COURT: All right. Well, I'm
23 going to make a finding then, you still have
24 the right to hire a private investigator ---

25 DEFENDANT FROST: (Addressing Mr.

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1 Cole) You going to hire him for me? You got
2 the money.

3 THE COURT: --- but -- shush.
4 Wait a minute. But you haven't done so and
5 it's the fault of no one. It's a choice you
6 made and I'm not going to delay the trial
7 because of it. And as your lawyer said, it
8 looks like in March there must have been a
9 ruling from the bench but at least as late as
10 July 18th that list was available to you.

11 All right. So have we argued all
12 the Motions we need?

13 SOLICITOR PRICE: There's nothing
14 further from the State at this time in
15 Motions.

16 THE COURT: Any other Motions that
17 you have.

18 DEFENDANT FROST: Yeah. I got one
19 right here for an expert's decision.

20 THE COURT: Stand up.

21 DEFENDANT FROST: For an expert's
22 decision. You know a private investigator
23 does expert decision to see if that's the
24 same knife that did the cuts and all that
25 right there. Because it ain't -- I'm not

1 getting a fair trial.

2 The officers went in there on a John
3 Doe call in and cut my daddy's throat and put
4 cuts all over my daddy. And I'm getting
5 blamed for it. And I can prove that if I get
6 a private investigator. That's all I'm
7 asking for, is a private investigator to look
8 at that evidence.

9 THE COURT: Let me ask you some-
10 thing. Who was living there at the time?

11 DEFENDANT FROST: Me, my daddy and
12 my mother.

13 THE COURT: And is your mama not
14 alive still?

15 DEFENDANT FROST: Yes, sir.

16 THE COURT: Okay. Is she going to
17 testify in this case?

18 SOLICITOR PRICE: Yes, sir, may it
19 please the Court. Actually, this gentleman
20 was not living with them at the time.

21 DEFENDANT FROST: My Social Security
22 check was going there.

23 THE COURT: Wait a minute. Is his
24 mama going to ---

25 SOLICITOR PRICE: She is going to

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1 testify, yes, sir.

2 THE COURT: Okay.

3 DEFENDANT FROST: Right there's my
4 address. The Social Security check that I
5 had going there for thirteen years. My money
6 was going into that household for thirteen
7 years.

8 THE COURT: Well, at the end of
9 this trial, there may be some things I kick
10 out. I understand that you're mad about the
11 burglary because you think that they're
12 charging you with burglarizing your own
13 house.

14 DEFENDANT FROST: Yeah.

15 THE COURT: And there's a time and
16 a place that we can maybe deal with that,
17 just not now.

18 DEFENDANT FROST: All right.

19 THE COURT: Okay. And just so you
20 understand, I'm going to do everything I can
21 to give you a fair trial.

22 DEFENDANT FROST: Well, please.
23 I need a private investigator to get a fair
24 trial. I need a private investigator.

25 THE COURT: And I would have Mr.

1 Cole call him tonight. But we've got to go
2 ahead and get started. I mean, I can't delay
3 it because there was a delay on y'all's part.

4 Again, I would do the same thing and
5 actually the Solicitor's office will tell you
6 they've asked me for continuances in the past
7 fifteen years and I've said 'well, too late
8 now.'

9 DEFENDANT FROST: Well, I ---

10 THE COURT: But I am going to do
11 the opening statements and let you go back
12 and go through your evidence so you can go
13 through it tonight. So you're not going to
14 have to do anything but give your opening
15 statement today, okay?

16 Now, what they want me to warn you
17 about is very difficult for me to warn you
18 because they want me to say I'm not going to
19 mistry this case. I can't say that to this
20 point. I may mistry this case because of
21 something that a witness says, something you
22 say or something they say. But what I can
23 say is this, I am not looking to mistry this
24 case and I'm going to do everything I can to
25 get it done this week.

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1 DEFENDANT FROST: Well, I'm just not
2 getting a fair trial.

3 THE COURT: I understand you say
4 that.

5 DEFENDANT FROST: I need to hire a
6 private investigator to go into the evidence
7 file. The police killed my father and the
8 credibility that's on their case with Mr.
9 Miller committing his crimes ---

10 THE COURT: I understand.

11 DEFENDANT FROST: I'm not getting a
12 fair trial.

13 THE COURT: Okay.

14 DEFENDANT FROST: You talking about
15 a closed case and a private investigator
16 hasn't even had time to look in the case and
17 see what I'm talking about. It's been closed
18 for two years when Mr. Miller threw his
19 incidents with his family.

20 THE COURT: Okay.

21 DEFENDANT FROST: That you don't
22 want me to bring up into the trial ---

23 THE COURT: Well, you can't.

24 DEFENDANT FROST: And that's not
25 fair.

1 THE COURT: That's just one of
2 those things that the rules of evidence ---

3 DEFENDANT FROST: I'm not arguing
4 about it, but I should have a private
5 investigator to look at the expert's
6 decisions and stuff like that, the cuts on my
7 daddy.

8 THE COURT: Then I'd get busy
9 tonight getting somebody but I can't delay
10 this trial because y'all waited. All right.
11 Hold on a minute.

12 DEFENDANT FROST: Well, I know but I
13 ain't getting a fair trial. I can't -- how
14 can I get a fair trial without it?

15 THE COURT: Okay.

16 MR. COLE: Yes, Your Honor, may I
17 ask on this private investigator issue if the
18 Court will allow if the person who he has
19 picked is not available, if -- because it's
20 hard for me, you know, especially being able
21 to communicate with Mr. Frost ---

22 THE COURT: I understand.

23 MR. COLE: --- if I may pick
24 another person from Anderson or Greenville
25 County that's licensed that it wouldn't be --

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1 you know, if I go through this list ---

2 THE COURT: That is fine with me.

3 Mr. Frost, are you okay with that? In other
4 words are you okay with Mr. Cole having the
5 ability, if the first guy's not able to do
6 it, to move down the list?

7 DEFENDANT FROST: Yeah.

8 THE COURT: I mean, I think what
9 he's saying is in case he can't get you on
10 the phone, does he have a right to make that
11 decision to go to the second person?

12 DEFENDANT FROST: Yeah. Yes, sir.

13 THE COURT: Okay. Yeah, you've
14 got that right.

15 Okay. All right. So I guess the
16 only thing we need to do is if anybody's
17 going to be a witness, they should probably
18 leave the courtroom.

19 SOLICITOR PRICE: Yes, sir. We'll
20 sequester the witnesses and may I dismiss my
21 witnesses for the remainder of the day?

22 THE COURT: Yeah. Let me tell you
23 because I don't see any point in -- as I've
24 already said, my goal is to go at a pace that
25 will keep everybody calm, which is counter-

1 intuitive to go slow, but that's what I've
2 decided to do rather than push. So we'll --
3 yeah, you can let any witness go. We will
4 not go into any testimony today because I
5 don't want him to go back and look at his
6 box. Okay. Take a minute. Y'all give me
7 thirty seconds and I'll be right back.

8 (COURT IN RECESS)

9 (DEFENDANT PRESENT)

10 THE COURT: All right. I will
11 call them in. We'll swear them in. I'll
12 give them my fifteen minutes of instructions
13 and then -- ten minutes, and then we'll let
14 y'all go. You can do your openings.

15 MR. COLE: Your Honor, before we
16 bring the jury in we had one more -- I'm
17 sorry, one more issue.

18 THE COURT: What?

19 MR. COLE: The Defendant would
20 like to waive making his opening statement
21 until after the State presents their case.
22 And that is something he -- I found, Your
23 Honor, just really quick, a case law that
24 this is within the trial court's discretion
25 to allow that to happen or not. I believe he

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1 wants that to happen and he wanted to tell
2 the Court why.

3 THE COURT: Anything you want to
4 tell me?

5 DEFENDANT FROST: Yeah. I'd just
6 like to make my opening statement after we
7 retain the private investigator so I could
8 talk to the private investigator.

9 THE COURT: Okay. All right. I
10 deny the Motion. I haven't ever let anybody
11 do that in fifteen years. And I understand
12 and you're protected for the record and when
13 you appeal if you appeal. They may tell me
14 I'm wrong, but I understand.

15 Okay. So what we'll do is we'll
16 bring them in, swear them in. I'll do my
17 thing and then y'all yours and then we'll
18 break for the day.

19 Okay. You can bring them in.

20 (JURY IN @ 3:21 P.M.)

21 THE COURT: Are our two alternates
22 back there? Yeah. The two alternates.
23 Yeah. There you go. Sorry about that. It's
24 hard to figure out.

25 (OFF RECORD DISCUSSION WITH BAILIFF)

1 THE COURT: Yeah. No problem. I
2 mean, they've been waiting back there and I
3 understand. It will be the first of one my
4 many apologies to y'all for making you wait.

5 Before we swear you in and I give
6 you my charge, I just need to tell you that
7 -- and I'll tell you a little bit more about
8 this in my charge. Y'all aren't sitting back
9 there in that little room for nothing. You
10 know we're not playing Tiddledy Winks out
11 here. Sometimes things take a lot longer for
12 me to handle because sometimes they just take
13 longer to handle. And I promise and I'll
14 tell you in a few minute about one of my
15 roles that I -- I will not make you sit back
16 there any longer than you have to. But I
17 apologize for that. It'll be -- as I just
18 told them, one of my many apologies for
19 making you sit back there.

20 All right. First we're going to
21 swear you in and then I'll give you my
22 opening statements and we'll have the parties
23 opening statements.

24 (WHEREUPON JURY SWORN)

25 THE COURT: All right. Ladies and

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Welcome by The Court

1 gentlemen, bear with me for ten minutes
2 or so as I give you some preliminary
3 instructions and also give you a little bit
4 of idea of how we're going to proceed.

5 Let me tell you the first, and it's
6 quite frankly out of order -- as you'll see,
7 my opening statement has sort of a linear
8 flow to it. This is out of order. These are
9 the indictments in this case.

10 There's an indictment for murder,
11 possession of a weapon during a violent
12 crime, attempted murder, burglary and
13 robbery. These are the charges that the
14 State has brought against Mr. Frost. These
15 pieces of paper are literally just that,
16 pieces of paper. An indictment in a case is
17 the process, the beginning of the process
18 that lead us here today.

19 The fact that this defendant has
20 been indicted should never be discussed by
21 you. He has pled not guilty and it is a very
22 serious tenet of the court system that he is
23 still not guilty as he sits here today. I'll
24 tell you a little bit more about that. But
25 the fact that he's been indicted should never

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Welcome by The Court

1 be discussed by you and it does not mean
2 anything. The indictments are literally
3 these things right here. They're pieces of
4 paper. You'll have them with you in the jury
5 room. But you should never infer from an
6 indictment that a defendant may be guilty or
7 may be more likely guilty. Again, that's a
8 little out of order but it's so important
9 that I tell every jury that first.

10 Ladies and gentlemen, I've been
11 concerned over the last fifteen years about
12 the influence of television on jurors. I sit
13 here and watch jury trials, you know, every
14 week or so. In South Carolina, of course, we
15 go to different counties. So I was watching
16 a jury in Conway county two weeks ago. And
17 you can, as a Judge, see that some jurors get
18 antsy, they get frustrated at the pace of a
19 trial. And the best example I can give you
20 is my mother used to call me all the time.
21 She watched every legal show on television.
22 And she used to call me all the time and tell
23 me how exciting my life must be because I was
24 getting to do this job. And I never told her
25 that, quite frankly, it was never like TV.

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Welcome by The Court

1 This case will not be over in an hour with
2 twenty-two minutes worth of commercials.
3 This case will take a couple of days at the
4 very least to try. The reason is that we're
5 here -- and we've spent all day literally
6 trying to pick twelve jurors and two
7 alternates that everyone believed will be
8 fair to the State and to the Defendant. And
9 that process takes an awful lot more time
10 than it could. If we weren't worried about
11 fairness, we'd just draw twelve names out of
12 a box and put you up here.

13 But the process that's lead us here
14 today and at this moment, this long process,
15 from this point forward until you begin
16 deliberating, it is going to be a long and
17 frustratingly delayed process, I'm afraid,
18 that you're getting ready to go through.

19 Again, we're searching for the
20 truth. And the courtroom is a hallowed
21 place. The courtroom is a place where
22 everyone is equal and testimony is taken
23 under oath. Testimony is admitted only when
24 a judge applies the rules of evidence, which
25 have been in place for many years, and it

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1 takes time. So please don't be frustrated
2 with the pace. Don't get mad at the lawyers
3 if you're think they're delaying.

4 I will tell you that in addition
5 to ruling on the evidence and also putting
6 together the charge in this case, I am in
7 charge of kind of keeping it moving. So if
8 you get mad because you're sitting back
9 there, don't get mad at the lawyers, get mad
10 at me. It's my fault. Your delay of an hour
11 and a half or at least an hour was because it
12 took me that long to rule on several things
13 that I had to rule on before you could come
14 in. So please understand that's the process.

15 Now, ladies and gentlemen, you and I
16 have very different roles during the course
17 of this trial. You're the judge of the
18 facts. You have to determine based upon the
19 evidence that you hear from this witness
20 stand, plus any documents that I admit into
21 evidence, what the facts are in this case.

22 If at any point during the course of
23 this trial you think I believe or disbelieve
24 a fact as the judge, disregard that. My
25 opinion about whether someone is telling the

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Welcome by The Court

1 truth or not telling the truth or lying
2 should be nothing to you. If I turn red and
3 my voice rises, if I get mad -- again, you
4 should not use that as an indication of
5 whether or not I believe something to be
6 true. Quite frankly, what I believe is
7 irrelevant. You are the only twelve, fifteen
8 people -- or fourteen people in the room that
9 have to determine what the facts are. And
10 actually your opinions are the only ones that
11 count. But don't take anything that I say as
12 an indication of whether or not I believe a
13 witness or believe a fact to be true.

14 Now, one of the main things you have
15 to do is you have to determine the
16 credibility of the witnesses. Every witness
17 will be in this chair and they'll be sworn in
18 and you'll be able to watch them testify.
19 Under state law credibility simply means
20 believability. You watch a witness talk, how
21 they testify. You make a determination
22 inside your head about whether or not they
23 could have seen what they said they saw. You
24 can watch their demeanor. However, you have
25 to do it, you have to determine whether or

1 not you believe the witnesses that are
2 testifying in this case. You can believe
3 everything that a witness says and disregard
4 the remaining. You can believe one witness.
5 You can disbelieve all the rest. I can't
6 tell you how to do that. But you are the
7 only people in the courtroom who will
8 determine what the facts are in this case.

9 Now, I'm the judge of the law. So
10 during the course of the trial, and just as
11 I've been doing for the last hour and a half,
12 I will have to make rulings of evidence.
13 I'll have to determine the admissibility of
14 legal documents or documents.

15 I'll also have to put together a
16 charge. And as I told you earlier, I'll read
17 it to you at the end of this case.

18 Our roles never cross. In other
19 words, you're the judge of the facts and I'm
20 the judge of the law. I will take the facts
21 as you give them to me and abide by that.
22 I'm telling you and asking that you take the
23 law as I give it to you, apply it to the
24 facts as you determine them to be, and that's
25 how you reach your verdict. But our roles

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Welcome by The Court

1 don't cross and never should cross at all.

2 In a few minutes the parties will
3 give you an opening statement. At the end
4 of the testimony, there'll be a closing
5 statement. Those two things are not
6 evidence. The only evidence that you'll hear
7 in this courtroom will come from this witness
8 stand or any documents or exhibits that are
9 admitted into evidence. And as I said, when
10 you begin your deliberation at the end of
11 this trial, you'll have all of that with you,
12 including the indictments when you begin your
13 deliberations.

14 And one of the things that juries
15 get frustrated at is when lawyers make
16 objections or when parties make objections.
17 Anytime there's an objection in this case,
18 I'm going to send you out of the room. The
19 reason I do that is so we can put on the
20 record a full discussion about what the
21 objection is. Unfortunately it never fails
22 that you will go out of the room because
23 there's an objection and you'll sit for ten
24 minutes, bring you back in. There's another
25 objection and we have to send you out. I

1 promise we're not trying to wear you out but
2 legally, as you can easily understand, you
3 can't be here while they're arguing whether
4 or not a document is admissible. Forgive us
5 for doing that. It's just the way we have to
6 do it.

7 But don't get mad at the lawyers for
8 making an objection. And that's kind of what
9 I've seen sometimes. A lawyer would make
10 objections and then they'll continue to make
11 objections. And you can watch jurors start
12 to form an opinion about the lawyer. Don't
13 do that. That's their job sometimes to make
14 objections. They have to determine whether
15 or not to make them. If they make them,
16 that's their job.

17 Again, if you sit back there longer
18 than you would like to, don't get mad at
19 them, get mad at me.

20 Now, ladies and gentlemen I told you
21 earlier that every time you leave this
22 courtroom I'll tell you don't talk about this
23 case. You cannot begin any deliberations in
24 this case until all the testimony has been
25 put in by the parties.

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Welcome by The Court

1 And, also, I can expect that there
2 will be some publicity about this case. I'm
3 asking you and I'm ordering you not to read
4 anything, watch anything or listen to any-
5 thing on the radio, television, news or
6 internet that might discuss this case.

7 Also, please don't go home and talk
8 to your spouse or your brother or your sister
9 or your children about this case. Until this
10 case is over, you should not discuss it
11 outside this courthouse. And you shouldn't
12 discuss it among yourselves until the whole
13 case has been heard. I understand how hard
14 that is. I can't imagine because I've never
15 had to judge, I've never been caught in the
16 jury room. But the first thing, when my
17 children were smaller if they would say 'dad,
18 what is this case about?' And I would tell
19 them 'I can't talk to you' and explain why.
20 One of the real reason why is just by the
21 nature of explaining and discussing this case
22 with a spouse or a child or a friend or
23 whoever, that person may influence you in
24 some way. And reading anything about this
25 case or listening on the radio or watching

1 anything on television about this case could
2 influence you.

3 I promise you that you will be the
4 fourteen people in this world that know the
5 most about this case. There is nothing that
6 anybody else outside of this room will be
7 able to tell you about this case. You will
8 know everything. So it won't help you to
9 talk to anybody else or discuss this case.
10 I fully expect you to abide by that and not
11 talk to your spouses or your children about
12 the facts in this case. I'm also, as I said,
13 ordering it. Please don't create an issue by
14 doing that.

15 Now, lastly, I wanted to tell you
16 that there have been instances in the last
17 couple of years where jurors have gone home
18 and done internet searches about the cases
19 they were on. I am asking and I am ordering
20 you not to get on the internet, not to search
21 in any way, not to try and find out any
22 information about this case. The reason I'm
23 ordering you, in addition to asking you and
24 begging you not to do that, is if you do it,
25 you would be in contempt. And there have

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Welcome by The Court

1 been judges in this state who have had to
2 deal with jurors who were caught. And you
3 know how easy an IP address is to catch
4 people. They have been caught doing research
5 on cases and they actually were looking at
6 six months in jail. So I'm asking you not to
7 do it and I'm begging you not to put me in a
8 position of having to do that.

9 Again, there is nothing on the
10 internet, on television, the radio or in a
11 newspaper that you won't know. And, in fact,
12 there's nothing that can help you. There
13 will be a lot of information you know that
14 won't be on these other mediums.

15 Once this case is over, you can talk
16 to anybody you want about it. But please
17 understand that this is a serious case. This
18 is Mr. Frost's only day in trial. This is it
19 for him. I mean, his only week for trial.
20 We are trying, as I said, the murder,
21 burglary, robbery and attempted murder.
22 These are serious charges and I'm expecting
23 you to act accordingly and I know you will.

24 Now, judges used to explain it in a
25 way that I, when I was a lawyer, thought was

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Welcome by The Court

1 a little arcane, but as a judge, I think it's
2 the perfect way to describe it. Mr. Frost
3 sits in this courtroom. He's pled not guilty
4 to this charge. Each one of us have a
5 Constitutional -- have the Constitutional
6 protection of requiring the State to prove
7 every charge in each of these charges and
8 every element in each of these charges beyond
9 a reasonable doubt. Mr. Frost started this
10 day out with the robe of innocence or a robe
11 of righteousness about his shoulders. It's
12 the best way I can think of to describe it.
13 He sits in this courtroom today with that
14 robe of righteousness and innocence about
15 him. That robe will stay across his
16 shoulders throughout the trial and will only
17 be removed if after you've heard all the
18 evidence and deliberated and have decided
19 that the State has proven every element of
20 the charges beyond a reasonable doubt, at
21 that point, that robe of innocence is then
22 removed. That is an important right. That's
23 a protection that people in this country have
24 and other countries don't have. He is not
25 guilty as he sits here today. And he will

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1 remain not guilty until the State proves each
2 and every element of these charges beyond a
3 reasonable doubt.

4 At the end of this case, I will tell
5 you in much greater length what reasonable
6 doubt is. But I will tell you that the
7 shortest way and this is the shortest
8 sentence I have on reasonable doubt.
9 Reasonable doubt is proof that leaves you
10 firm convinced of a defendant's guilt. That
11 is evidence that meets the reasonable doubt
12 standard.

13 But, again, remember that he has
14 pled not guilty to each of these and he sits
15 here not guilty until the State has proven
16 their case. I take that very seriously. And
17 that is the reason that things go slow.
18 Because I'm going to make sure this thing is
19 done fair. And then when you make your
20 decision you have all the information you
21 need to make a decision.

22 All right. Now, Mr. Foreman, if
23 there's any problem in the jury room -- if
24 y'all don't like the crackers that Richard
25 Shirley gives you or soft drinks, from this

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1 point forward you can't talk to anybody in
2 the hallways or anybody like that. You write
3 down, Mr. Foreman, what your problem is or
4 your question, sign it, date it, and put the
5 time on it and give it to Buck and he'll
6 bring it to me. If there's a problem with
7 a juror, if there's a problem -- well, if
8 there's any problem that's how we'll
9 communicate from this point forward, with
10 notes from you to me about the jurors. So
11 ladies and gentlemen if you've got a problem
12 with the scheduling, anything like that or a
13 dietary problem, just let me know.

14 We are not -- because of the delays
15 today, the parties are going to give you
16 their opening statements and then I'm going
17 to send you home.

18 Tomorrow we'll start -- I'm going to
19 ask you to come in at 10:00. We'll be here
20 earlier. We'll go until about 4:00 o'clock
21 tomorrow. Again, we have all week to try
22 this case and I'm not in any hurry. This is
23 a serious thing we're doing so we're going to
24 treat it seriously. If you have any
25 scheduling problems, let me know because we

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Opening Statement by Solicitor Price

1 can move a little bit around. I don't
2 expect us to go late any nights. If I expect
3 that when we'll go late because of certain
4 witnesses, I'll let you know as best I can
5 the day before.

6 Listen, y'all have been very
7 patient. If you'll be patient for a little
8 bit longer, you'll hear the opening
9 statements and then I'll send you home.

10 But I cannot say enough, please
11 don't talk about this case to anybody outside
12 of the court. It will only make your job
13 harder. I promise you that. All right.
14 Thank you.

15 Yes, ma'am.

16 SOLICITOR PRICE: Thank you, Your
17 Honor, may it please the Court?

18 THE COURT: Yes, ma'am.

19 SOLICITOR PRICE: Mr. Frost.

OPENING STATEMENT

21 BY SOLICITOR PRICE:

22 Good afternoon ladies and gentlemen
23 of the jury, you heard earlier, my name is
24 Lauren Price. I'm an Assistant Solicitor for
25 the Tenth Circuit Solicitor's Office and I

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Opening Statement by Solicitor Price

1 work here in Anderson County, although we
2 cover both counties. It's my job to
3 prosecute folks who've been charged with
4 violating the laws of our State.

5 The Judge thanked you and I want to
6 thank you for being here today. I know you
7 all have lives outside of this courtroom. I
8 don't mean to take time out of those lives,
9 but I appreciate you taking this week to
10 assist us with this case.

11 It's an important case. It's
12 important not only to the State, but it's
13 important to this defendant. And I hope that
14 by the end of this week you'll find that it's
15 been important to you as well.

16 Now, you may have heard the term
17 "caught red-handed." It means caught in the
18 act. That's exactly what happened in this
19 case. This defendant was apprehended by law
20 enforcement mere moments after he kicked the
21 door in to his mother and stepfather's home,
22 held a knife to his mother's throat, took
23 money from them, then brutally murdered his
24 stepfather by stabbing him to death before
25 stabbing his own mother.

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Opening Statement by Defendant, *Pro Se*

1 And we're going to prove all of this
2 to you this week through the testimony of law
3 enforcement officials, lay witnesses and
4 experts, through the presentation of physical
5 evidence. I submit to you that at the end of
6 all of the testimony and after you've seen
7 all of the evidence in this case, that you'll
8 be firmly convinced, convinced beyond any
9 reasonable doubt of this defendant's guilt
10 and I'm going to ask you to bring back the
11 verdict that justice deserves, a verdict of
12 Guilty.

13 I'm keeping it brief but I do want
14 to thank you for your time and your attention
15 as we proceed with this case this week.
16 Thank you.

17 THE COURT: Mr. Frost, you may
18 make your opening statement.

OPENING STATEMENT

BY MR. FROST:

21 Hi, my name is Robert Frost. There
22 was an incident between me and my stepfather.
23 I was struck with a ball bat and I defended
24 myself. She's got all the evidence in that
25 little box right there where I was hit first

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Opening Statement by Defendant, *Pro Se*

1 with a ball bat and I defended myself. And
2 the actions after I was hit with a ball bat.

3 You know, this had been going on for
4 some time with me and my stepfather, these
5 arguments. He's a motorcycle biker. He's a
6 truck driver. He'd been in motorcycle gangs
7 but he's my stepfather and I love him. I
8 loved him with all my heart, I love my dad.

9 It was just one of them things that
10 happened out of -- just the spur of the
11 moment, we get in an argument. He hits me
12 with a bat and I stabbed him. I did do that.
13 I did do that, but after that right there,
14 the police officers come up in that house and
15 they killed my daddy on a John Doe call-in on
16 a burglary that was in progress. It wasn't a
17 burglary in progress. There was a lady
18 across the street calling it in and they
19 acted on that. When I get this evidence
20 file, I can prove where they placed evidence,
21 where they tampered with the evidence in the
22 house and all of that right there. I can
23 prove all of this and it is the truth. I
24 mean, I can prove it. I don't want you to
25 sit here and take my word for nothing because

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Opening Statement by Defendant, *Pro Se*

1 I ain't got no word. But I'm going to prove
2 it in the evidence file. I can prove it
3 where they moved and placed evidence and they
4 even wiped my mother's house down with her
5 blood. This never happened like this. This
6 was a he hit me and I stabbed him in self-
7 defense. He got away from me, run outside
8 where my motorcycle was. But when the
9 officers rolled up in there, they went in
10 there and made something look like a horror
11 of a house. I mean, they made it look like a
12 horror house and I can prove it in the
13 evidence.

14 I didn't know I was even having
15 court today. But when I bring that evidence
16 file in here tomorrow and show you pictures,
17 don't take my word for it. I want to show
18 you the pictures where they moved and placed
19 evidence and in their incident reports they
20 say it's in another place and it ain't in
21 that place. And y'all uses y'all's own
22 opinion about if somebody rubbed blood on the
23 door. You got blood over and over there.
24 Why come there ain't none in the floor in
25 front of the door if you've got blood all

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1 over the door? And you've got a patch of
2 blood over here in the floor and a patch over
3 there in the floor, why come there ain't none
4 in the floor in front of that door back
5 there. I mean, I want y'all to just see the
6 pictures first. Don't take my word for it.
7 Just see the pictures in the evidence file
8 that was taken up in there.

9 That's all I got to say. I know
10 this is the truth and I'll show you tomorrow.

11 There's a knife impressions in there
12 too, going outside the screened glass door
13 where they opened up the door going to the
14 outside. Not coming in, going to the
15 outside. It's the truth.

16 THE COURT: All right. Ladies and
17 gentlemen, we have some issues we've got to
18 deal with now. I wanted to get that in so
19 tomorrow when we start we will start right
20 with the State's case of calling witnesses.
21 I know it's a little bit anticlimactic to
22 come in here and listen to me talk and then
23 hear opening statements and go home, but
24 you've been here a long time.

25 I'm going to send you home. I ask

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1 that you be in that jury room by 10:00 and
2 we'll start with the first witness at 10:00.
3 Have a great night and thank you again for
4 your patience.

5 (JURY OUT @ 3:47 P.M.)

6 DEFENDANT FROST: Your Honor?

7 THE COURT: Okay. Again, for the
8 last time for both of y'all, it creates a
9 problem for the court reporter if you're
10 talking all at once. So the rule is, if I'm
11 talking then nobody else talks, okay. I'm
12 just -- that makes it easier.

13 All right. We start -- we'll have
14 you back by 9:30 in the morning. And if
15 we've got any issues we'll take up between
16 9:30 and 10:00. Then tomorrow, like I said,
17 I've got to stop about 4:00. I don't have
18 any real choice with this. But as I told
19 you, Mr. Frost, this is your time in Court
20 and we're not going to hurry anything.

21 DEFENDANT FROST: Amen. Thank you,
22 sir.

23 THE COURT: All right. Y'all have
24 a good night.

25 DEFENDANT FROST: Would you let my

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1 witnesses know that I'll have that evidence
2 file tomorrow?

3 THE COURT: Well, talk to him. I
4 can't do anything. I mean, I'm ---

5 DEFENDANT FROST: I'll have that
6 evidence file tomorrow.

7 THE COURT: Okay.

8 (COURT IN RECESS)

9 (TRANSCRIPT CONTINUED NEXT PAGE)

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AUGUST 23, 2016

9:30 a.m.

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1

2

(DEFENDANT PRESENT)

3

(PREMARKED STATE'S EXHIBIT 1)

4

(PREMARKED STATE'S EXHIBIT 2)

5

(PREMARKED STATE'S EXHIBIT 3)

6

(PREMARKED STATE'S EXHIBIT 4)

7

THE COURT: I've gotten a question

8

which is -- they want to know if they're

9

allowed notebooks and I'll tell them no.

10

And then they've asked, what are the

11

role of the two alternate jurors. "Allowed

12

to discuss deliberation or stay quiet unless

13

replacing one of the twelve." And I'll tell

14

them the alternates are to remain quiet

15

unless they're replaced. I'll take care of

16

that.

17

THE COURT: If there's a new

18

argument y'all want to do -- Mr. Cole called

19

me yesterday and said y'all needed some extra

20

time this morning. Y'all had a ---

21

DEFENDANT FROST: Yeah. When I got

22

back ---

23

THE COURT: Stay up, so she (court

24

reporter) can hear you?

25

DEFENDANT FROST: When I got back,

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1 you know, you told me to go through the
2 paperwork and I -- I was missing paperwork.
3 I'm missing the evidence lineup, the main
4 evidence lineup and witness statements when
5 I got back to my cell. I went through
6 everything and that's what I'm missing.

7 Here's a letter from Ms. Jones from
8 the Captain to let her know that I was
9 separated from my paperwork. I'm going to
10 call her a witness in here and then she will
11 testify that I was separated from my
12 paperwork. But Scott Hawkins, he supposed to
13 be getting the evidence lineup off of Ms.
14 Price's camera or something, the evidence
15 lineup.

16 THE COURT: You mean the suspect
17 lineup?

18 DEFENDANT FROST: Yes, in the
19 evidence file there was a lineup in the
20 evidence file.

21 THE COURT: Was there a lineup in
22 this case?

23 SOLICITOR PRICE: Are you talking
24 about a photo lineup?

25 DEFENDANT FROST: Yeah. The photo

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Opening Statement by Defendant, *Pro Se*

1 lineup.

2 SOLICITOR PRICE: Your Honor, there
3 was a photo lineup put together, no one was
4 identified in it. I have copies of that.
5 I'll be happy to have my administrative
6 assistant make a copy right this instant.

7 THE COURT: Yeah, get that to him.

8 SOLICITOR PRICE: Is that what
9 you're referring to?

10 DEFENDANT FROST: Yeah. The
11 pictures.

12 MR. COLE: Your Honor, it's
13 pictures of the crime scene ---

14 DEFENDANT FROST: Yeah. They --
15 like doors and stuff in it.

16 MR. COLE: It's not a photo
17 lineup.

18 DEFENDANT FROST: Not a photo of a
19 person, no.

20 SOLICITOR PRICE: May it please the
21 Court. I've provided Mr. Frost and Mr. Cole
22 both with copies of every single thing that
23 we have throughout the entire course of this
24 lead-up, including additional copies last
25 week, out of abundance of caution.

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1 DEFENDANT FROST: Yeah, but ---

2 SOLICITOR PRICE: And, Your Honor,
3 Mr. Cole this morning had Mr. Frost's newly
4 assigned investigator come by my office. I
5 provided him with my flash drive, which has
6 the same photographs ---

7 THE COURT: Okay.

8 SOLICITOR PRICE: --- and autopsy
9 photos on it. As I told Mr. Cole this
10 morning, I don't know what Mr. Frost is
11 missing. I only know that I've given him
12 everything and now I have given him multiple
13 copies.

14 THE COURT: So you gave him
15 everything you had?

16 SOLICITOR PRICE: Absolutely.

17 DEFENDANT FROST: Except for my
18 pictures, my pictures that was took at the
19 scene, she didn't give me my ---

20 SOLICITOR PRICE: Oh, Your Honor,
21 may it please the Court?

22 THE COURT: Sure.

23 SOLICITOR PRICE: There are no
24 photographs of Mr. Frost. I went over that
25 with -- it is mentioned in one line of an

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1 incident report by somebody, by Investigator
2 McElrath. Is that the photos you're
3 referring to?

4 DEFENDANT FROST: Yeah.

5 SOLICITOR PRICE: It says
6 photographs of Mr. Frost were taken at the
7 hospital. And I met with Captain Richey,
8 with Dwayne McElrath and with Lieutenant
9 Scott and that was a miscommunication.
10 There, in fact, were no photographs taken of
11 Mr. Frost at the hospital.

12 The State is, in fact, relying on a
13 booking photo of Mr. Frost from that night.
14 That is the only photograph that I have in my
15 possession of Mr. Frost.

16 And I had Dwayne McElrath go back
17 and look in the property and evidence to make
18 sure that there weren't any digital copies on
19 their hard drive.

20 So I've gone over that issue but I
21 can understand wouldn't know that those are
22 missing. They certainly aren't in my
23 possession and the people that I've spoken
24 with tell me that that was a miscommunica-
25 tion, they don't exist.

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Opening Statement by Defendant, *Pro Se*

1 THE COURT: Okay. Well, whatever
2 you've got under Rule 5 ---

3 SOLICITOR PRICE: I have.

4 THE COURT: --- the flash drive to
5 his investigator ---

6 SOLICITOR PRICE: Yes, sir. In
7 fact, I think I over complied because I
8 provided them with additional copies out of
9 an abundance of caution. And Mr. Cole has
10 been part of that over the past couple of
11 weeks.

12 MR. COLE: Your Honor, if I may
13 just put on the record too, until --
14 basically everything that the Solicitor's
15 office provided to me, I made copies of and
16 provided to Mr. Frost as well. Once it got
17 to the jail, I don't know what would happen
18 to that, what happened if he's missing things
19 of that. I'd provided I had to Mr. Frost.

20 THE COURT: Okay.

21 MR. COLE: Thank you.

22 THE COURT: Okay. All right.

23 DEFENDANT FROST: As I said, I've
24 been separated from the paperwork. I've got
25 a letter from Ms. Jones, Captain Jones where

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Opening Statement by Defendant, *Pro Se*

1 I've been separated from it and my stuff has
2 been stolen or misplaced, has been moved
3 around in the jail.

4 THE COURT: Well, apparently
5 you've gotten everything.

6 DEFENDANT FROST: That's why I asked
7 for a new evidence file, you know, on that
8 Motion.

9 THE COURT: Well, she says she's
10 given you a flash drive with everything she's
11 got. So when you look through that or your
12 investigator looks through it, if they come
13 up with something missing, let me know. I
14 mean, the Rules require they give you
15 everything and I expect that she did.

16 Hey, let me tell y'all just house-
17 keeping wise. As far as -- and this is a
18 little out of the normal -- but both sides
19 get to ask their questions from about right
20 there in front of Vivian (court reporter) so
21 she can hear you. And then if you've got
22 something you want a witness to look at, hand
23 it to Mr. Shirley and he'll hand it to the
24 witness, okay?

25 SOLICITOR PRICE: May it please the

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Opening Statement by Defendant, *Pro Se*

1 Court?

2 THE COURT: Uh-huh?

3 SOLICITOR PRICE: For one witness I
4 do have them set to draw a picture of the
5 scene. And it's typical for me to use the
6 overhead projector with photos after they've
7 reviewed them on the stand. Would the Court
8 permit me to have those witnesses do that
9 with some supervision from Mr. Shirley?

10 THE COURT: Sure. We'll see how
11 it goes.

12 SOLICITOR PRICE: Thank you. Yes,
13 sir.

14 THE COURT: But mainly when you're
15 questioning them, if you'll stand there so
16 Vivian can hear you.

17 Who's your first witness?

18 SOLICITOR PRICE: Your Honor, the
19 first witness is Samantha Tillman.

20 THE COURT: Okay. Well, as soon
21 as these jurors get here -- we're waiting on
22 one more. Is it one or two?

23 CLERK: I can find out.

24 THE COURT: Let me go get my other
25 glasses. I'll be right back.

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1 SOLICITOR PRICE: Vivian, these are
2 the first exhibits so since Mr. Shirley is
3 going to help me out, I'll have them up here.

4 COURT REPORTER: But those are
5 already marked though?

6 SOLICITOR PRICE: Yeah. You marked
7 them.

8 (COURT AT-EASE)

9 (DEFENDANT PRESENT)

10 THE COURT: Did y'all say there
11 was another Motion?

12 MR. COLE: Mr. Frost has
13 requested a Motion he wants to make to the
14 Court.

15 THE COURT: Okay. Hold on just a
16 second. Let us get this situated.

17 All right. Yes, sir?

18 DEFENDANT FROST: Yes, I'd just like
19 to make a Motion if I could have a little bit
20 of time with my investigator to go over some
21 of these pictures with him so when it's time
22 to call the witness, I can call him to the
23 witness stand. I just have received 'em --
24 for cross-examination.

25 THE COURT: You mean when you call

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1 him to the stand?

2 DEFENDANT FROST: Yeah, Investigator
3 Scott.

4 THE COURT: Well, we won't get to
5 him today. So sometime today, I'll give you
6 a little time with him, okay?

7 DEFENDANT FROST: Okay.

8 SOLICITOR PRICE: Your Honor?

9 THE COURT: Yes, ma'am.

10 SOLICITOR PRICE: It's typical for
11 me to use the podium that's next to the
12 State's table. Is that an appropriate place
13 for me to address my witnesses?

14 THE COURT: Is that movable? Can
15 you move that over a little bit?

16 SOLICITOR PRICE: We can.

17 THE COURT: Yeah. Let's move it
18 a little bit away from the jury box.

19 SOLICITOR PRICE: Okay. Judge, how
20 far back do you want it to be?

21 THE COURT: Wherever so they're
22 not uncomfortable.

23 SOLICITOR PRICE: (Moving podium).

24 THE COURT: Is that good?

25 SOLICITOR PRICE: Absolutely.

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1 THE COURT: Just so that she
2 (court reporter) will be able to hear you
3 good.

4 SOLICITOR PRICE: Thank you, Judge.
5 And I normally wouldn't ask, except I just
6 met with the witness who is using the canine.
7 And she is of the belief I'm going to be in
8 a certain position. So I'm trying to
9 accommodate that.

10 THE COURT: Okay. And when is
11 that witness going to testify?

12 SOLICITOR PRICE: Your Honor, she
13 will be the fourth witness to testify today.
14 And we'll have to take the jury out before
15 she takes the stand.

16 THE COURT: Right. And remember
17 I've got to leave at about 4:00 today, so I'm
18 sorry.

19 SOLICITOR PRICE: Yes, sir.

20 THE COURT: There's nothing I can
21 do about it.

22 SOLICITOR PRICE: I know. We're
23 prepared to go forward.

24 THE COURT: What I'm hoping is
25 that juror thought I said 10:30. I know I

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1 didn't.

2 COURT REPORTER: You want me to
3 make that juror note an exhibit?

4 THE COURT: Yes, you might as well
5 go ahead and jump ahead and then I'll ---

6 COURT REPORTER: You want it back
7 after?

8 THE COURT: Yeah. I've got to
9 read it to them.

10 (SO ENTERED AS COURT'S EXHIBIT 1)

11 (COURT AT-EASE)

12 THE COURT: We're sending a deputy
13 out to find this juror. I'm going to replace
14 him, but I'm going to let a deputy pick him
15 up anyway. So the first alternate, I don't
16 remember who that was. Richard's going to
17 check.

18 We're going to replace -- if you
19 just don't show up and you got a good reason,
20 that's one thing. But if you just don't show
21 up and we call and you don't answer the
22 phone, then he's going to have to explain
23 that to me.

24 SOLICITOR PRICE: Yes, sir. Judge,
25 the alternate, the first alternate is Number

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1 47. Do we have the juror number for the ---

2 CLERK: The first alternate is

3 Jorge L. Fraga, Juror Number 47.

4 THE COURT: Okay. Are y'all

5 ready? And when the deputy brings him here,

6 we'll put him in a room somewhere and let him

7 cool his jets for a while. Is that okay,

8 folks?

9 All right. You can bring them in.

10 The first thing I'll do is deal with this and

11 then I'll let y'all call your first witness.

12 SOLICITOR PRICE: Mr. Clerk, who was

13 the juror that -- what was the juror number

14 that's being replaced?

15 CLERK: Mr. Brown and he's Juror

16 Number 50.

17 (JURY IN @ 10:44 A.M.)

18 THE COURT: Okay. Mr. Fraga, not

19 so fast. You're back up -- you're on this

20 jury now. We're missing a juror. I'm sorry.

21 We're sending a deputy out to bring him in to

22 explain why we've been waiting all this time

23 but we're not going to wait any longer. And

24 Mr. Fraga you were the first alternate

25 selected so you're on the jury.

1 By the way, this is exactly the way
2 you should do it. The note is "Allow
3 notebooks in trial?", question mark. The
4 answer to that's no and I should have told
5 you that. That was an omission on my part.

6 When this trial's over, I come back
7 with every jury and talk to them off the
8 record and I'll explain the reason for no
9 notebooks.

10 And then "What are the roles of the
11 two alternate jurors? Allowed to discuss in
12 deliberation or stay quiet unless replacing
13 number twelve." They have the same role at
14 this point as you. Listen because, as you
15 can see, there's a very good likelihood you
16 may be on this jury. Since you can't
17 deliberate the case until the end of the
18 case, they are just as much a part of the
19 jury as you are until I release them after
20 I've let you begin your deliberations. So
21 it's kind of like being the backup
22 quarterback in the NFL. You better be ready
23 to go in and do your time.

24 Okay. All right. You can call your
25 first witness.

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Testimony of Samantha Tillman - Direct Examination

1 SOLICITOR PRICE: Thank you, Your
2 Honor, the State calls Samantha Tillman to
3 the stand.

4 (WITNESS TAKES STAND)

5 THE COURT: Make sure, ma'am, you
6 speak up, okay?

7 WITNESS: (Affirmative nod).

8 SAMANTHA TILLMAN, having been duly sworn
9 to tell the truth, and nothing but the truth,
10 testified as follows:

11 DIRECT EXAMINATION

12 BY SOLICITOR PRICE:

13 Q. Ms. Tillman, you worked a third
14 shift last night; is that correct?

15 A. Correct.

16 Q. Okay. Thank you for being here
17 today. Where do you live, ma'am?

18 A. In Iva, [REDACTED] Betsy Street in Iva.

19 Q. Okay. Is that where you lived in
20 2012?

21 A. No, ma'am.

22 Q. Okay. Where did you live in July of
23 2012?

24 A. [REDACTED] Boston Street, Anderson.

25 Q. Do you know someone by the name of

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Testimony of Samantha Tillman - Direct Examination

1 Robert Frost?

2 A. Yes, I do.

3 Q. How do you know him?

4 A. He was my neighbor.

5 Q. He was your neighbor when?

6 A. In 2012 for about two or three
7 years.

8 Q. For the two to three years prior to
9 that date?

10 A. Uh-huh.

11 Q. Okay. Do you call him Robert?

12 A. Robbie.

13 Q. Robbie. During the week leading up
14 to July 15th of 2012, how was Mr. Frost
15 acting?

16 A. He was acting, like, abnormal. He
17 was angry, he was depressed. He was
18 abnormal, not hisself.

19 Q. Okay. Did you see him on Sunday the
20 15th of July of 2012?

21 A. Yes, I did. I see him when I go out
22 for the day. He was out off and on and I
23 seen him when I left out that day.

24 Q. Okay. Did he have you call anyone
25 for him?

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Testimony of Samantha Tillman - Direct Examination

1 A. He asked me to call Kayla his
2 girlfriend several times.

3 Q. And when you saw him throughout that
4 day, what did you see him do?

5 A. He was in and out of his house at
6 different times that day. I know he was
7 probably drinking. That evening he came out
8 of his house, he had something in his hand.
9 He put it in his saddlebag and he said -- his
10 last statement was to me, 'Samantha, I love
11 you but I gotta go. You can have everything
12 out of my house you want because the next
13 time you see me, you'll be seeing me on the
14 11:00 News.'

15 Q. Okay. And about what time did he
16 say that to you?

17 A. It happened around 6:30, from 6:30
18 to 8:00, somewhere in them hours.

19 Q. In that evening?

20 A. Yeah.

21 Q. What did he do after he told you
22 that the next time you saw him it would be on
23 the 11:00 News?

24 A. He got on his motorcycle and lit a
25 cigarette and drove off.

1 Q. Okay. Do you remember what color
2 the motorcycle was?

3 A. Red and black.

4 Q. And what did you do after he said
5 that to you?

6 A. After he said that to me, I went,
7 got the phone, tried to call his mom several
8 times but I could not get in touch with her
9 because the phones was busy.

10 Q. Okay. You got a busy signal every
11 time you called her?

12 A. Uh-huh, (affirmative nod).

13 Q. And do you know what her name is?

14 A. Faye Davenport.

15 Q. Okay. Did you call anybody else?

16 A. Yeah. I called Kayla's mom and told
17 her to be -- that Robbie is on his way up
18 there or somewhere. Just to be on the
19 lookout for Robbie.

20 Q. And who was Kayla?

21 A. Kayla was Robbie's girlfriend.

22 Q. Okay. Did you learn that something
23 had happened that night?

24 A. I learned that something happened
25 that night through social media, with

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Testimony of Samantha Tillman - Direct Examination

1 Facebook, that there was a murder in Iva and
2 somebody named Pete was killed?

3 Q. Okay. Did the police ever come and
4 get a statement from you?

5 A. Yes, they did.

6 Q. Did you tell them what you're
7 telling us today?

8 A. Yes, I did.

9 Q. Were you telling the truth then?

10 A. Yes, I did.

11 Q. Are you telling the truth today?

12 A. Yes, ma'am.

13 Q. Okay. Other than coming to court
14 to testify today, have you had any other
15 involvement in this case?

16 A. No.

17 Q. Okay. Ms. Tillman, do you see the
18 man who told you that the next time you saw
19 him he would be on the 11:00 News, before he
20 got on his motorcycle with an object that he
21 put in his saddle bag, in this courtroom
22 today?

23 A. Yes.

24 Q. Who is that man?

25 A. Robbie.

1 Q. Okay. Would you please point him
2 out to the jury and describe what he's
3 wearing?

4 A. A blue shirt and khaki pants

5 Q. Okay. Thank you, Ms. Tillman.
6 Please answer any questions that Mr. Frost
7 has for you at this time.

8 THE COURT: All right. Yes, sir.
9 Do you have any questions?

10 DEFENDANT FROST: Yes, sir.

11 THE COURT: Okay. You can stand
12 over here behind the podium.

13 CROSS-EXAMINATION

14 BY DEFENDANT FROST:

15 Q. What's up, Samantha?

16 A. Hey.

17 Q. There's a few things I'd like to ask
18 you. Do you remember what you got for
19 Christmas last year?

20 A. Do I remember? Yes.

21 Q. Do you?

22 A. Uh-huh, (affirmative nod).

23 Q. How about for your birthday?

24 A. Yeah.

25 Q. Four years is a long time, ain't it?

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Testimony of Samantha Tillman - Cross Examination

1 A. Uh-huh, (affirmative nod).

2 Q. To have a good memory like that?

3 A. (Affirmative nod).

4 Q. I just want to know some of your
5 arrest records right here. Some of your
6 convictions right here.

7 A. Uh-huh.

8 Q. That's credibility.

9 A. Everybody makes mistakes.

10 Q. Everybody makes mistakes. Yeah, I
11 seen here where you had a fraudulent check
12 back there in 2006, another one in 2006, and
13 another one 2006.

14 COURT REPORTER: Mr. Frost, can you
15 speak up, please?

16 DEFENDANT FROST: Sure.

17 CROSS-EXAMINATION CONTINUED

18 BY DEFENDANT FROST:

19 Q. That's four of them in 2006.

20 A. Uh-huh.

21 Q. Have you ever watched out for
22 anybody whenever they stole anything?

23 A. (Negative gesture).

24 Q. You ain't?

25 A. (No verbal response).

1 Q. Well, have you always been real
2 honest?

3 A. Yeah.

4 Q. Do you like to kind of pick up stuff
5 that don't belong to you?

6 A. No.

7 Q. No? Right here we got a forgery
8 charge in 2006?

9 A. I did.

10 Q. Yeah. And another one in 2006, two
11 of them. What color did you say my motor-
12 cycle was?

13 A. Red and black.

14 Q. Red and black. What did you say I
15 had in my hand?

16 A. I said you had an object in your
17 hand.

18 Q. An object? It could have been
19 anything, right? A newspaper?

20 A. An object's an object.

21 DEFENDANT FROST: I have some papers
22 right here. If you don't mind, can I hand
23 these to her?

24 THE COURT: You need to show them
25 to the other side, first.

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1 DEFENDANT FROST: All right. This
2 is one of the receipts that I've had from
3 mother. She said she knew my mother's name.

4 SOLICITOR PRICE: Well, hold on.

5 THE COURT: Yeah. Let her look at
6 them.

7 DEFENDANT FROST: Oh, okay.

8 SOLICITOR PRICE: (Upon review), --
9 Judge, I've never seen these.

10 THE COURT: Okay. Ladies and
11 gentlemen, I'm going to send you out for just
12 two minutes and it will not be more than two
13 minutes. Please don't discuss the case.

14 (JURY OUT @ 10:54 A.M.)

15 SOLICITOR PRICE: If you intend to
16 introduce them then I need see them.

17 THE COURT: What are they?

18 DEFENDANT FROST: It's money
19 receipts from my mother since I've been there
20 incarcerated. She knows my mother and I just
21 want her to verify it, that they was all from
22 my mother.

23 THE COURT: Okay. Well, let me
24 ask you this.

25 DEFENDANT FROST: She said she

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1 talked to my mother.

2 THE COURT: Okay. Will this is
3 called -- something called a proffer. And
4 you need to ask her the question you're going
5 to ask her.

6 DEFENDANT FROST: Yes, sir.

7 THE COURT: Then we'll see if she
8 -- because if she says 'I don't know these --
9 about these things', then you stop there, so
10 ---

11 SOLICITOR PRICE: Well, Judge, I'm
12 going to object to this because she can't
13 authenticate this.

14 THE COURT: That's what I'm going
15 to ask him.

16 SOLICITOR PRICE: Yeah.

17 THE COURT: All right. Ask her the
18 question that you're going to ask in front of
19 the jury and let me see what her answer is.

20 PROFFER CROSS-EXAMINATION

21 BY DEFENDANT FROST:

22 Q. You know my mother, Faye; right?

23 A. Yes, I do.

24 DEFENDANT FROST: That's all. I
25 just want to ask her if she knows my mother.

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1 And she said she talked to her on the
2 telephone and I was just wanting to make
3 sure, said that that's ---

4 THE COURT: But you're not going
5 to show her those receipts?

6 DEFENDANT FROST: Yeah, I was.

7 THE COURT: Okay. Well, ask her
8 the question you were going to ask her. Show
9 them to her. You need to show them to her.
10 Give them to Mr. Shirley he'll hand them to
11 her and then you -- ask her whatever
12 questions you want to ask and then I'll make
13 a determination about whether you can ask in
14 front of the jury.

15 DEFENDANT FROST: (Tenders to clerk)

16 CLERK: (Tenders documents to
17 witness)

18 THE COURT: Okay. Give her a
19 chance to look at them.

20 WITNESS: (Upon review), I don't
21 know nothing about this.

22 THE COURT: I'm sorry. What was
23 that?

24 WITNESS: I don't know nothing
25 about this.

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1 THE COURT: Okay. Ask your
2 question.

3 DEFENDANT FROST: All right. Well,
4 I done got lost, so -- I done got lost, so.

5 THE COURT: Well, your question
6 was going to be about the receipts?

7 DEFENDANT FROST: Yeah.

8 THE COURT: Okay.

9 DEFENDANT FROST: Yes, sir. I just
10 want to ask her if that's the mother that she
11 was talking to on the telephone, what I was
12 going to ask her. You know, my mother, Faye
13 Davenport, was that her?

14 THE COURT: And you're saying you
15 don't know anything those receipts?

16 WITNESS: I don't know nothing
17 about those receipts.

18 THE COURT: Okay. It might be
19 better to ask her the question you just
20 asked, 'do you know my mother?' Okay. I
21 won't let you ask about the receipts because
22 her answer was no.

23 DEFENDANT FROST: All right.

24 (PROFFER CONCLUDED)

25 THE COURT: Okay. You can bring

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1 them back in.

2 DEFENDANT FROST: I'm just trying to
3 verify it, you know.

4 THE COURT: Oh, I understand.

5 DEFENDANT FROST: I was just trying
6 to verify.

7 THE COURT: I understand.

8 DEFENDANT FROST: Is this all right
9 to put these into evidence?

10 THE COURT: No, you can't do that.
11 We'll talk about that the next time they're
12 out because they're not into evidence yet.
13 You can't do it through this witness because
14 she's not been -- she said she doesn't know
15 anything about it, so she couldn't
16 authenticate that.

17 (JURY IN @ 10:57 A.M.)

18 THE COURT: Okay. Yes, sir. You
19 can ask the next question, now.

20 BAILIFF: Your Honor?

21 THE COURT: Hold on.

22 BAILIFF: They can't hear.

23 THE COURT: Okay. You're going to
24 have to really speak up, okay? Make sure
25 they can hear you and we'll figure out a way

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1 around that, but -- yes, sir?

2 DEFENDANT FROST: All right.

3 CROSS-EXAMINATION CONTINUED

4 BY DEFENDANT FROST:

5 Q. Do you know Russell Dennis?

6 A. Yes, sir.

7 Q. Who is he to you?

8 A. He was my boyfriend. He's here.

9 Q. He's your boyfriend. Have you ever
10 seen him steal anything from you?

11 A. No.

12 Q. Does a silver garbage can come to
13 your mind?

14 A. No.

15 Q. How about a lawnmower, does that
16 come to you?

17 A. No.

18 Q. All right. Have you ever seen him
19 come across the street and ask me for any
20 cigarettes or a beer or anything?

21 A. Yeah.

22 Q. You have?

23 A. Uh-huh, (affirmative nod).

24 Q. Did I give it to him?

25 A. You did.

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1 Q. All right.

2 DEFENDANT FROST: That's all, Your
3 Honor.

4 THE COURT: Okay. Anything on
5 redirect?

6 SOLICITOR PRICE: Nothing from the
7 State.

8 THE COURT: All right. Since
9 she's on third, can she be released from her
10 subpoena so she can get some rest?

11 SOLICITOR PRICE: Please, Your
12 Honor, may this witness be excused.

13 THE COURT: All right. You're
14 released from your subpoena. Get you some
15 rest.

16 (WITNESS STEPS DOWN)

17 THE COURT: Okay. You can call
18 your next witness.

19 SOLICITOR PRICE: Your Honor, may it
20 please the Court. The State calls Russell
21 Dennis.

22 THE COURT: Ladies and gentlemen,
23 if you have trouble hearing and I understand
24 with this, we may have to move this back a
25 little bit. But there's a reason why it is

1 there. Just raise your hand and I'll
2 make him speak up. We don't have a mic,
3 that's the problem.

4 (WITNESS TAKES STAND)

5 RUSSELL DENNIS, having been duly sworn
6 to tell the truth, and nothing but the truth,
7 testified as follows:

8 DIRECT EXAMINATION

9 BY SOLICITOR PRICE:

10 Q. Thank you, Mr. Dennis? Where do you
11 live?

12 A. [REDACTED] Nardin Avenue.

13 Q. Okay. Is that where you lived in
14 2012?

15 A. No, ma'am.

16 Q. Okay. Do you remember where you
17 lived in 2012 in July?

18 A. On Boston Street.

19 Q. Okay. Do you know someone by the
20 name of Robert Frost?

21 A. Yes, ma'am.

22 Q. How do you know him?

23 A. He was my neighbor.

24 Q. He was your neighbor when?

25 A. When I lived on Boston.

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1 Q. Okay. For how long had he been your
2 neighbor?

3 A. About three years.

4 Q. On Sunday the 15th of July of 2012,
5 did you see Mr. Frost?

6 A. Yes ma'am.

7 Q. Did he say anything to you that day?

8 A. Yes, ma'am.

9 Q. What did he say?

10 A. Well, he came over to use the phone
11 about two or three times to try to call his
12 girlfriend, Kayla, because she -- she had
13 been gone for about three days. He wanted
14 her to come home. And he said, 'I'm going to
15 call you one more time.' And sure enough he
16 comes back in about five minutes, and he goes
17 -- 'I'm going to go do something very crazy,
18 I'm going to go kill somebody.'

19 Q. Okay. Had he told you anything else
20 later in the day?

21 A. Well, he had tried to get a gun.

22 Q. Okay. And what happened the last
23 time you saw him that day?

24 A. Well, he had got on his motorcycle.
25 Well, Kayla didn't called back so he went in

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Testimony of Russell Dennis - Direct Examination

1 the house ---

2 Q. She did not call back?

3 A. Yes, ma'am. He went in his house,
4 pulled out his burgundy motorcycle, backed
5 it out from -- he's got like a little room.
6 Backed it out and he had like two black
7 knives and he put them both in the saddle-
8 bags.

9 Q. Okay. And did he say anything to
10 you when he left?

11 A. Yes, ma'am. He told me, me and my
12 wife and my son he said, "I'm leaving. I
13 won't be back. My doors are unlocked. If
14 y'all want anything in my house, you can have
15 anything because the doors are unlocked but I
16 promise you, you'll see me on the 11:00 News
17 tonight."

18 Q. Okay. And when you say your wife,
19 who is that?

20 A. Samantha Tillman.

21 Q. Did you learn that something
22 happened later that night?

23 A. Do what now?

24 Q. Did you learn that something had
25 happened, later that night?

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1 A. Yes, ma'am. I was working next door
2 in my landlord's house and he had came
3 outside. He was, like, 'do you know Pete?'
4 I said, 'I don't know no Pete.' And he said
5 'that's Robbie's dad.' Then he told me that
6 his niece had told him that Robbie had killed
7 his stepdad.

8 Q. Did the police come and get a
9 statement from you?

10 A. Yes, ma'am.

11 Q. Did you tell them what you've told
12 us today?

13 A. Yes, ma'am.

14 Q. Were you telling the truth then?

15 A. Yes, ma'am.

16 Q. And are you telling the truth now?

17 A. Yes, ma'am.

18 Q. Other than coming to court to
19 testify today, have you had any other
20 involvement in this case?

21 A. No, ma'am.

22 Q. Okay. Do you see the man who was
23 your neighbor, that you saw putting knives in
24 his saddlebag and leaving on his motorcycle,
25 in the courtroom today?

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Testimony of Russell Dennis - Cross Examination

1 A. Right there, (indicating).

2 Q. Okay. What's he wearing?

3 A. A black shirt.

4 Q. Okay. Who is that man?

5 A. Robert Frost.

6 Q. Please answer any questions that Mr.
7 Frost has for you.

8 CROSS-EXAMINATION

9 BY DEFENDANT FROST:

10 Q. How you doing, RJ?

11 A. I'm okay.

12 THE COURT: You've got to really
13 speak up so they can hear you.

14 DEFENDANT FROST: All right.

15 CROSS-EXAMINATION CONTINUED

16 BY DEFENDANT FROST:

17 Q. How you doing RJ?

18 A. I'm doing good.

19 Q. All right. You said I was going to
20 go kill somebody?

21 A. Yes, sir.

22 Q. Did you see me kill anybody?

23 A. No, sir.

24 Q. You said you seen me put two knives
25 in the saddlebags?

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Testimony of Russell Dennis - Cross Examination

1 A. Yes, sir.

2 Q. What makes you think they was
3 knives?

4 A. They was, they was long.

5 Q. Where was you at when you seen that?

6 A. I was sitting on the front porch.

7 Q. On your front -- how far is that
8 away from where I was?

9 A. It was right across the street.

10 Q. Could it have been anything else, a
11 tool or anything?

12 A. (No verbal response).

13 Q. You got good eyesight?

14 A. Pretty good.

15 Q. You ever smoked crack?

16 A. Yes, sir, I have.

17 Q. You have?

18 A. (No verbal response).

19 Q. How often do you smoke?

20 A. I've smoked it plenty times.

21 Q. Well, how many days? I mean, how
22 much you do a day?

23 A. I don't do nothing now.

24 Q. You ever been arrested?

25 A. Yes, sir.

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Testimony of Russell Dennis - Cross Examination

1 Q. How's your credibility?

2 A. Huh?

3 Q. How's your credibility?

4 A. Pretty good.

5 Q. Pretty good. I see you got some

6 forgeries on here.

7 A. Yes, sir.

8 Q. You did eighteen months, didn't you

9 for some forgeries at one time?

10 A. Yes, sir. I am on probation, I done

11 did the time.

12 Q. Well, you got one right here in

13 2007, a forgery where you did eleven months?

14 THE COURT: Is that a question?

15 DEFENDANT FROST: Yeah.

16 THE COURT: Okay.

17 CROSS-EXAMINATION CONTINUED

18 BY DEFENDANT FROST:

19 Q. You did a forgery in 2007, eleven
20 months?

21 A. Yeah.

22 Q. Speak up?

23 A. Yes, sir.

24 Q. Thank you. Have you ever stole
25 anything from me?

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Testimony of Russell Dennis - Redirect Examination

1 A. No, sir.

2 Q. You don't remember a silver trashcan
3 from the back yard?

4 A. No, sir.

5 Q. You put on a truck and took to the
6 landfill -- I mean, the scrap yard?

7 A. No, sir.

8 Q. How about a lawn mower?

9 A. No, sir. Not -- ain't no police
10 report, I have not taken nothing.

11 Q. Well, I see here you like to write a
12 lot of forgery checks. And you say you like
13 smoking crack.

14 DEFENDANT FROST: No further
15 questions, sir.

16 THE COURT: All right. Anything
17 on redirect?

18 SOLICITOR PRICE: Just briefly, Your
19 Honor.

20 THE COURT: Sure.

21 REDIRECT EXAMINATION

22 BY SOLICITOR PRICE:

23 Q. Mr. Dennis?

24 A. Yes, ma'am.

25 Q. You've made some mistakes?

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Testimony of Russell Dennis - Redirect Examination

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1 A. Yes, ma'am.

2 Q. Okay. You served time for those
3 mistakes?

4 A. Yes, ma'am.

5 Q. I'll ask you again, are you telling
6 the truth about what you saw that day?

7 A. Yes, ma'am.

8 Q. And you gave a statement to police
9 in 2012; is that right?

10 A. Yes, ma'am.

11 Q. And it said the same thing that
12 you're telling us today?

13 A. Yes, ma'am.

14 Q. Okay.

15 SOLICITOR PRICE: No further
16 questions.

17 THE COURT: All right. You can
18 step down. Is he under subpoena?

19 SOLICITOR PRICE: He is. May he be
20 excused, Your Honor?

21 THE COURT: Any objection to him
22 being excused?

23 DEFENDANT FROST: Could I ask a
24 couple more questions?

25 THE COURT: No. No.

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Testimony of Tina Stone - Direct Examination

1 DEFENDANT FROST: I can't ask him
2 one?

3 THE COURT: No. Okay. All right.
4 You're excused from any subpoena.

5 (WITNESS STEPS DOWN)

6 THE COURT: Yeah. The way it goes
7 is direct, cross and then she gets to
8 redirect on anything you might have brought
9 up and so forth.

10 DEFENDANT FROST: Okay.

11 THE COURT: Okay. You can call
12 your next witness.

13 SOLICITOR PRICE: Thank you, Your
14 Honor. The State calls Tina Stone.

15 (WITNESS TAKES STAND)

16 THE COURT: Ma'am, if you would,
17 speak into that microphone and speak as
18 clearly as you can. It's hard to hear in
19 here.

20 WITNESS: Yes, sir.

21 TINA STONE, having been duly sworn to
22 tell the truth, and nothing but the truth,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR PRICE:

1 Q. Thank you, Ms. Stone? Who do you
2 work for?

3 A. Anderson County 9-1-1.

4 Q. Okay. And in what capacity do you
5 work for them?

6 A. I'm a 9-1-1 dispatcher.

7 Q. Okay. And were you working for them
8 in that capacity on July 15th of 2012?

9 A. I was.

10 Q. What were you doing at that time?

11 A. I was taking the 9-1-1 calls.

12 Q. Okay. And tell me how dispatch
13 works in Anderson County.

14 A. We take emergency and non-emergency
15 calls for Anderson County.

16 Q. Okay. Do you take calls for
17 municipalities as well?

18 A. We do.

19 Q. Okay. And what is a municipality,
20 for the jury?

21 A. We dispatch for Honea Path or
22 Belton, Williamston, Pendleton, Anderson
23 City, Anderson County.

24 Q. Okay. And do those calls generate a
25 report when they come in?

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Testimony of Tina Stone - Direct Examination

1 A. They do. Yes, ma'am.

2 Q. Okay. Did you handle a call for Iva
3 on July 15th of 2012?

4 A. I did.

5 Q. What was the nature of that call?

6 A. It was a possible break-in in
7 progress.

8 Q. Okay. And what did you do when you
9 received that call?

10 A. I generated a call that there was a
11 possible break-in. I took the call and -- I
12 generated the call and therefore we put the
13 call in, and then the call gets dispatched.

14 Q. Okay. So you enter some data?

15 A. Yes. Whatever the call, the person
16 that is calling, the call-in, we put that
17 data in and it gets sent to the appropriate
18 agency and that dispatcher gives that call
19 out.

20 Q. So could that be a fire department
21 or ambulances or police?

22 A. Yes.

23 Q. Any one of those?

24 A. Yes, ma'am.

25 Q. And sometimes more than one of

1 those; is that right?

2 A. Yes, ma'am.

3 Q. Okay. And who did you dispatch when
4 that call came in?

5 A. I could have been dispatching it or
6 -- I actually took that call, so I could have
7 dispatched it. I'm not sure if I dispatched
8 it that day. Another dispatcher could have
9 been dispatching that day.

10 Q. Okay. So there are multiple people
11 in the same area; is that right?

12 A. Yes, ma'am.

13 Q. And sometimes when a call comes in
14 more than one person is doing more than one
15 thing to address that situation?

16 A. Yes, ma'am.

17 Q. Okay. But you answered the call?

18 A. I did.

19 Q. And you spoke with the caller?

20 A. I did.

21 Q. And was that call recorded?

22 A. Yes, ma'am.

23 Q. Are all the calls recorded?

24 A. Yes, ma'am.

25 Q. Emergency and non-emergency?

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1 A. Yes, ma'am.

2 Q. Okay.

3 SOLICITOR PRICE: Mr. Shirley.

4 CLERK: (Tenders exhibit to

5 witness)

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR PRICE:

8 Q. Ms. Stone, our clerk is showing you
9 what's been marked as State's Exhibit 1. Are
10 you familiar with that Exhibit?

11 A. (Upon review), I am.

12 Q. Okay. And how are you familiar with
13 it?

14 A. This is the CD that was shown to me
15 at -- it's a recording of the call that came
16 in that night.

17 Q. Okay. And did you review that?

18 A. I did review it and I initialed it
19 on the day that I reviewed it.

20 Q. Okay. And is it a true and accurate
21 recording of the call you received?

22 A. It is.

23 Q. Is it just you and the caller that
24 we hear?

25 A. No, ma'am. It is not. It is other

1 traffic because we dispatch and we take calls
2 and then we have other traffic, other
3 agencies on this also. So we hear other
4 traffic also on here.

5 Q. But on that recording, you heard
6 yourself and the caller?

7 A. Yes, ma'am.

8 Q. And what you and the caller were
9 discussing is accurate?

10 A. Yes, ma'am.

11 SOLICITOR PRICE: Your Honor, at
12 this time I move that State's Exhibit 1 be
13 admitted into evidence and I request
14 permission to publish it to the jury.

15 THE COURT: Any objection?

16 DEFENDANT FROST: No, sir.

17 THE COURT: All right. Without
18 objection. Yes, ma'am.

19 (SO ENTERED AS STATE'S EXHIBIT 1)

20 THE COURT: Ms. Price if you're
21 going to that, is it going to be loud enough
22 for us to hear or do I need to come down
23 there?

24 SOLICITOR PRICE: Your Honor, I
25 believe it will be.

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Testimony of Tina Stone - Direct Examination

1 THE COURT: Okay.

2 SOLICITOR PRICE: I'll certainly
3 pause it if the Court can't hear it ---

4 THE COURT: Okay.

5 SOLICITOR PRICE: --- adequately.

6 THE COURT: Okay.

7 SOLICITOR PRICE: We have a
8 microphone set up.

9 THE COURT: Okay.

10 SOLICITOR PRICE: I hope it will be
11 sufficient.

12 (STATE'S EXHIBIT 1 PUBLISHED)

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR PRICE:

15 Q. Ms. Stone, is that a true and accurate
16 recording of the conversation you had that day?

17 A. Yes, ma'am.

18 Q. And when a call comes in you said a
19 report is generated; is that correct?

20 A. Yes, ma'am.

21 Q. For every call?

22 A. Yes, ma'am.

23 Q. And is this report kept in the course
24 of ordinary business at the dispatch center?

25 A. Yes.

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Testimony of Tina Stone - Direct Examination

1 SOLICITOR PRICE: One moment.

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR PRICE:

4 Q. Our clerk is showing you what's been
5 marked as State's Exhibit 2.

6 CLERK: (Tenders Exhibit to witness)

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR PRICE:

9 Q. Are you familiar with that?

10 A. (Upon review), yes, ma'am.

11 Q. And what is it?

12 A. This is the CAD incident, detail
13 report.

14 Q. Okay. And do you know for what
15 incident?

16 A. This is for the incident on July 15th,
17 2012.

18 Q. And is that the incident that we just
19 listened to?

20 A. Yes, ma'am.

21 Q. The 9-1-1 call?

22 A. Correct. Yes, ma'am.

23 Q. Okay. Does that report appear to have
24 been altered in any way?

25 A. No, ma'am.

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Testimony of Tina Stone - Direct Examination

1 Q. Does it say who made the call?

2 A. It says -- it's got a Zach Bannister's
3 name on it.

4 Q. Okay. Where do those names come from?

5 A. If a 9-1-1 call comes in from a
6 landline, the call generates its name, the number
7 and an address on a landline.

8 Q. So it's automatically pulled in?

9 A. It is.

10 Q. So it may not be the caller?

11 A. Yes, ma'am.

12 Q. It's just associated with that
13 property; is that correct?

14 A. Yes, ma'am.

15 Q. Okay. And can you tell me what time
16 that call came in?

17 A. The call came in at -- it says 20:01,
18 which is 8:01.

19 Q. Okay. Aside from taking this call on
20 July 15th of 2012, have you had any other
21 involvement in this case?

22 A. No, ma'am.

23 Q. Thank you, Ms. Stone. Please answer
24 any questions that Mr. Frost ---

25 SOLICITOR PRICE: Oh, I'm sorry, Your

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1 Honor, at this time the State moves State's
2 Exhibit 2 into evidence.

3 THE COURT: That's the recording?

4 SOLICITOR PRICE: The CAD report,
5 sir.

6 THE COURT: Any objection?

7 DEFENDANT FROST: No, sir.

8 THE COURT: All right. Without
9 objection.

10 (SO ENTERED AS STATE'S EXHIBIT 2)

11 SOLICITOR PRICE: Your Honor, at this
12 time the State has no further questions for Ms.
13 Stone. Please answer any questions that Mr.
14 Frost has for you.

15 DEFENDANT FROST: Can I ---

16 THE COURT: Sure. Come on up, Mr.
17 Frost.

18 DEFENDANT FROST: Would you like to
19 see this paper, the address on that?

20 SOLICITOR PRICE: I haven't seen this
21 before, Your Honor, but I don't have any
22 objection, assuming it's relevant.

23 THE COURT: What is it?

24 DEFENDANT FROST: It's the address to
25 dispatch where she was calling.

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1 THE COURT: Okay. Sure you can ask
2 her questions.

3 DEFENDANT FROST: Would you like to
4 show that to her?

5 CLERK: Please, sir. (Tenders
6 document to witness)

7 WITNESS: You want me to ---

8 CLERK: (To witness) I think he's
9 just wanting you to look at this address.

10 WITNESS: Okay.

11 DEFENDANT FROST: Make sure it's the
12 address.

13 CROSS-EXAMINATION

14 BY MR. FROST:

15 Q. Was that the address it was coming
16 into, the dispatch call?

17 COURT REPORTER: Speak up, please?

18 CROSS-EXAMINATION CONTINUED

19 BY MR. FROST:

20 Q. Was that the address that it was called
21 into?

22 A. That the call derived from?

23 Q. Yeah, called into?

24 A. Are you asking me did the call come in
25 from [REDACTED] East Front Street?

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1 Q. No. Was that call from Bannister, was
2 called in for [REDACTED] East Front Street?

3 THE COURT: Well, ask her if she
4 would know that first.

5 CROSS-EXAMINATINO CONTINUED

6 BY DEFENDANT FROST:

7 Q. Yeah. Yeah. Do you know that? That
8 it was coming into [REDACTED] East Front Street?

9 A. Not that I'm aware.

10 Q. Not that you're aware of. Well, where
11 are you the dispatcher at?

12 A. I'm a dispatcher for Anderson County
13 9-1-1.

14 Q. Anderson County. All right. Thank
15 you.

16 A. We dispatch for Iva.

17 Q. Oh, you the dispatcher for Iva?

18 A. Yeah. We dispatch for Iva also.

19 Q. Do you know -- do you know Thomas
20 Miller? Thomas Miller, ex-chief of police,
21 Thomas Miller, from Iva?

22 A. I don't ---

23 Q. Okay.

24 DEFENDANT FROST: Thank you, sir.

25 THE COURT: Okay. Anything on

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1 redirect?

2 SOLICITOR PRICE: Yes, sir. One
3 question.

4 CLERK: Does this need to be
5 introduced?

6 SOLICITOR PRICE: I'm waiting for Mr.
7 Frost.

8 THE COURT: Yeah. That needs to be
9 introduced into evidence.

10 REDIRECT EXAMINATION

11 BY SOLICITOR PRICE

12 A. Ms. Stone, I'm going to ask Mr. ---

13 THE COURT: Hold on a second.

14 COURT REPORTER: I've marked it
15 Defendant's Exhibit 1.

16 THE COURT: Okay.

17 (SO ENTERED AS DEFENDANT'S EXHIBIT 1)

18 THE COURT: All right. Yes, ma'am?

19 SOLICITOR PRICE: Thank you, Your
20 Honor.

21 Mr. Shirley, would you please present
22 Ms. Stone with State's Exhibit 2 again?

23 CLERK: Sure.

24 SOLICITOR PRICE: That would be the
25 CAD Report, sir.

1 CLERK: (Tenders State's 2 to
2 witness).

3 REDIRECT EXAMINATION CONTINUED

4 BY SOLICITOR PRICE:

5 Q. Ms. Stone, take a look at that for a
6 moment and refresh your recollection as to the
7 addresses associated with this call?

8 A. Yes. [REDACTED] East Front Street.

9 Q. Was an address that is on that report?

10 A. Yes.

11 Q. Okay. And it's listed as what address
12 on that report?

13 A. It says Zach Bannister, [REDACTED] East Front
14 Street.

15 Q. Okay. And is there another address
16 associated with that report?

17 A. The caller's address is [REDACTED] East Lake
18 Street.

19 Q. Okay. And what is 9[REDACTED]?

20 A. 9[REDACTED] is the address that come in as the
21 address for a Zach Bannister.

22 Q. Okay. Could that be the incident
23 location?

24 A. It could be.

25 Q. Okay. All right. And how would that

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1 get put into the system?

2 A. One could have been the caller, and one
3 could have been the landline that come in.

4 Q. Okay. Okay.

5 A. So that's how that could have been.

6 Q. Thank you.

7 SOLICITOR PRICE: No further
8 questions.

9 THE COURT: All right. You can step
10 down. Is she under subpoena?

11 SOLICITOR PRICE: She is. May she be
12 released?

13 THE COURT: Any objection to her
14 being released?

15 DEFENDANT FROST: No.

16 THE COURT: Okay. You can be
17 released. Thank you very much.

18 (WITNESS STEPS DOWN)

19 SOLICITOR PRICE: Your Honor, we'll
20 need to take a brief recess before our next
21 witness.

22 THE COURT: How long is it going to
23 take, five minutes maybe?

24 SOLICITOR PRICE: If that; yes, sir.

25 THE COURT: Ladies and gentlemen,

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1 I'm going to send you out for literally five
2 minutes. We've got something we've got to move
3 around in here and I'll bring you back. Don't
4 discuss the case.

5 (JURY OUT @ 11:29 A.M.)

6 THE COURT: Y'all just yell at me
7 when you get everything set up.

8 SOLICITOR PRICE: Yes, sir. Thank
9 you.

10 (BRIEF BREAK)

11 (DEFENDANT PRESENT)

12 SOLICITOR PRICE: Your Honor, the
13 State would call Rebecca Keith.

14 THE COURT: Yeah, we're going to
15 bring her in and swear her in up here?

16 SOLICITOR PRICE: Fantastic -- yes,
17 sir.

18 THE COURT: Any objection to doing
19 that. It's just so that the jury doesn't see the
20 dog?

21 DEFENDANT FROST: No objection.

22 THE COURT: Okay.

23 SOLICITOR PRICE: Okay. And then
24 remove her after the jury goes out.

25 THE COURT: I'll send them out.

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1 We'll need to make that real quick.

2 SOLICITOR PRICE: Thank you. I'm
3 going to go ahead and bring her ---

4 THE COURT: Yeah. Bring her on in.
5 Who is it?

6 SOLICITOR PRICE: Her name is Rebecca
7 Keith, Your Honor.

8 (WITNESS TAKES STAND WITH THERAPY DOG)

9 THE COURT: Okay. You can bring the
10 jury.

11 (JURY IN @ 11:42 A.M.)

12 SOLICITOR PRICE: The State would
13 call Rebecca Keith.

14 THE COURT: Okay.

15 REBECCA KEITH, having been duly sworn to
16 tell the truth, and nothing but the truth,
17 testified as follows:

18 DIRECT EXAMINATION

19 BY SOLICITOR PRICE:

20 Q. Thank you, Ms. Keith. Speak into the
21 microphone. Okay?

22 A. Yes, ma'am.

23 Q. Ms. Keith, where do you live now?

24 A. [REDACTED] Antreville Highway, Iva, Apartment
25 Number [REDACTED].

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1 Q. Okay. Is that where you lived in 2012?

2 A. No, ma'am.

3 Q. Where did you live then?

4 A. [REDACTED] East Lake Street, Iva.

5 Q. Okay. Did you have any neighbors when
6 you lived on East Lake Street?

7 A. Yes, ma'am.

8 Q. Who were they?

9 A. Faye and James Davenport.

10 Q. Okay. Where did they live?

11 A. Across the road from me, up from me.

12 From me.

13 Q. Okay. And did your house face their
14 back door or front door?

15 A. It faced their back door.

16 Q. Okay. And do you remember something
17 that happened on July 15th, 2012 that has brought
18 you to court today?

19 A. Yes, ma'am.

20 Q. Did you see something that day?

21 A. Yes, ma'am.

22 Q. Can you tell me what you were doing
23 when you saw something happen?

24 A. I was in my car picking my mail off of
25 my passenger's seat when the motorcycle came up

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1 and parked in Faye and James Davenport's driveway
2 in the back.

3 Q. Okay. Had you just come from
4 somewhere?

5 A. I'd just came home from church.

6 Q. Okay. When you saw the motorcycle come
7 up to their back area, what did you see next?

8 A. I seen him get off his motorcycle and
9 get a -- to me it looked like a tire arm, like to
10 take lug nuts off of a tire?

11 Q. Okay. Something long?

12 A. Yes, ma'am.

13 Q. Possibly silver?

14 A. Yes, ma'am.

15 Q. And where did he take that from?

16 A. From the saddlebags off the motorcycle.

17 Q. Okay. And what did you see -- and do
18 you remember if this person was a man or a woman?

19 A. A man.

20 Q. Okay. Do you remember if they were
21 black or white or Hispanic?

22 A. White.

23 Q. Okay. Do you remember what they were
24 wearing?

25 A. Just a shirt.

1 Q. Okay. And what did you see that person
2 do next?

3 A. Then I seen him go into the back door,
4 kicking it in.

5 Q. Okay. Kicking it in?

6 A. Yes, ma'am.

7 Q. Okay. More than one kick?

8 A. Yes, ma'am.

9 Q. Okay. And what did you do when you saw
10 that?

11 A. After that I heard Faye yelling "help,
12 help!" I went in and told my stepfather that
13 somebody's yelling for help across the road. My
14 stepfather told me to call 9-1-1.

15 Q. Okay. And you knew Faye?

16 A. Yes, ma'am.

17 Q. And you were familiar with her voice?

18 A. Yes, ma'am.

19 Q. So you knew it was Faye yelling for
20 help?

21 A. Yes, ma'am.

22 Q. And do you remember what time of day
23 this was?

24 A. No, ma'am.

25 Q. Okay. Was it dark outside or light

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1 outside; do you remember?

2 A. It was dark.

3 Q. Okay. Is there a streetlight near that
4 area?

5 A. Yes, ma'am.

6 Q. But you saw everything clearly?

7 A. Yes, ma'am.

8 Q. Okay. And after your stepfather told
9 you to call 9-1-1, did you do that?

10 A. Yes, ma'am.

11 Q. Okay. And did you tell them what
12 you're telling us that you saw?

13 A. Yes, ma'am.

14 Q. What did you do after you talked to
15 9-1-1 on the phone? What did you do next?

16 A. (No verbal response).

17 Q. Did you meet with a police officer at
18 all?

19 A. Yes, ma'am. After they got everything
20 done, Tommy Miller came and took my statement
21 then.

22 Q. So you spoke with the police that
23 night?

24 A. Yes, ma'am.

25 Q. Okay. Is the statement you gave them

1 then the same thing you're telling me today?

2 A. Yes, ma'am.

3 Q. Okay. Are you telling the truth?

4 A. Yes, ma'am.

5 Q. Who is Zach Bannister?

6 A. My stepfather.

7 Q. Okay. Would he have been in charge of
8 getting the phone set up at your house, maybe?

9 A. I don't understand.

10 Q. Okay. All right. But he -- Zach
11 Bannister was your stepfather?

12 A. Yes, ma'am.

13 Q. Is that right?

14 A. Yes, ma'am.

15 Q. Okay. And he lived at that address
16 with you?

17 A. Yes, ma'am.

18 Q. Okay. Thank you, Ms. Keith. Please
19 answer any questions that Mr. Frost has for you,
20 okay?

21 A. Yes, ma'am.

22 THE COURT: Yes, sir. You can ask
23 her some questions.

24 CROSS-EXAMINATION

25 BY DEFENDANT FROST:

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1 Q. Hello, how you doing?

2 A. (No verbal response).

3 Q. You say it was about dark when you saw
4 the motorcycle pulled up?

5 A. Yes, sir.

6 Q. What's in between your house and Mrs.
7 Davenport's house?

8 A. Just the road.

9 Q. A tree? Are there's a big 'ole oak
10 tree in Mrs. Davenport's yard?

11 A. Yes, but there's the shed on the other
12 side of it.

13 Q. Are there a barn?

14 A. Just a shed.

15 Q. A shed. How about some blue trashcans?

16 A. (No verbal response).

17 Q. When you talked with Mr. Miller did he
18 ask you could you pick someone out of a lineup?

19 A. Yes, sir.

20 Q. What did you tell him?

21 A. That I cannot.

22 Q. Cannot pick them out of a lineup. Is
23 it possible at the doorway that he could have met
24 somebody at the doorway and shut the door in
25 someone's else face and them barge into the

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1 house?

2 THE COURT: I'm going to rule that
3 that's asking her to speculate too much.

4 DEFENDANT FROST: It is.

5 THE COURT: Yeah. Ask another
6 question.

7 DEFENDANT FROST: All right.

8 CROSS-EXAMINATION CONTINUED

9 BY DEFENDANT FROST:

10 Q. Was your head down in the car?

11 A. No, sir.

12 Q. Was you getting mail?

13 A. I was -- had my head facing the
14 Davenport's house and my hands over the
15 passenger's seat.

16 Q. Could it have been possible that the
17 subject lived there?

18 A. No, sir.

19 DEFENDANT FROST: Can she look at
20 that? I mean, that's my residence. That's where
21 I live.

22 SOLICITOR PRICE: Your Honor,
23 objection. He's testifying.

24 DEFENDANT FROST: Oh, I'm sorry.

25 THE COURT: Yeah. Look at what?

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1 DEFENDANT FROST: My social security
2 check that goes to that address. It's been going
3 there for thirteen years.

4 THE COURT: Yeah. Is it in
5 evidence.

6 DEFENDANT FROST: It's right there.
7 The Social Security paper.

8 SOLICITOR PRICE: Yes, sir.

9 DEFENDANT FROST: That's the address.

10 THE COURT: You can ask her if
11 that's the address. Sure, whatever you want to
12 ask her.

13 CLERK: (Tenders document to witness)

14 CROSS-EXAMINATION CONTINUED

15 BY DEFENDANT FROST:

16 Q. If you could see if that's the address
17 that you had called ---

18 THE COURT: Hold on a minute. Let
19 her look at it.

20 Ma'am, this is marked into evidence.

21 So he's asking about this.

22 Okay. Go ahead.

23 CROSS-EXAMINATION CONTINUED

24 BY DEFENDANT FROST:

25 Q. Is that the address at Mrs. Davenport's

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1 house?

2 A. Yes, sir.

3 Q. Okay. Could you tell me the name on
4 top of that address on that letter right there,
5 that Social Security?

6 A. (Upon review), Robert J. Frost.

7 Q. Robert Joe Frost?

8 A. Uh-huh, (affirmative nod).

9 Q All right. Thank you.

10 THE COURT: Okay. Anything on
11 redirect?

12 SOLICITOR PRICE: Nothing from the
13 State.

14 THE COURT: Thank you, ma'am.

15 Ladies and gentlemen, I've got to send
16 you out for two minutes. I'll bring you right
17 back in.

18 SOLICITOR PRICE: And, Your Honor.
19 May this witness be excused?

20 THE COURT: Any objection to her
21 being excused?

22 DEFENDANT FROST: (Emotional)

23 THE COURT: (Sidebar with witness).

24 Okay. Thank you, ma'am.

25 (JURY OUT @ 11:52 A.M.)

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1 (WITNESS STEPS DOWN)

2 THE COURT: Just for the record, I
3 just talked to her briefly. I don't want there
4 to be anything that is not on the record. I
5 talked to her briefly, just told her that she is
6 done with this case. She's obviously upset about
7 it.

8 (WITNESS & THERAPY DOG EXIT COURTROOM)

9 SOLICITOR PRICE: One moment, Your
10 Honor.

11 THE COURT: Sure. Okay. All right.

12 SOLICITOR PRICE: Thank you, Judge.

13 THE COURT: That's okay.

14 All right. You can bring them back in.

15 (COURT AT EASE)

16 THE COURT: Who is your next
17 witness?

18 SOLICITOR PRICE: Kayla Howington.

19 (NOTIFICATION OF JURY QUESTION @ 11:58)

20 (SO ENTERED AS COURT'S EXHIBIT 2)

21 THE COURT: The question or state-
22 ment is Juror Number 151 worked as a correctional
23 at Perry for two months around six or seven years
24 ago. Is this an issue at all as he is not
25 currently there. I don't think it's an issue

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1 that -- that doesn't bother me. Is there any
2 objection to that?

3 SOLICITOR PRICE: I don't have an
4 objection, Your Honor. Mr. Frost may.

5 DEFENDANT FROST: It is, yes, sir. I
6 have an objection.

7 THE COURT: Okay. Stand up and tell
8 me what your objection is.

9 DEFENDANT FROST: Well, I feel like
10 he might be biased in the case if he was in a
11 correctional institution, which was around other
12 convicts that's been in the institution under the
13 same circumstances. You know, he might be biased
14 in the case some way where he was working in the
15 Department of Corrections.

16 SOLICITOR PRICE: Your Honor, may it
17 please the Court?

18 THE COURT: Sure.

19 SOLICITOR PRICE: Perhaps if we bring
20 him in by himself and ask him if he's able to be
21 fair and impartial.

22 THE COURT: Well, I hate to do that
23 with a juror. I mean, I asked them -- I'm trying
24 to think. There is one question, 'do you
25 currently work for the Department of Corrections

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1 at a correctional institute?' He does not. He
2 worked there six or seven years ago for only two
3 months. I'm going to note both of y'all's
4 objection. I'm going to leave him on for now.

5 SOLICITOR PRICE: Yes, sir.

6 THE COURT: But I understand.
7 You're noted for the record. You're protected.
8 So I'll tell them that. But you're going to
9 bring them and then I'll make this a part of the
10 record.

11 COURT REPORTER: I've marked it as
12 Court's Exhibit 2, Your Honor.

13 THE COURT: Who is the next witness?

14 SOLICITOR PRICE: Your Honor, the
15 next witness is Kayla Howington.

16 THE COURT: Okay.

17 (JURY IN @ 12:01 A.M.)

18 THE COURT: Mr. Foreman, the
19 information that you have given me is that Juror
20 Number 151 worked as a correctional officer at
21 Perry for two months around six or seven years
22 ago. Is this an issue at all, question mark, as
23 he is not currently there. I don't think that is
24 a disqualifier.

25 But Juror Number 151, -- I don't want

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1 to say your name -- does the fact that you worked
2 at Perry Correctional Institute, would that
3 prevent you from being fair and impartial in this
4 case?

5 JUROR NUMBER 151: Not at all.

6 THE COURT: Thank you for telling
7 me, but I don't think it's a disqualifier.

8 Okay. You can call your next witness.

9 SOLICITOR PRICE: Thank you, Your
10 Honor. The State calls Kayla Howington.

11 (WITNESES TAKES STAND)

12 KAYLA HOWINGTON, having been duly sworn
13 to tell the truth, and nothing but the truth,
14 testified as follows:

15 DIRECT EXAMINATION

16 BY SOLICITOR PRICE:

17 Q. Ms. Howington, you can scoot your chair
18 forward if that makes it easier for you. And do
19 you need any water?

20 A. I do.

21 Q. Ms. Howington, how old are you?

22 A. Twenty-eight.

23 Q. And in what city do you currently live?

24 A. Abbeville.

25 Q. Do you know someone named Robert Frost?

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1 A. I do.

2 Q. How do you know him?

3 A. We met through a mutual friend and
4 ended up dating for three years.

5 Q. Okay. Did your relationship end?

6 A. It did.

7 Q. Did it end in 2012?

8 A. Yes.

9 Q. Had you been living together prior to
10 your relationship ending?

11 A. For three years.

12 Q. You lived together for three years?

13 A. Yes, ma'am.

14 Q. Where did you live with Mr. Frost?

15 A. At [REDACTED] Boston Street in Anderson.

16 Q. Okay. When your relationship ended,
17 were you at Boston Street?

18 A. No. I was in Calhoun Falls at my
19 mom's.

20 Q. Okay. Did you ever go back to Boston
21 Street after your relationship ended?

22 A. After he had been arrested, I went back
23 and got a few clothes but that's it.

24 Q. Okay. Have you seen Mr. Frost since
25 your relationship ended prior to today?

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1 A. No, ma'am.

2 Q. Okay. Have you spoken to Mr. Frost
3 since your relationship ended prior to today?

4 A. No, ma'am.

5 Q. When your relationship ended, do you
6 know if it was in July?

7 A. It was.

8 Q. Okay. After you ended the relation-
9 ship, did he try to contact you?

10 A. Many, many times.

11 Q. Okay. How did he try to contact you?

12 A. By phone.

13 Q. Did he call you himself?

14 A. He did.

15 Q. Did he have other people call you as
16 well?

17 A. He did.

18 Q. Okay. Like who?

19 A. Like Samantha, that was the neighbor.

20 Q. Okay. Did he leave you any voice
21 messages?

22 A. A lot.

23 Q. Okay. And did he have Samantha leave
24 you voice messages?

25 A. He did.

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1 Q. Did you check that voicemail as he was
2 leaving them?

3 A. No.

4 Q. When is the first time you heard those
5 voicemails?

6 A. When Samantha called me and told me
7 that James was dead, I started listening to them,
8 but I didn't -- I couldn't take it, so I stopped
9 listening to them. And I didn't hear them --
10 I've never heard some of them until they asked me
11 if it was his voice.

12 Q. Okay. So later that week, the police
13 came and met with you?

14 A. They did.

15 Q. And -- after you learned that Mr.
16 Davenport was deceased?

17 A. Uh-huh, (affirmative nod).

18 Q. Okay. And why didn't you listen to the
19 voicemails until then?

20 A. Because I knew I was done with the
21 relationship and I didn't want to hear him
22 begging for me to come back home.

23 Q. Okay. So you had cut him off; is that
24 right?

25 A. Right.

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1 Q. Okay. Are you familiar with Mr.
2 Frost's voice?

3 A. I am. Very.

4 Q. Okay. Are you familiar with Samantha's
5 voice?

6 A. Yes.

7 Q. Okay. Are those -- Robert Frost and
8 Samantha Tillman's voices on the voicemails that
9 were left for you?

10 A. Yes, ma'am.

11 Q. Okay. Did you get a chance to listen
12 to those voicemails?

13 A. Here recently.

14 Q. Recently?

15 A. Yes.

16 SOLICITOR PRICE: Mr. Shirley,
17 (tenders exhibit to be handed to witness).

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR PRICE:

20 Q. Our clerk is going to show you what's
21 been marked as State's exhibit 4.

22 CLERK: (Tenders State's Exhibit 4 to
23 witness)

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR PRICE:

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1 Q. What is that?

2 A. It's the voicemails that were left on
3 my phone.

4 Q. Okay. How can you be sure?

5 A. I signed or initialed and dated it.

6 Q. Okay. After you listened to it?

7 A. Yes.

8 Q. Okay. Are those true and accurate
9 recordings?

10 A. Yes.

11 Q. Okay. Those are the voicemails that
12 were left for you; is that right?

13 A. Yes.

14 Q. Are those the voicemails that the
15 police collected?

16 A. Yes.

17 Q. Okay.

18 SOLICITOR PRICE: Your Honor, at this
19 time the State would seek to admit Exhibit 4 into
20 evidence and request permission to publish to the
21 jury.

22 THE COURT: Any objection?

23 DEFENDANT FROST: No, sir.

24 THE COURT: All right. Without
25 objection.

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1 (SO ENTERED AS STATE'S EXHIBIT 4)

2 (STATE'S EXHIBIT 4 PUBLISHED -

3 PUBLICATION OF STATE'S EXHIBIT 4 PAUSED)

4 SOLICITOR PRICE: Your Honor, I

5 believe the witness needs a break.

6 THE COURT: Okay. Hold on a minute.

7 Ladies and gentlemen, I'm going to send you out

8 of the room. Please don't discuss the case.

9 (JURY OUT @ 12:43 P.M.)

10 THE COURT: You can go ahead.

11 (WITNESS STEPS DOWN & EXITS COURTROOM)

12 THE COURT: How many more do you

13 have?

14 SOLICITOR PRICE: Total?

15 THE COURT: Yeah.

16 SOLICITOR PRICE: Seven.

17 THE COURT: All right. I'll be

18 right back.

19 SOLICITOR PRICE: Y'all let me know

20 when she's back.

21 (BRIEF BREAK)

22 (DEFENDANT PRESENT)

23 (WITNESS RESUMES WITNESS STAND)

24 SOLICITOR PRICE: Your Honor, I'd

25 like to rewind it, back up twenty seconds just

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1 for contextually. And then we'll be done. And
2 I only have one more question for this witness
3 after that.

4 THE COURT: Okay. All right. You
5 can bring them back in.

6 (JURY IN @ 12:55 P.M.)

7 THE COURT: Okay. You can continue
8 with the recording.

9 SOLICITOR PRICE: Thank you, Your
10 Honor.

11 THE COURT: And just for the jury,
12 there's about five more minutes of this, okay.

13 (STATE'S EXHIBIT 4 PUBLICATION RESUMED)

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR PRICE:

16 Q. Ms. Howington ---

17 A. Yes, ma'am.

18 Q. --- is that a true and accurate
19 representation of the voicemails that were left
20 for you during the week after you broke up with
21 Mr. Frost?

22 A. Yes, ma'am.

23 Q. And, again, you're familiar with his
24 voice?

25 A. Yes.

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1 Q. And that was his voice?

2 A. Yes.

3 Q. And you are familiar with Ms. Tillman's
4 voice?

5 A. Yes, I am.

6 Q. And you heard her voice as well?

7 A. Yes.

8 Q. And the police came and met with you?

9 A. They did.

10 Q. Did they take a statement from you?

11 A. Yes.

12 Q. Did you tell the police what you're
13 telling us today?

14 A. Yes.

15 Q. Okay. Was it the truth then?

16 A. Yes.

17 Q. Is it the truth now?

18 A. It is.

19 Q. And they got permission from you to get
20 your voicemails?

21 A. They did.

22 Q. Okay. Our clerk is going to hand you
23 what's been marked as State's Exhibit 3.

24 CLERK: (Tenders State's Exhibit 3 to
25 witness)

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1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR PRICE:

3 Q. Do you recognize that?

4 A. (Upon review), I do.

5 Q. And what is it?

6 A. It's consent to search my phone.

7 Q. Okay. How can you tell?

8 A. I signed it.

9 Q. Okay. And has it been altered in any
10 way since the day you signed it?

11 A. No, ma'am.

12 Q. Okay. All right.

13 SOLICITOR PRICE: Your Honor, at
14 this time the State would seek to admit State's
15 Exhibit Number 3.

16 THE COURT: Any objection?

17 DEFENDANT FROST: No.

18 THE COURT: All right. Without
19 objection.

20 (SO ENTERED AS STATE'S EXHIBIT 3)

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR PRICE:

23 Q. Ms. Howington, do you see the man that
24 you dated for three years in the courtroom today?

25 A. I do.

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1 Q. Can you point him out for the jury and
2 tell me what he's wearing?

3 A. He's got on a black shirt and khaki's.

4 Q. Okay. And, again, this is the first
5 time you've seen him since you left; is that
6 correct?

7 A. Yes.

8 Q. All right. Thank you. Please answer
9 any questions that Mr. Frost has for you.

10 CROSS-EXAMINATION

11 BY DEFENDANT FROST:

12 Q. How long's it been since you heard them
13 phone messages? How long has it been?

14 A. What do you mean?

15 Q. Has been like four years since you
16 heard it? Have you heard since today, since the
17 ---

18 A. I've heard it.

19 Q. You've heard it before, before today?

20 A. Yeah, I heard it before today.

21 Q. I mean, how long has it been since
22 you've heard it?

23 A. A few days ago.

24 Q. A few days ago?

25 A. Yeah, a few days ago.

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1 Q. Who played it to you a few days ago?

2 A. Lauren.

3 Q. Lauren played it to you a few days ago?

4 A. Yes.

5 Q. Did she like convince you into any kind
6 of way on any of them words, any words like just
7 like one word put into that voice message where
8 just ---

9 A. No. No. There was not.

10 Q. What makes you think it couldn't be?

11 A. I know it's not, Robert.

12 Q. I mean, that's a lot of voice messages
13 in those?

14 A. I know.

15 Q. Have I ever had any problems with
16 police before?

17 A. Yeah.

18 Q. I have.

19 A. Yeah.

20 Q. You don't think they would put a word
21 or something in there if they had some officers
22 that didn't like me?

23 A. No, I don't think so.

24 Q. You don't think so?

25 A. No.

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1 Q. You got that much trust in the
2 officers?

3 A. I do.

4 Q. You do? Well, when I first met you,
5 what was you doing, Kayla?

6 A. What do you mean what was I doing?

7 Q. I mean, what kind of work was you
8 doing?

9 A. I was a prostitute.

10 Q. You was a prostitute when I first met
11 you?

12 A. Yes, I was.

13 Q. How long did you say we was together?

14 A. Three years, Robert.

15 Q. Three years. It ain't a law to love
16 somebody, is it?

17 A. Huh?

18 Q. It ain't a law to love somebody, is it?

19 A. I don't reckon.

20 Q. Three years that's a long time to hang
21 around with somebody that -- well, you never did
22 say I was mean to you, did you?

23 A. (No verbal response).

24 Q. I don't like to ask you this question,
25 but I'm going to have to. You ever done drugs?

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1 A. Robert, you bought the drugs for me.

2 You know I did.

3 Q. Well, I just wanted you to admit it for
4 the court record. Has anybody promised you
5 anything to come in here to say anything?

6 A. No, they have not.

7 Q. And you say you listened to this
8 message three days ago? Two days ago?

9 A. A few days ago. I'm not sure ---

10 Q. A few days ago. Where did you listen?
11 Where did you listen to it at?

12 A. In the Solicitor's office.

13 Q. In the Solicitor's office?

14 A. (Affirmative nod).

15 Q. Does each one of them words sound like
16 my voice?

17 A. Yes.

18 Q. You can tell?

19 A. I can tell and some -- I know the
20 voices sound different but Robert, when you get
21 messed up on drugs your voice sounds like. I
22 know from three years of dealing with you what
23 you do, how you do and I know it.

24 Q. Okay. So you do admit that the voice
25 could be sounding different if I was high on

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1 drugs; right?

2 A. I'm saying that the voices were
3 different because you were high on drugs.

4 Q. They were different.

5 A. (Affirmative nod).

6 Q. So you can't say ---

7 A. But they -- they are your voice,
8 though, Robert. I know all of your voices.
9 They're your voice.

10 Q. I'm just saying one word could be put
11 in through the phone?

12 A. No, didn't nobody change it. It's what
13 you said.

14 Q. You remember that over four years ago?

15 A. How could I not?

16 Q. Just one word?

17 A. Just one word. How I could not
18 remember?

19 Q. Out of all them messages right there?

20 A. Robert!

21 Q. Out of all them messages ---

22 A. Out of all of them messages.

23 Q. --- you remember one word that was put
24 in there.

25 A. Didn't nobody change none of that.

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1 Q. Did we ever go down to my mother's
2 much?

3 A. Yeah.

4 Q. We did?

5 A. Yeah.

6 Q. We ever cut grass and stuff down there?

7 A. We sure did.

8 Q. Or clean house or ---

9 A. We'd clean her house, cut her grass.

10 Q. Stuff like that?

11 A. Yeah.

12 Q. Well, could I read you the law on ---

13 DEFENDANT FROST: Could I read the
14 law on status of residence?

15 SOLICITOR PRICE: That would be
16 testifying. I think he can ask her a question.

17 THE COURT: You can ask her the
18 question, but don't ask anybody else. I'm the
19 one that you ask questions of.

20 DEFENDANT FROST: Oh, okay.

21 THE COURT: What do you want to
22 know?

23 DEFENDANT FROST: Well, I was just
24 asking her could I read this law to her on status
25 of residence between two residences, the law.

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1 THE COURT: Well, ask her first if
2 she knows the law of residence?

3 CROSS-EXAMINATION CONTINUED

4 BY DEFENDANT FROST:

5 Q. Do you know the law of residence?

6 A. No.

7 THE COURT: Okay. So don't ask her,
8 because she doesn't know.

9 DEFENDANT FROST: Okay. So I can't
10 tell her?

11 THE COURT: No.

12 CROSS-EXAMINATION CONTINUED

13 BY DEFENDANT FROST:

14 Q. Have you ever been arrested?

15 A. I have.

16 Q. What you been arrested for?

17 A. Drugs.

18 Q. Drugs. Have you ever been arrested for
19 neglect to a child?

20 A. Yes, I have. I was arrested for that.

21 Q. How many times?

22 A. I got two counts against me and I've
23 done my time for that, Robert. That's said and
24 done with.

25 Q. Right here it's got four counts.

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1 A. Well, I don't know where your sources
2 are coming from, but they're wrong.

3 Q. How's your credibility? Is your
4 credibility good?

5 A. What do you mean by that?

6 Q. Credibility of -- have you ever told a
7 lie?

8 A. I think everyone's told a lie. But I
9 can't lie up here today.

10 Q. So you're agreeing with me. Everybody
11 has told -- well, I just asked.

12 DEFENDANT FROST: No further
13 questions, sir.

14 THE COURT: All right. Anything?

15 SOLICITOR PRICE: Nothing from the
16 State, Your Honor. May this witness be excused?

17 THE COURT: Any objection to having
18 her subpoena lifted?

19 DEFENDANT FROST: No, sir.

20 THE COURT: Okay. Your subpoena's
21 lifted.

22 WITNESS: Thank you.

23 (WITNESS STEPS DOWN)

24 THE COURT: Is now a good time to
25 let them take a break for lunch?

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1 SOLICITOR PRICE: Yes, Your Honor.

2 THE COURT: Okay. All right.

3 Ladies and gentlemen, I normally give you an hour
4 and a half, but since we're leaving today at 4:00
5 if you could be back in the jury room at 2:30.
6 That's an hour and fifteen minutes. I've got to
7 deal with this juror that's not here and let
8 everybody eat. And then we'll start back at 2:30
9 and go until 4:00. And then we'll have to break
10 again today. I'm sorry. Thank you.

11 Don't talk about the case and I'll see
12 you in an hour and a half -- fifteen minutes.

13 (JURY OUT @ 1:12 P.M.)

14 THE COURT: Okay. I'll see y'all
15 about 2:15.

16 SOLICITOR PRICE: Yes, sir.

17 (LUNCH RECESS)

18 (DEFENDANT PRESENT)

19 (PREMARKED STATE'S EXHIBIT 5)

20 (PREMARKED STATE'S EXHIBIT 6)

21 (PREMARKED STATE'S EXHIBIT 7)

22 (PREMARKED STATE'S EXHIBIT 8)

23 (PREMARKED STATE'S EXHIBIT 9)

24 (PREMARKED STATE'S EXHIBIT 10)

25 (PREMARKED STATE'S EXHIBIT 11)

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1	(PREMARKED STATE'S EXHIBIT 12)
2	(PREMARKED STATE'S EXHIBIT 13)
3	(PREMARKED STATE'S EXHIBIT 14)
4	(PREMARKED STATE'S EXHIBIT 15)
5	(PREMARKED STATE'S EXHIBIT 16)
6	(PREMARKED STATE'S EXHIBIT 17)
7	(PREMARKED STATE'S EXHIBIT 18)
8	(PREMARKED STATE'S EXHIBIT 19)
9	(PREMARKED STATE'S EXHIBIT 20)
10	(PREMARKED STATE'S EXHIBIT 21)
11	(PREMARKED STATE'S EXHIBIT 22)
12	(PREMARKED STATE'S EXHIBIT 23)
13	(PREMARKED STATE'S EXHIBIT 24)
14	(PREMARKED STATE'S EXHIBIT 25)
15	(PREMARKED STATE'S EXHIBIT 26)
16	(PREMARKED STATE'S EXHIBIT 27)
17	(PREMARKED STATE'S EXHIBIT 28)
18	(PREMARKED STATE'S EXHIBIT 29)
19	(PREMARKED STATE'S EXHIBIT 30)
20	(PREMARKED STATE'S EXHIBIT 31)
21	(PREMARKED STATE'S EXHIBIT 32)
22	(PREMARKED STATE'S EXHIBIT 33)
23	(PREMARKED STATE'S EXHIBIT 34)
24	(PREMARKED STATE'S EXHIBIT 35)
25	(PREMARKED STATE'S EXHIBIT 36)

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1 (PREMARKED STATE'S EXHIBIT 37)

2 (PREMARKED STATE'S EXHIBIT 38)

3 (PREMARKED STATE'S EXHIBIT 39)

4 (PREMARKED STATE'S EXHIBIT 40)

5 (PREMARKED STATE'S EXHIBIT 41)

6 THE COURT: Okay. You can go ahead
7 and bring them in.

8 (JURY IN @ 2:26 P.M.)

9 THE COURT: Okay. We'll start now
10 and we'll end 4:00. Again, I'm sorry. I'm not
11 afraid of too many people, but I'm afraid of my
12 wife and she told me if I missed this doctor's
13 appointment today to just keep on moving. So,
14 I'm going to go to my doctor's appointment.

15 Call your next witness.

16 SOLICITOR PRICE: Thank you, Your
17 Honor. May it please the Court, the State calls
18 Lieutenant Chris Vaughn.

19 THE COURT: All right.

20 (WITNESS TAKES STAND)

21 CHRIS VAUGHN, having been duly sworn to
22 tell the truth, and nothing but the truth,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR PRICE:

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1 Q. And Lieutenant Vaughn, did you work for
2 the Iva Police Department in 2002 -- 2012?

3 A. I did.

4 Q. Okay. July of 2012?

5 A. I did.

6 Q. And in what capacity did you work for
7 them at that time?

8 A. I was a patrolman with the K-9 unit at
9 the time.

10 Q. Okay. And did you respond to a call on
11 July 15th, 2012 that's brought you to court today?

12 A. I did.

13 Q. What was the nature of that call?

14 A. The original call I got dispatched to
15 was a burglary in progress.

16 Q. And what were you doing prior to that
17 call?

18 A. I was on patrol in the area.

19 Q. And why were you on patrol in that
20 area?

21 A. In that specific area, we had a shift
22 change and so I had received information from
23 Officer Richey, Captain Richey at this time, he
24 had been to that address previously that day in
25 reference to threats made over the phone.

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1 Q. What address?

2 A. The exact address, I cannot remember at
3 this time.

4 Q. Do you remember the street?

5 A. It's Front Street.

6 Q. Okay. And you said Captain Richey had
7 been to that address earlier in the day?

8 A. Yes.

9 Q. Okay. So is it typical for someone to
10 relay information about what occurred during
11 their shift to the person coming onto the next
12 shift?

13 A. Yes. That is done at every shift
14 change.

15 Q. Okay. So you were patrolling a
16 particular area based on that information?

17 A. I was, because he had put it on his
18 patrol.

19 Q. And where were you when you got the
20 call?

21 A. When I originally was dispatched to the
22 incident location, I had literally just passed
23 the residence. I was on East Front Street at the
24 intersection of Hampton Street.

25 Q. Okay. So you were in the neighborhood?

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1 A. Yes, I was.

2 Q. Okay. And where did you respond?

3 A. I responded to -- it was East Front
4 Street. The original call was given out on East
5 Lake Street.

6 Q. Okay. Can you tell me a little bit
7 about the lot?

8 A. It sits at the intersection of East
9 Front Street and East Lake Street. The house
10 kind of sits up on the hill from East Front
11 Street.

12 Q. And what city and what county ---

13 A. It's inside the city limits of Iva,
14 Anderson County.

15 Q. Okay. When you heard the address that
16 you had been patrolling specifically for, did
17 that raise alarms for you?

18 A. It did. I was, like I said, I actually
19 was dispatched to a residence on East Lake
20 Street. And as I was turning on East Lake Street
21 was when I received the information that it was
22 the residence on the corner, actually facing
23 Front Street. That's when I realized what
24 residence it was and that is when a red flag, I
25 knew ---

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1 Q. How did you respond to the call? Did
2 you have lights, sirens?

3 A. No. I didn't. I mean, I responded
4 silent response.

5 Q. Silence response. Was there a reason
6 for that?

7 A. With a burglary in progress usually we
8 do. That way, it doesn't give away our approach.

9 Q. And how many entrances are there to
10 this home?

11 A. I believe there's three.

12 Q. What was it like outside when you
13 arrived? Was it daytime, nighttime?

14 A. It was nighttime. It was dark or it
15 was starting to get dark.

16 Q. Do you remember approximately what
17 time?

18 A. I think it was approximately 8:00, just
19 a little after 8:00.

20 Q. Okay. Tell me about your approach to
21 the property?

22 A. Once I got a dispatch to the property
23 prior to having received a call, I made a U-turn
24 at Hampton Street, come back down East Front
25 Street and was making a left onto East Lake

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1 Street when I was getting the information that it
2 was the house on the corner. There was a small
3 driveway that turned in on East Lake Street and I
4 turned straight. Once I got on East Lake Street,
5 I turned right.

6 Q. Tell me what you saw when you turned
7 into the driveway?

8 A. When I turned into the driveway, I
9 pulled in, there were a motorcycle sitting there.
10 And I was getting information that the subject
11 was seen pulling up at the property on a
12 motorcycle.

13 Q. Who gave you that information?

14 A. Dispatch did.

15 Q. Okay. So that would have been relayed
16 via a 9-1-1 call?

17 A. Yes. I believe that would have come
18 from that number.

19 Q. Okay. Do you recall what the
20 motorcycle looked like at all with more
21 specificity?

22 A. It was red in color and it stuck out in
23 my mind that there was no tag on the vehicle.

24 Q. As you got out of your vehicle, did you
25 bring your K-9 with you?

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1 A. No, I did not.

2 Q. So the K-9 remained in your patrol car?

3 A. Yeah, the K-9 was in my car. At the
4 time I could actually call him if I needed him to
5 come to the -- and bring me the K-9. He didn't
6 get out of the vehicle.

7 Q. But he was not accompanying you at that
8 time?

9 A. No, he was not.

10 Q. What did you see after you exited your
11 patrol car?

12 A. I got out. I walked closer to the side
13 door. I approached the side to the house. There
14 was a doorway there. As I got next to the front
15 of the motorcycle, I could see more clearly the
16 door. I could see the doorjamb appeared to be
17 busted in the lower -- the strike plates on the
18 doorjamb was actually laying on the ground.

19 Q. Okay. What did your training and
20 experience tell you about that?

21 A. That the door had been kicked in,
22 busted in.

23 Q. Okay. What did you do next?

24 A. At that time, knowing that there was
25 more than one door going in and out of the home,

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1 I moved around towards the front of the house to
2 try to cover as many exits as I could.

3 Q. Okay. And what did you do next?

4 A. As I approached the front of the house
5 -- the Masonic Lodge sits directly across East
6 Lake Street from this residence. And every
7 night, every time you go through there, there was
8 a screech owl. It wasn't a hoot owl. What I
9 would call a screech owl. And you could hear it.
10 And I actually thought I heard that owl at the
11 time, but it didn't take long to realize that it
12 was a female screaming "Help me. Help me!"

13 Q. Okay. From where was that sound
14 coming?

15 A. It was coming -- if you're facing the
16 home, standing in the front yard facing the home,
17 it was coming from the left side.

18 Q. Okay. Inside the home, outside the
19 home?

20 A. At that time, I couldn't really tell.
21 It was just coming from that general vicinity.

22 Q. What did you do at that point?

23 A. When I made out that it was somebody
24 actually screaming for help, I ran back around to
25 that side of the house.

1 Q. Okay. And did you see something when
2 you came back around the side of the house?

3 A. I did. At the time when I come back
4 around the side of the house, I could see a male
5 subject sitting on the motorcycle that I saw as I
6 previously stated.

7 Q. Okay. Was the motorcycle running?

8 A. It was not. He was sitting on the
9 motorcycle. When I come around and actually seen
10 him kick the kickstand up, but the motorcycle was
11 not running at the time.

12 Q. Okay. So you witnessed him take the
13 kickstand up?

14 A. I did.

15 Q. What did you do next?

16 A. I drew my weapon from my holster, had
17 him at gunpoint and I ordered him off the
18 motorcycle and to lay down on the ground.

19 Q. Did he comply with your demands?

20 A. At first he didn't. He stated that he
21 had been hit with a baseball bat and couldn't get
22 down. I told him again that he needed to lay
23 down on the ground and at that time he did lay
24 down.

25 Q. Did you ask him questions or simply

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1 give him that verbal command?

2 A. I just gave him the command to get off
3 the motorcycle and lay down.

4 Q. And he did eventually comply?

5 A. Yes.

6 Q. Did you recognize the man?

7 A. No.

8 Q. Had you ever seen him before that night
9 that ---

10 A. No.

11 Q. --- you're aware of?

12 A. I'm not aware I've ever seen him.

13 Q. Did you know the residents of this home
14 that you had responded to?

15 A. No.

16 Q. Did you say anything to him after he
17 was on the ground?

18 A. The only thing that I said to him when
19 he got on the ground was to put his arms out to
20 the side.

21 Q. Okay. And did he comply with order?

22 A. Yes, he did.

23 Q. Okay. What did you do next?

24 A. I got on the radio and I advised
25 dispatch that I had him at gunpoint, that I

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1 needed more units and I needed EMS.

2 Q. Okay. And why did you call EMS?

3 A. Because the subject had a massive gash
4 on his forehead and he was covered in blood.

5 Q. Okay. What happened next?

6 A. The female subject inside was
7 continuously hollering and yelling, "Help me.
8 Help me! He's killed my husband! Help!"

9 I was hollering back at her telling her that
10 I had him outside. He wasn't going anywhere but
11 I needed her to come outside. I could not leave
12 him there at the time. She told me that she
13 could not come outside.

14 Q. And did another unit arrive?

15 A. They did. A County unit, a deputy
16 pulled up. Once the County unit got on the
17 scene, the deputy had the subject at gunpoint
18 also. I told the deputy to stay with him and I
19 was going inside the home to check on the
20 residents.

21 Q. Did you go inside?

22 A. I did. I entered through the side
23 door.

24 Q. And was that the door that you said had
25 been -- appeared to have been kicked in?

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1 A. Yes, it is.

2 Q. Was that door already open?

3 A. It was.

4 Q. What did you see when you went inside
5 the residence?

6 A. When you enter in that door you kind of
7 -- you enter into the kitchen/dining room area.
8 There's a little island there at the end. I seen
9 who I found out later was Mrs. Davenport, was
10 sitting on there, kinda slumped over.

11 Q. In the kitchen area?

12 A. Yes. She was there sort of between the
13 island and the cabinet or the counter.

14 Q. Did she say anything to you?

15 A. She just kept saying "he killed my
16 husband."

17 Q. Okay. What did you do at that point?

18 A. I checked on her. She said that she
19 was fine, she wasn't hurt. I asked her where her
20 husband was at. She said in the front bedroom.
21 So I proceeded -- she stated that nobody else was
22 in the home. I did ask her that. She said
23 nobody else was in the home, but not knowing the
24 situation, I cleared, I actually cleared the home
25 as I went.

1 Q. What does clearing the home mean?

2 A. Pretty much making sure that nobody
3 else is in there. Tactically making sure nobody
4 else is in the home.

5 Q. Okay. So taking a police approach to
6 things, you make sure that rooms are empty; is
7 that correct?

8 A. Yes. That's correct.

9 Q. Okay. Taking it back, before you
10 cleared the home, when you first saw this female
11 on the floor, what did she look like?

12 A. Distressed. She was visibly scared.

13 Q. Okay. Do you remember what age she
14 was?

15 A. I'm going to say roughly late 50s,
16 maybe early 60s.

17 Q. So a little bit older?

18 A. Yes.

19 Q. Okay. And did you eventually identify
20 who this woman was?

21 A. I did.

22 Q. And who is that woman?

23 A. Ms. Faye Davenport.

24 Q. Did you see anything in the kitchen in
25 addition to Mrs. Davenport?

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1 A. I did notice right there next to her
2 that there was a knife laying there.

3 Q. There was a what?

4 A. A knife.

5 Q. Do you remember what it looked like?

6 A. It was a stainless steel knife. It was
7 a -- the blade and handle was all into one. It
8 was not like a knife that you would think of with
9 the shank with the handle made onto it. The
10 handle was -- I want to say it was milled out.

11 Q. Okay.

12 A. Best I can describe it.

13 Q. Describe your path when you actually
14 cleared the home?

15 A. As I left the kitchen/dining room area,
16 I started up a little bit in the hallway. There
17 was a, like a den or a sitting room to my left.
18 A hallway went on up. On the right-hand side
19 there was another room. It was kind of -- the
20 best way to describe it would be almost like an
21 inside dayroom. It had windows surrounding it.
22 And you go towards the front of the house there
23 was the front door and then each side of it was
24 another doorway.

25 Q. Where did you eventually wind up?

1 A. When I got up there, the doorway on the
2 left was closed. The door on the right was
3 partially open and that's the first one I went
4 in.

5 Q. Was this at the front of the residence?

6 A. It was.

7 Q. The door that was partially open, did
8 you open it and look at what was inside of it?

9 A. I attempted to open it. As I went to
10 push on the door, I could feel resistance as if
11 something was behind it, keeping the door from
12 opening.

13 Q. All right. What did you do next?

14 A. I pushed the door enough to where I
15 could get my upper body in to look. It was dark.
16 There was just enough light, as it was like a TV
17 or a computer monitor was on. I reached to flip
18 the light switch but no lights come on when I hit
19 it.

20 Q. Did you eventually figure out why no
21 lights were coming on?

22 A. Yes. Apparently, he had turned the fan
23 on and turned the -- turned the ceiling fan on
24 and the lights were turned off.

25 Q. Okay. So what did you do next?

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1 A. I could tell -- there was enough light
2 in there that I could see a male subject laying
3 on the ground right behind the door. I hollered
4 a couple of times, couldn't get no response. I
5 didn't have my flashlight. So at that time I
6 went back out the way I come in to where Deputy
7 Barnett was actually handcuffing the subject I'd
8 left him with. I ran outside to get the
9 flashlight out of my car. Deputy Barnett told me
10 that he needed another set of cuffs so I threw
11 him a set of mine that I had on my belt and I re-
12 entered the home.

13 Q. Okay. With a flashlight?

14 A. Yes, ma'am.

15 Q. Okay. What did you do next?

16 A. I went back to the front bedroom. I
17 was able to -- like I said, the bedroom on the
18 right. And was able to slide in that way with my
19 flashlight to see the victim.

20 Q. Okay. And what did you see?

21 A. I saw a male subject laying on the
22 ground (sic) right behind the door. He was there
23 laying over in a fetal position on his right
24 side, almost directly behind the door.

25 Q. Did you notice anything else about his

1 appearance?

2 A. Yes. I noticed he was covered in
3 blood, a lot of blood. There was blood all over
4 the floor, a large puddle of, just like deep,
5 dark, red foamy blood.

6 Q. What did you do when you realized that
7 this is the scene that you'd encountered?

8 A. At that time, I did not have any gloves
9 on me, but I got down, actually got down right in
10 his ear and yelled right in his ear, screaming at
11 him, trying to get some type of response. I
12 called Dispatch again on the radio and told them
13 I needed EMS there ASAP, I needed them right now.

14 Q. Okay. What did the room look like?

15 A. The room was just -- there was very
16 little light in there and there was items spread
17 all over the room. I remember seeing the blood
18 on the wall, blood right there behind the door,
19 just all over everything sort of.

20 Q. Was there anything next to Mr.
21 Davenport?

22 A. There was. Like I said, he was laying
23 in the fetal position on his right-hand side and
24 behind his legs there was a black metal baseball
25 bat.

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1 Q. And did you determine the identity of
2 that man?

3 A. I did.

4 Q. And who was he?

5 A. That was Mr. James Davenport.

6 Q. Okay. Did anyone else arrive on scene?

7 A. Yes. EMS arrived on scene. Lieutenant
8 Hawkins at the time arrived on scene. He never
9 entered the home. And it was a little bit later,
10 Chief Miller, at the time, arrived on scene.

11 Q. Okay. Did any County units respond?

12 A. Yes, there was multiple County units
13 that arrived on scene.

14 Q. Anyone else with Iva PD?

15 A. Officer Richey, Captain Richey at this
16 time, arrived on scene. I believe Officer Colin
17 Martin, who's now with Anderson City PD also
18 arrived on scene.

19 Q. Okay. What did you do when Chief
20 Miller arrived?

21 A. When Chief Miller arrived on scene, I
22 went and told him what I had, what I'd seen and
23 I turned the scene over to him.

24 Q. And why did you do that?

25 A. Because he was the ranking officer and

1 he's the one that handled pretty much all of our
2 investigations.

3 Q. What did you do with the scene?

4 A. After I pretty much handed the scene
5 over to him, I went outside and assisted
6 Lieutenant Hawkins with setting up a perimeter
7 and taping the area off.

8 Q. Okay. Why do you do that?

9 A. To keep people out that doesn't need to
10 be there.

11 Q. Okay. Did you speak with Mrs.
12 Davenport that night again?

13 A. Pretty much checked on her to make sure
14 that she was -- how she was doing.

15 Q. Okay. How was she doing?

16 A. Just about like anybody -- what you
17 would expect from somebody that had just been
18 through what she'd been through.

19 Q. Did she say anything else to you?

20 A. She did. She stated that I had saved
21 her life, that when I pulled up that her son,
22 was actually in the kitchen with her. And that
23 they'd heard me or he'd heard me when I was
24 getting out of my patrol car. She stated when he
25 seen me as I went towards the front of the house,

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1 that he took the knife and stabbed at her. She
2 stated at the time that she was fine. She hadn't
3 been stabbed. The knife had caught her shirt.
4 And he'd waited until I got out of sight and then
5 left the residence.

6 Q. All right.

7 SOLICITOR PRICE: With the Court's
8 permission, I'm going to ask that the witness
9 step down and illustrate something for the jury
10 by way of drawing it out.

11 THE COURT: Yes, ma'am.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR PRICE:

14 Q. Will you step down?

15 A. (Complies)

16 Q. Lieutenant, can you sketch out for me
17 your approach and the scene generally, just sort
18 of an overhead of the residence?

19 A. All right, (sketching).

20 Q. Now, tell me what you've drawn?

21 A. This here is East Front Street. This
22 is East Front and East Lake Street.

23 Q. How did you approach?

24 A. I had, like I said, prior to receiving
25 the call, I had actually traveled -- I guess

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1 that's going to be north on East Front Street by
2 the house, by the Davenport residence. I
3 continued up to the next -- the next road up is
4 Findley Street, it comes off to the left and I
5 didn't leave enough room for that.

6 Q. That's okay.

7 A. As I was turning onto East -- I mean,
8 I'm sorry -- as I was turning off of East Street
9 onto Findley Street is when I received the
10 initial call of a burglary in progress on East
11 Lake Street.

12 So I made a U-turn and come back down East
13 Front Street and as I was turning onto, turning
14 left onto East Lake Street is when I got the
15 information that it was the home that sit on the
16 corner of East Front Street and East Lake Street.

17 Q. Okay. And that would be the Davenport
18 residence?

19 A. That is the Davenport residence, this
20 one here.

21 Q. Okay. And tell me where you pulled
22 your car?

23 A. Like I said, I'd already started making
24 the turn onto East Lake Street when they gave me
25 the information, that information and that the

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1 subject had been seen pulling up on a red -- or
2 on a motorcycle. I continued up East Lake
3 Street. And there's a small driveway and I
4 pulled in this general vicinity here, with the
5 motorcycle there.

6 Q. Okay. And you went to the back door of
7 the residence?

8 A. I did.

9 Q. Where is that?

10 A. There is a front porch here. There's a
11 doorway here. There's also a doorway here. And
12 there's another door, it's a sliding glass door
13 on this side, I believe it is. I exited out of
14 the vehicle. As I approached right here, as I
15 got to the front, that's when I could see this
16 door had been forcibly opened, either kicked
17 open, busted open, however it was. As I got in
18 front of the motorcycle, that's when I could see
19 the striker plate laying on the little small
20 porch. Right there, it's more of a landing than
21 an actual porch. So I proceeded around towards
22 the front of the house so I could kind of cover
23 it a little bit more, being as it's ---

24 Q. Okay. And you heard -- you said you
25 heard yelling?

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1 A. I did. Originally, like I said the
2 Masonic ---

3 (PHONE RINGING)

4 UNIDENTIFIED SPEAKER: I am so sorry.
5 I thought I had turned it off.

6 THE COURT: Yeah. Y'all hold on.

7 UNIDENTIFIED SPEAKER: May I step
8 out?

9 THE COURT: Yes, ma'am. And make
10 sure ---

11 UNIDENTIFIED SPEAKER: I thought I
12 had cut it off. I'm sorry.

13 THE COURT: Make sure when y'all
14 come in that you leave your cellphones.

15 UNIDENTIFIED SPEAKER: (Exits/enters
16 courtroom) -- I'm sorry.

17 THE COURT: That's okay. No
18 problem.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR PRICE:

21 Q. All right. You were showing us what's
22 across the way?

23 A. Yes. You've got the Masonic Lodge that
24 sits here so it's directly beside the Davenport
25 residence, just across from East Lake Street.

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1 Q. And is there another residence off to
2 the side of the Masonic Lodge?

3 A. Yes. The Masonic Lodge actually faces
4 East Front Street. So there's another residence
5 here.

6 Q. And that would have been across from
7 the back door as well?

8 A. Yes.

9 Q. Okay. All right. And you heard
10 something you thought was coming from that
11 direction?

12 A. I did. Like I said, I was still on the
13 corner of the house but more towards the front of
14 the house at the time, in this general vicinity
15 right here. And I heard what I thought
16 originally was that screech owl that stayed in a
17 set of trees that was between the back of the
18 Masonic Lodge and this residence here. Like I
19 say, you could hear that every single time you
20 drove by that area. When I realized that it was
21 actually somebody screaming for help, I went back
22 the way I come. I ran back to this area and
23 that's when I seen the subject sitting on the
24 motorcycle.

25 Q. Was there anything obstructing your

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1 view?

2 A. At the time when I first come back
3 around, there is a set of steps that goes up to a
4 -- like a landing area on the back side of this
5 little L, right here. Here it goes up onto the
6 second floor. There's a set of steps here. As I
7 come around and got in this general vicinity, I
8 could actually see through the steps and could
9 see the subject originally there.

10 Q. Okay. And after the county deputy
11 arrived, you entered the residence?

12 A. I did.

13 Q. Where did you enter the residence?

14 A. I was -- originally, I was on this side
15 of the motorcycle and Mr. Davenport had laid down
16 on the ground right in here. I had come around,
17 had him at gunpoint.

18 And I was talking to the female who I could
19 hear inside. I was trying to get her to come
20 out.

21 The deputy pulled in and parked his vehicle
22 in this general vicinity, I believe it was. And
23 as he got out, he had the subject at gunpoint
24 also. That's when I entered the home through
25 this door.

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1 Q. Okay. And where is the kitchen area?

2 A. As soon as you walk in that door,
3 there's a kitchen area right in here.

4 Q. And where was the bedroom where you
5 found Mr. Davenport?

6 A. Right here.

7 Q. All right. Thank you very much. I am
8 going to show you what has been marked as State's
9 Exhibits 5 through 17. Will you flip through
10 those and tell me if you recognize those
11 exhibits.

12 A. Yes, they're all photos of the
13 Davenport residence.

14 Q. Okay. And you're familiar with the
15 residence?

16 A. I am.

17 SOLICITOR PRICE: Your Honor, at this
18 time, the State would seek to admit Exhibits 5
19 through 17.

20 THE COURT: Any objection? You want
21 to show them to him?

22 SOLICITOR PRICE: I did.

23 THE COURT: Okay.

24 DEFENDANT FROST: No objection.

25 THE COURT: Okay. No objection.

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1 (SO ENTERED AS STATE'S EXHIBIT 5)

2 (SO ENTERED AS STATE'S EXHIBIT 6)

3 (SO ENTERED AS STATE'S EXHIBIT 7)

4 (SO ENTERED AS STATE'S EXHIBIT 8)

5 (SO ENTERED AS STATE'S EXHIBIT 9)

6 (SO ENTERED AS STATE'S EXHIBIT 10)

7 (SO ENTERED AS STATE'S EXHIBIT 11)

8 (SO ENTERED AS STATE'S EXHIBIT 12)

9 (SO ENTERED AS STATE'S EXHIBIT 13)

10 (SO ENTERED AS STATE'S EXHIBIT 14)

11 (SO ENTERED AS STATE'S EXHIBIT 15)

12 (SO ENTERED AS STATE'S EXHIBIT 16)

13 (SO ENTERED AS STATE'S EXHIBIT 17)

14 SOLICITOR PRICE: And I request

15 permission to publish to the jury.

16 THE COURT: Sure. You're going to
17 do it on that?

18 SOLICITOR PRICE: Yes, sir, with the
19 Court's permission.

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR PRICE:

22 Q. Going through these briefly, Lieutenant
23 Vaughn, tell me what this is?

24 A. This is a photo kind from an angle of
25 the front and left side of the Davenport

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1 residence. This street running sideways in front
2 over here is East Front Street. And the street
3 going away from you is East Lake Street.

4 Q. Okay. And can you point out the
5 Davenport residence, please?

6 A. Behind this tree.

7 Q. Okay. And where did you park your
8 vehicle?

9 A. My vehicle would have been parked right
10 over in this area.

11 Q. Okay. And where would you have been
12 standing when you saw the Defendant?

13 A. When I actually made it back around the
14 house, you can't really see from this angle
15 because of the tree there. I'd have been
16 standing in this general vicinity the first time
17 I was able to see him.

18 Q. Okay. And you saw him through the
19 slats?

20 A. Actually, there is a section between
21 the steps and the house that you see, that you
22 can see ---

23 Q. See through a gap?

24 A. Yes.

25 Q. Okay. Is this the gap?

1 A. It is. Right there where the air
2 conditioner unit is.

3 Q. Okay. And what are we looking at in
4 this photo?

5 A. We are looking at the door facing East
6 Lake Street on this one. This was the door I
7 originally saw that was -- appeared to be
8 forcibly opened.

9 Q. Okay. Where was the motorcycle at?

10 A. The motorcycle would have been right in
11 this general vicinity.

12 Q. And, again, where would the motorcycle
13 have been?

14 A. Right in this area.

15 Q. And where would you have been when you
16 saw ---

17 A. Directly behind it.

18 Q. Okay. What side of the property is
19 this?

20 A. This is the opposite side from East
21 Lake Street. This will be facing more towards
22 East Poplar Street.

23 Q. Okay. So this is not the side of the
24 property where you found the Defendant?

25 A. No, it's not.

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1 Q. And what are we looking at in State's
2 Exhibit 8?

3 A. This is the same side, the opposite
4 side of the home where I initially made contact
5 with Mr. Frost.

6 Q. Okay. Is this a porch?

7 A. It is.

8 Q. And how far does that porch extend?

9 A. It extends over to the other side of
10 the home. It doesn't completely wrap around.

11 Q. Okay. Is that the same?

12 A. It is.

13 Q. Okay. And, again, which way would you
14 have been approaching?

15 A. From the opposite side of the home.

16 Q. And that's State's Exhibit 6? And
17 looking at State's Exhibit 5, where is the
18 bedroom that you found Mr. Davenport?

19 A. This front room. It's kind of blocked.
20 You can't really see the window. You can see one
21 window of the bedroom right here, but it's on the
22 very front of the house.

23 Q. Okay. Thank you very much.

24 Lieutenant, now I'm going to show you what's been
25 marked as State's Exhibits 18 through 40. Just

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1 flip through these with you and make sure that
2 you're familiar with them.

3 A. Yes, ma'am. I am.

4 Q. You're familiar with these exhibits?

5 A. Yes.

6 Q. What are they?

7 A. They're pictures of the Davenport
8 residence.

9 Q. Okay. And is this a true and accurate
10 representation of the Davenport residence the
11 night of the incident that you've been discussing
12 with me today?

13 A. It is.

14 Q. Okay. And you're familiar with
15 everything that is depicted in these photographs?

16 A. Yes.

17 Q. Okay.

18 SOLICITOR PRICE: Your Honor, at this
19 time, the State would seek to admit Exhibits 18
20 to 40 into evidence and request permission to
21 publish.

22 THE COURT: Any objection to those?

23 DEFENDANT FROST: No, sir.

24 THE COURT: All right. Without
25 objection, they're in.

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1 (SO ENTERED AS STATE'S EXHIBIT 18)
2 (SO ENTERED AS STATE'S EXHIBIT 19)
3 (SO ENTERED AS STATE'S EXHIBIT 20)
4 (SO ENTERED AS STATE'S EXHIBIT 21)
5 (SO ENTERED AS STATE'S EXHIBIT 22)
6 (SO ENTERED AS STATE'S EXHIBIT 23)
7 (SO ENTERED AS STATE'S EXHIBIT 24)
8 (SO ENTERED AS STATE'S EXHIBIT 25)
9 (SO ENTERED AS STATE'S EXHIBIT 26)
10 (SO ENTERED AS STATE'S EXHIBIT 27)
11 (SO ENTERED AS STATE'S EXHIBIT 28)
12 (SO ENTERED AS STATE'S EXHIBIT 29)
13 (SO ENTERED AS STATE'S EXHIBIT 30)
14 (SO ENTERED AS STATE'S EXHIBIT 31)
15 (SO ENTERED AS STATE'S EXHIBIT 32)
16 (SO ENTERED AS STATE'S EXHIBIT 33)
17 (SO ENTERED AS STATE'S EXHIBIT 34)
18 (SO ENTERED AS STATE'S EXHIBIT 35)
19 (SO ENTERED AS STATE'S EXHIBIT 36)
20 (SO ENTERED AS STATE'S EXHIBIT 37)
21 (SO ENTERED AS STATE'S EXHIBIT 38)
22 (SO ENTERED AS STATE'S EXHIBIT 39)
23 (SO ENTERED AS STATE'S EXHIBIT 40)

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR PRICE:

1 Q. Lieutenant Vaughn, looking at State's
2 Exhibit 18, what are we looking at?

3 A. This is a photo taken of the inside of
4 the bedroom where I located Mr. Davenport.

5 Q. Okay. Where was he laying?

6 A. He would have been -- the door was
7 closed, the door was barely open. He'd been
8 laying in this general vicinity.

9 COURT REPORTER: Had been laying --
10 what, please?

11 WITNESS: In this general vicinity.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR PRICE:

14 Q. And where was the baseball bat?

15 A. The baseball bat when I made entry and
16 could -- actually had light to see what was going
17 on, Mr. Davenport, like I say, was laying in the
18 fetal position on his right side. The baseball
19 bat was behind his legs.

20 Q. Do you know if it was moved?

21 A. It was moved. I actually observed EMS
22 when they got on scene move the baseball bat.

23 Q. Okay. State's Exhibit 19, what are we
24 looking at?

25 A. Just another photograph from inside the

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1 bedroom.

2 Q. That's the bedroom ---

3 A. Yes.

4 Q. --- where you found Mr. Davenport?

5 A. Yes.

6 Q. Okay. And is this looking at it
7 directly or ---

8 A. That's his -- would have been taken
9 from, like standing in the doorway looking in.

10 Q. Okay. State's Exhibit 20, is that
11 similar?

12 A. It is.

13 Q. Okay. State's Exhibit 21?

14 A. This one is the same general vicinity,
15 but this is showing more where Mr. Davenport
16 would have been laying.

17 Q. Okay. Is there any evidence of where
18 he was laying?

19 A. The blood.

20 Q. Okay. And is this where you said signs
21 of a struggle, what you're referring to?

22 A. Yes.

23 Q. I'm showing you State's Exhibit 22.

24 Are you familiar with this are?

25 A. I am. This is the kitchen area. This

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1 is where I would have -- this is where I located
2 Mrs. Davenport when I first got in.

3 Q. And where was she?

4 A. She was kind of seated, slumped over in
5 this chair.

6 Q. Okay. State's Exhibit 23, are you
7 familiar with this item?

8 A. I am.

9 Q. And what is it?

10 A. It is the baseball bat that I seen when
11 I first made entry that was laying behind Mr.
12 Davenport.

13 Q. State's Exhibit 24?

14 A. This is a view from the outside of the
15 bedroom where I located Mr. Davenport.

16 Q. So as you made your approach you would
17 have been looking in this direction?

18 A. Yes.

19 Q. State's Exhibit 25?

20 A. Same thing, just a little bit lighter.

21 Q. Is this the door that Mr. Davenport was
22 located behind?

23 A. It is.

24 Q. And do you see evidence of a struggle
25 to the door as well?

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1 A. Yes, there's blood smears on the door.

2 Q. Were those blood smears there when you
3 arrived?

4 A. On that one, I can't honestly say. I
5 do not remember on that.

6 Q. Okay.

7 A. With the situation going on, that blood
8 smear is ---

9 Q. It's very ---

10 A. --- was something that I was not paying
11 attention to.

12 Q. But you can recall blood being on the
13 floor?

14 A. Yes, there was a massive amount of
15 blood on the floor.

16 Q. And you said that you did recall there
17 being blood on the walls?

18 A. There was -- when I went back in, there
19 was blood. I believe it was on the right-hand
20 side there.

21 Q. Okay. State's Exhibit 26, are you
22 familiar with this area?

23 A. Yes, it is. I believe it's the
24 entranceway into the door there.

25 Q. Okay. And was that door open when you

1 made your approach?

2 A. Yes.

3 Q. Is that the same door?

4 A. Yes.

5 Q. State's Exhibit 28, what is this?

6 A. This is the motorcycle that I seen when
7 I pulled up and actually parked right behind it.

8 Q. And Mr. Frost was on this motorcycle?

9 A. Later. Not when I first pulled up, he
10 was not. But that is the motorcycle I located
11 him on.

12 Q. Yes. And State's Exhibit 29, it's a
13 little difficult to see. But is this the angle
14 that you would have approached the motorcycle?

15 A. It is.

16 Q. Initially?

17 A. Yes. When I initially arrived on
18 scene, it is.

19 Q. State's Exhibit 30, are you familiar
20 with this area and what it depicts?

21 A. Yes. This is still the home, in the
22 kitchen area and that's the knife that I seen.

23 Q. Okay. Can you point the knife out to
24 me?

25 A. (Indicating).

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1 Q. State's Exhibit 31, again this is where
2 Mr. Davenport was found?

3 A. That's correct.

4 Q. Same?

5 A. Same thing.

6 Q. And State's Exhibit 33, the doorway
7 would have been?

8 A. The doorway. This is a picture of the
9 doorway, but from inside the room instead of the
10 outside of the bedroom.

11 Q. Okay. State's Exhibit 34. Is this the
12 area where you saw the Defendant that evening?

13 A. Yes.

14 Q. Okay. And was this taken that evening?

15 A. I believe it was.

16 Q. State's Exhibit 35. Can you tell me
17 what you see there?

18 A. This is the motorcycle.

19 Q. Okay. And your line of vision, can you
20 point that out for me?

21 A. My line of vision would have been
22 standing over in this -- off of the picture
23 screen here, looking back in the stretch.

24 Q. Okay. Directly at the motorcycle?

25 A. Yes.

1 Q. Okay. And, again, State's Exhibit 36.
2 What do I see in this photograph?

3 A. In this photograph, you're looking at
4 the rear of the motorcycle and also the doorway
5 that was busted open, the door that was forcibly
6 opened.

7 Q. State's Exhibit 37. Are you familiar
8 with this?

9 A. I am.

10 Q. And what is that?

11 A. That's what's called a striker plate.
12 It is on the doorjamb that I noticed on the
13 landing there.

14 Q. And State's Exhibit 38?

15 A. This is another picture of the door-
16 jamb.

17 Q. 39?

18 A. A different angle, a different view,
19 same doorjamb.

20 Q. And 40?

21 A. And this is the door leading into the
22 kitchen that was open.

23 Q. Thank you, Lieutenant Vaughn. Can you
24 take the stand again for me, please?

25 A. (Witness takes stand).

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1 SOLICITOR PRICE: Your Honor, I beg
2 the Court's indulgence.

3 THE COURT: Sure.

4 DIRECT EXAMINATION CONTINUED

5 BY SOLICITOR PRICE:

6 Q. I'm going to have the clerk of court
7 present you with State's Exhibit 41. Can you
8 open that for me, please?

9 A. I'll have to cut the tape on it.

10 Q. And look at the item inside and tell
11 me, without showing the jury, tell me if you're
12 familiar with that object?

13 A. (Upon review), I am.

14 Q. Okay. And what is it?

15 A. It appears to be the knife that I seen
16 laying on the floor in the kitchen.

17 Q. Is it packaged differently today?

18 A. It is.

19 Q. Would that be for security purposes?

20 A. Yes, I would say so.

21 SOLICITOR PRICE: Your Honor, at this
22 time the State would seek to admit Exhibit 41
23 into evidence.

24 THE COURT: Any objection?

25 DEFENDANT FROST: No, sir.

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1 THE COURT: Hold on just a second.

2 Okay. All right. Without objection.

3 (SO ENTERED AS STATE'S EXHIBIT 41)

4 MR. COLE: Your Honor, my client,
5 Mr. Frost, has requested a recess, a break for
6 bathroom use.

7 THE COURT: Okay. All right.

8 Ladies and gentlemen -- and by the way, if any of
9 you ever need a break at any point, raise your
10 hand, get my attention, no questions asked.
11 We'll take ten minutes but no longer than ten
12 because we've got to stop about 4:00. Okay.

13 (JURY OUT @ 3:11 P.M.)

14 (BRIEF RECESS)

15 (DEFENDANT PRESENT)

16 (PREMARKED STATE'S EXHIBIT 42)

17 (PREMARKED STATE'S EXHIBIT 43)

18 (PREMARKED STATE'S EXHIBIT 44)

19 (JURY IN @ 3:20 P.M.)

20 THE COURT: All right. You can
21 continue.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR PRICE:

24 Q. Again, what is in that container?

25 A. It appears to be the knife that I

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1 located in the kitchen laying on the floor.

2 Q. And are you certain?

3 A. Pretty much.

4 Q. Okay.

5 SOLICITOR PRICE: Your Honor, at this
6 time the State would seek to move Exhibit 41 into
7 evidence.

8 THE COURT: Any objection?

9 DEFENDANT FROST: No, sir.

10 THE COURT: All right. Without
11 objection.

12 (SO ENTERED AS STATE'S EXHIBIT 41)

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR PRICE:

15 Q. Can you remove it from the container
16 for me?

17 A. (Witness complies)

18 Q. And will you hold that up and show it
19 to the jury, please?

20 A. (Witness complies)

21 Q. And is it as it appeared that evening?

22 A. Pretty much, except it's encased.

23 Q. Do you see anything on the knife?

24 A. What appears to be blood stains.

25 Q. Okay. All right.

1 SOLICITOR PRICE: I'm going to ask
2 the clerk to give to you what's been marked as
3 State's Exhibit 43.

4 CLERK: (Tenders exhibit to witness)

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR PRICE:

7 Q. I'm going to ask you to open that and
8 take a look at it for me, please?

9 A. (Witness complies)

10 Q. Are you familiar with that item?

11 A. I believe so.

12 Q. Okay. And what is it?

13 A. This is what I referred to a striker
14 plate on the doorjamb.

15 Q. Okay. That you saw that evening?

16 A. It appears to be.

17 Q. Okay. And is it in the same condition
18 as when you saw it that evening?

19 A. It's not attached to a doorjamb at this
20 time.

21 Q. Okay.

22 SOLICITOR PRICE: Your Honor, at this
23 time, the State would seek to move Exhibit 43
24 into evidence.

25 THE COURT: Any objection?

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1 DEFENDANT FROST: No, sir.

2 THE COURT: All right. Without
3 objection.

4 (SO ENTERED AS STATE'S EXHIBIT 43)

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR PRICE:

7 Q. Will you remove it for me, please, and
8 show it to the jury?

9 A. (Witness complies)

10 Q. And you saw that on the ground?

11 A. Yes, I did see a striker plate.

12 Q. And that striker plate was what
13 indicated to you that forcible entry had been
14 made; is that right?

15 A. That and the doorjamb, they were
16 separated, they were busted.

17 Q. Okay.

18 SOLICITOR PRICE: Now I ask our clerk
19 to show you what's been marked as State's Exhibit
20 44.

21 CLERK: (Tenders exhibit to witness)

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR PRICE:

24 Q. Are you familiar with that item?

25 A. I believe so.

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1 Q. Okay. And what is it?

2 A. It is a black-in-color baseball bat.

3 Q. Okay.

4 A. That appears to be the same one that I
5 seen that night.

6 Q. And where was it when you saw it?

7 A. When I originally first seen it, it was
8 laying on the ground (sic) behind Mr. Davenport.

9 Q. Okay.

10 SOLICITOR PRICE: Your Honor, at this
11 time, the State would seek to admit Exhibit 44
12 into evidence.

13 THE COURT: Any objection?

14 DEFENDANT FROST: No, sir.

15 THE COURT: All right. Without
16 objection.

17 SOLICITOR PRICE: Okay. Thank you.

18 WITNESS: You want me to return all
19 of these?

20 SOLICITOR PRICE: Yes, please.

21 WITNESS: (Hands exhibits to clerk)

22 CLERK: Thank you, sir.

23 SOLICITOR PRICE: Yes, please.

24 (SO ENTERED AS STATE'S EXHIBIT 44)

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR PRICE:

2 Q. Lieutenant, in addition to what we've
3 already discussed and aside from testifying in
4 court today, have you had any further involvement
5 in this case?

6 A. No, ma'am.

7 Q. Do you see the man that you held at
8 gunpoint on a motorcycle the night of July 15th in
9 the courtroom today?

10 A. I do.

11 Q. Can you please point him out to the
12 jury and describe what he's wearing?

13 A. (Indicating Defendant), a dark color,
14 black or blue, Polo shirt and khaki pants.

15 Q. All right. Thank you very much
16 Lieutenant Vaughn. Please answer any questions
17 that Mr. Frost has for you at this time.

18 A. Yes, ma'am.

19 THE COURT: All right. Yes, sir.

20 CROSS-EXAMINATION

21 BY DEFENDANT FROST:

22 Q. Progress -- and this has a burglary in
23 progress; is that the way it was called in?

24 A. That was the original ---

25 Q. That was the way it was called in?

1 A. Yes, sir.

2 DEFENDANT FROST: Can I go through
3 all them pictures right there because, you know,
4 ---

5 THE COURT: Yeah. They're into
6 evidence. If they're into evidence use these up
7 here.

8 DEFENDANT FROST: Oh, them up there?

9 THE COURT: Unless you -- you can
10 ask him about one and introduce those if he knows
11 anything about them. I just don't know what
12 you've got?

13 DEFENDANT FROST: Well, I got these
14 two right here. I got them all, the pictures but
15 I can't do them today because, you know, I got to
16 wait until it's my time to put in evidence?

17 THE COURT: Well, you can introduce
18 them now.

19 Do you know what he's dealing with that
20 we can shorten this?

21 SOLICITOR PRICE: Your Honor, I am
22 certain that they are what I provided to him.
23 If Mr. Cole can maybe talk to him about the
24 proper process for ---

25 DEFENDANT FROST: (Sidebar with Mr.

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1 Cole), I want to start off with these right here
2 if I can put them in evidence.

3 THE COURT: Show them to her and
4 then hand them to Richard and he'll hand them up.
5 Okay. There you go. Get them. And then you can
6 ask him if he knows what that is or seen it
7 before.

8 (OFF RECORD SIDBAR, DEFENDANT & MR. COLE)

9 MR. COLE: Mr. Clerk, if you could
10 have the court reporter mark those as the next
11 defense exhibit for identification purposes.

12 (PREMARKED DEFENDANT'S EXHIBIT 2)

13 (PREMARKED DEFENDANT'S EXHIBIT 3)

14 COURT REPORTER: Your Honor, I've
15 marked them Defendant's 2 and 3.

16 THE COURT: Exhibits?

17 COURT REPORTER: Defendant's
18 exhibits.

19 CLERK: (Clerk tenders exhibits to
20 witness)

21 THE COURT: Okay. You can ask him
22 about it.

23 CROSS-EXAMINATION CONTINUED

24 BY DEFENDANT FROST:

25 Q. Do you recognize those two pictures

1 there?

2 A. I do.

3 Q. Can you tell me any difference in them
4 two pictures?

5 A. Taken at different distances and one is
6 pretty blurry and the other is good and clear.

7 Q. How about the stains, are they going
8 forward? Is that the picture of a stain on the
9 wall?

10 A. One of them is pretty blurry. There
11 appears to be something on the wall. The other
12 one is a lot crisper, more clear.

13 Q. More clear. Like something's on the
14 wall on one of them and there ain't nothing on
15 the wall on the other.

16 DEFENDANT FROST: Could we look at
17 them up there?

18 THE COURT: Yeah. Yeah. Just ask
19 him which one is clear and you can put them up
20 there.

21 CROSS-EXAMINATION CONTINUED

22 BY DEFENDANT FROST:

23 Q. Which one is clear?

24 A. Exhibit 2 is very blurred. Exhibit 3
25 is crisp, clear.

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1 DEFENDANT FROST: Judge, I would
2 enter those into evidence.

3 THE COURT: Any objection to him
4 entering ---

5 SOLICITOR PRICE: No objection.

6 THE COURT: All right. Without
7 objection they're entered into evidence as --
8 what would that be 1 and 2?

9 CLERK: Two and three.

10 COURT REPORTER: Two and three.

11 (SO ENTERED AS DEFENDANT'S EXHIBIT 2)

12 (SO ENTERED AS DEFENDANT'S EXHIBIT 3)

13 THE COURT: All right.

14 DEFENDANT FROST: Okay. Can I point
15 this?

16 CLERK: Sure.

17 CROSS EXAMINATION CONTINUED

18 BY DEFENDANT FROST:

19 Q. Right there you have a light mark,
20 right there.

21 THE COURT: All right. Now, you've
22 got to ask him a question and he's going to have
23 to go down there and see it. I'm sorry. I've
24 got a view of it here, but it's not a good one.

25 WITNESS: (Witness steps down)

1 CROSS-EXAMINATION CONTINUED

2 BY DEFENDANT FROST:

3 Q. Did you see that mark right there?

4 A. Yes, sir, I do.

5 Q. All right. You said it's like -- do

6 you see that mark right there?

7 A. Yes, sir, I do.

8 Q. Is it brighter or is it a bigger mark

9 like a ---

10 A. Like I said, it's crisp and clear in

11 this one where the other one is definitely fuzzy

12 and hard to see.

13 Q. All right. Thank you, sir.

14 A. (Witness takes stand)

15 MR. COLE: Mr. Clerk, if you'll

16 have that marked for identification purposes.

17 (PREMARKED DEFENDANT'S EXHIBIT 4)

18 CROSS-EXAMINATION CONTINUED

19 BY DEFENDANT FROST:

20 Q. Do you know what that is?

21 A. It appears to be a red marking,

22 possibly a bloodstain. I'm not sure.

23 Q. A red mark. Could you tell me where it

24 is?

25 A. That, I cannot.

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1 Q. You cannot?

2 A. (Negative gesture).

3 DEFENDANT FROST: Could I show it to
4 the ---

5 THE COURT: Yeah. You can show it.
6 You show it to her first.

7 SOLICITOR PRICE: Judge, actually I
8 object to that because he's saying he has no idea
9 where that -- what that ---

10 THE COURT: Well, he -- it was
11 marked but do you object to the introduction of
12 that?

13 SOLICITOR PRICE: No, Your Honor.

14 THE COURT: All right.

15 (SO ENTERED AS DEFENDANT'S EXHIBIT 4)

16 THE COURT: Now, ask him that
17 question again because if he doesn't know but --
18 it's in a vacuum a little bit. Ask him the
19 question again.

20 DEFENDANT FROST: All right.

21 CROSS-EXAMINATION CONTINUED

22 BY DEFENDANT FROST:

23 Q. This right here -- let's see ---

24 COURT REPORTER: It's not entered.

25 THE COURT: Yeah. Let him step

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1 down. Hold on.

2 DEFENDANT FROST: That's what it is.

3 That's ---

4 COURT REPORTER: This isn't entered,
5 Your Honor.

6 THE COURT: Yeah.

7 COURT REPORTER: It is entered.

8 THE COURT: It's entered, yeah.

9 WITNESS: (Witness steps down)

10 CROSS-EXAMINATION CONTINUED

11 BY DEFENDANT FROST:

12 Q. Did you see what this is right here?

13 That's in a screened glass door right there.

14 That's a screened glass, right? The male side,
15 the lock. That's the male side of the lock of a
16 screened glass door. And there's a red spot
17 right there. You see it?

18 A. I see that.

19 Q. Do you know what that is right there?

20 A. I do not.

21 Q. All right.

22 A. (Witness resumes stand)

23 DEFENDANT FROST: I would like for
24 them to know that that's on the inside going to
25 the outside.

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1 SOLICITOR PRICE: Objection, Your

2 Honor. He's testifying.

3 THE COURT: Yeah. You can argue
4 that later, but you've got to ask him a question.
5 I understand.

6 DEFENDANT FROST: Oh, sorry about
7 that.

8 THE COURT: That's okay.

9 CROSS-EXAMINATION CONTINUED

10 BY DEFENDANT FROST:

11 Q. Whenever they took the picture, why
12 didn't take a picture of the female side. That's
13 the male side of the lock.

14 SOLICITOR PRICE: Objection.

15 THE COURT: I'll allow him to -- go
16 ahead. If he knows the answer to it, he can tell
17 you.

18 DEFENDANT FROST: All right.

19 CROSS-EXAMINATION CONTINUED

20 BY DEFENDANT FROST:

21 Q. All right. That's the male side of a
22 lock on a sliding glass door of an impression.
23 Why didn't you take the picture of the female
24 side as well? You know, where it slides up into
25 the aluminum lift. A sliding glass door slides

1 up into an aluminum life to where the wind don't
2 come through. And that's male side. That's like
3 somebody put something in there and pushed it
4 back. Can you tell me why come the female side
5 wasn't took?

6 A. That I couldn't say. I didn't take the
7 pictures. The county forensics did that.

8 Q. Was you around there on that side of
9 the house that day?

10 A. No. Not that I know of.

11 Q. You wasn't? I thought you just drewed
12 a picture over here on the thing where you was
13 at, over on that side when you said you was going
14 back and forth over there where the dayroom is.
15 This is where the dayroom is.

16 A. No, if you'll look, I drew on there
17 where I made towards the front of the house. I
18 never made it around to the opposite side of the
19 house, the side of the house facing the tire
20 store or East Poplar Street.

21 Q. So you never did make it around to the
22 side of the house where the tire store is?

23 A. I never made it on that side of the
24 house, no.

25 Q. How about when you was on the inside,

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1 did you go in through the dayroom when you was on
2 the inside?

3 A. I cleared the rooms, as I recall.

4 Q. You did clear the rooms?

5 A. Yes, sir.

6 Q. The dayroom? That's where you ---

7 A. I'm trying to figure out which -- what
8 are you considering the day room?

9 Q. The one that's got all the glass in it?

10 A. The one that's inside the house?

11 Q. Yeah, inside -- well, on the outside of
12 the house, with the sliding glass door in it.
13 The day room with all the glass windows?

14 A. When I stepped into the doorway as I
15 cleared that room, yes.

16 Q. Did you notice anything about the door?

17 A. No, I did not.

18 Q. You didn't look at the door or see
19 anything?

20 A. No, I did not.

21 Q. Never seen anything about the door?

22 A. No.

23 Q. But you noticed the back door?

24 A. Yes, sir.

25 Q. You noticed the back door?

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1 A. Yes.

2 Q. You didn't look at any other doors when
3 you was in there?

4 A. No, I did not.

5 Q. So you just noticed the back door?

6 A. Yes.

7 Q. All right.

8 (PREMARKED DEFENDANT'S EXHIBIT 5)

9 CROSS-EXAMINATION CONTINUED

10 BY DEFENDANT FROST:

11 Q. You recognize what that picture is?

12 A. Actually, I do not.

13 DEFENDANT FROST: Your Honor, could I
14 move this into evidence?

15 THE COURT: Any objection. Show it
16 to her.

17 SOLICITOR PRICE: No objection.

18 THE COURT: All right. Without
19 objection.

20 COURT REPORTER: It's Defendant's 5,
21 Your Honor.

22 THE COURT: All right. Thank you.

23 (SO ENTERED AS DEFENDANT'S EXHIBIT 5)

24 CROSS-EXAMINATION CONTINUED

25 BY DEFENDANT FROST:

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1 Q. It's hard to see. It's hard to see
2 like that right there, but out from up under the
3 light you can see at the top of the statue's head
4 there is bloodstains up there. And on the
5 statue, below the high statute and the lower
6 statue, there's bloodstains there.

7 THE COURT: Mr. Shirley, can you
8 show him how to zoom that in.

9 DEFENDANT FROST: Yeah, on the top if
10 I could zoom it in right here. Yeah. Right
11 there. See, right here. Yeah. Right there.
12 There you go. Now, you can zoom and have that --

13 THE COURT: All right. He's going
14 to ask you a question, I assume, so I'm going to
15 let you go ahead and step down.

16 WITNESS: (Witness steps down)

17 CROSS-EXAMINATION CONTINUED

18 BY DEFENDANT FROST:

19 Q. You see that right there? Or you might
20 see it better up there.

21 A. I see it. Okay.

22 Q. Bloodstain. You recognize it?

23 A. I don't recognize it. I can see that
24 it's red, but I can't say what it is.

25 Q. Yeah. Well, I mean, if you got a body

1 laying in the next room, I'd imagine that would
2 be blood; wouldn't you think?

3 A. That's hard for me to say.

4 Q. Oh, okay. All right. Thank you.

5 A. (Witness takes stand)

6 SOLICITOR PRICE: Without objection.

7 (PREMARKED DEFENDANT'S EXHIBIT 6)

8 CLERK: (Tenders exhibit to witness)

9 CROSS-EXAMINATION CONTINUED

10 BY DEFENDANT FROST:

11 Q. Do you know what that is?

12 A. That appears to be a picture from
13 inside the bedroom.

14 Q. The victim's weapon.

15 THE COURT: What did you say, sir?

16 DEFENDANT FROST: The victim's
17 weapon.

18 WITNESS Yes, there's ---

19 CLERK: "The victim's weapon."

20 THE COURT: Okay.

21 CLERK: Are you entering this in?

22 DEFENDANT FROST: Yes. Could I enter
23 this into evidence, please, sir?

24 THE COURT: Any objection?

25 SOLICITOR PRICE: Without objection.

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1 THE COURT: Without objection.

2 (SO ENTERED AS DEFENDANT'S EXHIBIT 6)

3 DEFENDANT FROST: Could you zoom in
4 right here, on that spot right there?

5 CLERK: (Complies)

6 CROSS-EXAMINATION CONTINUED

7 BY DEFENDANT FROST:

8 Q. Could you come here and tell me what
9 that is, look right there?

10 A. (Witness steps down)

11 THE COURT: All right. Do you have
12 a question for that?

13 DEFENDANT FROST: Yes, sir.

14 THE COURT: Okay.

15 CROSS-EXAMINATION CONTINUED

16 BY DEFENDANT FROST:

17 Q. Do you know what that is right there,
18 that spot right there? Right there?

19 A. I would say it appears to be blood

20 Q. Blood? Does it look like it could be
21 -- like if you ever clean fish, wiped fish scales
22 off of something?

23 A. Yes, I have scaled fish before.

24 Q. Could it be something like that?

25 A. It would be hard for me to say that

1 that was fish blood.

2 Q. Well, no, not fish blood. But look
3 like it might have been wiped off, something like
4 you'd clean fish with. Does it look like it
5 might have been wiped off with something you
6 clean fish with?

7 A. I am not a forensic expert, so it is
8 hard for me to say that.

9 Q. All right. Thank you.

10 (PREMARKED DEFENDANT'S EXHIBIT 7)

11 DEFENDANT FROST: Can I move that
12 into evidence, sir?

13 THE COURT: All right. Show her.
14 Is there anything over there? Can we just mark
15 all of them? I'd save us a lot of time.

16 DEFENDANT FROST: Well, what I was
17 getting at is what he was called in for a
18 burglary in progress. And that's what happened
19 to my dad. And they treated it as a burglary in
20 progress ---

21 SOLICITOR PRICE: Objection, Your
22 Honor.

23 THE COURT: Yeah. Okay. Go ahead.
24 I'll let you ask him a question. And that's no
25 objection to introducing that.

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1 DEFENDANT FROST: All right.

2 (SO ENTERED AS DEFENDANT'S EXHIBIT 7)

3 THE COURT: Are you going to need
4 him to come back down to look at something?

5 DEFENDANT FROST: Yes, sir.

6 THE COURT: Okay. You can stay down
7 there.

8 WITNESS: (Witness steps down)

9 DEFENDANT FROST: Could you zoom in
10 on the flower right there, please, sir?

11 CLERK: The flower?

12 DEFENDANT FROST: Yes, sir.

13 CLERK: (Complies)

14 DEFENDANT FROST: Right there.

15 CROSS-EXAMINATION CONTINUED

16 BY DEFENDANT FROST:

17 Q. What does that look like to you?

18 A. A flower.

19 Q. How about right here at the bottom of
20 that right there. That red right ---

21 COURT REPORTER: Speak up, please.
22 The what?

23 DEFENDANT FROST: The red that's in
24 the flower.

25 CROSS-EXAMINATION CONTINUED

1 BY DEFENDANT FROST:

2 Q. Does that look like blood?

3 A. It's hard to say what that looks like.

4 Q. Could it be blood?

5 A. I guess it could be.

6 Q. All right. Thank you, sir.

7 CLERK: Two more, please ma'am.

8 (PREMARKED DEFENDANT'S EXHIBIT 8)

9 (PREMARKED DEFENDANT'S EXHIBIT 9)

10 COURT REPORTER: That'd be

11 Defendant's 8 and 9, Your Honor.

12 CLERK: Thank you.

13 THE COURT: All right. Thank you.

14 DEFENDANT FROST: Would you enter
15 these into evidence, please, sir?

16 THE COURT: That's what we're doing,
17 yeah.

18 SOLICITOR PRICE: Without objection.

19 THE COURT: Without objection.

20 (SO ENTERED AS DEFENDANT'S EXHIBIT 8)

21 (SO ENTERED AS DEFENDANT'S EXHIBIT 9)

22 DEFENDANT FROST: All Right. Zoom in
23 on that one.

24 CLERK: Right here?

25 DEFENDANT FROST: Yes, sir. Evidence

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1 lineup.

2 CROSS-EXAMINATION CONTINUED

3 BY DEFENDANT FROST:

4 Q. What is that right there in the floor?

5 DEFENDANT FROST: That's on the
6 evidence lineup.

7 CLERK: Is that what we're talking
8 about?

9 WITNESS: No, bring it up.

10 CROSS-EXAMINATION CONTINUED

11 BY DEFENDANT FROST:

12 Q. Blood right there. Those spots. See
13 that spots; what is that?

14 COURT REPORTER: Speak up, please?

15 CROSS-EXAMINATION CONTINUED

16 BY DEFENDANT FROST:

17 Q. What are them spots right there?

18 A. I'm not sure what those spots are.

19 Q. What could it be? It's in the evidence
20 lineup.

21 A. I'm not sure. I didn't take the
22 pictures. There again, the county forensics are
23 the ones that took the pictures.

24 Q. Could have it been blood?

25 A. I'm sure it could be blood.

1 Q. All right. Thank you, sir.

2 DEFENDANT FROST: Zoom in right there
3 on that, on that door right there.

4 COURT REPORTER: Speak up, please.

5 DEFENDANT FROST: Zoom in on that
6 door right there, please, sir.

7 CLERK: (Complies)

8 DEFENDANT FROST: And drop it down a
9 little bit.

10 CLERK: (Complies)

11 CROSS-EXAMINATION CONTINUED

12 BY DEFENDANT FROST:

13 Q. Could you tell me what that is?

14 A. No, sir. I cannot.

15 Q. Does it look like blood?

16 A. It could possibly be blood.

17 DEFENDANT FROST: All right. Could
18 you zoom in down at the bottom of the floor below
19 that, right there. Right at the bottom.

20 CLERK: Yes, sir.

21 DEFENDANT FROST: On down. Yeah,
22 right there. Zoom in right there.

23 CROSS-EXAMINATION CONTINUED

24 BY DEFENDANT FROST:

25 Q. You can't quite tell right there. But

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1 there ain't a evidence marker. What I'm just
2 saying if there was blood right there at the
3 bottom of the door, there would be an evidence
4 marker. A marker is right there, but the blood's
5 behind the door. You see what I'm saying?

6 A. Yes. I see the evidence marker there
7 and not here.

8 Q. Yeah. So that's why I was wondering.
9 There's so much blood on that door and nothing
10 down at the bottom of the door, on the floor.
11 But you got blood right there in the middle of
12 the floor, like that might be placed or
13 something. That's what I'm getting at. You mind
14 if I ask you another question while you're up
15 there?

16 A. Do I have a seat back up there?

17 Q. Yes, sir.

18 A. (Witness takes stand)

19 Q. You said you was called out there on a
20 burglary in progress?

21 A. That was the call I received.

22 Q. I just want to let you know, I'm not a
23 burglar. That was my daddy you killed. I'm not
24 a burglar. I just want to let you know that.
25 You framing me.

1 SOLICITOR PRICE: Objection, Your

2 Honor. He's testifying.

3 THE COURT: Yeah. You have to ask a
4 question.

5 DEFENDANT FROST: Yes, sir.

6 CROSS-EXAMINATION CONTINUED

7 BY DEFENDANT FROST:

8 Q. You was called out there on a burglary
9 in progress; wasn't you?

10 A. Yes, sir, I was.

11 Q. I'm not a burglar. I'm not a burglar.
12 That was my daddy you killed. I didn't have no
13 reason to go out that back side glass door
14 neither. I didn't have no reason going out
15 either side of the glass door.

16 DEFENDANT FROST: This is the last
17 one. I want to move this one into evidence.

18 CLERK: You've got to show it to her.

19 (PREMARKED DEFENDANT'S EXHIBIT 10)

20 COURT REPORTER: Marked Defendant's
21 10, Your Honor.

22 THE COURT: All right.

23 CLERK: And this is entered?

24 THE COURT: You got any objection to
25 this being entered?

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1 SOLICITOR PRICE: No objection, Your
2 Honor.

3 THE COURT: All right. Without
4 objection.

5 (SO ENTERED AS DEFENDANT'S EXHIBIT 10)

6 THE COURT: You need him to come
7 back down there? You going to show him some-
8 thing?

9 DEFENDANT FROST: Yes, sir. Would
10 you like to come back down here?

11 WITNESS: (Witness steps down)

12 CLERK: Where do you want me to zoom
13 in?

14 DEFENDANT FROST: That's just good
15 right there. That's fine right there.

16 CROSS-EXAMINATION CONTINUED

17 BY DEFENDANT FROST:

18 Q. Do you know what that is?

19 A. Yes, sir.

20 Q. What is that?

21 A. That is the doorway into the kitchen
22 area of the home.

23 Q. Doorway into the kitchen area of the
24 home. Can I ask you a question? If you think
25 the burglar did that right there, why would that

1 be in that side glass door going to the outside
2 of the dayroom? Why would that impression be in
3 that side glass door going out through the
4 dayroom if you think the burglar did that right
5 there?

6 A. That is the door that the information I
7 got with the call ---

8 Q. Yes, sir.

9 A. That's the entranceway that they ---

10 Q. That's the entranceway; right?

11 A. Uh-huh.

12 Q. So would you think that if that was the
13 entrance way of the burglar, would you think the
14 other side glass door would be the out way if he
15 did that right there to enter? You think he
16 would take his time and open that side glass door
17 with a knife? If he did that?

18 A. I can't answer what somebody else would
19 do.

20 Q. All right. Thank you, sir.

21 A. (Witness takes stand)

22 THE COURT: You have any other
23 questions?

24 DEFENDANT FROST: No, sir.

25 THE COURT: All right. Anything on

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1 redirect?

2 SOLICITOR PRICE: Only one question,
3 your Honor.

4 REDIRECT EXAMINATION

5 BY SOLICITOR PRICE:

6 Q. Lieutenant, was there blood everywhere
7 in this residence?

8 A. Not that I seen. There was blood, like
9 I said, the major, you know, blood was in the
10 bedroom where I located Mr. Davenport. But the
11 county forensic units were the ones that was
12 called to come out and collect the evidence. So
13 that would have been their job to locate any
14 evidence throughout the house.

15 Q. And it wasn't your job to go back
16 through the crime scene and pinpoint each area of
17 blood for forensic collection; is that correct?

18 A. No, it was not.

19 Q. Okay. Thank you.

20 SOLICITOR PRICE: No further
21 questions. Your Honor, may this witness be
22 excused.

23 THE COURT: Any objection to him
24 being excused?

25 DEFENDANT FROST: No, sir.

1 THE COURT: All right. You're
2 excused. You can't finish the next one.

3 SOLICITOR PRICE: Yes, sir.

4 THE COURT: Okay. Ladies and
5 gentlemen, we're kind of lucky because we've got
6 another witness that's going to take too long.
7 And like I said, I'm just stuck. I've got this
8 thing today at 4:15 and one Thursday at 2:30.
9 We've dealt with the witness [sic] issue. And as
10 you know, we've removed him and dealt with that
11 issue outside your presence. Please be here
12 tomorrow morning by 9:45. We'll start at 10:00.
13 Do y'all -- you got all you needed this morning?

14 MR. FOREMAN: Yes, sir.

15 THE COURT: Okay. We'll start at
16 10:00 so that gives y'all time to get here in the
17 morning. Be here by about 9:45 and we'll start
18 at 10:00 and we'll get through tomorrow as quick
19 as we can. Have a good night. Don't talk to
20 anybody and don't discuss the case.

21 (JURY OUT @ 3:53 P.M.)

22 THE COURT: How many witnesses you
23 got tomorrow?

24 SOLICITOR PRICE: Your Honor, we've
25 got six left.

25 MR. COLE: Mr. Frost, could he be

1 transported up here at 9:00 and meet with the
2 private investigator in the morning if that works
3 for security.

4 THE COURT: I'll defer to them. Is
5 that okay with y'all.

6 COURT SECURITY: We'll have him here at
7 8:30.

8 MR. COLE: 8:30.

9 THE COURT: Good deal.

10 MR. COLE: Thank you, Your Honor.

11 THE COURT: Thank y'all.

12 (COURT IN RECESS)

13 (TRANSCRIPT CONTINUED NEXT PAGE)

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2 (DEFENDANT PRESENT)

4 (PREMARKED AS STATE'S EXHIBIT 46)

5 (PREMARKED AS STATE'S EXHIBIT 47)

6 (PREMARKED AS STATE'S EXHIBIT 48)

7 (PREMARKED AS STATE'S EXHIBIT 49)

8 (PREMARKED AS STATE'S EXHIBIT 50)

9 (PREMARKED AS STATE'S EXHIBIT 51)

10 (PREMARKED AS STATE'S EXHIBIT 52)

11 (PREMARKED AS STATE'S EXHIBIT 53)

12 (PREMARKED AS STATE'S EXHIBIT 54)

13 (PREMARKED AS STATE'S EXHIBIT 55)

14 THE COURT: You got a fairly long
15 witness here?

16 SOLICITOR PRICE: Yes, sir.

17 THE COURT: Okay. Okay. All
18 right. You can bring them in.

19 (JURY IN @ 10:51 A.M.)

20 THE COURT: Okay. Good morning.
21 Mr. Foreman, one thing, one problem that
22 we've had for the last two days is we've had
23 trouble getting in touch with people. I need
24 you on the first break to get everybody's
25 cell number. Ironically, that's one thing we

1 don't have. And yesterday, a juror didn't
2 appear. And I understand you've got problems
3 and that's not a problem. We sent deputies
4 out to get him and there's some doubt about
5 why -- what he was doing. I don't have any
6 doubt this morning but I do need a cell
7 number for everybody, just in case.

8 FOREMAN: Yes, sir.

9 THE COURT: Okay. All right. You
10 can call your next witness, Solicitor.

11 SOLICITOR PRICE: Thank you, Your
12 Honor. May it please the Court? The State
13 calls Fayette Davenport.

14 (WITNESS TAKES STAND)

15 THE COURT: Mrs. Davenport, I
16 understand you have knee problems. I'm in
17 your boat, so take your time and don't worry
18 about it.

19 WITNESS: I've got one that has
20 been replaced and ---

21 THE COURT: Well, don't tell me
22 that because I'm going to the doctor tomorrow
23 to talk about it.

24 WITNESS: It's not bad.

25 THE COURT: You take your time and

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1 don't push yourself, okay?

2 WITNESS: Yes, sir. Thank you.

3 THE COURT: Okay.

4 FAYETTA DAVENPORT, having been duly sworn
5 to tell the truth, and nothing but the truth,
6 testified as follows:

7 DIRECT EXAMINATION

8 BY SOLICITOR PRICE:

9 Q. Thank you, Mrs. Davenport. And
10 where do you live?

11 A. Ma'am?

12 Q. Where do you live?

13 A. I live at [REDACTED] East Front Street,
14 Iva, South Carolina.

15 Q. Okay. Do you know what county
16 that's in?

17 A. Anderson.

18 Q. Okay. And how long have you lived
19 there?

20 A. A little over six years. I mean
21 sixteen years. I'm sorry.

22 Q. That's okay. It's been a long time?

23 A. Yes.

24 Q. Okay. And can you describe your
25 property for me?

1 A. Well, it's a two-story house, corner
2 lot, five bedrooms, dining room, three and a
3 half baths -- two and a half baths. I'm
4 sorry. And it's a third-floor, twenty-four
5 space (phonetic).

6 Q. Okay. How many entrances are there?

7 A. Seven.

8 Q. Okay. And do you have a side door?

9 A. Yes.

10 Q. What street does your side door
11 face?

12 A. One side door faces East Lake
13 Street, and I've got three doors that face
14 Front Street. Then I have one which faces
15 the back yard. Two of them that faces the
16 back yard.

17 Q. So quite a few?

18 A. Yes.

19 Q. Okay. Did you have a neighbor or do
20 you have a neighbor by the name of Rebecca
21 Keith?

22 A. I sure do.

23 Q. Okay. Where did she live?

24 A. She lived on Lake Street. And that
25 -- her front door looked at my back door.

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1 Q. Okay. Are you married?

2 A. Widowed.

3 Q. How many times have you been
4 married?

5 A. Twice.

6 Q. When were you widowed for the second
7 time?

8 A. July 15th, 2012.

9 Q. Who was your husband at that time?

10 A. James Henry Davenport.

11 Q. And how long had you two been
12 married?

13 A. Forty-one (41) years.

14 SOLICITOR PRICE: Mr. Clerk,
15 (tenders exhibit).

16 CLERK: (Tenders document to
17 witness).

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR PRICE:

20 Q. Our clerk is presenting you with
21 what's been marked as State's Exhibit 54.

22 A. That's my husband, ---

23 Q. All right.

24 A. --- and my dog.

25 Q. Okay. And your dog?

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1 A. Yes.

2 Q. Okay. But that was your husband,
3 James?

4 A. Yes.

5 Q. Are you sure?

6 A. Yes.

7 Q. Okay.

8 SOLICITOR PRICE: Your Honor, at
9 this time the State would seek to admit
10 Exhibit 54 into evidence?

11 THE COURT: Any objection?

12 DEFENDANT FROST: No, sir.

13 THE COURT: All right. Without
14 objection.

15 (SO ENTERED AS STATE'S EXHIBIT 54)

16 SOLICITOR PRICE: And, Your Honor,
17 I request permission to publish to the jury.

18 THE COURT: Sure. No problem. Do
19 you have the picture of him over there?

20 SOLICITOR PRICE: Yes, sir.

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR PRICE:

23 Q. Mrs. Davenport, do you have any
24 children?

25 A. I had three boys.

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1 Q. Okay. What were their names?

2 A. Robert Frost, Daniel Frost, and Jack
3 Davenport.

4 Q. Okay. Are any of them deceased?

5 A. Yes.

6 Q. Which one?

7 A. Jack Davenport.

8 Q. Okay. Was that your youngest son?

9 A. Yes.

10 Q. Do you remember what you were doing
11 during the daytime of July 15th, 2012?

12 A. Well, we had been getting some very
13 bad calls from my son, Robert. So we'd taken
14 the phone off the hook.

15 Q. Okay. Did you contact anybody about
16 those telephone calls?

17 A. I called 9-1-1. They sent Officer
18 Richey to my house and I had some stuff on
19 the recording that he listened to.

20 And then he said, 'where is Robert
21 calling you from?' I said a neighbor's
22 house. So he called that house and Robert
23 answered. And he said -- he might have said
24 'who is this or what' -- anyway. But Robert
25 said it's Jacky. And Jacky had been dead

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1 three months. And he asked Robert or whoever
2 had answered. He said, 'Do you know Robert
3 Frost?' He said, 'yes.' He said, 'well, you
4 tell him if he comes to Iva, he will be
5 locked up.'

6 Then Mr. Richey hung up and he looked at
7 me. And he said, 'what do you want me to
8 do?' I said, 'I don't care what you do as
9 long as you keep Robert Frost from coming to
10 Iva.' And he said, 'well, if he comes hide,
11 and call us.'

12 Q. Okay. Did you hear the person that
13 Captain Richey was talking to?

14 A. No, but the officer said that it was
15 Robert.

16 Q. Okay.

17 A. And he had called back and talked to
18 Robert. He said that's the same voice that
19 was on the recorder.

20 Q. Okay. And the voice that was on
21 your recordings ---

22 A. Sounded like Robert.

23 Q. All right. And you were familiar
24 with his voice?

25 A. Yes.

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1 Q. And in the recordings, what was
2 Robert threatening?

3 A. To come to Iva and kill us.

4 Q. Okay. Did he say he was going to do
5 that?

6 A. (Negative gesture).

7 Q. No?

8 A. No, he didn't.

9 Q. And who was with you at the house
10 that day?

11 A. Just James and me.

12 Q. Okay. Were you doing anything
13 together, you and James?

14 A. Well, we were trying to just survive
15 what Robert was -- he had aggravated us for
16 two days. We had taken the phone off the
17 hook and he was threatening and all that. So
18 we were just kind of taking it easy inside
19 the house, with the house locked.

20 Q. Okay. Were you reading or watching
21 television or doing anything like that?

22 A. At one time I started looking at old
23 photographs and things and James had laid
24 down.

25 Q. Okay. Where had James gone to lay

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1 down? Where was he laying down?

2 A. He laid down in our master bedroom.

3 Q. And where is that bedroom located in
4 your home?

5 A. In the -- if you come in the front
6 door off of Front Street, it's to the left.

7 Q. Okay. And you said you took your
8 phone off the hook?

9 A. Yes.

10 Q. Did you do anything else after
11 Officer Richey left?

12 A. No, I notified all my family what he
13 was doing, my sister, my brother, my
14 daughter-in-law, our granddaughter because he
15 had threatened to kill all of us at one time.

16 Q. Did you do anything to the doors?

17 A. They were all locked.

18 Q. Okay. So you made sure that the
19 doors were locked?

20 A. Yes.

21 THE COURT: Hold on a minute
22 before you ask your next question.

23 (Coughing) -- I'm sorry. Go ahead.

24 DIRECT EXAMINATION CONTINUED

25 BY SOLICITOR PRICE:

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1 Q. Did you watch to see if he was
2 coming?

3 A. No, I didn't. I had too many
4 windows to watch.

5 Q. Okay. Did he make any phone calls
6 after Officer Richey left that you received?

7 A. Well, he -- we'd put the phone on.
8 It was ringing again, and we'd take it off.
9 So I finally took it off of the hook and I
10 asked James, I said, 'Are you hungry?' And
11 he said no. And I said, 'well, I think I'll
12 go in the kitchen and make me a sandwich.'

13 Well, as I started into the kitchen I
14 thought, I'm going to see if he's still
15 calling. I picked up the phone and it was
16 him. And he said, "Mama, I'm sorry. I love
17 y'all" and hung the phone up. You know that
18 was all that was on the recoding. So I went
19 back in there and told James. I said, 'well,
20 I hope Robert has finally settled down.' But
21 all he'd done was to get me off being --
22 looking for him. And he did that on purpose.

23 Q. So you let your guard down ---

24 A. Yes.

25 Q. --- after that phone call?

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1 A. Yes.

2 Q. Okay. And ---

3 A. But our doors was still locked. We
4 were not outside.

5 Q. What did you do after you told James
6 about the phone call?

7 A. I went into my kitchen to make me a
8 sandwich. I had barely got in there when he
9 kicked the door in.

10 Q. Okay. What did you do?

11 A. I started screaming for James that
12 Robert was in the house.

13 Q. Okay.

14 A. But the first thing Robert done was
15 put the knife to my throat and said, "I need
16 some money."

17 Q. So he kicked the door in. He did
18 get in?

19 A. He did get in.

20 Q. And do you have some orthopedic
21 issues, do you have some problems with your
22 hips?

23 A. I had just had a hip replaced about
24 six weeks before that.

25 Q. Okay. So you were not able to move

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1 too fast; is that right?

2 A. And if I fell, I was having to crawl
3 to something to get up.

4 Q. So he kicked the door in, came to
5 you and -- where were you again?

6 A. Beg your pardon?

7 Q. Where were you when he came to you?

8 A. I was standing in my kitchen between
9 my island and the wall.

10 Q. Okay. And he put a knife to your
11 throat?

12 A. Yes.

13 Q. Do you remember what the knife
14 looked like?

15 A. It was just silver. It was long.
16 It was not just a little knife, it was a
17 good-sized knife.

18 Q. Okay.

19 SOLICITOR PRICE: Mr. Shirley, can
20 you take this (exhibit) up to her?

21 CLERK: (Tenders State's Exhibit 41
22 to witness).

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR PRICE:

25 Q. Our clerk is showing you what's been

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1 admitted already as State's Exhibit 41.

2 A. That looks like it.

3 Q. That looks like the knife?

4 A. Yes.

5 Q. Are you sure?

6 A. You know, everything was happening
7 so quick and everything but that looks like
8 the knife.

9 Q. All right. Thank you. And what did
10 he do with the knife?

11 A. Well, whenever he come in, he put
12 the knife to my throat and he said, "I need
13 some money."

14 Q. And what did you do?

15 A. I had a billfold laying on the
16 island there. I said, 'There's some money
17 in it. Get it.'

18 Q. Okay.

19 A. And so he turned around right quick
20 and it was right where he could see it. And
21 then he looked me and said, "I'm going in
22 there and kill that son of a bitch, James."
23 And he started to the bedroom.

24 I started screaming to the top of my
25 voice, "James, Robert's in the house? And he

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1 was -- the way house is laid out, there's the
2 kitchen, dining room, a small hallway, a
3 larger hallway, and then the bedroom was on
4 the right-hand side.

5 But when we got to the bedroom, James
6 was standing in the door with the ball bat.

7 Q. Did you follow Robert?

8 A. Yes, screaming and hollering.

9 Q. Screaming down the hallway?

10 A. Yes. I was screaming in the hallway
11 and that Robert was in the house.

12 Q. And were you standing this entire
13 time? He released you after ---

14 A. Yeah. I was walking in behind him.
15 And I fell one time and had to get up. So he
16 was a little bit in front of me.

17 Q. And how did you get up?

18 A. I crawled to a chair and had to pull
19 up.

20 Q. Okay. And once you got up, you
21 followed him towards the bedroom?

22 A. Yeah.

23 Q. Okay. What happened next?

24 A. Well, I said, "Robert, let's sit
25 down and talk this out." And he said okay.

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1 And he turned around and started towards the
2 living room. I slammed the bedroom door. I
3 thought I had locked it both locks on it. It
4 has a night lock and then a small lock. And
5 next thing I knowed he'd kicked it open. And
6 he was coming like that (demonstrating) with
7 the knife at James, so James hit him with the
8 ball bat.

9 Q. Okay.

10 SOLICITOR PRICE: Mr. Clerk.

11 CLERK: (Tenders Exhibit 44 to
12 witness)

13 THE COURT: For the record you're
14 saying his hand was up here and it was going
15 downward with the knife in it?

16 WITNESS: Yeah.

17 THE COURT: Okay. Because with
18 the motion you made. I just wanted the
19 record to be clear. Okay.

20 DIRECT EXAMINATINO CONTINUED

21 BY SOLICITOR PRICE:

22 Q. Our clerk is presenting you with
23 State's Exhibit 44. Are you familiar with
24 that item?

25 A. That looks like the bat, yes.

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1 Q. Okay. Thank you. So James hit ---

2 A. --- Robert with the bat.

3 Q. Do you remember where he struck him?

4 A. On the left-hand side.

5 Q. Of his head?

6 A. Of the forehead.

7 Q. Okay. All right. What happened
8 next?

9 A. Well, that didn't seem to bother
10 Robert at all. So then he did start after
11 James with the knife. And James fell between
12 the bed and the wall. I somehow or other got
13 between them and had got him up. Then I had
14 fallen on the other side of the bed --
15 (emotional).

16 Q. Take your time.

17 A. And all I could see was Robert just
18 jabbing him, jabbing him. And somehow or
19 another there was a TV stand that got turned
20 over. A nightstand got turned over. My desk
21 got everything cleaned off. You know, they
22 were wrestling or fighting. James was trying
23 to keep the knife away from him. But he
24 winded up in behind the door that came into
25 the bedroom.

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1 Q. And what happened when he was ---

2 A. He was still jabbing him. And I
3 throwed something at Robert, then I tried to
4 push him. And then -- I knew when he went
5 towards him and Robert was just like that on
6 his stomach (gesturing).

7 Q. Repeated stabbing?

8 A. Repeated stabbing, (affirmative
9 nod). And I got by him and just as I got by
10 him, I could see that he was going to his
11 throat. So I ran back to the kitchen and
12 before I got to the kitchen, Robert caught up
13 with me. And he said, "I'm going to kill you
14 now."

15 Q. Before you left the bedroom, was
16 James standing up or on the floor?

17 A. He was on the floor.

18 Q. And -- you left?

19 A. Yes, I got by him.

20 Q. Okay.

21 A. Because I was scared for my life
22 then.

23 Q. Yes, ma'am. And you wound up where?

24 A. He caught me about the dining room.
25 He put the knife to my throat and he said,

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1 'I'm going to kill you too' or 'going to kill
2 you next' or something like that. And he
3 said, "I've got to have some more money."
4 I said, 'Robert there's some more in there in
5 billfold' on the -- where he had just thrown
6 all my credit cards and everything over
7 there. And there were several hundred
8 dollars in there.

9 Q. Okay. And what did he do?

10 A. He took those and -- but when we had
11 walked into the kitchen the door opening to
12 the back yard showed a policeman's car
13 sitting in our back yard. So I called out to
14 the policeman "please help us. Please, we
15 need help."

16 Well, Robert got the money and went out
17 the back door. Now, I don't know -- I guess
18 I was in shock or what, but he had done
19 stabbed me twice and I didn't know it.

20 Q. Do you remember him lunging towards
21 you with the knife at any point in time?

22 A. Do I remember what?

23 Q. Do you remember him lunging at you
24 with the knife ---

25 A. Yes.

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1 Q. --- or making a motion towards you?

2 A. Well, I think -- as well as I can
3 remember, that's how I got my stab in the
4 back. And then I fell on the floor. As he
5 run out, I looked down and the knife was
6 laying across me.

7 Q. Okay. Describe for me how the knife
8 was laying across you?

9 A. All right. It looked like the tip
10 -- I had on a blouse. And the tip of it was
11 inside the blouse and the handle was there.
12 I thought it was all the way in there. I
13 mean, I wasn't hurting, but it scared me.

14 Q. Sure.

15 A. So I picked the knife up and held it
16 and gave it to one of the policemen.

17 Q. Okay. Did you, at any point in time
18 lay it on the ground?

19 A. I couldn't remember. It was so ---

20 Q. But you had -- it was left with you?

21 A. Yes.

22 Q. And you were in the kitchen; is that
23 right?

24 A. Yes.

25 Q. Okay.

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1 A. The first officer that came there,
2 which was Officer Vaughn -- I'm sure they
3 have rules about things, but he couldn't go
4 in the house until he had a backup.

5 But he had run to the front of the house
6 as we were coming out -- as Robert was coming
7 out the back. Robert came out the back, as
8 far as I can remember, and he got on the
9 motorcycle.

10 Q. Where were you when Robert came out
11 the back?

12 A. Laying on the floor.

13 Q. Okay. And could you get up?

14 A No. I couldn't get up.

15 THE COURT: I'm sorry. I couldn't
16 hear you.

17 WITNESS: I couldn't get up.

18 THE COURT: Could not?

19 WITNESS: (Negative gesture).

20 THE COURT: Okay.

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR PRICE:

23 Q. When did you see an officer for the
24 first time?

25 A. It was just seconds, it seemed like,

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1 you know.

2 Q. And what happened when you saw that
3 officer?

4 A. When I saw that officer -- okay.
5 Let me back up.

6 Q. Sure.

7 A. I did not see the officer until he
8 had Robert.

9 Q. Okay.

10 A. But that was just seconds, you know.
11 And Robert laid down -- first he got on the
12 motorcycle, trying to crank it. It wouldn't
13 crank. And he just laid down on the ground.

14 Q. Okay.

15 A. And Officer Vaughn stayed there
16 until another officer come. And the whole
17 time I was screaming that we need the rescue
18 squad or something, that my husband had been
19 hurt real bad.

20 Q. Okay. What happened next?

21 A. Well, there were officers in the
22 house, there were medical in the house. And
23 one of the medical ladies got me up off the
24 floor. I asked her if I could use the phone.
25 I said, 'I need to call my sister'; she

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1 called her for me and she called my
2 granddaughter for me and told both of them
3 'they need you in Iva.'

4 And I got -- I was still in the kitchen
5 so I started getting to where James was at.
6 Two officers stopped me and took me to the
7 living room and said, 'You stay here.
8 They're working on him and they need all the
9 room they can have in there.'

10 Well, I happened to think right quick
11 that my phone in the bathroom might be
12 working. I hurried in there and I called
13 James' sister, Shelby. I just said, 'Shelby,
14 James and Robert's had a fight. James is on
15 the way to the hospital, bye.' I didn't tell
16 her no details because I thought James was
17 probably on the way to the hospital. But
18 they took Robert first.

19 Q. And what happened next?

20 A. Well, after I couldn't go in the
21 room where James was, I went out on my front
22 porch and went to the right. I have a swing
23 right there in front of that door that went
24 in that little bitty hall where James was at.
25 I was probably ten feet from him or something

1 like that. I kept wanting to go in there.
2 And Officer Tommy Miller, he was Chief. He
3 came and squatted down beside me and said
4 'Faye, they're working on him. They don't
5 need you in there and we have let you down.'

6 Q. Did you get transported to the
7 hospital?

8 A. (No verbal response).

9 Q. Did you get taken to the hospital?

10 A. Well, my sister and my brother and
11 them had come up and got there. And they
12 were on the other side of Lake Street. So my
13 sister was screaming for me. And I said,
14 'Joyce, I'm all right. I'm all right.' See,
15 I didn't even know I was stabbed.

16 So the medical lady out of the ambulance
17 lead me across the street to where my brother
18 and my niece and all my family that had got
19 there was there. And they kept begging me to
20 go to the hospital.

21 One of the ambulances left with a police
22 car behind it and I thought that was James,
23 but they were waiting on the coroner.

24 But then they finally talked me into
25 going to the hospital.

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1 Q. Did anyone know you were stabbed
2 before you got to the hospital?

3 A. No.

4 Q. They were concerned about --

5 A. My blood pressure had went really
6 high. The lady took it constantly and kept
7 talking to my sister. She was in the front
8 seat.

9 Q. What happened once you got to the
10 hospital?

11 A. Well, when we got to the hospital
12 they put me on a stretcher and took me to a
13 room. Undressed me from the waist up, and
14 the doctor said 'you've been stabbed twice.'

15 Q. Can you tell me how Robert was
16 acting when all of this was happening?

17 A. Out of his head.

18 Q. Okay.

19 A. He was drunk or on drugs or some-
20 thing.

21 Q. And do you remember what your
22 billfold looked like?

23 A. What, 'Hon?

24 Q. Your billfold?

25 A. It was just a zipper type with a

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1 couple of things on the side. I think there
2 might be a picture somewhere with the stuff
3 laid out.

4 Q. Did you ever give a statement to the
5 police?

6 A. Yes, I gave a statement to the
7 police.

8 Q. Okay. Is it the same thing that
9 you're telling us today?

10 A. That is correct. Officer Martin,
11 Colin Martin went to the -- followed us to
12 the hospital. And he came in my room. And
13 the doctor done had me ready to be sewed up.
14 But it wasn't that bad. So Mr. -- so Colin
15 Martin wanted a statement, so I gave him a
16 five-page statement. Then the doctor came
17 in. The preacher came in and I knew what
18 they was going to tell me.

19 Q. And what did they tell you?

20 A. That James had passed away.

21 Q. Did you ever get to see James again?

22 A. (No verbal response).

23 Q. Did you see James again?

24 A. I saw a gurney or a stretcher with a
25 person on it, completely covered up with the

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1 sheet. And, uh, they said that they had did
2 an autopsy and they cut him, I think, across
3 here and pull their face down. And he said
4 'you don't need to see it.'

5 My granddaughter's husband talked to the,
6 one of the guys at the funeral home and he
7 said, 'can I see his right arm?'

8 THE COURT: Ma'am, make sure you
9 don't tell us what someone else said to you.

10 WITNESS: Okay.

11 THE COURT: You can say what you
12 know.

13 WITNESS: Okay.

14 THE COURT: That's okay.

15 WITNESS: Well, anyway, we saw
16 the right arm and James had a tattoo on it,
17 so we knew that was him.

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR PRICE:

20 Q. Have you spoken to Robert since this
21 happened?

22 A. No.

23 Q. Has he tried to communicate with
24 you?

25 A. Yes.

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1 Q. How?

2 A. By phone.

3 Q. Have you ---

4 A And by letters.

5 Q. Has he sent you anything other than
6 letters?

7 A. A Mother's Day card, stuff like
8 that.

9 Q. Okay. And have you sent anything to
10 him while he's been in jail?

11 A. I sent one letter. He was drawing
12 his disability and so he wrote the Social
13 Security Office and told them to send his
14 check to the jail, that's where he was at.
15 But the letter came to me since I was his
16 guardian. So I put the letter in an
17 envelope. I said, 'well, I guess this will
18 stop.'

19 Q. Did you deposit money into his
20 account at the jail?

21 A. At the jail?

22 Q. Yes?

23 A. I sent him money at the jail.

24 Q. But you haven't spoken with him?

25 A. No.

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1 Q. Okay. Do you see the man who
2 stabbed your husband James in the courtroom
3 today?

4 A. Yes, I do.

5 Q. Okay. Can you please point him out
6 for me?

7 A. Robert Frost.

8 Q. Okay. What is he wearing?

9 A. (No verbal response).

10 Q. Can you tell me what he's wearing?

11 A. He's wearing a blue shirt and I
12 can't tell but they're kind of brown pants.

13 Q. Okay. Did Robert live with you and
14 James at the time this occurred?

15 A. Not at the time this occurred. I
16 had given him a house over on one of the mill
17 villages. And he had been there two or three
18 years, I don't know how long. And I'd given
19 him new furniture and stuff and the next
20 thing I know he'd throw it out.

21 Q. Do you remember the address or the
22 street name?

23 A. [REDACTED] Boston Street.

24 Q. But he did not live with you or
25 James?

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1 A. Not at that time.

2 Q. Mrs. Davenport, was this incident
3 the first time that Robert had attacked you
4 or James?

5 A. No, it was not.

6 Q. Okay. Was there an incident that
7 occurred in Mississippi?

8 A. Yes, there was. Robert had not been
9 out of prison too long and he -- he couldn't
10 associate with big crowds, it kind of
11 unnerved him. So he wanted to come home from
12 down there. And I -- I had found a friend of
13 ours that was there that was going to bring
14 him home. And I drove probably as far as
15 from here to the first gate there. He jumps
16 out the van with a knife and cuts my husband
17 and here and here and on the leg.

18 Q. Okay.

19 A. And my husband liked to have bled to
20 death before they got him to the hospital.

21 Q. Okay. So that had happened years
22 before this incident?

23 A. Oh, yes. Several years before this.

24 Q. And was July 2012 the first time he
25 had called your home making threats?

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1 A. Oh, no.

2 Q. Okay. Was that the first time you
3 called ---

4 A. It was -- most of the time was, "I
5 need money. I need groceries. Come up here
6 and help me to the store." You know, stuff
7 like that.

8 Q. Did he call you making threats
9 before 2012?

10 A. He had threatened me when I was in
11 the car with him.

12 Q. Okay.

13 A. But when he was sober and not on
14 anything, he was one of the nicest persons
15 you would want to see.

16 Q. So this was surprising to you that
17 day?

18 A. No, not really because he had done
19 it before, you know.

20 Q. Okay.

21 A. I've had to go pick up his girl-
22 friends when he'd jump on them, and take them
23 home.

24 Q. Well, just one moment, okay.

25 SOLICITOR PRICE: Your Honor, with

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1 the Court's permission, I have some photo-
2 graphs for Mrs. Davenport to go through.
3 Would it be appropriate to bring a chair down
4 so that she doesn't have to stand?

5 THE COURT: We understand how
6 difficult it is for you to stand so we've
7 made a arrangements to have you sit there.
8 The deputy is going to help you.

9 SOLICITOR PRICE: Thank you, Judge.

10 THE COURT: Sure. I assume -- we
11 talked about this, Mr. Frost, no objection to
12 that?

13 DEFENDANT FROST: No, sir.

14 WITNESS: (Steps down from
15 witness stand to chair).

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR PRICE

18 Q. Mrs. Davenport, I'm going to hand
19 you what's been marked and previously
20 admitted as State's Exhibits 18 through 26?

21 A. Okay.

22 Q. Can you tell me if you're familiar
23 with what's in each of these photos? And
24 tell me what you see and I'll put them up for
25 the jury to see, okay?

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1 A. Okay.

2 Q. This is State's Exhibit 18?

3 A. Okay. This is the door that comes
4 into our bedroom. This had all been knocked
5 down ---

6 Q. If I sit this up here will you be
7 able to ---

8 A. Yes. Uh-huh.

9 Q. Okay.

10 A. All right. This was the door that
11 came into the bedroom. James and Robert had
12 wrestled and -- anyway, all of this had
13 gotten knocked down. And eventually, Robert
14 got James behind that door and that's where
15 he killed him.

16 Q. Okay. State's Exhibit 19?

17 A. Okay.

18 Q. What do you see?

19 A. That is just the stuff in the room
20 where they had been fighting, scuffling or
21 fighting or whatever.

22 Q. Okay. Is this the way your room
23 looked before?

24 A. No.

25 Q. (Showing State's Exhibit 20 to

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1 witness).

2 A. Okay. Now, that was my computer
3 desk. It was all, you know, right.

4 Q. This is State's Exhibit 20?

5 A. Uh-huh. This is the nightstand.
6 This is the side of my bed. But none of this
7 junk and stuff was there like that.

8 Q. Was this the area where the struggle
9 occurred?

10 A. Part of the struggle was on this
11 side of the bed. Part was on the other side.

12 Q. Okay. State's Exhibit 21. I think
13 we need to turn it around a little bit.

14 A. Okay. Can we get it over here?

15 Q. Yes, ma'am?

16 A. That was just undoubtedly in my
17 bedroom where everything had just piled up on
18 the floor.

19 Q. The floor had not looked like this
20 prior to the struggle; is that right?

21 A. Right.

22 Q. This is State's Exhibit 22.

23 A. Okay. This is my kitchen. This is
24 the bar that I fell between that and my
25 stove. Undoubtedly the sugar had been

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1 knocked off. But that's where I was laying
2 when I was stabbed twice.

3 Q. State's Exhibit 23?

4 A. And that is the ball bat.

5 Q. Okay. That's the ball bat that
6 James hit Robert with?

7 A. Yes.

8 Q. State's Exhibit 24?

9 A. Okay. This is the door that goes
10 into my bedroom. The stairs go up right
11 here. And the front door is about where this
12 little red sticker is at.

13 Q. Okay. And James was behind this
14 door?

15 A. Behind that door is where he was
16 killed.

17 Q. Okay. Let's see if that helps.
18 Okay. This is State's Exhibit 25.

19 A. Okay. This is the door coming into
20 the bedroom. That's my bed, computer desk.
21 There was a TV, three-stack TV cabinet type
22 with a TV on top of it. And all of that was
23 on the floor.

24 Q. Do you remember if you were watching
25 TV or if James was watching TV before Robert

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1 came in?

2 A. James could have been watching TV
3 because he watched a lot of TV.

4 Q. Okay. And finally, State's Exhibit
5 26.

6 A. Okay.

7 Q. Can you see that?

8 A. That's my back door that he kicked
9 in.

10 COURT REPORTER: Back door what,
11 please?

12 SOLICITOR PRICE: That he kicked in.

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR PRICE:

15 Q. Mrs. Davenport, I'm going to show
16 you what's been marked as State's Exhibits 45
17 through 53. And without putting them up just
18 yet, flip through them and make sure you're
19 familiar with what's in those photographs for
20 me, please, okay?

21 A. That was the top of my ---

22 Q. Wait. Don't tell me yet.

23 A. Oh.

24 Q. Just flip right through them and
25 make sure that you know ---

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1 A. What they are?

2 Q. --- you're familiar with that. Yes,
3 ma'am. Thank you.

4 A. (Upon review), okay.

5 Q. Are you familiar with all of those?

6 A. Yes.

7 Q. Okay. And what are they generally?

8 A. Different areas in my house.

9 Q. Okay. And are you -- do they look
10 like the way the house was the night of the
11 incident?

12 A. After the fight, yes.

13 Q. After the fight. Okay.

14 SOLICITOR PRICE: Your Honor, at
15 this time the State would seek to admit
16 Exhibits 45 through 53 into evidence and
17 request permission to publish them.

18 THE COURT: All right.

19 SOLICITOR PRICE: And if you don't
20 mind, I'm going to show those to the
21 Defendant first.

22 WITNESS: Okay.

23 SOLICITOR PRICE: Thank you.

24 THE COURT: Mr. Frost, look at
25 these because she's going to move them into

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1 evidence unless you object.

2 DEFENDANT FROST: (Reviewing).

3 THE COURT: Any objection to
4 introducing those into evidence?

5 DEFENDANT FROST: No, sir.

6 THE COURT: Without objection.

7 SOLICITOR PRICE: All right.

8 (SO ENTERED AS STATE'S EXHIBIT 45)

9 (SO ENTERED AS STATE'S EXHIBIT 46)

10 (SO ENTERED AS STATE'S EXHIBIT 47)

11 (SO ENTERED AS STATE'S EXHIBIT 48)

12 (SO ENTERED AS STATE'S EXHIBIT 49)

13 (SO ENTERED AS STATE'S EXHIBIT 50)

14 (SO ENTERED AS STATE'S EXHIBIT 51)

15 (SO ENTERED AS STATE'S EXHIBIT 52)

16 (SO ENTERED AS STATE'S EXHIBIT 53)

17 SOLICITOR PRICE: And, Your Honor,
18 request permission to publish?

19 THE COURT: Sure.

20 DIRECT EXAMINATION CONTINUED

21 BY SOLICITOR PRICE:

22 Q. This is State's Exhibit 45?

23 A. Okay. That's the top of the island
24 where he had taken stuff out of my billfold.

25 Q. Okay. That's your billfold?

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1 A. Yeah.

2 Q. Did the officers give your billfold
3 back to you?

4 A. Yes.

5 Q. Okay. This is State's Exhibit 46?

6 A. Yeah. Okay. This was the kitchen.
7 He actually came in this door. And whenever
8 he -- between the double oven and this island
9 is where I was left laying.

10 Q. Okay. This is State's Exhibit 47?

11 A. Okay. That's the knife.

12 Q. Okay. And were you laying in this
13 area?

14 A. Yes, I was -- because that's the
15 island.

16 Q. Yes, ma'am. Okay. State's Exhibit
17 49?

18 A. Stuff that he jerked out of my
19 pocketbook, driver's license and stuff,
20 hunting more money. That was on top of my
21 island.

22 Q. And you said several hundred
23 dollars?

24 A. Uh-huh, (affirmative nod).

25 Q. Was that in this billfold?

1 A. Yes.

2 Q. Okay. Do you remember, was that in
3 five dollar bills? Twenties?

4 A. Hundred dollar bills.

5 Q. They were hundreds?

6 A. (Affirmative nod).

7 Q. State's Exhibit 48?

8 A. This is my back door that he kicked
9 in and the glass is cracked, but it didn't
10 fall out.

11 Q. Okay. Had it been cracked before
12 this incident?

13 A. I can't remember. I'm sorry.

14 Q. That's fine. Okay. State's Exhibit
15 50?

16 A. Okay. That is my front door.

17 Q. Did you go to the front door at any
18 point during this scuffle?

19 A. Yes, because I went to the front
20 door while Robert and him were in the bedroom
21 fighting, because the front door was right
22 and I was hoping I would see somebody to tell
23 them that we needed help.

24 Q. But did you see anybody?

25 A. I didn't see nobody.

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1 Q. So at that point in time ---

2 A. I turned around and started back to
3 the kitchen and that's when he got me.

4 Q. Okay. And did you open this door?

5 A. Yes.

6 Q. Okay. Do you see anything on the
7 door knob?

8 A. That looks like blood.

9 Q. And State's Exhibit 51?

10 A. Okay. Okay. This is my front door
11 that's opened.

12 Q. Is there anything on the floor?

13 A. They look like they're blood spots.
14 I don't know.

15 Q. Okay. And State's Exhibit 52?

16 A. The same front door.

17 Q. Same thing?

18 A. Yeah.

19 Q. And State's Exhibit 53?

20 A. Okay. That is the front door, the
21 whole door. The bedroom was to this side
22 that he got killed in.

23 Q. Okay. And is this area the same
24 area that's shown in State's Exhibit 52?

25 A. Yes. Uh-huh.

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1 Q. All right. Just one minute, okay,
2 Mrs. Davenport?

3 A. Okay.

4 Q. Mrs. Davenport, have you actually
5 served time on a charge before?

6 A. Yes.

7 Q. Are you telling the truth about this
8 incident today?

9 A. Yes.

10 Q. Is what you're telling us today the
11 same thing that you told police the night
12 that this occurred?

13 A. That is correct.

14 Q. Okay. Thank you very much. I'm
15 going to ask that you take the stand and then
16 please answer any questions that Robert has
17 for you at this time.

18 A. If I can get up, (witness resumes
19 witness stand).

20 THE COURT: Okay. Yes, sir.
21 Ma'am, do you need a break or anything?

22 WITNESS: I'm fine.

23 THE COURT: I've got some water
24 here for you if you need some?

25 WITNESS: Thank you. I've got

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1 some. I'm fine.

2 THE COURT: Okay. All right.

3 Yes, sir, Mr. Frost?

4 CROSS-EXAMINATION

5 BY MR. FROST:

6 Q. Hey, mama. I don't know how to
7 start this off ---

8 COURT REPORTER: Speak up, please.

9 DEFENDANT FROST: Yes, ma'am.

10 THE COURT: You've got to really
11 speak up so everybody can hear you, Mr.
12 Frost.

13 DEFENDANT FROST: All right.

14 CROSS-EXAMINATION CONTINUED

15 BY MR. FROST:

16 Q. You say you got some phone calls
17 that day from me?

18 A. (No verbal response).

19 Q. You said you got some phone calls?

20 A. I got phone calls from you that day.

21 Q. Yeah. That day. And whenever I
22 arrived down there, you said you seen me kick
23 in the back door?

24 A. Yes.

25 Q. Okay. Are there any curtains or

1 anything on the back door?

2 A. It has a small curtain.

3 Q. Is there any blinds on the back
4 door?

5 A. Any what?

6 Q. Blinds?

7 A. No.

8 Q. Can you see through the curtain?

9 A. Just curtains.

10 Q. Yeah. Are you sure I kicked it in
11 or fell in?

12 A. You kicked it twice to get in.

13 Q. Okay. Have we ever went over there
14 to Greenville to get some pills and stuff
15 like that, mama?

16 A. Gone over where?

17 Q. Greenville, to the doctor to get ---

18 SOLICITOR PRICE: I object to the
19 matter of relevance.

20 THE COURT: Hold on.

21 DEFENDANT FROST: That's relevant.

22 THE COURT: I'm sorry. Hold --
23 no. What's your objection?

24 SOLICITOR PRICE: Relevance.

25 THE COURT: I don't know where

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1 it's going. I'll give you a little leeway.
2 You can ask her if she took you to Greenville
3 to get medicine.

4 CROSS-EXAMINATION CONTINUED

5 BY MR. FROST:

6 Q. Have you took me over to Greenville
7 to get medication?

8 A. Yes.

9 Q. All right. Did I give you some
10 medication for taking me over to Greenville?

11 A. You might have given me a pain pill
12 if I were hurting or something like that, but
13 not ---

14 Q. Well, how about a Xanax?

15 A. --- no handful or nothing.

16 Q. How about a Xanax?

17 A. A what?

18 Q. A Xanax?

19 A. No.

20 Q. Okay. Have you ever been busted for
21 methamphetamines?

22 A. Have I ever what, honey?

23 Q. Been caught with methamphetamines?

24 A. Caught with them?

25 Q. Yeah, with methamphetamines?

1 A. Yes. And I did two years.

2 Q. Was my SSI check going down there at
3 the time, my Social Security check?

4 A. It was coming to me.

5 Q. Yeah. Whose name is on that Social
6 Security check?

7 A. Mine and yours.

8 Q. Mine and yours, both of us?

9 A. As well as I can remember.

10 Q. So you're saying I had money coming
11 in through the residence at [REDACTED] Front Street?

12 A. Yeah.

13 Q. How long has it been coming to [REDACTED]
14 East Front Street?

15 A. You were classified as disability in
16 2004 or ---

17 Q. About thirteen years?

18 A. Yeah.

19 Q. It's been about thirteen years?

20 A. 2004 or '05.

21 Q. Have I come by there to pick up
22 money?

23 A. Yes.

24 Q. How many times have I come by there
25 to pick up money?

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1 A. Well, you didn't come by and pick up
2 money, I had to bring the money to you.

3 Q. Yeah. So I had money coming into
4 the residence or you would bring the money to
5 me?

6 A. Yes.

7 Q. Okay. Whose money was it?

8 A. It was your money.

9 Q. My money?

10 A. Yes.

11 Q. All right. My dad, my dad Bobby,
12 Bobby Frost, how long was you married to him?
13 And this was my first dad. My first dad?

14 A. I was married to Bobby Frost for
15 eleven years.

16 Q. Eleven years. How did -- was
17 deceased? How did he die?

18 A. A justifiable homicide.

19 Q. Justifiable homicide? Where did you
20 shoot him at?

21 A. In the back and in the neck.

22 Q. In the back and the neck. How old
23 was I when that happened?

24 A. Five.

25 Q. Five. Then you met who, Mr.

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1 Davenport?

2 A. (No verbal response).

3 Q. Then you met my dad, my stepdad, Mr.
4 Davenport?

5 A. I married Mr. Davenport over two
6 years after that.

7 Q. Just two years after my daddy was
8 deceased, you married Mr. Davenport?

9 A. Yes.

10 Q. Was Mr. Davenport in any kind of
11 motorcycle gang, like the Confederate
12 Motorcycle Gang?

13 COURT REPORTER: I'm sorry, like
14 what?

15 DEFENDANT FROST: Confederate
16 Motorcycle gang.

17 CROSS-EXAMINATION CONTINUED

18 BY DEFENDANT FROST:

19 Q. Like ride a Harley Davidson. Did
20 James Ride a Harley Davidson?

21 A. He had several motorcycles.

22 Q. Was he ever in the Confederate
23 Motorcycle Gangs?

24 A. No, he never got in. They wouldn't
25 let him. They wouldn't let him.

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1 Q. They wouldn't let him? Did he try
2 to get into the Motorcycle Gang?

3 A. (No verbal response).

4 Q. He tried to become a member of ---

5 A. Oh, yes. He tried to become a
6 member and they rejected him.

7 Q. Yeah. Has he ever been a member of
8 the Ku Klux Klan?

9 A. At one time I think he was, probably
10 back about the time you was born.

11 Q. Yeah. Did he drive a truck?

12 A. He drove tractor-and-trailers, yes.

13 Q. How big is my stepdad? How big is
14 he?

15 A. What?

16 Q. My stepdad, how big is he? How big
17 is James?

18 A. He was probably 5'11", 5'10", when
19 we first got married he weighed 180 pounds.
20 But as he got older, he gained weight. He
21 became a diabetic and had a lot of medical
22 problems.

23 Q. All right. He was 6'1" and weighed
24 320 pounds. That's what he was. 6'1" and
25 weighed 320.

1 A. Might have been when he died. I
2 don't know.

3 Q. Did he have a temper?

4 A. Sometimes, but we -- James and I
5 never had any fighting or -- we might have
6 fussed at each other every once in a while,
7 but for the last thirty years of our marriage
8 we never raised our voice to each other.

9 Q. Yeah. How about has he ever raised
10 his voice at anybody else like me or ---

11 A. According to what you'd done or
12 according to what Jacky had done or according
13 to what Danny had done.

14 Q. Yeah?

15 A. He never whipped you or anything.

16 Q. Yeah?

17 A. None of the boys.

18 Q. What rooms did this happen in, in
19 ■ Front Street, at the house. What rooms
20 did the conflict happen in?

21 A. I don't understand your question.

22 Q. Like, you said it happened in the
23 kitchen?

24 A. Uh-huh.

25 Q. And in the bedroom?

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1 A. Uh-huh.

2 Q. Did you see me go to any other
3 rooms?

4 A. Well, you went through the dining
5 room. You went through two hall rooms to get
6 to the bedroom.

7 Q. Right. I mean, did you see me go
8 into the living room?

9 A. You never went to living room, that
10 I know of.

11 Q. Yeah. Did you ever see me go into
12 the dayroom?

13 A. No.

14 Q. Dayroom or the living room?

15 A. No. You went straight to the
16 bedroom.

17 Q. All right. Did you see me touch
18 anything in the house besides getting some
19 money from you?

20 A. You touched my billfold.

21 Q. That's it. Did you see me like
22 touch anything else, anything?

23 A. You had a knife in your hand the
24 whole time.

25 Q. And are you sure how many times you

1 seen me -- did you see me cut James? Did you
2 see me cut him any time?

3 A. You was stabbing.

4 Q. Stabbing him. You didn't see me put
5 any cuts on him?

6 A. As I was leaving the bedroom, I
7 could see that you were going for his throat.

8 Q. With the silver knife?

9 A With a knife.

10 DEFENDANT FROST: I'd like to put it
11 in a Motion that I wanted an expert's
12 decision on that silver knife, you know, ---

13 THE COURT: Hold on a minute.
14 Hold on a minute.

15 DEFENDANT FROST: I got the Motion.

16 THE COURT: I know. Hold on.
17 Ladies and gentlemen, let me send you out for
18 a few minutes to figure out what's going on.
19 And don't discuss the case.

20 (JURY OUT @ 11:47 A.M.)

21 THE COURT: Okay. What are you
22 wanting to do?

23 DEFENDANT FROST: I put a Motion in
24 for an expert's decision on the cuts because
25 I never put no cuts on my daddy. That's what

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1 I'm saying. And he had thirteen cuts and two
2 close to his neck that I never put on there.
3 And I asked for an expert's decision on that
4 knife. I put the Motion in. I've got the
5 Motion clocked in to the Clerk of Court's.

6 THE COURT: When was it clocked
7 in?

8 DEFENDANT FROST: I'll show you
9 right here.

10 THE COURT: There's no Order,
11 apparently. So I'm just trying to figure out
12 when it was clocked in.

13 DEFENDANT FROST: It was clocked-in
14 February 2016 for a expert's decision.

15 THE COURT: All right. Hold on.
16 Let me read it. (Upon review), all right.
17 It looks like there was a Motion "for expert
18 decision on murder weapon to cuts on James
19 Davenport." There was a Motion but obviously
20 there was no hearing, so there is no expert
21 on that. So, I mean, do you have an expert
22 here?

23 DEFENDANT FROST: I have a private
24 investigator.

25 THE COURT: Well, if he's an

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1 expert on knife wounds, that's one thing, but
2 ---

3 SOLICITOR PRICE: May it please the
4 Court?

5 THE COURT: Yeah. Hold on a
6 second. But assume he's not because I
7 suspect it's going to be difficult to get him
8 to testify to whatever. I don't know.
9 What do you want to ask him?

10 DEFENDANT FROST: Well, I got some
11 more questions but I need to ask them when
12 the jury, I guess, comes in.

13 THE COURT: Yeah. I'm just asking
14 you -- I mean, there's a Motion for an
15 expert, but it's never been dealt with, but
16 it's too late to deal with it now. So I
17 guess you can ask ---

18 DEFENDANT FROST: Well, then I need
19 to pull out some pictures that show the
20 difference ---

21 THE COURT: All right. I'll give
22 you a few minutes to do that.

23 DEFENDANT FROST: --- in the cuts.

24 THE COURT: I'll give you a few
25 minutes with your ---

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1 DEFENDANT FROST: Not at all. I can
2 wait on that. I can wait on that.

3 THE COURT: Well, the problem is
4 once you finish with her, she'll be gone.

5 DEFENDANT FROST: Okay. But I can
6 bring the jury because I want the jury to
7 hear everything and I can ---

8 THE COURT: Yeah. Find the
9 pictures first and then we'll take a short
10 break while you look. She'll stay here.
11 We'll take a little break while he looks for
12 the pictures because I want to see them
13 before they get popped up. I'll be right
14 back.

15 (BRIEF RECESS)

16 (WITNESS REMAINS ON WITNESS STAND)

17 (DEFENDANT PRESENT)

18 SOLICITOR PRICE: I have no
19 objection to that. He was seeking to
20 introduce pictures from the autopsy and I
21 think that those are ---

22 THE COURT: Why you want to do
23 that?

24 DEFENDANT FROST: To show the cuts.

25 THE COURT: And what's your

1 objection to them? We're on the record,
2 right?

3 COURT REPORTER: No, we're not on
4 the record.

5 THE COURT: Okay. We need to be.
6 Sorry.

7 COURT REPORTER: You want to start
8 over.

9 THE COURT: Hold on a minute. All
10 right. We've discussed one picture and I'm
11 down here with them so we can save a little
12 time.

13 SOLICITOR PRICE: Two things. I
14 think that presenting the jury with photos of
15 the deceased victim can be overly appealing
16 to their senses and that could go to either
17 side, but shocking to the jury.

18 But also Mrs. Davenport is not the
19 appropriate witness to testify to differences
20 in medical or physical evidence. I believe
21 that Dr. Woodard ---

22 THE COURT: Is he coming?

23 SOLICITOR PRICE: He is.

24 DEFENDANT FROST: Well, that'll be
25 fine.

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1 THE COURT: Well, hang on.

2 SOLICITOR PRICE: And if the judge
3 wants ---

4 THE COURT: No, I'm going to keep
5 those out now.

6 DEFENDANT FROST: Yeah. That'll be
7 fine.

8 THE COURT: And we'll get Dr.
9 Woodard.

10 DEFENDANT FROST: All right. Thank
11 you.

12 SOLICITOR PRICE: Thank you, Judge.

13 DEFENDANT FROST: Thank you, Judge.

14 COURT REPORTER: You want this
15 marked?

16 DEFENDANT FROST: Yes.

17 COURT REPORTER: Does it have a
18 sticker on it?

19 DEFENDANT FROST: Yes.

20 COURT REPORTER: Which one is it?

21 DEFENDANT FROST: Eleven.

22 (SO ENTERED AS DEFENDANT'S EXHIBIT 11)

23 THE COURT: Okay. So we've agreed
24 to that one and the other two will be when
25 Dr. Woodard comes.

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1 DEFENDANT FROST: Thank you.

2 THE COURT: All right. You want
3 to bring them back.

4 (JURY IN @ 12:06 P.M.)

5 THE COURT: All right. Thank you
6 for your patience. All right. You can
7 continued

8 DEFENDANT FROST: All right.

9 CROSS-EXAMINATION CONTINUED

10 BY DEFENDANT FROST:

11 Q. I was just asking did you see me go
12 through any other rooms in the house besides
13 the kitchen, the dining room, the little
14 hallway that goes into the bedroom?

15 A. No, because I had left the bedroom
16 and went straight to the kitchen. And you
17 caught up with me and said, "I'm going to
18 kill you now."

19 Q. Okay. Can I show you some pictures
20 that was brought into evidence.

21 A. Okay.

22 Q. Okay. All right. Could you come
23 back down here, please?

24 SOLICITOR PRICE: Could we have the
25 clerk provide them to her?

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1 THE COURT: Yeah, hand up to him
2 and then he can hand them to her. And then
3 if we need to go on the screen ---

4 DEFENDANT FROST: I'd like for them
5 to be put on the screen so my family can see
6 too.

7 THE COURT: All right. We'll I'll
8 let her look at this one then.

9 CLERK: (Tenders exhibit to
10 witness).

11 THE COURT: Just so she doesn't
12 have to move, okay?

13 COURT REPORTER: Please state the
14 exhibit numbers.

15 DEFENDANT FROST: Let's see. Number
16 4. That's right? Number 4?

17 CLERK: Yes.

18 CROSS-EXAMINATION CONTINUED

19 BY DEFENDANT FROST:

20 Q. Do you recognize that door right
21 there?

22 A. (Reviewing).

23 Q. Do you recognize that door?

24 A. I'm looking.

25 Q. Does it look like the screen ---

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1 THE COURT: Hold on a minute, let
2 her answer the question.

3 DEFENDANT FROST: Okay.

4 WITNESS: Could it be upside
5 down? The sofa's upside down?

6 THE COURT: I don't know.

7 CROSS-EXAMINATION CONTINUED

8 BY DEFENDANT FROST:

9 Q. No. No, that's right. I know that.

10 THE COURT: So the question was,
11 do you recognize that door?

12 WITNESS: I don't recognize that
13 door.

14 DEFENDANT FROST: No, that's upside
15 down. That's the right way. Because there's
16 the screws to the lock where it comes out.
17 He had the tag upside down.

18 CROSS-EXAMINATION CONTINUED

19 BY DEFENDANT FROST:

20 Q. Do you recognize that door?

21 A. No.

22 Q. If I bring it to your attention?

23 THE COURT: Yeah. You think it's
24 now right-side up?

25 DEFENDANT FROST: Yeah. That's

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1 right. Okay.

2 THE COURT: Does that help you,
3 ma'am?

4 WITNESS: (Negative gesture).

5 THE COURT: Okay.

6 CROSS-EXAMINATION CONTINUED

7 BY DEFENDANT FROST:

8 Q. Does it look like the screen glass
9 door that slides into the day room, going out
10 of the day room, the lock part of the day
11 room? The screen glass door?

12 A. (Negative gesture).

13 THE COURT: She's shaking her head
14 "no." Note it ---

15 WITNESS: No, that does not look like
16 it.

17 CROSS-EXAMINATION CONTINUED

18 BY DEFENDANT FROST:

19 Q. Do you know the screen glass door,
20 the glass door part?

21 A. The sliding back door?

22 Q. Just the lock part?

23 A. (No verbal response).

24 DEFENDANT FROST: Hold on a minute.
25 I got another picture I may clock in that

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1 shows all the door.

2 CLERK: He has two more pictures,
3 Your Honor.

4 THE COURT: All right. And any
5 objection to these two?

6 SOLICITOR PRICE: No objection.

7 THE COURT: All right. Without
8 objection they're introduced.

9 COURT REPORTER: Marked as
10 Defendant's Exhibit 13 and 14, Your Honor.

11 THE COURT: All right. 13 and 14.
12 They're in.

13 (SO ENTERED AS DEFENDANT'S EXHIBIT 13)

14 (SO ENTERED AS DEFENDANT'S EXHIBIT 14)

15 DEFENDANT FROST: That's in. All
16 right.

17 CROSS-EXAMINATION CONTINUED

18 BY DEFENDANT FROST:

19 Q. This is the same picture but it's
20 just different. Does that right there look
21 familiar?

22 A. (Reviewing).

23 Q. Does that look like the screen glass
24 door in the dayroom going to the porch?

25 A. It could be because of the curtain

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1 is there.

2 Q. Yeah, the curtain. Okay. Here's a
3 better picture too. That's the same thing.
4 Is that the screen glass door that goes out
5 into the porch, the same door? The same
6 door?

7 A. Okay.

8 Q. Is that in your dayroom?

9 A. Huh?

10 Q. Is that in your dayroom?

11 A. Yeah, it looks like the door to my
12 dayroom.

13 Q. The screen glass door that go into
14 the porch. That's in your dayroom?

15 A. Because this looks like the porch,
16 the swing on the porch.

17 Q. Yeah, -- the swing on the porch?

18 A. (Affirmative nod). But now you know
19 the police took me to the living room, which
20 was next door to this room.

21 Q. We'll get ---

22 THE COURT: Hold on a minute.
23 Go ahead. She can answer.

24 DEFENDANT FROST: Oh, okay.

25 WITNESS: And I came through

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1 that room and went to the front porch and
2 around the porch, the porch curves around.

3 CROSS-EXAMINATION CONTINUED

4 BY DEFENDANT FROST:

5 Q. Yeah?

6 A. So I could get closer to the room
7 that my husband was in.

8 Q. I understand that, okay. But you
9 didn't ---

10 A. And I don't know if I had blood on
11 me or not.

12 Q. Well, that ain't -- uh, you do
13 recognize that as a screen glass door.

14 A. Uh-huh.

15 DEFENDANT FROST: All right. Can I
16 show her this picture so she can look at it
17 without having to turn it around. It's the
18 same picture.

19 THE COURT: Sure. Sure. It's
20 already been introduced?

21 DEFENDANT FROST: Yes, it's been
22 introduce.

23 CLERK: Yes, this Number 4, Your
24 Honor.

25 THE COURT: All right.

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1 CLERK: (Tenders exhibit to
2 witness).

3 CROSS-EXAMINATION CONTINUED

4 BY DEFENDANT FROST:

5 Q. Do you see that blood on that door?

6 A. I see that blood on the door, but I
7 don't know what this is.

8 Q. That's the lock. That's the lock.
9 That's the male side of the lock. What kind
10 of impression does that look like to you
11 that's in that lock right there that ---

12 A. (Reviewing).

13 Q. Could it be a knife impression to
14 open up a door?

15 SOLICITOR PRICE: Objection, Your
16 Honor. That calls for speculation.

17 WITNESS: Not the ---

18 THE COURT: Hold on. You can't
19 answer. She's not qualified to answer that
20 question. You can't ask her that question.
21 But I'll allow you to ask her a few others.

22 DEFENDANT FROST: Okay.

23 CROSS-EXAMINATION CONTINUED

24 BY DEFENDANT FROST:

25 Q. All right. Just look at it again,

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1 up close. Can you see it good?

2 A. (No verbal response).

3 Q. What does that impression look like
4 to you?

5 A. I don't know, Robert, because I was
6 in shock that night.

7 Q. Well, I'm not saying you made it.

8 A. I know but -- I don't -- that don't
9 look like nothing to me.

10 Q. That don't look like nothing. Does
11 that look like ---

12 A. And I'm not saying it's not nothing,
13 but I can't -- it's too --

14 DEFENDANT FROST: Can you zero in on
15 it?

16 WITNESS: The screens doors are
17 not that ---

18 DEFENDANT FROST: Zero in on that
19 right there. On the blood part. Does that
20 pick it up some. Right here. Right there on
21 the blood.

22 CROSS-EXAMINATION CONTINUED

23 BY DEFENDANT FROST:

24 Q. Can you see that? Does that look
25 like a impression?

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1 A. It looks like blood or something
2 red.

3 Q. Does it look like some kind of
4 impression, as a embedded impression?

5 A. (No verbal response).

6 Q. Like an embedded impression of the
7 red blood mark?

8 A. (No verbal response).

9 Q. Do you realize that's on the inside
10 going to the outside?

11 A. (No response)

12 Q. That's on the inside going to the
13 outside, not coming in. That's going to the
14 outside.

15 A. I couldn't be sure.

16 Q. Okay.

17 THE COURT: Okay. She's just not
18 sure on that picture.

19 COURT REPORTER: Your Honor, could
20 I ask what exhibit is being referenced?

21 THE COURT: What Exhibit is that?

22 WITNESS: Four.

23 CLERK: Four.

24 CROSS-EXAMINATION CONTINUED

25 BY DEFENDANT FROST:

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1 Q. Do you recognize this picture?

2 COURT REPORTER: Exhibit Number,

3 please?

4 DEFENDANT FROST: Exhibit Number 5.

5 WITNESS: No.

6 CROSS-EXAMINATION CONTINUED

7 BY DEFENDANT FROST:

8 Q. Huh?

9 A. No.

10 Q. You don't recognize that picture in
11 your house?

12 A. No.

13 Q. That's in the hallway.

14 A. No.

15 THE COURT: Hold on a minute. I
16 think your objection is that this is not --
17 this is a picture of something in the house.
18 It's not a picture.

19 DEFENDANT FROST: Yeah. Yeah.

20 SOLICITOR PRICE: Your Honor, if he
21 could zoom out, it may provide some context
22 for what's in that ---

23 THE COURT: Mr. Frost.

24 DEFENDANT FROST: Yeah. Zoom out
25 first, then well zoom in.

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1 THE COURT: Mr. Frost. You --
2 remember rule number one ---

3 DEFENDANT FROST: Yes, sir.

4 THE COURT: I think this is a
5 picture -- I think she thinks this is a
6 picture.

7 DEFENDANT FROST: Oh.

8 WITNESS: (As picture is zoomed
9 out) -- okay. Now, that is in my house.

10 CROSS-EXAMINATION CONTINUED

11 BY DEFENDANT FROST:

12 Q. Okay. All right.

13 DEFENDANT FROST: Now zoom back in
14 on that right there. On that Jesus right
15 there.

16 WITNESS: But that by itself, I
17 couldn't recognize it.

18 CROSS-EXAMINATION CONTINUED

19 BY DEFENDANT FROST:

20 Q. Yeah, on that spot, on his head
21 right there.

22 CLERK: All right. I'm trying to
23 keep -- we're going to the head, right?

24 DEFENDANT FROST: Yeah.

25 CROSS-EXAMINATION CONTINUED

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1 BY DEFENDANT FROST:

2 Q. All right?

3 A. That's just that small figurine
4 setting on top of a ---

5 Q. Right. Can you see what is on his
6 forehead? If you'd see what's on his
7 forehead, what does that look like on his
8 forehead?

9 A. It just looks dark. She's dark
10 there.

11 Q. Yeah?

12 A. She's dark there.

13 Q. Could it be blood?

14 A. It could be a lot of things. I ---

15 Q. I mean, could it be blood?

16 A. I don't know.

17 Q. You don't know. Okay.

18 DEFENDANT FROST: Yeah. You can
19 take it down.

20 CROSS-EXAMINATION CONTINEUD

21 BY DEFENDANT FROST:

22 Q. Do you know what that is?

23 A. That is the door, going this way
24 into the hallway.

25 Q. Uh-huh?

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1 A. And this is the door in my living
2 room and that's a closet door.

3 Q. Did you see me anywhere in your
4 living room? Was there any kind of
5 altercation in your living room? Did me and
6 dad have any kind affliction (sic) in your
7 living room?

8 A. I don't know. I was trying to get
9 out of there.

10 CLERK: And this is Exhibit 11.

11 DEFENDANT FROST: Can you zoom in on
12 that door right there for me, please?

13 CLERK: Yes, sir.

14 THE COURT: Thank you, Mr.
15 Shirley. That does help if you could just
16 assist him.

17 CLERK: Keep going?

18 DEFENDANT FROST: Yeah.

19 CROSS-EXAMINATION CONTINUED

20 BY DEFENDANT FROST:

21 Q. Now, what does that look like to you
22 on that door?

23 A. It's something on the door.

24 Q. It's something on the door?

25 A. Yeah, but I don't know what it is.

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1 Q. Did you ever see me in that living
2 room?

3 A. I was trying to get away from you
4 because you had said, "I'm going to kill you
5 now."

6 And so I was trying my best to get away
7 from you. I don't know where you went, what
8 you done. But I know what I -- in the
9 kitchen, you had the knife back at my throat
10 and you said "I need some more money now."
11 And I said, 'There's my billfold. There's
12 some one hundred dollar bills in it. Get
13 it.' And then I was pushed down to the floor
14 and then the two stab wounds.

15 Q. You see what that is right there?

16 A. It's the floor.

17 Q. Just the flooring. But you don't
18 know -- I know you don't -- you don't know
19 what's in the floor right there?

20 A. I don't know what's in the floor.

21 Q. That's the living? All right.

22 CLERK: That's Exhibit 8.

23 THE COURT: Hold on a minute.

24 Which exhibit is that?

25 CLERK: Eight.

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1 DEFENDANT FROST: Put the eight back
2 up here.

3 CLERK: Yeah. Everything that's
4 marked as an exhibit, Mr. Frost, has to
5 remain with her (court reporter).

6 DEFENDANT FROST: All right. I want
7 her to look at this one.

8 THE COURT: You can use them but
9 you have to leave them up there.

10 CROSS-EXAMINATION CONTINUED

11 BY DEFENDANT FROST:

12 Q. How old are you, mama?

13 A. I'm seventy-five years old.

14 Q. Well, did you take any medication
15 today?

16 A. Did I take any medication? I take
17 something for anxiety, yes.

18 Q. Do you know what it is?

19 A. I go to a psychiatrist and she has
20 subscribed [sic] it. I don't know right-off,
21 no.

22 Q. Do you recognize that picture?

23 A. No, I don't.

24 DEFENDANT FROST: Can you zoom it
25 out where she ---

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1 CLERK: Yes. And this is Exhibit
2 7, Your Honor.

3 THE COURT: Okay.

4 CROSS-EXAMINATION CONTINUED

5 BY DEFENDANT FROST:

6 Q. Do you recognize it now?

7 A. Yes. Uh-huh. That's in my living
8 room.

9 Q. All right.

10 DEFENDANT FROST: Can you zoom in on
11 that flower right there?

12 CLERK: Yes, sir.

13 DEFENDANT FROST: Up a little bit.

14 WITNESS: That's a flowerpot.

15 DEFENDANT FROST: Yeah. That's a
16 flower.

17 CROSS-EXAMINATION CONTINUED

18 BY DEFENDANT FROST:

19 Q. Do you know what that red is in that
20 flower pot right there?

21 A. That's the chest. It set up on a
22 chest.

23 Q. Okay. Well, that's the TV chest.

24 DEFENDANT FROST: That's fine. She
25 can't see it.

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1 CLERK: Okay.

2 CROSS-EXAMINATION CONTINUED

3 BY DEFENDANT FROST:

4 Q. Did you see the officer when he come
5 into the room?

6 A. (No verbal response).

7 Q. How long was he possibly in the
8 house?

9 A. What?

10 Q. The officer that come in?

11 A. The first officer that I saw come
12 in, I think was Mr. Vaughn.

13 Q. Yeah. Mr. Vaughn, that's correct.

14 A. Now, I'm not sure because he was the
15 first officer there.

16 Q. Yeah.

17 A. And he had you laying on the ground
18 outside.

19 Q. Yes.

20 A. He could have not moved from that.
21 And the next officer that came in, he could
22 have went in the house.

23 Q. Okay.

24 A. I could not identify the first
25 officer that come in. I was laying behind

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1 the island in the kitchen.

2 Q. Okay. All right. Thank you, Mama.

3 Love you.

4 A. Love you.

5 THE COURT: All right. Anything
6 on redirect.

7 SOLICITOR PRICE: Briefly, Your
8 Honor.

9 THE COURT: Sure.

10 SOLICITOR PRICE: I don't have any
11 others for you.

12 CLERK: Okay.

13 SOLICITOR PRICE: Just one.

14 CLERK: Okay.

15 REDIRECT EXAMINATION

16 BY SOLICITOR PRICE

17 Q. Mrs. Davenport, Robert brought up
18 your first husband. Were you ever charged
19 for anything regarding his death?

20 A. No, ma'am.

21 Q. Okay. In fact, were you defending
22 yourself?

23 A. Yes.

24 Q. Like you were defending yourself the
25 night of this incident?

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1 A. Yes.

2 Q. Have you ever overseen some of
3 Robert's financial affairs for him?

4 A. Have I over-what?

5 Q. Overseen his finances for him?

6 A. Yes.

7 Q. Okay. Is that why his check was
8 coming to your home?

9 A. Yes.

10 Q. Mr. Frost showed you several photo-
11 graphs?

12 A. Yes.

13 Q. Of different areas of the home?

14 A. Yes.

15 Q. You were in multiple areas in the
16 home the night of this incident; is that
17 correct?

18 A. Yes. Uh-huh.

19 Q. And moved throughout many ---

20 DEFENDANT FROST: Ms. Price is
21 leading the witness.

22 THE COURT: Don't lead the
23 witness.

24 SOLICITOR PRICE: Yes, sir.

25 THE COURT: Make sure when you

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1 object you stand up because she's (court
2 reporter) has got to hear you?

3 DEFENDANT FROST: Yes, sir.

4 REDIRECT EXAMINATION CONTINUED

5 BY SOLICITOR PRICE:

6 Q. Were you in several areas in your
7 home that evening?

8 A. Yes, ma'am.

9 Q. Could you have left blood in any of
10 those areas?

11 A. Yes.

12 Q. If you'll look at one ---

13 A. At one time I was trying to get my
14 husband up off the floor and I had blood on
15 me.

16 Q. So you had blood on you?

17 A. Yes.

18 Q. Is it possible that blood could have
19 gotten on other things in the home?

20 A. Could have.

21 Q. I'm showing you what Mr. Frost moved
22 in as Defendant's Exhibit Number 4. And ---

23 A. I did push that door open to get
24 out.

25 Q. Okay. So that could be blood?

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1 A. It could be blood.

2 Q. Could it also be a scuff mark?

3 A. Yes.

4 Q. Could it be normal wear and tear on
5 a door.

6 A. Well ---

7 DEFENDANT FROST: Could it be a
8 knife in front of ---

9 THE COURT: Hold on.

10 DEFENDANT FROST: Could it be a
11 knife ---

12 THE COURT: Sir, you've got to
13 stand up and make an objection.

14 DEFENDANT FROST: She's leading the
15 witness again just like she told me when I
16 asked her could it have been a knife
17 impression.

18 THE COURT: I don't think her
19 question is actually leading. But I will ask
20 you for the sake of fairness just to rephrase
21 it.

22 Make sure if you're going to object
23 you stand up.

24 DEFENDANT FROST: Yes, sir.

25 THE COURT: All right. Rephrase

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1 your question.

2 SOLICITOR PRICE: Yes, Your Honor.

3 REDIRECT EXAMINATION CONTINUED

4 BY SOLICITOR PRICE:

5 Q. How long have you lived in this
6 home?

7 A. How long had I what?

8 Q. How long had you lived in the home?

9 A. Meaning how long I've lived there?

10 Q. Yes, ma'am.

11 A. I've lived there sixteen years.

12 Well, at that time -- it's sixteen now, so it
13 was twelve then.

14 Q. Do you remember if this door was
15 brand new the night of this incident?

16 A. No, I don't. But I do know I had a
17 pitbull dog in the house and he would -- he
18 had scared him, so much screaming and
19 hollering. I don't know whether he got hurt
20 but he got outside.

21 Q. Okay. Could the doors in your home,
22 after sixteen years have some normal wear and
23 tear?

24 A. Have some what?

25 Q. Okay. Is paint peeling off of

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1 different places in your home?

2 A. (No verbal response).

3 Q. Paint in your home?

4 A. Yes.

5 Q. Has it peeled off some?

6 A. I had so much of it repainted
7 because of the blood.

8 Q. Okay.

9 SOLICITOR PRICE: One moment. Thank
10 you, Mrs. Davenport.

11 WITNESS: You're welcome.

12 SOLICITOR PRICE: I don't have any
13 other questions for this witness, Your Honor.

14 THE COURT: Okay. Mrs. Davenport,
15 you can step down. Thank you very much.
16 He will help you.

17 (WITNESSES STEPS DOWN)

18 DEFENDANT FROST: Hey, Judge, do I
19 get to cross-examine the witness.

20 THE COURT: You can call her
21 again. But no, it's direct, cross and
22 redirect. Otherwise, Mr. Frost, it would
23 never end. Both sides would go on.

24 SOLICITOR PRICE: Your Honor, I was
25 going to ask if this witness may be excused.

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1 But as I understand it, he may want to
2 recall the witness.

3 THE COURT: Yeah, I think it's
4 safe to not release her.

5 Ma'am, since the witness -- I've
6 sequestered them and kept them out of the
7 courtroom, if you would, don't talk to them
8 about any questions that are being asked of
9 you.

10 WITNESS: Yes, sir.

11 THE COURT: Okay. Do you have a
12 witness that you think that we can get in
13 before lunch?

14 SOLICITOR PRICE: Yes, sir. I do.

15 THE COURT: Okay.

16 SOLICITOR PRICE: Your Honor. The
17 State calls Detective Brent Simpson.

18 (PREMARKED STATE'S EXHIBIT NUMBER 55)

19 (WITNESS TAKES STAND)

20 BRENT SIMPSON, having been duly sworn to
21 tell the truth, and nothing but the truth,
22 testified as follows:

23 DIRECT EXAMINATION

24 BY SOLICITOR PRICE:

25 Q. Thank you. And who do you work for

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1 and in what capacity?

2 A. I'm currently with the Anderson
3 County Sheriff's Office. And I am assigned
4 to courthouse security.

5 Q. Okay. Were you working in that
6 capacity on July 15th of 2012?

7 A. I was not.

8 Q. In what capacity were you working at
9 that time?

10 A. I was an investigator at the
11 sheriff's office at that time.

12 Q. Okay. What sort of duties and
13 responsibilities were associated with that
14 position?

15 A. At that point in time, I was
16 assigned to investigate child crimes, sex
17 crimes and homicides.

18 Q. Okay. Did you respond to Iva on
19 July 15th of 2012?

20 A. I did.

21 Q. For what purpose?

22 A. I was requested by Chief Miller, at
23 the time, to assist in the situation.

24 Q. For any particular reason did he
25 call you?

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1 A. Basically due to my background in
2 homicide investigations.

3 Q. Did you, at that time, live near
4 that area as well?

5 A. Yes.

6 Q. Where did you respond?

7 A. I believe the address was [REDACTED] East
8 Front Street in Iva.

9 Q. Do you remember what county?

10 A. That's located inside Anderson
11 County.

12 Q. And what did you do once you got to
13 the incident location?

14 A. I responded to the scene and was
15 briefed on the situation at hand. At that
16 point, myself and Lieutenant Hawkins went to
17 the police department where I assisted in
18 typing a search warrant for the premises.

19 Q. Okay. Why did you type a search
20 warrant for the premises?

21 A. To be able to search for evidence
22 and to establish what happened at the scene.

23 Q. Is that common to do that before
24 proceeding into a homicide scene?

25 A. Yes, it is.

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1 Q. And did you get the search warrant
2 signed?

3 A. Yes. We met with Judge Bannister
4 who signed the search warrant.

5 Q. Okay. What did you do next?

6 A. We went back to the location and at
7 that point they began processing the scene.

8 Q. Do you recall who else was present
9 for the processing of the scene?

10 A. To the best of my recollection, I
11 had contacted our forensics unit to respond.
12 And at that time, I think Lieutenant Scott
13 and Investigator McElrath had responded from
14 the sheriff's office.

15 Q. Were there still members of the Iva
16 police department present as well?

17 A. Yes.

18 Q. Do you remember who any of those
19 members were?

20 A. Chief Miller and Lieutenant Hawkins.

21 Q. Okay. And what did you observe at
22 the scene?

23 A. I initially walked through with
24 Investigator McElrath, we was taking photos
25 of the scene. And in the kitchen area I saw

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1 a knife in the floor area. And as we
2 proceeded through the residence and in the
3 front bedroom, there was a large pool of
4 blood and most of it was in the floor. It
5 was on the wall and the doorway.

6 Q. Did you at any time meet with the
7 defendant in this case or attempt to?

8 A. Yes. That night he had already been
9 taken from the scene. And the next day
10 myself, along with Chief Miller and
11 Lieutenant Hawkins retrieved Mr. Frost from
12 the detention center, took him to my office
13 and he was Mirandized of his rights at that
14 point in time. And he declined to speak with
15 us so we took him back to the detention
16 center.

17 Q. Okay. When you Mirandize someone
18 and advise them of their rights, do you have
19 them sign a form?

20 A. I do.

21 Q. Is that standard procedure for you?

22 A. It is.

23 SOLICITOR PRICE: (Tenders exhibit
24 to clerk)

25 DIRECT EXAMINATION CONTINUED

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1 BY SOLICITOR PRICE:

2 Q. Our clerk is going to present you
3 with what's been marked as State's Exhibit
4 55.

5 CLERK: (Tenders exhibit to
6 witness)

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR PRICE:

9 Q. Are you familiar with that exhibit?

10 A. I am.

11 Q. And what is it?

12 A. This is the advisory of rights form
13 we use at the sheriff's office.

14 Q. Okay. And how do you recognize it?

15 A. My signature's on the witness line.

16 Q. Okay. Is that the form that you
17 used with Mr. Frost?

18 A. Yes.

19 Q. Okay.

20 SOLICITOR PRICE: Your Honor, at
21 this time the State would seek to admit
22 Exhibit 55 into evidence.

23 THE COURT: Any objection?

24 DEFENDANT FROST: No, sir.

25 THE COURT: Okay. Without

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1 objection.

2 (SO ENTERED AS STATE'S EXHIBIT 55)

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR PRICE:

5 Q. Aside from testifying in court today
6 and what we've just discussed, did you have
7 any further involvement in this case?

8 A. Not that I recall.

9 Q. Do you see the man that you attempt-
10 ed to interview at your office following the
11 incident that we've discussed in the court-
12 room here today?

13 A. Yes, I do.

14 Q. Could you please point him out and
15 describe what he's wearing for the jury?

16 A. He is at the defendant's table right
17 here in a dark colored Polo shirt and khaki
18 pants.

19 Q. Okay. And did you identify this
20 individual when you met with him?

21 A. Yes.

22 Q. And what is his name?

23 A. Robert Frost.

24 Q. Thank you. Please answer any
25 questions that Mr. Frost has for you at this

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1 time.

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY DEFENDANT FROST:

5 Q. You say Lieutenant Vaughn, Officer
6 Vaughn was in the house whenever you arrived?

7 A. No, sir. At the scene.

8 Q. When did you meet up with him at the
9 scene?

10 A. I don't recall saying anything about
11 Lieutenant Vaughn.

12 Q. Oh, you didn't?

13 A. No.

14 Q. I thought that was Lieutenant
15 Vaughn. McElrath? Was it McElrath?

16 A. Lieutenant Hawkins.

17 Q. Hawkins?

18 A. Yes.

19 Q. Oh, okay. So I just misunderstood
20 you.

21 DEFENDANT FROST: That's all.
22 That's all.

23 SOLICITOR PRICE: One follow-up,
24 Your Honor.

25 THE COURT: Okay.

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1 REDIRECT EXAMINATION

2 BY SOLICITOR PRICE:

3 Q. I believe that Mr. Frost was asking
4 you about McElrath as well. Was there an
5 individual with law enforcement with the last
6 name McElrath who was present that evening?

7 A. Yes. Investigator McElrath was with
8 the forensics unit.

9 Q. Okay. All right.

10 THE COURT: Okay.

11 DEFENDANT FROST: Your Honor, ---

12 THE COURT: There's obviously
13 something bothering you. You can ask one
14 more question.

15 DEFENDANT FROST: Okay.

16 RECROSS EXAMINATION

17 BY DEFENDANT FROST:

18 Q. How long was he in the residence, do
19 you know? By the time when you got there,
20 how long he had been there at the residence?

21 A. No, sir, I don't.

22 Q. You don't? All right. Thank you.

23 THE COURT: Okay. You can step
24 down. Can he be released from his subpoena?

25 SOLICITOR PRICE: Please, Your

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1 Honor.

2 THE COURT: Any objection to that?

3 DEFENDANT FROST: No, sir.

4 THE COURT: Okay. Thank you, sir.
5 Appreciate it. You can step down.

6 (WITNESS STEPS DOWN)

7 THE COURT: Have you got another
8 one we can get in?

9 SOLICITOR PRICE: Your Honor,
10 actually at this time, it's probably best if
11 we take our break and then we'll have the
12 rest of the witnesses lined up for this
13 afternoon.

14 THE COURT: Well, and y'all have
15 been sitting for a long time. So we'll take
16 a break obviously, you're getting out a
17 little early. If you'll be back in the jury
18 room at 2:00. Remember, 2:00. Okay. And
19 we'll get you in here.

20 We may go pretty close to 5:00 or
21 5:15, just in case you need to let somebody
22 know. Don't talk about the case.

23 (JURY OUT @ 12:37 P.M.)

24 THE COURT: Okay.

25 COURT REPORTER: I'm making sure I

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1 have all the exhibits before we break.

2 THE COURT: While she's looking
3 for exhibits, look around make sure around
4 your table that you don't have an exhibit.
5 I see one coming up here.

6 COURT REPORTER: I think we're
7 good.

8 THE COURT: Okay. All right.
9 I'll see y'all back here at 2:00. Who is
10 your next witness?

11 SOLICITOR PRICE: Dr. Woodard.

12 THE COURT: Okay. Mr. Frost, like
13 I said, Dr. Woodard would be the person that
14 who did the autopsy and that would be the
15 person most likely to be able to answer your
16 questions.

17 DEFENDANT FROST: Thank you, sir.

18 THE COURT: And we've kept your
19 mama here because I see you're going to call
20 her in your case in chief.

21 DEFENDANT FROST: Yes, sir.

22 THE COURT: Okay. All right.
23 We'll see you back at 2:00.

24 SOLICITOR PRICE: Thank you, Your
25 Honor.

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1 (LUNCH RECESS)

2 (DEFENDANT PRESENT)

3 THE COURT: Before we get started,
4 I have been handed up -- it looks like there
5 are some subpoenas. Oh, where's Mr. Cole?

6 SOLICITOR PRICE: Mr. Cole is
7 outside. We have an issue. I advised the
8 clerk about the ---

9 THE COURT: Okay. Did what?

10 SOLICITOR PRICE: Advised your clerk
11 about the witness issue.

12 THE COURT: Okay. We'll wait
13 until he gets back in because I need to deal
14 with these.

15 SOLICITOR PRICE: Yes, sir.

16 (COURT AT-EASE)

17 (MR. COLE ENTERS COURTROOM)

18 THE COURT: Okay. Let me deal
19 with this first and then we'll deal with what
20 y'all got.

21 I got handed up some subpoenas. Let
22 me just go through them individually. I
23 think they were handed to the clerk and he
24 handed them to me. Mr. Clerk, did you get
25 these today?

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1 CLERK: In the mail this morning.

2 THE COURT: Okay. In the mail
3 this morning, apparently the clerk's office
4 received a subpoena for number one, Nikki R.
5 Haley, Governor; number two, "Nurse Ashley",
6 that's all it says; number three, Officer B.
7 Surratt and that's it. I thought there was
8 one more. Am I just missing it?

9 CLERK: There's one for the SLED,
10 the Captain.

11 THE COURT: Oh, and Captain Jones.
12 Yeah, there are some in here, they are stuck
13 together. sorry. I missed a few. All
14 right. I've got:

15 Nikki Haley; Governor;
16 the Solicitor's office, which -- I
17 assume to be this one because it's their
18 address;

19 Nurse Ashley;

20 Faye Davenport from Iva. That's
21 your mother?

22 DEFENDANT FROST: Yeah, that's.
23 Yeah, she's ---

24 THE COURT: Yeah. That one's
25 okay.

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1 DEFENDANT FROST: Yeah. That one's
2 okay.

3 THE COURT: Then also for Kevin,
4 an internal affairs investigator, Anderson
5 Police Department;

6 John T. Bishop, Captain. That's
7 with SLED, I think. Okay.

8 And that looks like all of them.

9 Mr. Cole, can you enlighten me on
10 these? They were sent today to our clerk's
11 office and he gave them to me. Obviously,
12 they haven't been served.

13 MR. COLE: Mr. Frost is telling
14 me right now that he no longer wishes to
15 subpoena the Governor or John Bishop.

16 THE COURT: That's good.

17 MR. COLE: He no longer wishes to
18 subpoena those individuals.

19 Who else did you want to -- (sidebar
20 with Defendant).

21 Your Honor, is there one for Social
22 Security?

23 THE COURT: No. Here they are.
24 I'll let y'all look at them. I mean, I don't
25 know any -- for one, I can't give him any

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1 legal advice.

2 MR. COLE: Yes, Your Honor.

3 THE COURT: You may want to advise
4 him on notice of subpoenas and the time
5 limits prior to trial.

6 MR. COLE: Yes, sir.

7 THE COURT: But some of them look
8 like -- Mr. Frost, maybe you can enlighten
9 me. Some of them look like they have to do
10 with the internal affairs that we talked
11 about on the first day?

12 DEFENDANT FROST: (Off record
13 discussion with Mr. Cole)

14 MR. COLE: Your Honor, it's my
15 understanding that Mr. Frost does not want to
16 move forward with trying to subpoena any of
17 these witnesses.

18 THE COURT: Okay. All right.
19 Well, we don't need to deal with that,
20 because that would have been a problem.
21 All right. Who's your next witness?

22 SOLICITOR PRICE: Your Honor, the
23 next witness is Dr. Brett Woodard. In fact,
24 I just spoke Mr. Cole. As I was meeting with
25 Dr. Woodard during our break at lunch, he

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1 informed me about reviewing some of the
2 medical records for trial. He noticed that
3 this Defendant responded to the AnMed ER on
4 the 3rd of July 2012 and complained of
5 injuries and received a morphine shot. And
6 in his complaints, he stated that he had been
7 hit with a bat. That would have been prior
8 to this incident.

9 Out of an abundance of caution, I
10 told Defense counsel about that so that Mr.
11 Frost's investigator can speak with Dr.
12 Woodard about it. I believe he just did so.

13 I also asked my investigator, Mike
14 Baskin, to go downstairs and see if there's
15 any incident report from the Anderson Police
16 Department, as it was noted that AnMed
17 intended to call the police department as a
18 result of that complaint by Mr. Frost. It
19 doesn't state in the medical report, as I
20 understand it, whether or not law enforcement
21 responded. So Mr. Baskin is looking into
22 that very quickly. He should be up here
23 momentarily.

24 But, again, just for the record, we
25 provided that information as soon as we

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1 received it to the Defense. And as soon as
2 we get Mr. Baskin back up here, we will be
3 able to call Dr. Woodard.

4 THE COURT: Okay. So we're
5 waiting on Mr. Baskin?

6 SOLICITOR PRICE: Yes, sir.

7 THE COURT: Can you get in touch
8 with him?

9 SOLICITOR PRICE: Yes, sir.

10 THE COURT: All right. So then
11 while we're doing that, just for the record,
12 the subpoenas that were handed me during
13 lunch, Mr. Frost has decided not to utilize
14 those subpoenas. He won't call those
15 witnesses, so I'll give them back to you.

16 SOLICITOR PRICE: May it please the
17 Court?

18 THE COURT: Yeah.

19 SOLICITOR PRICE: Does that include
20 Fayette Davenport?

21 THE COURT: No. We separated that
22 out. It was to the Governor, to SLED, to all
23 of those.

24 SOLICITOR PRICE: Yes, sir. All
25 right. I'll tell her to stay. Thank you.

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1 (COURT AT-EASE)

2 SOLICITOR PRICE: Your Honor?

3 THE COURT: Yes?

4 SOLICITOR PRICE: Back on the
5 record. There is no call. There is no CAD
6 report. There is no incident report
7 pertaining to any incident on July 3rd of
8 2012.

9 THE COURT: Okay.

10 SOLICITOR PRICE: So, I think that
11 the investigator has to speak with Dr.
12 Woodard and if the Court requires anything
13 else. Again, this is late information.

14 THE COURT: I mean, he can testify
15 that he found that and he then can cross-
16 examine him about it.

17 SOLICITOR PRICE: Yes, sir.

18 THE COURT: Okay.

19 SOLICITOR PRICE: Then we're
20 prepared to go forward.

21 THE COURT: All right. Bring them
22 on in.

23 (JURY IN @ 2:27 P.M.)

24 THE COURT: Ladies and gentlemen,
25 again, I'm sorry you had to sit back there.

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1 We had an issue that popped up literally
2 at five 'till 2:00. We've been dealing with
3 that and now, I think we've solved it. We
4 had two actual serious issues we had to go on
5 the record about. So thanks for your
6 patience. Actually, I lie to you a lot less
7 than I lie to normal juries. Y'all haven't
8 had to leave as much as I thought.

9 All right. You may call your next
10 witness.

11 SOLICITOR PRICE: Thank you, Your
12 Honor. The State calls Dr. Brett Woodard to
13 the stand.

14 (WITNESS TAKES STAND)

15 BRETT HOUGHTON WOODARD, having been duly
16 sworn to tell the truth, and nothing but the
17 truth, testified as follows:

18 DIRECT EXAMINATION

19 BY SOLICITOR PRICE:

20 Q. And Dr. Woodard, I know you have
21 some things with you there. Were they
22 provided to you by the State?

23 A. Some are medical records from AnMed
24 Hospital that were printed out, were provided
25 by the State. A copy of my autopsy report I

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1 printed out from our files.

2 Q. And did you have an opportunity to
3 review those?

4 A. Both my report and the hospital
5 findings, (affirmative nod).

6 Q. Okay. And Dr. Woodward, what's your
7 occupation?

8 A. I'm a medical doctor, a pathologist
9 by special training.

10 Q. Okay. And what is a pathologist?

11 A. A pathologist is a physician that
12 studies disease through the use of testing,
13 chemical analysis or looking at the structure
14 of the body's tissues and organs.

15 Q. Okay. Does that include up and
16 until the point of death?

17 A. Well, I'm also certified in forensic
18 pathology, which is the study of injury to
19 the human body. How that injury may interact
20 with ongoing natural disease in an individual
21 up and to the point of death.

22 Q. And could you tell the jury about
23 your educational background?

24 A. I got my baccalaureate degree from
25 the University of Pittsburg in Pittsburg,

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1 Pennsylvania.

2 I received my medical degree from Tulane
3 University in New Orleans, Louisiana.

4 I did an internship in pediatrics at the
5 Charity Hospital in New Orleans.

6 I did residency training at the Duke
7 University Medical Center in Durham, North
8 Carolina. And I took fellowship courses in
9 forensic pathology at the North Carolina
10 Medical Examiner's office.

11 Q. And do you receive on-going training
12 in your field?

13 A. Yes, I do.

14 Q. And on-going certifications as well?

15 A. That's correct.

16 Q. And what are some of your duties and
17 responsibilities as a medical examiner, a
18 forensic pathologist?

19 A. I perform autopsies at the request
20 of several county coroners' offices. I
21 evaluate the individuals for signs of disease
22 or trauma and determining the interplay of
23 those diseases and trauma to decide what we
24 refer to as the cause of death, the exact
25 final event that resulted in the individual's

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1 death. And, thereby, am able to determine
2 what we call the manner of death, which could
3 be: natural, suicide, homicide, accidental or
4 undetermined.

5 Q. How many autopsies would you say you
6 perform in a year?

7 A. Somewhere around two hundred and
8 fifty. To date, this year, I've performed a
9 hundred and eighty-nine.

10 Q. Have you ever testified before as an
11 expert in court?

12 A. Yes, I have. Mostly in South
13 Carolina, North Carolina and Georgia circuit
14 courts and in several federal courts.

15 Q. Many times then?

16 A. Many times.

17 SOLICITOR PRICE: Your Honor, at
18 this time the State moves to have Dr. Woodard
19 be declared an expert in the field of
20 forensic pathology.

21 THE COURT: Any objection to that?

22 DEFENDANT FROST: No, sir.

23 THE COURT: And you understand as
24 an expert, he can give an opinion, as other
25 experts can?

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1 DEFENDANT FROST: Yes, sir.

2 THE COURT: All right. Without
3 objection, he's qualified as an expert.

4 SOLICITOR PRICE: Thank you, Your
5 Honor.

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR PRICE:

8 Q. What was your occupation on July 16th
9 of 2012?

10 A. I was a pathologist and forensic
11 pathologist.

12 Q. Okay. And did you perform an
13 autopsy on James Davenport, Jr. on that date?

14 A. Yes, I did. I performed it on the
15 16th of July at about 10:30 a.m. in the
16 morning.

17 Q. Okay. What procedure is generally
18 followed in an autopsy?

19 A. We look at the individual as he was
20 at the time he was removed from the site of
21 his death. We're usually given a small
22 amount of historic information that the
23 coroner determined when he went to the site
24 of the death. So we begin to study the
25 individual, the clothing that the individual

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1 wore. We look for any surface injuries that
2 might be on the outside of the body, such as
3 cuts, which we refer to as sharp force
4 trauma; bruises, which we refer to as blunt
5 force trauma; scrapes to the skin, which we
6 refer to as blunt force trauma; or gunshot
7 wounds. And we make an effort to determine,
8 in the case of blunt force trauma, we
9 determine the specific event that caused that
10 trauma, such as a tool or some pattern such
11 as a tire arm maybe. And then we look
12 through the skin, to the organs underneath to
13 determine if any trauma penetrated the body,
14 what it might have done to the underlying
15 organs and any bruises that were on the
16 outside of the organs, that the force had
17 been transferred to the organs underneath.

18 Q. And when you performed the autopsy
19 of Mr. Davenport, can you tell me some
20 general characteristics of Mr. Davenport that
21 you noticed at that time?

22 A. Mr. Davenport was a little bit over
23 6' tall, 6'1"; 73 inches. And he weighed in
24 excess of 320 pounds. He had swelling of his
25 lower extremities, and a process we call

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1 livor, which is the settling of the blood,
2 much like if you turned your electric pump
3 off to your well, the water would fall to the
4 bottom of the well. However the body lays,
5 the blood falls and causes discoloration of
6 the skin after death. That wasn't well seen,
7 just something that we associated with the
8 decreased amount of blood in the body.

9 He had some signs of medical inter-
10 vention, EKG patches. So we knew that there
11 was some interaction between him and EMTs or
12 the hospital.

13 He was dressed in only shorts with a belt
14 and underwear. It was July. But he had no
15 shoes, socks on. In his pockets he had keys,
16 two small knives, fingernail clippers, an
17 inhaler, three dollars in change.

18 He had some tattoos on his body. He had
19 no specific scarring on his body that would
20 definitely tell us that he had some sort of
21 medical procedure, such as a scar on his
22 sternum that might have been associated with
23 prior heart surgery.

24 Q. Would you say he was in good shape?

25 A. No. He was overweight. There was

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1 evidence because of the swelling in his legs
2 that his heart wasn't performing as --
3 absolutely as well as it could. And he was
4 in general poor condition.

5 Q. Did you notice any signs of disease
6 to Mr. Davenport?

7 A. Yeah. When I opened the body, yeah,
8 I saw that, other than traumatic injuries,
9 his heart was big. It weighed five hundred
10 and ten (510) grams and his heart should
11 weigh approximately three hundred and fifty
12 grams. The chambers of the heart were, what
13 we call dilated, meaning they were opened up,
14 which means the muscle wasn't squeezing as
15 strongly and properly as it should. And he
16 had hardening of his coronary arteries that
17 was significant and hardening of his aorta,
18 which was relatively significant. His liver
19 was very large and it had fatty infiltration
20 in it, which is sometimes seen in people who
21 are obese. He didn't have any gallstones,
22 but he had cholesterol deposits in his
23 gallbladder. His kidneys were scarred over
24 their surface which is a feature we often see
25 with high blood pressure.

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1 Q. So would he have been in great
2 cardiac shape then for exercise or physical

3 ---

4 A. No. He would have a decreased
5 cardiac reserve. So he certainly might have
6 been able to walk to the mailbox but he
7 wasn't going to walk up four flights of
8 stairs or even two flights of stairs. He
9 would take the elevator.

10 Q. And you mentioned he had an inhaler?

11 A. He had an inhaler with him. They're
12 commonly used when people have what we call
13 broncho-spastic conditions. So this may be
14 due to environmental exposures or because of
15 prior cigarette smoking or industrial
16 exposures, which means that they won't be
17 able to exchange air as rapidly and
18 conveniently as someone who doesn't have
19 these conditions.

20 Q. In addition to disease, did you
21 observe any wounds or injuries to Mr.
22 Davenport?

23 A. Yes. He had multiple blunt force
24 trauma injuries, scrapes and bruises. He had
25 multiple sharp force traumatic injuries,

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1 stabs and cuts.

2 The majority of his stabs and cuts were
3 on the left side of his body. Over his
4 abdomen he had seven -- or excuse me -- eight
5 injuries over the left side of his abdomen
6 that were combinations of stab and cut
7 wounds. Oftentimes, were cuts at the end of
8 the stabs. These resulted in cuts going into
9 the bowel underneath, but they missed the
10 major organs in the body, the spleen, which
11 is on the left side; the liver, which is on
12 the left side; and the left kidney, which is
13 at the back of the left side. The injuries
14 missed those.

15 He had multiple cut injuries on his left
16 arm and one cut injury in his left axilla,
17 the left arm. Cut injuries for and features
18 that we refer to as defensive wounds, meaning
19 that the way the arm is cut, suggested the
20 arm had been raised in effort to block or
21 stop the knife. He had one cut into his hand
22 between his fingers. One cut along the
23 little finger side of the arm. A second cut
24 higher up on the little finger side of the
25 arm. One cut on the side of the upper arm.

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1 And then one cut into the armpit. He had
2 several cuts on what we refer to as the
3 flank, which is coming down where the seam of
4 a man's shirt might be or a woman's blouse.
5 He had two cuts on that area. And then he
6 had a cut on the left side of his neck that
7 went deep into the neck tissue. So deep that
8 when we looked into the base of it, we could
9 see the lung down beneath. In that the vein,
10 the jugular vein, and carotid artery, both
11 had been cut with that cut injury.

12 Q. How many total stab wounds were
13 there that you could count?

14 A. There was a minimum of eighteen (18)
15 cut/stab injuries on his body.

16 Q. Okay. From the positioning of the
17 wounds and from the detail of the cuts, what
18 can you tell us about the way they were
19 received?

20 A. They were received from the front of
21 him, most likely by a right-handed
22 individual, because they're on his left side
23 or mirror side to an individual's right side.
24 They were numerous in numbers.

25 The ones on the abdomen were closely

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1 patterned, so there was a great deal of
2 repetition into those cuts.

3 As I said, the ones in the arm and the
4 armpit were what we refer to as defensive,
5 meaning the arm was making an attempt to
6 block the cutting. At some point the arm
7 can't block the cutting and either abdomen
8 became exposed -- one would tend to block
9 their head and neck before they would block
10 their abdomen as they became more
11 incapacitated.

12 And ultimately, the cut in the neck
13 resulted in stopping the blood flow to his
14 brain. After a short period of time, the
15 brain suffers irreversible damage and then
16 the body exsanguinates, or the blood leaks
17 out of the body into the surrounding area.

18 Q. Did it appear to you that the
19 defensive wounds on Mr. Davenport, that at
20 some point in time he was overpowered?

21 A. Yes. At some point he was
22 overpowered, and in all probability exposed
23 his abdomen first. But then eventually
24 exposed his neck area as he became more and
25 more incapacitated from discomfort, blood

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1 loss, to when he got his fatal injury to his
2 neck.

3 Q. Were the wounds you saw consistent
4 with Mr. Davenport, at some point during this
5 interaction with an assailant, falling to the
6 ground?

7 A. Yes. He had bruises and scrapes on
8 his right side, which would indicate that he
9 falls to his right side -- which would be a
10 somewhat natural positioning, that an
11 individual would go to their right side when
12 being attacked on their left side. Because
13 the left back became slightly exposed and
14 ends up with scrapes and bruises on his right
15 side.

16 Q. Can you tell from your review of the
17 wounds if these were received -- you said
18 repetitively? Do you know if they were
19 received quickly; if it was gradual? Can you
20 detect that?

21 A. No, but given the arm wounds, they
22 would be received in a short time period to
23 beat down the arm and move it out of your way
24 for the attacker. The abdominal wounds could
25 have been given slowly. They could have been

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1 given in rapid succession. They're so close
2 that I would say it's more likely than not
3 that they were given in rapid succession.

4 Q. And in your expert opinion, what was
5 the cause of Mr. Davenport's death
6 ultimately?

7 A. He bled to death or exsanguinated.
8 Lost a sufficient volume of his body's blood
9 that his heart no longer could perform
10 profusion of the organs and they couldn't
11 function.

12 Q. Can you tell anything about the
13 weapon that was used based on the wounds that
14 Mr. Davenport received?

15 A. It was a single-edged blade. We saw
16 a square edge and a sharp edge. So we know
17 it's a single-edge blade, which typically
18 could be any kind of knife, from a kitchen
19 knife to a hunting knife. Few people have
20 true daggers in their homes. The depth you
21 can't be sure of because the skin will give.
22 And there were often bruises and scrapes
23 associated with it. So the knife could be
24 pushed past its maximum length. So you can't
25 really be sure. We pushed the skin back

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1 together and see the defect in the skin that
2 would indicate that the width of the blade as
3 far as its thickness, and it wasn't an unduly
4 thick type of blade. And it didn't have the
5 -- as it came back out and cut the skin, it
6 didn't have the pattern that we see with a
7 serrated blade. It was more of a straight
8 blade.

9 Q. Dr. Woodard, I'm going to ask our
10 clerk to present you with what's been marked
11 as State's Exhibit 41.

12 CLERK: (Tenders Exhibit 41 to
13 witness)

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR PRICE:

16 Q. Dr. Woodard, would that item be
17 consistent with what could have caused the
18 wounds to Mr. Davenport?

19 A. (Upon review), yes. This would be
20 very consistent with the wounds. It's what's
21 referred to as a single-edge blade. It's
22 flat on the top. Next to some of the wounds
23 we saw bruising, which this little handle to
24 keep your hand from slipping onto the knife
25 when you use it, what causes the knife, that

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1 part strikes and produces a bruise or a
2 scrape of the skin, especially up on the
3 neck. Where the neck wound was there was a
4 large scrape of the skin in his upper area.

5 Q. Thank you. Dr. Woodard, I'm going
6 to ask you to step down and going over some
7 diagrams to show me in an illustrative way
8 where you noticed these wounds.

9 WITNESS: May I step down?

10 THE COURT: Sure.

11 WITNESS: (Steps down)

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR PRICE:

14 Q. Okay. All right. Yes, sir?

15 A. Okay. We're looking at the front of
16 the body in what we refer to as the anatomic
17 position of a male silhouette.

18 As I said before, in the abdomen area,
19 in this general area right here, we saw eight
20 stab, cut areas that were associated with
21 that particular region of the body.

22 The left neck demonstrated a cut that --
23 this is the clavicle here. It comes in and
24 has a joint right here with the sternum. And
25 there was a cut from that joint area, around

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1 the neck on the left side with a scrape at
2 the top of it.

3 There was a small cut area, a superficial
4 cut area right over here. This is the
5 clavicle again, in this area the clavicle.

6 The left axilla, and this doesn't really
7 allow me to demonstrate it. I need more of a
8 side view. I'll come back to that with a
9 different one.

10 Q. Unfortunately, I don't think I have
11 a side view.

12 A. Okay.

13 Q. I'm sorry?

14 A. There was a cut here at the back of
15 the left axilla. We'll make it right here,
16 approximately. The left arm demonstrated a
17 cut in the upper arm, a cut in the upper
18 portion of the forearm, a cut in the lower
19 portion of the forearm, and then a cut
20 between the fingers.

21 And, again, when one's attacking, the
22 initial instinct is to lift the hand to
23 protect you. When the hand's cut, because of
24 the pain, the hand's withdrawn. The forearm
25 becomes your defense surface. And once it

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1 becomes injured, you tend to roll the
2 shoulder. So we tend to end up with cuts on
3 the upper arm. And depending on the
4 individual being able to roll the shoulder up
5 to more defend their head, we tend to see
6 cuts into the axilla as well as we see in
7 this man.

8 On his left flank, on the side here, we
9 saw cuts. These, again, could be when that
10 arm is lifted, because the arm has to be
11 lifted to get to the axilla. The flank's
12 exposed. With the bruising and scraping on
13 his right side, it's consistent with him
14 rolling on his right side, protecting his
15 right side by placing it against something.

16 Q. Could that be the floor?

17 A. That would depend. In all
18 probability it would be the floor, but it
19 could be other things.

20 And there was a small stab injury, more
21 in the center line of the abdomen.

22 So altogether in these areas, in these
23 concentrated areas, we saw eighteen injuries.

24 Q. Thank you. If you'll take the stand
25 again.

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1 A. (Witness takes stand)

2 Q. Could you tell from -- I believe you
3 mentioned that it was probable that the
4 individual was right-handed?

5 A. That's correct.

6 Q. Could you tell if were these upward
7 motions or downward motions?

8 A. Many of them were in a downward
9 direction, with the blade pointed toward the
10 midline and down, much as if you looked at a
11 clock. The cut injury of the blade being
12 drawn out was approximately at 8:00.

13 Q. Okay. Can you tell us what kind of
14 a death this would have been?

15 A. Well, cut injuries, the initial
16 instant they occur, are not exceptionally
17 painful. But very shortly after that, they
18 become painful. The nerves -- initially,
19 with a reasonably sharp knife, you don't
20 appreciate that you've been cut. But then
21 it becomes painful. The injuries into the
22 abdomen that broke into the bowel, that would
23 produce significant pain. And anything that
24 interferes with the diameter of the bowel
25 produces pain. The wound to the neck,

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1 unconsciousness would probably have followed
2 within thirty seconds. So no more perception
3 of pain or discomfort would occur.

4 Q. Was the wound to the neck the final
5 blow, in your expert opinion?

6 A. I think it's more probable than not.

7 Q. Could he have been saved with this
8 type of wound?

9 A. It's very doubtful, once the neck
10 wound occurred, that he was going to survive.

11 Two things happen. You not only lose
12 blood but because your jugular vein is open
13 to the air, it sucks air into your heart and
14 so we get a double-whammy if you will.
15 Losing blood and then air blocking the heart
16 chambers from pumping any blood it can find.

17 Q. Dr. Woodard, did you have the
18 opportunity to review additional medical
19 records for this case belonging to any other
20 individuals who were brought to AnMed for
21 this same incident?

22 A. Yeah. Robert Joe Frost, who was
23 forty-nine, and a Faye Davenport, came to the
24 emergency room that evening. I have their
25 emergency medical records.

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1 Q. And can you tell me what injury --
2 how would a doctor examining Faye Davenport
3 or Robert Frost on a particular day,
4 understand his treatment history? Is it the
5 medical record that they typically review?

6 A. Yes, they review the medical record
7 and the documentation that was prepared by
8 all the medical professionals, the nurses,
9 the doctors at the time of the interaction.

10 Q. So as a physician, would it be
11 common then for you to look at medical
12 records prepared by other physicians and make
13 opinions or observations about that
14 individual?

15 A. Absolutely.

16 Q. Okay. So then as an expert and
17 having reviewed those medical records, can
18 you tell me about the injuries sustained by
19 Mr. Robert Frost that day?

20 A. Okay. Mr. Frost, the main -- he had
21 a complaint that he'd been hit multiple times
22 with a baseball bat and that he had pain in
23 his head, neck, chest and back. The
24 examination revealed that a bruise with
25 tearing of the skin that involved the left

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1 side of his face, here on the forehead and up
2 into his scalp, that required sutures to
3 close it.

4 There was no evidence of underlying
5 fractures by x-ray and his neurologic
6 examination was considered normal.

7 And he had some minor bruises on his
8 abdomen. He had some tenderness along the
9 edge of his neck.

10 And the wound was closed -- and it had
11 to be closed with two layers, which is not
12 uncommon for a laceration, because there
13 really isn't much between the outside world
14 and this part of your body. And then there's
15 hard bone underneath it, so the skin tends to
16 be lacerated. Depending on if the object is
17 moving a little bit to the right or the left,
18 it tends to tear sideways a little bit too.
19 So they close underneath and closed it.

20 Then he was released in good condition.
21 No abdominal injuries were detected by x-
22 rays. No fractures were detected by x-rays.
23 And he had a CT scan of his head. There was
24 no bleeding or evidence of bruises on the
25 brain structure itself. And he had some

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1 x-rays of his neck that showed minor
2 degenerative joint changes, which would not
3 be related to an acute traumatic event.
4 There had been some past problem but it
5 wouldn't be related to an acute traumatic
6 event.

7 At the time he was there his blood
8 alcohol was determined at the hospital. It
9 was a hundred and twenty-four milligrams per
10 decimeter. That would be slightly different
11 if the blood test had been done at the State
12 crime lab in Columbia because the hospital
13 does a test on serum and the State does a
14 test of the blood. But it certainly would
15 still be in excess of DUI based on both labs.

16 He also had a urine screening test for
17 drugs. It showed the presence of metabolites
18 from amphetamines and benzodiazepines. So a
19 general Valium class of drugs and cocaine.

20 Q. Dr. Woodard, moving forward to Ms.
21 Faye Davenport's medical records, were you
22 able to determine after reviewing her medical
23 records what wounds she received?

24 A. Yes. She had two superficial sharp
25 force trauma injuries to her body. They were

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1 closed by sutures. She had bruises over her
2 left ankle, foot area, her left hip, her
3 right hand, a very large bruise on her right
4 ring finger. She had bruises on her right
5 back. She had stabs in her flank, again
6 where the seam of the shirt is, and stabs in
7 what they call the epigastric area, which is
8 the upper portion of the abdomen on the left
9 side.

10 Again, no underlying organ injuries were
11 present. You determine this by physical
12 examining and by x-ray studies. And no --
13 extremity injuries to her right hand and to
14 her body were not associated with fractures.

15 There was additionally evidence she had
16 an abnormal EKG with a prior heart attack.
17 It could have been related to this event or
18 could have been before this event.

19 They -- she had some problems with high
20 blood pressure in the emergency room. She
21 was quite upset.

22 Q. And you said there were some
23 injuries to her arm, I think?

24 A. Her right arm and hand, (affirmative
25 nod).

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1 Q. Okay. Would that be consistent
2 with someone being pushed to the ground and
3 bracing themselves?

4 A. And trying to supported themselves
5 as they're -- (affirmative nod).

6 Q. Okay. One moment, Dr. Woodard.

7 SOLICITOR PRICE: One moment, Your
8 Honor.

9 THE COURT: Okay.

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR PRICE:

12 Q. Thank you, Dr. Woodard. Please
13 answer any questions that Mr. Frost has for
14 you at this time.

15 A. All right.

16 SOLICITOR PRICE: Your Honor,
17 actually before the Defendant takes this
18 witness, may we take up an issue outside the
19 presence of the jury, very briefly?

20 THE COURT: Sure. Ladies and
21 gentlemen, I'll send you back. Please don't
22 discuss the case.

23 (JURY OUT @ 3:00 P.M.)

24 THE COURT: Yes, ma'am?

25 SOLICITOR PRICE: Your Honor, may

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1 it please the Court. Before Dr. Woodard took
2 the stand, we had some discussion about a
3 prior incident that Dr. Woodard discovered
4 where a Robert Joe Frost went to the AnMed ER
5 on the 3rd of July. Your Honor, we did find
6 an incident report pertaining to that
7 incident, but it is for Robert Frost, Jr.,
8 which would be this defendant's son. The
9 individual was twenty-one years of age.

10 So, Your Honor, I do not believe that
11 that would be related to this defendant, and
12 it's not exculpatory in my opinion. However,
13 I'm going to hand this incident report to Mr.
14 Frost's investigator and I thought that they
15 could discuss it briefly before he questions
16 this witness.

17 THE COURT: Yeah. Because I need
18 to take a quick break.

19 Mr. Frost, did you go to the
20 hospital or was that your son?

21 DEFENDANT FROST: Well, yeah, I went
22 to the hospital, but I don't have no son no
23 twenty-one years old. I've got a son that's
24 twelve years old.

25 THE COURT: All right. Y'all look

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1 at that.

2 SOLICITOR PRICE: Your Honor, I'll
3 give them a copy.

4 THE COURT: Y'all look at that and
5 I'll be back. Talk to them about it. I'll
6 be back in about four minutes.

7 SOLICITOR PRICE: Yes, sir.

8 (BRIEF RECESS)

9 (DEFENDANT PRESENT)

10 THE COURT: All right, did y'all
11 figure that out?

12 SOLICITOR PRICE: Yes, sir.

13 THE COURT: What happened?

14 SOLICITOR PRICE: Well, Your Honor,
15 it appears that it was not this defendant.
16 The alleged assailant was a group of African
17 American men and, so, -- there is no
18 allegation that it was Mr. Davenport (sic).
19 So I don't see how it's relevant.

20 THE COURT: Well, if it's not him
21 it isn't, is it?

22 SOLICITOR PRICE: I don't believe
23 it's him. Of course, he could say otherwise,
24 but ---

25 THE COURT: Well, that's what I'm

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1 asking.

2 DEFENDANT FROST: I ain't worried
3 about it.

4 THE COURT: Okay.

5 SOLICITOR PRICE: Thank you, Judge.

6 CLERK: Mr. Foster wants to show
7 this to Dr. Woodard?

8 THE COURT: Any objection to that?

9 SOLICITOR PRICE: No, sir. No
10 objection.

11 THE COURT: All right. You can
12 bring them in.

13 (PREMARKED AS DEFENDANT'S EXHIBIT 16)

14 (JURY IN @ 3:08 P.M.)

15 THE COURT: Okay. Thanks for
16 that. We had something to deal with that'll
17 actually shorten this a little bit.

18 Okay. Yes, sir. Just before you
19 start, that picture that we talked about has
20 not actually been introduced. It's marked
21 but it hasn't been introduced into evidence?

22 CLERK: Yes, sir. Exhibit 16.

23 DEFENDANT FROST: Exhibit 16.

24 SOLICITOR PRICE: I think there were
25 two.

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1 DEFENDANT FROST: Yes, sir.

2 THE COURT: All right. So you
3 want to move that into evidence?

4 DEFENDANT FROST: Yes, sir.

5 THE COURT: And there's no
6 objection, right?

7 SOLICITOR PRICE: No objection.

8 THE COURT: Okay. It's in as
9 Defense...

10 CLERK: Sixteen.

11 COURT REPORTER: Sixteen.

12 THE COURT: Sixteen, thank you.

13 (SO ENTERED AS DEFENDANT'S EXHIBIT 16)

14 THE COURT: Okay. Mr. Frost.

15 CROSS-EXAMINATION

16 BY DEFENDANT FROST:

17 Q. I'd like to ask you a question about
18 the cuts. Is the cuts in the same width,
19 length and depth that, you know, the same
20 width, length and depth?

21 A. No. The width remained relatively
22 constant but the length of the cut was
23 variable from place to place. And as I said,
24 some -- not only was there a stab meaning
25 that the sharp force penetrated the under-

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1 lying tissue, but as the knife was withdrawn
2 it produced a cut and so would extend the
3 length. The injury to the neck is a cut so
4 it's the length of however long the cutting
5 instrument was -- is or a drawing across the
6 neck.

7 Q. Did it look like the cuts might have
8 been in sets of twos on the body, like on,
9 like sets of two. Like you said there was
10 two on the arm, two cuts on the arm?

11 A. Usually, they were -- in the
12 abdomen, I would not be able to definitively
13 say there weren't sets of twos. On the arms,
14 it was spread out and did not appear to in
15 sets of twos.

16 Q. Was they like in line with each
17 other, like they might have been placed on
18 there? You know, like placed and, you know,
19 thought about. You know, placed on there,
20 like somebody tampered with the body or
21 something like that, placed?

22 A. No. They didn't appear to be that
23 consistent with each other such that they
24 would have been artificially produced or that
25 they were produced after death. Also, after

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1 death the edges of the tissue show a
2 different reaction than they do when there's
3 been blood pressure or the heart beating at
4 the time of death of a person.

5 Q. If someone is like fighting? How
6 would like if somebody was fighting and
7 swinging that knife like you said that you'd
8 just ---

9 A. Well, obviously, you could produce
10 linear cuts. There has to be a thrusting
11 action to produce a stabbing.

12 Q. Yeah. And a linear cut, how long
13 could it go with a knife that size right
14 there?

15 A. Up to the entire length of the
16 knife.

17 Q. All the way up to the entire depth
18 of the knife?

19 A. And it could even go further if the
20 contact with the skin was maintained?

21 Q. Can I show you two cuts and see if
22 they all look like them two cuts to you? Can
23 you recall it?

24 A. Well, I -- look like? I'm not a
25 hundred percent sure, but yeah, you can show

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1 me some cuts, some pictures of some cuts.

2 I'll be glad to look at them. I'm not quite
3 sure that I understand the question.

4 THE COURT: Show him the picture.
5 Are you talking about (Defendant's Exhibit)
6 16?

7 DEFENDANT FROST: Yeah.

8 THE COURT: Let him look at that
9 and...

10 CLERK: Your Honor, this Exhibit
11 16, Defendant's Exhibit 16. (Tenders exhibit
12 to witness)

13 THE COURT: Okay. Give him a
14 minute to look at it if you need to ask him a
15 question about it.

16 DEFENDANT FROST: Yes, sir.

17 WITNESS: (Upon review), okay.

18 CROSS-EXAMINATION CONTINUED

19 BY DEFENDANT FROST:

20 Q. All right. Does them look like cuts
21 that mostly was on his body?

22 A. No, these look like cuts where the
23 arm or the knife is in motion at the time the
24 cuts are made. The other cuts, most of your
25 cuts to the abdomen, there was very little

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1 evidence of motion there because the cuts are
2 what we call underlying and manually it's
3 moved. And so the swinging motion you're
4 describing with the knife wouldn't produce a
5 cut like this.

6 Q. It would be in the swinging motion?

7 A. That's correct.

8 Q. That would produce a cut like that?

9 A. The two that are on the arm. The
10 one that is close to the armpit.

11 Q. That would be like a swinging ---

12 DEFENDANT FROST: Can I let the jury
13 look at that, please?

14 WITNESS: Sure.

15 CLERK: You want it up here
16 (display)?

17 DEFENDANT FROST: Yeah.

18 CLERK: It will take just a second,
19 Mr. Frost, to warm up.

20 CROSS-EXAMINATION CONTINUED

21 BY DEFENDANT FROST:

22 Q. Now, I'd like to ask you a question,
23 Doctor. Could you come down and look at the
24 cuts?

25 A. Sure.

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1 Q. And with the weapon that you seen
2 earlier, did you feel the weight of that
3 weapon?

4 A. It appeared to be a heavy knife,
5 much heavier than what I would call a
6 traditional carving knife or kitchen knife.

7 Q. A carving knife or kitchen. And you
8 said if we was swinging like this right here,
9 swinging, that that big knife, a heavy knife
10 like that, it would leave a small cut like
11 that?

12 A. Again, the length of the cut is only
13 decided by the time that it's in contact with
14 the skin. The individual can withdraw from
15 the cutting object and -- or the individual
16 can hold their arm in the defensive position
17 to -- and the cutting object could go deeper
18 and longer.

19 Q. Do you feel it kind of strange both
20 of them in line with each other and then the
21 same width and the same length and same
22 depth, you know, just in line? It looks
23 identical. They just like three or four
24 inches apart from each other.

25 A. I don't find that strange. It's

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1 pretty typical of defense of wounds.

2 Q. On a defensive wound of him moving,
3 they would be in line like that?

4 A. Yes.

5 Q. If I went like this?

6 A. And all he does is just move the arm
7 a little bit and then the second cut comes.

8 Q. And the second cut come in the same
9 place, in line like that right there?

10 A. Yes, sir. It could like up like
11 that.

12 Q. It could like up like that?

13 A. Especially if he was on the floor at
14 the time it occurred.

15 Q. It wouldn't be -- but, see them two
16 right there, his whole body looked like that.
17 They all was in line. I got other pictures
18 over there of where ---

19 A. Well, let's go over them because I
20 don't believe they are in line.

21 Q. Well, I'm going to have to bring
22 them in, but I left at the ---

23 A. All right. Well, whatever.

24 Q. I can look for them, but it's going
25 to take time.

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Case No. 13-GS-04-0646 through 0649

Jury Trial of August 22-25, 2016

Testimony of Brett Woodard - Cross Examination

1 THE COURT: Okay. You got
2 questions about this picture?

3 DEFENDANT FROST: Yes, sir. Yes,
4 sir.

5 THE COURT: Okay. As about this
6 picture and then you can get other ones.

7 CROSS-EXAMINATION CONTINUED

8 BY DEFENDANT FROST:

9 Q. You see the same width, how wide
10 they are?

11 A. Yeah.

12 Q. The same width on both them, and see
13 how directly in line with each other?

14 A. Well, they're not perfectly
15 parallel, but they're somewhat suggesting
16 parallel.

17 Q. Yeah?

18 A. Okay. If it was a railroad track,
19 your train would fall off.

20 Q. Yeah, if it was a railroad track,
21 the train would fall off. But for him to be
22 moving around and blocking or swinging
23 something, for them to be in -- just where a
24 train would fall off, it looks like to me he
25 was more or less laying there still when

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1 these wounds right here was put on him.

2 A. There's a vital reaction. You can
3 see the redness to the side. He still had a
4 heartbeat.

5 Could his blood pressure have been low
6 and he wasn't moving much at the time they
7 occurred? It's possible.

8 Was he not able to move much at the time
9 they occurred because he had a pretty bad
10 heart? It's possible.

11 But they represent he was alive at the
12 time and his arm is blocking the exposure to
13 his body.

14 Q. Could the body have been tampered
15 with?

16 A. I see no -- if the body was dead at
17 the time EMS arrives, and they -- these have
18 vital reactions, so his heart was beating.
19 EMS said it wasn't when they arrived.

20 Q. Yeah. But it's possible that he
21 could have been tampered with?

22 A. That's always possible but not
23 probable.

24 Q. All right. Thank you.

25 A. (Resumes stand)

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1 (DEFENDANT REVIEWING PHOTOGRAPHS)

2 THE COURT: Are y'all looking for
3 pictures?

4 MR. COLE: Yes, Your Honor. I
5 apologize.

6 THE COURT: That's okay. We'll
7 give you some time to do that. If it's going
8 to take a while, then we can ---

9 MR. COLE: I'm not -- Your Honor,
10 if he could maybe ask a question. If not, it
11 may take just a minute.

12 (DEFENDANT REVIEWING PHOTOGRAPHS)

13 MR. COLE: Your Honor, could we
14 have a brief recess?

15 THE COURT: Rather than sit here.
16 Please don't discuss the case. We'll call
17 you back as soon as we find it.

18 (JURY OUT @ 3:24 P.M.)

19 THE COURT: Okay. Y'all let me
20 know. I'm going to step out. So y'all let
21 me know when you find it.

22 SOLICITOR PRICE: Thank you, Judge.
23 We will.

24 (BRIEF RECESS)

25 (DEFENDANT PRESENT)

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1 THE COURT: All right. Did y'all
2 find the picture?

3 SOLICITOR PRICE: Your Honor, he
4 decided that he didn't want to introduce it.

5 THE COURT: Okay. Do you have any
6 more questions for this witness? Hold on.
7 We're going to go get the jury in, but I just
8 want to make sure you do.

9 DEFENDANT FROST: All right.

10 THE COURT: Bring them on in.

11 (JURY IN @ 3:38 P.M.)

12 THE COURT: Thanks, Ladies and
13 gentlemen.

14 Okay. You can continue.

15 CROSS-EXAMINATION CONTINUED

16 BY DEFENDANT FROST:

17 Q. How many cut wounds did you say he
18 had?

19 A. I counted a minimum of eighteen.

20 Q. Eighteen cut wounds?

21 A. That's correct; sharp force trauma.

22 Q. All right.

23 DEFENDANT FROST: No further
24 questions.

25 THE COURT: Anything on redirect?

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1 SOLICITOR PRICE: Briefly, Your
2 Honor.

3 REDIRECT EXAMINATION

4 BY SOLICITOR PRICE:

5 Q. Dr. Woodard, did any of these wounds
6 appear to you to have been caused to Mr.
7 Davenport after his death?

8 A. No, they did not.

9 Q. And you reviewed the records of both
10 Mr. Frost and of Mr. Davenport?

11 A. Mrs. Davenport?

12 Q. No, sir. Mr. Davenport, the
13 deceased.

14 A. Okay. Yes.

15 Q. And Mr. Frost?

16 A. Yes.

17 Q. Correct?

18 A. That's correct.

19 Q. Body strength to body strength,
20 based on their conditions, how do you feel a
21 match-up between the two of them would have
22 proceeded?

23 A. Well as I said before, Mr. Davenport
24 was in extremely poor health. Morbidly obese
25 and, again, was in the early stages of heart

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1 failure. So his ability to put out physical
2 work would be very minimum.

3 Q. And when you say slashing motions
4 with repetitive stabs, is it possible that
5 somebody could have repositioned the knife
6 during an encounter such as this?

7 A. Absolutely. A wrist can go in all
8 directions.

9 Q. So it's not necessarily that he put
10 the knife down, picked it up, does something
11 completely different. It could be held the
12 entire time with the same hand to cause all
13 of these wounds?

14 A. Well, you have the potential for two
15 motions -- or three motions, the motion of
16 the attacker, the motion of the victim, and
17 motion of the hand, wrist, arm and so on.

18 Q. So all three of those things are
19 coming into play with what you're seeing
20 visibly?

21 A. That's correct.

22 Q. Okay. One moment. Thank you, Dr.
23 Woodard.

24 SOLICITOR PRICE: Your Honor, may
25 this witness be excused?

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Testimony of Timothy Richey - Direct Examination

1 THE COURT: Any objection to him
2 being excused?

3 DEFENDANT FROST: No, sir.

4 THE COURT: Okay. Thank you.
5 You're excused. I appreciate your patience.

6 (WITNESS STEPS DOWN)

7 SOLICITOR PRICE: Your Honor, at
8 this time the State would call Captain Tim
9 Richey to the stand.

10 THE COURT: Okay.

11 (PREMARKED AS STATE'S EXHIBIT 56)

12 (PREMARKED AS STATE'S EXHIBIT 57)

13 (WITNESS TAKES STAND)

14 TIMOTHY RICHEY, having been duly sworn to
15 tell the truth, and nothing but the truth,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY SOLICITOR PRICE:

19 Q. Thank you, Captain Richey. And who
20 do you work for?

21 A. Iva Police Department.

22 Q. Okay. What sort of duties and
23 responsibilities are associated with your
24 position?

25 A. I supervise all patrol units and

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1 also patrol myself.

2 Q. Okay. And how long have you been in
3 law enforcement?

4 A. I started in the Reserve program in
5 1989.

6 Q. And were you in your current
7 position at Iva PD in July of 2012?

8 A. I was actually an officer there. I
9 hadn't been promoted at that time.

10 Q. So you've been promoted since?

11 A. Yes, ma'am.

12 Q. Okay. And in July of 2012 when you
13 were an officer, did you respond to any calls
14 to East Front Street lead you to be in court
15 today?

16 A. Yes, ma'am.

17 Q. Okay. Did you respond to more than
18 one call that day at that location?

19 A. I responded to one call while I was
20 on duty and one call -- I was called in after
21 I was off.

22 Q. Okay. Let's talk about the first
23 call. What time did you respond to that
24 call?

25 A. Approximately 3:00 in the afternoon.