

NORTH CAROLINA  
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
91-CRS-71728 - 92-CRS-307

STATE OF NORTH CAROLINA	:	
	:	
	:	
VS.	:	TRANSCRIPT OF EVIDENCE
	:	
	:	
GREGORY FLINT TAYLOR	:	

Before: THE HONORABLE J. B. ALLEN, JR.

APPEARANCES: Mr. Tom Ford  
Assistant District Attorney  
Tenth Judicial District  
Raleigh, NC  
APPEARING ON BEHALF OF THE STATE.

Mr. Michael Dodd  
Mr. R. L. Adams  
Attorneys at Law  
Raleigh, NC.  
APPEARING ON BEHALF OF DEFENDANT.

The above-captioned cases came on trial before His Honor J. B. Allen, Jr., Judge Presiding, and a duly empaneled jury beginning On April 13, 1993, in the Superior Court of Wake County at Raleigh, NC; the following proceedings were had to wit:

TRANSCRIPT DELIVERED 7-20-93.

## STATE OF NORTH CAROLINA VS. GREGROY FLINT TAYLOR

91-CRS-71728 - 92-CRS-30701

I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
MOTIONS 3- 7				
JURY SELECTION 7-23				
OFFICER D. L. KENAN	25	55	62	65
AGENT DONALD PAGANI	66			
DR. DEBORAH L. RADISCH	82	100	109	105
AGENT DONALD PAGANI	112	154	178	
MR. ANDY CURRIN	189			
VOIR DIRE 190 - 219		232	238	240
AGENT WILLIAM HENSLEY	242			
DET. JOHNNY HOWARD	280	301	343	350
MR. ALLISON BLACKMAN	356			
MS. EVA MARIE KELLY	363	382	394	
MR. ERNEST ANDREWS	401	412	425	429
STATE RESTS 439				
MOTIONS 440 - 516				
CHARGE CONFERENCE 517 - 524				
ARGUMENT OF D.A. 527 524				
CHARGE TO JURY 589 - 586				
VERDICT 605				
POLLING OF JURY 607 - 609				
JUDGMENT 612				
APPEAL ENTRIES 612				

E X H I B I T S

		STATE VS. GREGORY	FLINT TAYLOR		
STATE'S		Identified	Offered	Dft's	Id. Offered
	1	40	280	1	333
	2	44	"	2	430
	3	45	"		
	4	"	"		
	5	46	"		
	6	"	"		
	7	"	"		
	8	47	"		
	9	48	"		
	10	"	"		
	11	"	"		
	12	"	"		
	19	85	"		
	20	"	"		
	21	"	"		
	22	"	"		
	23	"	"		
	24	86	"		
	25	"	"		
	26	"	"		
	27	"	"		
	28	"	"		
	29	"	"		
	30	"	"		
	31	124	"		
	32	125	"		
	33	126	"		
	34	134	"		
	35	143	"		
	13	253	"		
	14	254	"		
	15	"	"		
	16	"	"		
	17	255	"		
	18	256	"		
	36	261	"		
	1-E	262	"		
	1-A	264	"		
	37	269	270		
	37-A	270	"		
	38	286	288		
	39	287	"		
	40	358	432		
	41	380	"		

1 COURT: It is April the 13th. You have a matter  
2 that your are going to call, Mr. Ford?

3 MR. FORD: Yes, Your Honor. It is margain 45  
4 on the trial calendar State versus Gregory Flint Taylor.  
5 There are two case numbers. The first is a 91 case in  
6 which the defendant is charged with murder. The second  
7 case is a 92 case, I believe, which involves the same  
8 circumstances in which he is charged with accessory  
9 after the fact of the same murder.

10 COURT: Is the State ready to proceed?

11 MR. FORD: Yes, Your Honor.

12 COURT: And your are proceeding in both cases?

13 MR. FORD: That's correct.

14 COURT: Mr. Dodd, you--and it is Mr. R. L.  
15 Adams?

16 MR. DODD: Yes, sir.

17 COURT: Represent Gregory Flint Taylor?

18 MR. DODD: That is correct.

19 COURT: Is this Mr. Taylor?

20 MR. DODD: This is Mr. Taylor.

21 COURT: And in 91 CRS 71728, Mr. Ford, you are  
22 proceeding on first degree murder?

23 MR. FORD: That's correct. But I already  
24 through agreement with the defense attorneys and with  
25 the court stipulated that there is not any agravating

1 circumstances of which the State is aware.

2 COURT: All right.

3 MR. FORD: And I am not proceeding in a  
4 capital mode.

5 COURT: So you are, on the record you are  
6 stipulating that you have done an investigation and you  
7 know of no aggravating factors to make this a capital  
8 offense case and you are proceeding on a non-capital  
9 first degree murder?

10 MR. FORD: That's correct. Yes, sir.

11 COURT: And you are also proceeding in case  
12 92 CRS 30701 where the defendant has been indicted for  
13 accessory after the fact of a felony, the murder?

14 MR. FORD: That's correct.

15 COURT: And you are proceeding on both of  
16 them?

17 MR. FORD: Yes, Your Honor.

18 COURT: Mr. Dodd, you and Mr. Adams are ready  
19 to proceed?

20 MR. DODD: Yes, we are, Your Honor.

21 COURT: All right.

22 MR. DODD: There are one or two matters  
23 briefly that I'd like to be heard on and then--

24 COURT: All right. There's no jurors present  
25 in the courtroom at this time.

1           MR. DODD: Your Honor, there is one motion  
2 that is pending which we can dispose of very quickly but  
3 I want to call to the Court's attention and I need  
4 something on the record about that motion. I filed a  
5 Motion to Disclose Evidence of North Carolina Rule of  
6 Evidence 404(b) materials basically asking if the State  
7 had any of these materials and intended to put them in  
8 during the course of the trial, that they furnish those  
9 to me, to me.

10           May I approach the bench? It was filed and  
11 served upon Mr. Ford and Mr. Ford and I have had  
12 numerous discussions since. He has told me that he has  
13 furnished me all the materials that he has or intends to  
14 use. I am satisfied that he has and I don't wish to be  
15 heard further on that.

16           COURT: All right.

17           MR. FORD: For the record let me say this:  
18 Most of our discussions were me trying to figure out  
19 what Mr. Dodd is referring to and thinking that I had  
20 missed something.

21           He is aware that there is going to be evidence  
22 in this case that his defendant on the night in question  
23 and around the circumstances of this alleged murder was  
24 involved in attempts to obtain cocaine, maybe use of  
25 cocaine, and other drug offenses that occurred on this

1 evening and he is aware, also, because of the second  
2 charge that I am alleging that even after this murder he  
3 committed acts which were criminal with which he is  
4 charged. Other than those drug acts and maybe  
5 soliciting prostitution or something of that nature, all  
6 of which he is aware of. I am not aware of any further  
7 criminal offenses, particularly that did not occur on  
8 the night in question or the early morning hours in  
9 question on a separate date and another time I am not  
10 aware of any other.

11 COURT: All right, any other motions to be  
12 heard before we bring the jury down, counsel?

13 MR. DODD: Yes, Your Honor. I am not sure  
14 this is in the form of a motion, probably a request but  
15 because of the State proceeding on an indictment of  
16 first degree murder and also indictment of accessory  
17 after the fact. I would request that you inform the jury  
18 of those charges and what they are and if you want to  
19 instruct them on that briefly, that's fine, but I think  
20 they need to know something about those and that would  
21 be the request we have on behalf of the defendant.

22 COURT: Well, I will, I will not go into a  
23 whole lot of detail but I will briefly tell them what,  
24 the two case that the State is proceeding on.

25 All right, call and get a jury down.

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

-----  
COURT: All right, let the record show now we have members of the jury present in the courtroom and the Court is call for trial 91 CRS 71728, 92 CRS 30701. State of North Carolina versus Gregory Flint Taylor.

Mr. Ford, on behalf of the State you ready to proceed?

MR. FORD: Yes, Your Honor.

COURT: Mr. Dodd, Mr. Adams, on behalf of the defendant are you ready to proceed?

MR. DODD: Yes, Your Honor.

COURT: Seat twelve in the jury box.

[TWELVE PROSPECTIVE JURORS SEATED IN JURY BOX]

COURT: All right, addressing my remarks to the 12 folks who have just been seated in the jury box but speaking loud enough so the other potential jurors can hear me.

The court is calling for trial case 91 CRS 71728. The title of that case is state versus Gregory Flint Taylor. Mr. Taylor is seated here at this table and Mr. Taylor has been accused of on or about September 26, 1991, with unlawfully, wilfully and feloniously murdering a one Jacquitta L. Thomas

Also, the Court is calling for trial a caw titled State versus Gregory Taylor, 92 CRS 30701 and Mr. Taylor



1 has been accused of accessory after the fact of a  
2 felony; that is, he has been accused of unlawfully,  
3 wilfully and feloniously giving a one Johnny Beck  
4 assistance in escaping or attempting to escape knowing  
5 that Johnny Beck has murdered Jacquitta Thomas.

6 Now, Mr. Taylor has plead not guilty to these  
7 charges. He has entered a plea of not guilty. The fact  
8 that he has been charged is no evidence of guilt.

9 Under our system of justice when a defendant pleads  
10 not guilty, he is not required to prove his innocence.  
11 He is presumed to be innocent.

12 The state must prove to you that the defendant is  
13 guilty beyond a reasonable doubt. I will tell you right  
14 now the definition of a reasonable doubt. A reasonable  
15 doubt is a doubt based on reason and common sense  
16 arising out of some or all of the evidence that has been  
17 presented or lack or insufficiency of the evidence, as  
18 the case may be.

19 Proof beyond a reasonable doubt is proof that fully  
20 satisfies or entirely convinces you of the defendant's  
21 guilt.

22 We are now in the process of selecting a jury. I  
23 am going to be asking you some questions touching on  
24 your qualifications and then the attorneys, Mr. Ford,  
25 Mr. Dodd and Mr. Adams will be asking you some

1 questions

2 I will tell you that it would be your duty to hear  
3 the evidence in this case and to find the facts from  
4 that evidence. You must then apply the law which I  
5 would give you to those facts and it is absolutely  
6 necessary that you understand and apply the law as I  
7 give it to you and not as you think it is nor as you  
8 might like it to be. This is important because justice  
9 requires that everyone tried for the same crime be  
10 treated in the same way and have the same law applied to  
11 him.

12 First of all, starting with jurors number 1,  
13 James Price, I want you to give the attorneys your full  
14 name, the area of the county you reside. You don't have  
15 to give your exact address but the area of the county  
16 where you reside, whether it is one of the communities  
17 or in south Raleigh or what not. If you are employed,  
18 something about your employment, if you are married,  
19 your spouse's name and employment. Speak real loud and  
20 go real slow and give that information to the attorneys  
21 and then they won't have to ask this over again and we  
22 will go right down the row. Starting with you, Mr.  
23 Price.

24 [JURORS GIVE THAT INFORMATION]

25 -----

1           COURT: All right, ladies and gentlemen, I  
2           have already informed you that the defendant has been  
3           accused of first degree murder and also been accused of  
4           accessory after the fact of a felony and I have told you  
5           that he has entered a plea of not guilty and that he is  
6           presumed to be innocent.

7           The defendant is seated over here and he is  
8           represented by Mr. R. L. Adams. Mr. Adams, would you  
9           raise your hand. And Mr. Mike Dodd. Mr. Dodd and  
10          Mr. Adams will be representing the defendant in this  
11          trial.

12          The State of North Carolina is represented by  
13          Mr. Tom Ford, assistant District Attorney here with the  
14          D. A.'s office here in Wake County.

15          Has any member of the jury ever heard anything or  
16          read anything at all about this case? If so, please  
17          raise your hand. If you have ever heard anything, read  
18          anything or know anything about the case other than what  
19          I just told you a few minutes ago, please raise your  
20          hand. So I take if none of you as far as you can  
21          remember at this point, you don't remember reading  
22          anything or hearing anything on the news media about  
23          this case.

24          Does any members of the jury know Mr. Tom ford who  
25          will be prosecuting this for the State of North

1 Carolina? If you know Mr. Ford, please raise your hand.

2 Mr. Ford is in the D. A.'s office. the elected  
3 D. A. is Colon Willoughby. Does anybody know Colon  
4 Willoughby?

5 I've already introduced you had to Mr. Mike Dodd.  
6 Mr. Dodd is a defense attorney of the Wake County Bar.  
7 Does anybody know Mr. Dodd? If so, raise your hand.

8 Mr. R. L. Adams is also a member of the Wake  
9 County Bar and does anybody know Mr. Adams? Does  
10 anybody know the defendant, Gregory Flint Taylor?

11 The alleged victim in this matter is Jacquitta  
12 Thomas. Does anybody know the alleged victim?

13 In order for our system to work the way it is  
14 suppose to work, we are to have 12 people who can be  
15 completely fair and impartial and give the State of  
16 North Carolina a fair trial and give the defendant, Mr.  
17 Gregory Taylor a fair trial.

18 JUROR: You say her name now and it seems  
19 familiar to me.

20 COURT: I don't know. I live in Alamance  
21 County.

22 JUROR: I think I might have heard something  
23 about it.

24 COURT: Don't--do you remember hearing  
25 something on news about it last night?

1 JUROR: Uh-huh.

2 COURT: The fact that you might have heard  
3 something on the news last night, did you form any  
4 opinions at all about the case?

5 JUROR: Well, you can't when they say  
6 details, you really can't help but form details, you  
7 know, in my mind. The details are pretty bad. If this  
8 indeed is the case, I --

9 MR. DODD: Your honor, this happened in '91.  
10 Can you make sure that she understand what this is  
11 about.

12 COURT: Well, I don't know whether anything  
13 was on the news last night or not but it's alleged that  
14 Mr. Taylor committed these offenses on September 26,  
15 1991.

16 JUROR: Uh-huh.

17 COURT: I doubt very seriously that anybody in  
18 the news media would have known this case was being  
19 called today and so--

20 JUROR: Well, maybe it was a different case.

21 COURT: But if, if there is anyone who has  
22 heard anything about the case at all, now is the time to  
23 let the attorneys know and they will make a decision  
24 whether or not you should stay on the case.

25 JUROR: It was a different case that I saw--

1 COURT: Well, wait a minute.

2 JUROR: It sounds familiar.

3 COURT: I don't want y'all to be talk among  
4 yourselves. I have indicated to you that it is  
5 important that we got 12 people who can be completely  
6 fair and impartial who will listen to the evidence and  
7 follow the law and accept the law as I give it to you  
8 and give both the State and the defendant a fair trial.

9 If you know of any reason at all why you couldn't  
10 do that, please raise your hand. So I take it by no one  
11 raising their hand that at this point all 12 of you know  
12 of no reason at all why you couldn't give the State and  
13 the defendant a fair and impartial trial.

14 The jury is with the State.

15 MR. FORD: Thank you, Your Honor.

16 [REPORTER'S NOTE: JURY SELECTION WAS NOT ASKED TO BE  
17 REPORTED.]

18 -----

19 COURT: The fact that you presently have a  
20 friend--

21 A Who was murdered.

22 COURT: --who was murdered, would that effect  
23 you in giving this defendant over here a fair and  
24 impartial trial?

25 JUROR: It might. I don't know for sure. I,

1 it is a very emotional thing. I really don't know.

2 COURT: You understand that Mr. Taylor is  
3 entitled to have 12 people who can be completely fair  
4 and impartial and give him that fair trial?

5 JUROR: (Nods head.)

6 COURT: And only you can answer this. The  
7 fact that your close personal friend was murdered, that  
8 in itself, would that in anyway effect you in giving  
9 that defendant, Mr. Taylor, a fair and impartial trial?

10 JUROR: I think, I think it effects the way I  
11 preceive the whole criminal justice system.

12 COURT: Mr. Dodd, and Mr. Adams do you make a  
13 motion I excuse her for cause.

14 MR. DODD: Yes we do, Your Honor.

15 COURT: You want to be heard, Mr. Ford?

16 MR. FORD: No, Your Honor.

17 COURT: Thank you very much and I will excuse  
18 you for cause. The Court is excusing Ms. Abertine for  
19 cause. She indicated that she had a personal friend  
20 that was murdered and that for that reason she may not  
21 be able to give the defendant a fair trial and on motion  
22 of the -- seat another one in number five and I am going  
23 to--wait just a minute.

24 -----

25 Ladies and gentlemen, I want to give the 12 of you

1 an instruction and an order of the Court and this also  
2 applies to the other potential jurors because at this  
3 point the counsel for the State and the defendant have  
4 accepted nine jurors to try this case but they still  
5 must accept three more.

6 This is an order of the Court that will carry  
7 forth throughout the duration of this trial. You must  
8 not talk about this case among yourselves in anyway.  
9 That is, while you go on recess or overnight break you  
10 must have no conversation among yourselves in anyway  
11 about this case. The only place this case may be talked  
12 about is in the jury room and then only after you have  
13 heard all of the evidence, the attorneys have made their  
14 closing arguments to you and I give you the instructions  
15 on the law and tell you to go to the jury room and begin  
16 your deliberations. You must not talk about this case  
17 with anyone else including family members. After the  
18 case is over with you can tell any family member or any  
19 friend or anyone else anything you want to about the  
20 case but until the case is over with you cannot have any  
21 conversation with anyone about this case including  
22 family members nor are you to allow anyone to talk with  
23 you or say anything in your presence about this case.

24 If anyone communicates or attempts to communicate  
25 with you or in your presence about this case, you must



1       notify me of that fact immediately.

2               While you are sitting as a juror or a potential  
3 juror your are not to form my opinion about the guilt or  
4 innocence of the defendant in anyway. You must wait  
5 until you go to the jury room and then after you have  
6 heard all of the evidence and the instructions on the  
7 law and begin your deliberations before you express any  
8 opinions and at that time you should express any  
9 opinions. You must not talk or communicate in any way  
10 with any of the parties in the case, any of the lawyers,  
11 any of the witnesses or anyone else connected with this  
12 case. This rule applies inside as well as outside of  
13 the courtroom and it prohibits any type of conversation  
14 whether about the evidence in this case or, whether  
15 about the evidence in this case or whether about the  
16 weather or any other thing. You are not to talk with  
17 anyone about this case involved inside or outside the  
18 courtroom.

19               Now, there will probably be matters, news media  
20 matters about this case and you are not to read anything  
21 in the newspaper, listen to anything on radio or watch  
22 anything on TV about this trial. Newspaper, radio,  
23 television accounts may be inaccurate or they may  
24 contain references to matters which are not proper for  
25 your consideration.

1           The jury verdict must be based exclusively on  
2 what's brought out in the courtroom. You must not make  
3 any independent inquiry, infestation about this case.

4           Now, folks, each of you must obey these rules to  
5 the letter. That is an order of the Court and unless  
6 you do so, there is no way that the State or the  
7 defendant can be assured of an absolute fair and  
8 impartial trial.

9           It is your duty both while the trial is in  
10 progress, while it is in recess, or while you are in the  
11 jury room to see that you remain a fair and impartial  
12 trier of the facts.

13           If you violate these rules you violate an order of  
14 the Court and this is contempt of court. And the last  
15 thing that I would want to do would be hold a juror in  
16 contempt. So I am telling you that you must abide by  
17 this order of the court.

18           Having said that, we are going to take the morning  
19 recess of fifteen minutes.

20           You 12 need to be back here in your seats in  
21 fifteen minutes and the other potential jurors back  
22 there. Everyone else remained seated and I will let  
23 these 12 go out first. You may go for your recess of  
24 fifteen minutes

25           [JURORS EXCUSED FOR RECESS.]

1 COURT: Be in recess fifteen MINUTES,  
2 Mr. Sheriff.

3 -----

4 COURT: Let the record show the State now has  
5 accepted the three new jurors, that is Mr. Holmes in  
6 seat number five, Ms. Carter in seat number eight and  
7 Ms. Smith in seat number ten.

8 Ms. Smith, in being questioned by Mr. Ford you  
9 indicated that you were a resident of Wake County this  
10 morning on this date but that you would be moving to  
11 Johnston County?

12 JUROR: Correct.

13 COURT: And what was your address in Wake  
14 County?

15 JUROR: 452 Elsie Loraine Drive, Raleigh,  
16 27603.

17 COURT: And how long have you lived at that  
18 address?

19 JUROR: Four Years.

20 COURT: And do I understand that your house is  
21 being moved to Johnston County?

22 JUROR: We purchased land in Johnston County  
23 mobile home is being put on that land today

24 COURT: And that house, that mobile home is  
25 being moved from Wake County to Johnston County?

1 JUROR: Yes.

2 COURT: So this morning you are a resident of  
3 Wake County but tonight you will be a resident of  
4 Johnston County?

5 JUROR: When I go home, I will go to Johnston  
6 County.

7 COURT: I, counsel, I think that to be  
8 absolutely sure --

9 MR. FORD: Obviously I have already passed  
10 Ms. Smith but it is my understanding the law is going to  
11 be where she is residing at the time the jury is  
12 empaneled and at this point it is no question. So--

13 COURT: Will there be any--either side make a  
14 motion that I excuse her for cause? I am not suggesting  
15 that you do.

16 MR. DODD: I have not talked to her yet but  
17 you know, I don't--

18 COURT: I like to keep the record straight.

19 MR. DODD: You know, judge, this, this is, if  
20 it turns out to be an issue, it is a legal issue, I  
21 don't know that I can stipulate that she is a resident  
22 of Wake County even if I wanted to but it doesn't  
23 particularly bother me. I think, I think she is  
24 probably going to be a resident of Wake County at the  
25 time this jury is empaneled if she is left on the jury

1 and I am not bothered by that.

2 COURT: I just want to put on the record, I am  
3 inviting both the State and the defendant to make any  
4 motion and if you don't make any motion and you accept  
5 her, then that is it.

6 MR. FORD: Because of my understanding of the  
7 law and the fact that Ms. Smith really can't honestly  
8 tell us where she lives right--it is not her fault  
9 because she doesn't know whether home has been moved in  
10 her absence--

11 JUROR: It is suppose to be moved at 9:30--

12 MR. FORED: This morning.

13 JUROR: --this morning. Whether they did, I  
14 don't know.

15 MR. FORD: Okay. For that reason, I am going  
16 to challenge Ms. Smith for cause because that--

17 COURT: All right. Does the defendant object  
18 to me excusing Mrs. Smith for cause?

19 MR. DODD: No, Your Honor, we don't.

20 COURT: All right. Without any objections of  
21 the defendant, Ms. Smith, since the law requires you to  
22 be a resident of the county that you sit on jury, I am  
23 going to excuse you with the thanks of the Court and you  
24 are free to go.

25 The Court finds that Ms. Maxine Smith, who was

1 seated in seat number ten, was a resident in the City of  
2 Raleigh, 452--

3 JUROR: Elsie Loraine Drive.

4 COURT: --Elsie Loraine Drive. However, her  
5 mobile home was being moved on this date and was  
6 supposedly moved at 9:30 this morning and she will,  
7 therefore, be a resident of Johnston County.

8 So on motion of Mr. Ford and without any  
9 objections of Mr. Dodd and Mr. Adams I will excuse you  
10 for cause. Thank you, ma'am.

11 Seat another one in number ten.

12 [JURY SELECTION CONTINUES.]

13 COURT: All right, now let the record show  
14 that both the State and the defendant have accepted 12  
15 jurors and two alternates to try this case. Empanel the  
16 jury.

17 [JURY DULY EMPANELED BY THE CLERK.]

18 COURT: Ladies and gentlemen of the jury, I  
19 have given you an order of the Court during jury  
20 selection but I want to repeat it at this time because  
21 it is most important. This is an order of the Court.  
22 You folks have been selected and empaneled to try this  
23 case. You must not talk about this case among  
24 yourselves in anyway. The only place this case may be  
25 talked about is in the jury room and then, as I have

1 already told you, after you have heard all of the  
2 evidence, the attorneys make their closing arguments to  
3 you and I give you the instructions on the law and tell  
4 you to go to the jury room and begin your deliberation.  
5 You must not talk-about this case with anyone else  
6 including family members or allow anyone else to talk  
7 with you or say anything in your presence about this  
8 case. If anyone communicates or attempts to communicate  
9 with you or in your presence about this case, you must  
10 notify me of that fact immediately. While you are a  
11 juror, and now all of you are jurors in this case, but  
12 while you are a juror you are not to form any opinion  
13 about the guilt or innocence of the defendant nor  
14 express to anyone any opinion about the case. You must  
15 wait until you go to the jury room before you make any  
16 expressions about this case when you can begin your  
17 deliberation. You must not talk or communicate in  
18 anyway with any of the parties in the case, any of the  
19 lawyers, or any of the witnesses. This rule applies  
20 inside as well as outside the courtroom.. You must not  
21 read anything in the newspaper or listen to anything on  
22 radio or watch anything on television about this trial.  
23 Newspaper, radio, television accounts may be inaccurate  
24 or they may contain references to matters which are not  
25 proper for your consideration. As I have already told

1       you during jury selection, your verdict must be based  
2       exclusively on what's brought out in the courtroom. You  
3       are not to make any independent, any independent inquiry  
4       or investigation about this case in anyway.

5               Now, that is an order of the Court and you must  
6       keep all of those things in mind throughout the duration  
7       of the trial.

8               At this time the attorneys have an opportunity to  
9       make an opening statement. A short opening statement.  
10       I will tell you that an opening statement is in no way  
11       to be construed as evidence in this case. You will hear  
12       the evidence as it's presented and these opening  
13       statements are not to be construed by you as your  
14       instructions on the law. Nevertheless, the attorneys  
15       have an opportunity to make a short opening statement  
16       and to give your sort'a of a road map of what they  
17       content the evidence is going to show. You should give  
18       them your close attention.

19               Mr. Ford, opening statements.

20                       MR. FORD: Thank you, Your Honor.

21       [OPENING STATEMENTS NOT REPORTED.]

22               COURT: Ladies and gentlemen of the jury, at  
23       this time I am going to let you go for your lunch recess  
24       and normally we will start court everyday at 9:30 and



1 take a fifteen minute recess in mid morning and then go  
2 to lunch between 1:00 and 2:30 and quit at 5:00. That  
3 will be the schedule we will be on. So I am going to  
4 give you a recess now until 2:30. Keep in mind the  
5 order of the Court that I have already given you.  
6 Everyone else remain seated and the jury may go for a  
7 lunch recess at this time. Be back at 2:30.

8 [JURY EXCUSED FOR LUNCH.]

9 COURT: All right, let the record show now the  
10 jury has been excused for lunch and on the record the  
11 Court wants to find, to put in the record that in  
12 selecting the jury the Court excused three for cause,  
13 the State used no peremptory challenges and the  
14 defendant used three peremptory challenges in selecting  
15 the jury of 12.

16 It appears to the Court that of the jury of 12  
17 there are seven white males, two white females, no black  
18 males, and three black females.

19 In selecting alternate number one and number two,  
20 neither the State nor the defendant used any challenges.  
21 Alternate number one is Mr. Williams. a white female,  
22 which appears to be a white female. Alternate number  
23 two, is Mrs. Powell, which appears to the Court to be a  
24 black female.

25 Counsel, we will take a recess until 2:30.

1 We will be in recess.

2 [COURT RECESSED FOR LUNCH RECESS.]

3 -----

4 P. M. SESSION.

5 COURT: All right, let the record show all  
6 members of the jury of the jury are back in the  
7 courtroom. Mr. Ford, call your first witness.

8 MR. FORD: If Your Honor please, the State  
9 would call Officer D. L. Kenan of the Raleigh Police  
10 Department to the stand, please.

11 OFFICER B. L. KENAN, being first duly sworn, testified  
12 as follows during DIRECT EXAMINATION by Mr. Ford

13 Q Would you please state your name and occupation for  
14 the Court, please.

15 A Brad Kenan. I am a Raleigh police officer.

16 Q How long have you been so employed, Mr. Kenan?

17 A Since August of 1987.

18 Q Were you so employed and on duty in what we call  
19 first shift on September 26, a Thursday, 1991?

20 A Yes, sir.

21 Q All right. What time, what kind of hours were you  
22 working on that date?

23 A You come in about 6:30 and have roll call and  
24 usually get out of the station about ten minutes till  
25 seven and you work until 3:00 p.m.

1 Q All right. Can you tell us what hours you  
2 actually worked on that date?

3 A The schedule shift was seven to three and I got  
4 there about 6:30 and went on out about ten till seven.

5 Q All right. Can you tell me what your duties were  
6 as a police officer at that time?

7 A I was on routine patrol and I patrolled the area  
8 between Wilmington Street and New Bern Avenue. It is  
9 the southeast section of Raleigh.

10 And I just answer 911 calls for service and take  
11 wreck reports, any kind of incident reports that would  
12 have happened.

13 Q Now, did you have occasion to go to the 1500 block  
14 of South Blount Street, specifically the culdesac at the  
15 end of South Blount Street on that occasion, on that  
16 date?

17 A Yes, sir.

18 Q What was your purpose in going to that location?

19 A It's, it's a joining place between beats between  
20 other officers and it is a usual location whether police  
21 officers meet. A lot of times there will be a couple of  
22 police cars to meet me there. He had some warrants for  
23 arrest on someone that I was familiar with. He was gong  
24 to ask me more about them, where they might be and

1 where they might would hang out and we were going to  
2 discuss that.

3 Q And who was that officer?

4 A Officer M. L. Peterson.

5 Q How were you having this conversation?

6 A We were going to meet down there and talk about  
7 it. We had talked about it at roll call. He said I  
8 have got a bunch of warrants on somebody. I said, well  
9 meet me down at the extension later this morning and  
10 I'll look at them and tell you if I know the guy and he  
11 had called and said meet me down there.

12 A All right. Can you describe that area, the  
13 culdesac area and how you get to it?

14 A Okay. If you come off of Wilmington Street, you  
15 have to come up City Farm Road, which will T-into Blount  
16 Street. If you turn right, you dead-end into that  
17 culdesac. If you turn left, you go behind what is  
18 called Cargill. It is a big plant. Used to be the  
19 Purina Plant. You can see it from Wilmington Street.  
20 That would go into Hoke Street and you could go on into  
21 Raleigh that way but if you turn right off City Farm,  
22 you go into the dead-end and it is more like a business  
23 district, warehouse district. There is the Cardinal  
24 Trucking Company there and a couple of warehouses. It  
25 is not residential.

1 Q Okay. Describe the immediate area around the  
2 culdesac, if you will.

3 A Once you are going down Blount Street you pass  
4 City Farm Road, like I said, it turns into a dead-end  
5 between City Farm and the dead-end probably. I'd say  
6 five or six hundred yards and on the left there is one  
7 more warehouse and on the right is that Cardinal place.

8 About half way between that five or six hundred  
9 yards it stops and becomes like a grassy field and a few  
10 trees and real swampy. It is about 30 or 40 feet of  
11 dirt on the left side and then it just drops off into a  
12 canal between the flat area and the highway which is  
13 Hammond Road and it is a great big canal and ditch  
14 running through there, a creek.

15 Q Now, would this be the, what we describe as the  
16 south end terminus of Blount Street?

17 A Yes, sir.

18 Q That is the south end of Blount Street?

19 A Yes, sir.

20 Q Very end of it. What is the area of the culdesac  
21 made out of?

22 A The street is asphalt with cement curbing and it  
23 big enough--it is mainly used by large trucks. They  
24 sell soybeans to the Cargill company in the fall when  
25 they are selling beans, these trucks just line up and

1 that is used as a turn around for trucks mainly.

2 Q Now, about what time did you go to that location on  
3 the, on that Thursday morning of September the 26th,  
4 1991?

5 A Between 7:30 and 7:40 in the morning.

6 Q Can you tell us your best recollection of what the  
7 weather was like and the visibility?

8 A It was, like I said it was in September, the fall  
9 of the year and it had, I believe, it had rained the  
10 night before and that morning it was still a little  
11 cloudy but I can remember by mid morning, about 11 or 12  
12 it was a pretty sunny day.

13 Q What happened when you went to that location on the  
14 morning in question?

15 A Officer Peterson was in a separate police car  
16 behind me. He was probably three or 400 yards behind me  
17 and I was pulling down to the culdesac and usually when  
18 I pulled down I go to the right and circle all the way  
19 around and come out and park and I will be headed just  
20 like I could leave kindly quick if I need to and the  
21 other officer will just pull right in straight and that  
22 way our windows are together and we can talk. Y'all  
23 probably seen police cars sitting like that a lot of  
24 times.

25 And I had started, I had gone to the right and

1 started into my circle and I noticed Jackie laying in  
2 the street and I just stopped immediately because I  
3 didn't want to roll over any evidence.

4 That is what we are taught to do, to stop and  
5 pretty much not to mess with anything as much as  
6 possible and I remember I put the car in park and called  
7 for my cousin to stop. It is my cousin, too, Officer  
8 Peterson. I called for him to stop and he stopped about  
9 two hundred yards before the actual culdesac and I told  
10 him just to park his car across the road and not let any  
11 other cars come down.

12 And I got out and I can remember my first, when I  
13 saw her laying there, at first it was kind'a disbelieve  
14 because we go down there all the time and I was real  
15 surprised and then I said this wino that is just laid  
16 out, sleeping and then I said, you know, no, because it  
17 was obvious their pants were pulled down around their  
18 ankles and I said maybe he has been robbed, you know,  
19 somebody took his wallet and I still wasn't thinking,  
20 you know, this person isn't dead and then I looked again  
21 and it was a great big puddle of blood coming from about  
22 the shoulders on out.

23 The street is kindly slanted and the blood had run  
24 one way. And then I noticed it was a female. I walked  
25 up to her to make, I mean, it wasn't very much, it was

1 almost impossible that anybody could be alive she was in  
2 such disarray but I still went up to her to look and I  
3 remember T watched for, it seemed like a long time, I  
4 watch probably for less than a minute to make sure she  
5 wasn't breathing and I can remember I put my right foot  
6 out and touched her leg and it had started to harden  
7 and, you know, that told me, just there wasn't no way  
8 and I backed off and as I said, I told my cousin Officer  
9 Peterson to stop that traffic and I called Raleigh. and  
10 they dispatch three additional units and a supervisor as  
11 well as City-County Bureau of Identification and then we  
12 just held the area and secured the crime scene.

13 Q What do you mean you secured the area or the crime  
14 scene? How is that done and how was it done on this  
15 occasion?

16 A On this occasion--a lot of them are hard to  
17 secure. But this was just the easiest one you would  
18 possibly want because it was a dead-end and it was easy  
19 to cutoff any traffic and like I said, it was not a  
20 residential area. There was not a lot of people wanting  
21 to walk up and down to get to their houses or anything.  
22 It was real easy.

23 Officer Peterson blocked off traffic with his car  
24 and that kept all the vehicles from coming down there  
25 and being closer to the scene of where Jackie was



1       laying. We put a police crime scene tape across the  
2       street and then, made another crime scene tape, laid it  
3       on the ground as a path going back and forth to her so  
4       that any officer that entered the direct crime scene  
5       would follow that one path and come out that one path to  
6       help and maintain the integrity of the crime scene.

7       Q     And that's specifically what you did in regards  
8       this?

9       A     Yes, sir.

10      Q     Well, at the time this happened, you didn't know  
11      this woman's name, did you?

12      A     No, sir.

13      Q     Could you describe what you, what you did observe  
14      about her when you first saw her?

15      A     She had short hair and it kindly looked like it  
16      had been cut like as a funk style sort'a. It was shaved  
17      up around her neck and it was sticking out. She had on  
18      tannish looking knit pants that were pulled down around  
19      her ankles, some brown looking leather boots. They  
20      probably come up to about right here on her legs and her  
21      pants were down about that far to the tops of the boots.  
22      And her underwear was right there, too, right there on  
23      top of her pants. They were totally down and she had on  
24      like a browning looking, the base color was brown,  
25      flowery looking buttoned up shirt and that had been

1 pulled over kind'a up to like her neck area, kind'a torn  
2 open and a red bra and that was pulled up to ,just above  
3 her breast and she had several holes in her head that  
4 where the blood had come from and she had been cut it  
5 looked to me from probably like the bottom of one ear  
6 down around here to the bottom of the other ear.  
7 Basically her throat had been cut. She also had a few,  
8 it looked they weren't, they went, I don't think it had  
9 even bled but marks on her chest were somewhat, it  
10 looked like had took a sharp object, maybe a knife or  
11 something and almost drew in her skin. Like I said, it  
12 didn't really bleed but the skin was cut between her  
13 breasts right here, several little marks on her.

14 Q How close--now, you described some wounds on her  
15 neck?

16 A Yes, sir.

17 Q Did you have--at that time state the situation in  
18 the wounds around her face as far as how much blood was  
19 there and the difficulty of seeing exactly what wounds  
20 existed.

21 A There was a lot of blood. There was a lot of the  
22 pavement and there was a lot caked around her neck and  
23 the best I remember it was two big holes in her head and  
24 there was a lot of blood coming out of them and there  
25 was a lot of blood around her neck and it was caked up

1 and it was pretty hard to tell exactly the extent of the  
2 cut but it was obviously a cut from her neck.

3 Q Now, aside from yourself and Officer Peterson, who  
4 else responded to the scene while you were there?

5 A Several officers came. Officer Crowder. She was  
6 a female officer. Officer Kyne, the CCBI people. That  
7 is the City-County Bureau of Identification people.  
8 They came and Mr. Kenny came and Mr. Hensley and some of  
9 their bosses came out, as well as my supervisor, Mark  
10 O'Shields, and we have a unit at the police department  
11 called Major Crimes and they basically investigate  
12 homicides and four of those came out. The best I can  
13 remember was Sergeant Gardner, Bill Lyles, Allison  
14 Blackmon and Mr. Bissette. They all came out.

15 Q As best you can recollect, did you observe whether  
16 an effort was made to preserve the crime area while even  
17 all of these people were around that crime scene?

18 A Oh, yes, sir. No one was allowed in except  
19 someone that needs to be there. I mean, it is not like  
20 anyone, you just walk in and out. Everybody has to stay  
21 behind the tape unless they have a specific purpose.

22 The only people that approached the body was  
23 myself and then an EMS personnel came before my  
24 supervisor came and they like us to have the person  
25 verify that they are dead and in this case, I didn't

1       feel it was necessary because it was obvious she was  
2       deceased but I was, I was still told to let EMS look her  
3       and that EMS personnel that came with me was  
4       Mr. Bowland. He won't, we won't 30 feet from her and he  
5       said, you know, it is no need to go any closer and we  
6       came back out.

7       Q       So he didn't even get to the closeness of her  
8       body?

9       A       No. He said that he didn't need to. It was pretty  
10       obvious what the problem was.

11       Q       All right. How long were there before  
12       Agent Pagani showed. up?

13       A       Probably no less than a half hour.

14       Q       And during the course of that time were you able to  
15       maintain the integrity of the area around the body?

16       A       Yes, sir. Another officer joined me. Like I  
17       said, as well as Officer Peterson blocked all traffic  
18       and another officer joined me after at the crime scene  
19       line and, you know, like I said, it is a business  
20       district. We had no problem with pedestrians. Usually  
21       if we have a shooting or a murder in 2 neighborhood, it  
22       is a lot of people wants to see and come up to the line  
23       but back here nobody really knew what was going on and  
24       we didn't have any problem.

25       Q       At some point while you were there still at the

1 location, did have occasion to observe another vehicle?  
2 What did you observe and how did that come to your  
3 attention?

4 A There's a--in the culdesac there's a great big  
5 billboard. Like I said, this culdesac runs parallel  
6 with Hammond Road which connects I-40 and between the  
7 highway and this culdesac there's that great big ditch,  
8 culdesac--excuse me--big ditch ravine and right before  
9 that ravine is a big billboard. And there's a service  
10 road right off the culdesac that dead-ends right under  
11 the billboard. It doesn't go anywhere. It just goes  
12 from the pavement of the culdesac to the billboard so  
13 they can climb up the pole and change the sign or change  
14 the light bulbs or whatever they need to do. And it  
15 looked like some of the gravel had been disturbed going  
16 up that hill a little bit. And like I said, it had  
17 rained the night before and we walked up to the edge of  
18 the hill and it was maybe, just maybe less than a  
19 hundred and fifty feet from where Jackie was laying  
20 there was a truck stuck down in a hole. The front two  
21 wheels were in a great big gully that water had washed  
22 out and was stuck at an angle in the hole.

23 Q All right. Can you--as best you can recollect  
24 describe that truck to us.

25 A It was a white Nissan Pathfinder and if I can

1 remember right, there was some skis in the back. Some  
2 real fluorescent colored skis, like orange and blue.

3 Q Talking about. water skis?

4 A Uh-huh. Water skis. I remember thinking what in  
5 the world but you know but they were in the back. I  
6 remember that.

7 Q Did you see, when you arrived at that location?  
8 did you see any other living people around?

9 A Naw. This is, like I said, a business district  
10 Nobody, you know, lives around there. There is not a  
11 house anywhere near it.

12 Q Now, after the discover of the truck, how was the  
13 integrity of that location observed?

14 A Well, it was, well, it was secured anyhow because  
15 from the crime scene tape to the truck, it was anything  
16 but the culdesac and the surrounding woods and there was  
17 no way to get to that truck unless you just did some  
18 serious hiking through swamp to get to it. So it was  
19 secured. So we didn't even have to move the crime scene  
20 tape. We just kept it in mind that the, you know, the  
21 truck was over there.

22 Q You walked around back in the, back in toward the  
23 field area?

24 A I walked up to the crest of the hill off the  
25 culdesac and it was obvious the truck was there and

1       again we didn't want to mess any evidence up that might  
2       be there that we could or could not see and we just  
3       backed away again.

4       Q     Okay. From the body, where the body was located,  
5       could you see the truck from that location?

6       A     It is a crest of a hill. The culdesac is right  
7       here and you have to jump the curb. It is not even a  
8       driveway to that service road. You have to go over the  
9       curb and it kindly goes up a slight hill and down a  
10      little and that little crest, that blocks your view.

11      Q     During the course of the time you were there, did  
12      you have occasion to see canine Officer Andy Currin come  
13      to the scene?

14      A     Yes, sir.

15      Q     About what time or day or night was that?

16      A     I would have just to say mid morning. Probably less  
17      than an hour and a half after we found Jackie.

18      Q     All right. What did you, can you tell us who he  
19      is, if you know, and who came to the scene or what came  
20      to the scene with him?

21      A     He's a police officer and his duties is to, he's  
22      in charge of the hounds and he's got particular hounds  
23      to do specific tasks and he is the handler and he  
24      brought a hound with him named Sadie, the best I can  
25      remember.

1 Q All right. Did you observe him using the dog for  
2 any particular purpose while you were there?

3 A Uh-huh.

4 Q What did you observe Mr. Currin and the dog do? A  
5 He took and laid a gauze, a pad like if you would get  
6 cut you put on to stop bleeding, on Jackie's, I am  
7 pretty sure on her belly where there wasn't any blood,  
8 just her skin and let it lay there for a little while  
9 and then he took the gauze and let the dog smell it. I  
10 am not sure. He might have put it in a big plastic bag  
11 like a sandwich bag about that big and then put the  
12 sandwich over the dog's head and let the dog get a real  
13 good whiff of it and then he turned the- dog loose.

14 Q What did you observe the dog do, if anything?

15 A He went up that little crest of the hill and went  
16 to the truck and jumping up on the truck.

17 Q Were you observing this from a distance?

18 A Yes, sir.

19 Q Okay. Do you recall whether or not, let me ask you.  
20 Do you know what a bloodhound looks like?

21 A Yes, sir

22 Q What kind of dog did Sadie appear to be to you?

23 A A hound, big droopy ears, kind of darkish color,  
24 brown, spotted.

25 Q By that do you mean a bloodhound?



1 A Yes, sir.

2 MR. FORD: May I approach the witness?

3 COURT: Yes, sir.

4 MR. FORD: Could I ask that the officer be  
5 allowed to step down, Your Honor?

6 COURT: Yes. You may step down, Mr. Officer.

7 Q Mr. Kenan, I have placed an item before you on an  
8 easel marked for Identification as State's Exhibit one.  
9 I would ask you to take a moment to examine that item.

10 A Yes, sir.

11 Q Okay. Do you recognize State's Exhibit number 1?

12 Yes, sir.

13 How do you recognize it and what it is?

14 It's the Blount Street extension. That is where I  
15 talked about it happening.

16 Q First of ail, is it a photograph?

17 A Yes, sir.

18 Q Okay. And does that photograph fairly and  
19 accurately depict the general scene around the body that  
20 you have testified to observing on Thursday the 25th of  
21 September, 1991, and the location of the Blount Street  
22 turnaround?

23 A Yes, sir. It just comes around. The picture is a  
24 little wider. It is a whole circle right here and comes  
25 back out.

1 Q Could you use that photograph to illustrate your  
2 testimony in regards to the location of the body, the  
3 service road that you have described, the vehicle which  
4 you also described?

5 A Yes, sir.

6 Q Point those things out and tell us--first of all,  
7 just tell us where you pulled in and parked your car.  
8 Where was that?

9 A Okay. like I said, when T come down Blount Street  
10 you are coming from this way and I always come in on  
11 this angle and come around and parked straight back out  
12 and the other police officer would pull in. And my car  
13 was probably about right here and when this picture was  
14 taken my car was probably still there because I  
15 remember, I didn't know if there was any evidence that I  
16 had already run over once and I didn't want to do it  
17 again. So nobody ever touched the car until the crime  
18 scene was released.

19 Q All right. And is that--can you point out the  
20 body of Jacquitta Thomas and how, is that--can you point  
21 that out for us, please?

22 A Yes, sir.

23 Q Where is that? Will you point it for the jury,  
24 please?

25 A This is her. The only difference that I see is that

1 it looks like they have pulled her pants off and her  
2 boots off for some reason another.

3 When I got there, these pants right here, I know it  
4 is hard for y'all to see. It is kindly small from  
5 there. These little tan pants were still up around her  
6 ankles. Her underwear was about where it is now but the  
7 pants were not there but her boots were still on.

8 Q All right. Could you point out the area of the  
9 service road and the billboard?

10 A Uh-huh. This is, like I said, you had to jump the  
11 curb to get up that road. It is not a driveway. You  
12 jump this curb. And right about here is the crest of  
13 the hill. It doesn't really show it on the picture and  
14 all but this is kindly a crest and this is where the  
15 truck is parked and that billboard is right around in  
16 here and you can see willow trees here. And you know  
17 willow trees only grow in the water and that's all down  
18 in here. There is a big old gully, ditch full of water  
19 and it comes around to here.

20 In fact, some mornings when we are down here a lot  
21 of ducks fly in and, you know, they are only going to go  
22 to the swamp. And that is the water.

23 Q Does that photograph State's Exhibit number 1 also  
24 depict the area of the vehicle and the vehicle that you  
25 observed?

1 A Yes, sir. That's where it was when we found it.

2 Q Would you point that out for the jury, please.

3 A right here. There is one other thing I had  
4 forgotten to say. When I first approached her, I had  
5 found, I had seen some little, little bitty ziplock bags  
6 on the ground near her that were blue, real blue and  
7 just from past experience that is what cocaine comes in.

8 Q All right.

9 A You can buy a \$20.00 piece.

10 Q Did you note those items to the--

11 A Yes, sir.

12 Q --Mr. Pagani and other agents when they came to the  
13 scene?

14 A Yes, sir.

15 Q Okay. If you could --

16 A They were probably laying right around in here and  
17 there were two or three or them the best I remember but  
18 I remember they were blue. A lot of them are clear but  
19 these were blue but they are obvious to me, they are  
20 still the same crack, what crack came in.

21 Q Now, the right-hand side of the State's Exhibit  
22 number 1, that shows the crime scene tape, does it not?

23 A Well, this right here isn't exactly the boundry.  
24 This is the line that I was talking about that we laid  
25 down that we walked to.

1 Q Okay.

2 A And we tied it here. It was real windy that  
3 morning. We tried to tie here and it kept blowing it  
4 but this was the line that we walked down to get to her  
5 to make sure we didn't trample across, you know, the  
6 evidence.

7 Q Okay. If you could please --

8 MR. FORD: May I approach the witness, Your  
9 Honor?

10 COURT: Yes.

11 Q Mr. Kenan, I placed a number of items marked for  
12 purposes of identification as State's Exhibit 2 through  
13 12 in front of you. If you will, please, pickup State's  
14 Exhibit number 2 first of all.

15 A Yes, sir.

16 Q Do you recognize State's Exhibit number 2?

17 A Yes, sir.

18 Q What is State's Exhibit number 2

19 A It's Jackie.

20 Q Is that personally a photograph?

21 A Yes, Sir.

22 Q All right. Is that a photograph of the decedent as  
23 you previously described in testimony earlier this  
24 afternoon?

25 A Yes, sir.

1 Q Does that photograph fairly and accurately depict  
2 the decedent as you --

3 MR. FORD: Excuse me, Your Honor, if I could  
4 help him.

5 Q Does State's Exhibit number two fairly and  
6 accurately depict the body of the decedent, Jacquitta  
7 Thomas, as you observed it on that morning?

8 A All but like, I say, those pants were up around her  
9 ankles.

10 Q All right. Would you please hold up State's Exhibit  
11 number 2.

12 A All right.

13 Q Point out, if you will, how that photograph is  
14 different than the way you first observed Ms. Thomas on  
15 the morning in question.

16 A The only difference is this is something from  
17 CCBI, this is a little box of equipment or something  
18 that that equipment comes in. So that wasn't there.  
19 These three little white patches are something that they  
20 had out there. And then her pants, these little tan  
21 pants were up around her ankles and her boots were on.

22 Q All right. Please, if you will look at State's  
23 Exhibit number three.

24 A Okay.

25 COURT: Wait a minute.

1                   MR. FORD: Your Honor, I apologize for not  
2 handing those up to the Court.

3       Q     If you will, please, examine State's Exhibit  
4 Number three. Can you identify State's Exhibit Number  
5 three.

6       A     That is Jackie again. And at this angle you can  
7 see those cuts that I was talking about between her  
8 breasts a little bit better.

9       Q     All right. State's Exhibit Number three is a  
10 photograph of the decedent of Jacquitta Thomas, is it  
11 not, or Jackie Thomas?

12      A     Yes, sir.

13      Q     All right. And does that fairly and accurately  
14 depict that portion of her body which you described  
15 observing earlier?

16      A     Yes.

17      Q     Please look at State's Exhibit number four.

18      A     Uh-huh.

19      Q     Can you identify State's Exhibit number four?

20      A     Same girl. Same, same incident.

21      Q     Number four is also a photograph of part of the  
22 decedent, is it not?

23      A     Yes, sir.

24      Q     All right. Can you use that photograph in  
25 illustrating your testimony as to the wounds that you

1 observed about her upper body?

2 A Yes, sir.

3 Q Would you please hold it up and as best you can  
4 point out the wounds that you observed.

5 A I know it is kindly hard and all but there is a  
6 right good size hole, there's a little slash here and  
7 there's a good size hole right here in her head and then  
8 there's a right good size hole right here below her ear  
9 and then right here on her neck is those cuts that I was  
10 talking about that you can see she was kindly bloody and  
11 it was kindly hard to tell exactly where the cut was and  
12 where the blood was. You know, you can see the blood  
13 but you can't really see the cut under it but she was  
14 cut right here in the front of her throat.

15 Q Now, earlier you described some linear wounds that  
16 looked like knife cuts that didn't bleed?

17 A Right.

18 Q Are they depicted in State's Exhibit Number 4?

19 A Yes, sir. They are right here. In fact, one of  
20 them, you know, how I was saying it didn't really bleed  
21 as much as just the skin was cut a little bit. You can  
22 see right here on her chest. The black people when they  
23 get cut, it turns, when the skin flips up, it turns real  
24 white underneath it and you can see a big white portion  
25 of that right there on her chest where the skin, just



1 the first few layers had been cut and flipped over and  
2 that is what I was talking about with the knife.

3 Q Does that picture fairly and accurately depict the  
4 wounds as you first observed them when you first  
5 approached the body?

6 A Yes, sir.

7 Q Please, look at State's Exhibit number five.  
8 State's Exhibit Number five is also a photograph of the  
9 decedent, Jacquitta Thomas, is it not?

10 A Yes, sir.

11 Q Does that fairly and accurately depict the upper  
12 front of her torso as you observed it on the morning in  
13 question?

14 A Yes, sir.

15 Q Does that also depict the wounds that you  
16 described, the linear wounds?

17 A Yes, sir.

18 Q Please, look at State's Exhibit number 6. State's  
19 Exhibit number 6, can you identify it, sir?

20 A Same girl. It shows the right portion of her face  
21 and it shows the two big holes that I was talking about  
22 to begin with here, her head.

23 Q Number 6 is a photograph of the decedent, Jacquitta  
24 Thomas's head, is it not?

25 A [Nods head.]

1 Q All right. And does that fairly and accurately  
2 depict the wound to her head specifically those holes  
3 that you had described earlier in testimony?

4 A Yes, sir.

5 Q Would you look at State's Exhibit Number 7.

6 A Uh-huh.

7 Q State's Exhibit 7 is a photograph, is it not?

8 A Yes, sir.

9 Q Is that a photograph of the decedent, Jacquitta  
10 Thomas, specifically her head and neck area in a  
11 closeup?

12 A Yes, sir.

13 Q Does it fairly and accurately depict the wounds  
14 upon her person as you observed them on the morning  
15 September the 26th?

16 A Yes, sir. This one shows the throat, throat cut a  
17 lot better than any of the others.

18 Q All right. Specifically the throat wound, is that a  
19 linear cut as the ones on her breasts or her chest area  
20 or is that a different type of wound?

21 A No, this is a, this is a gash, a cut. I mean a  
22 lethal, a lethal blow or a lethal cut versus those  
23 others. I don't think you could even get stitches for  
24 these others.

25 Q Is that State's Exhibit number 7, if I hadn't

1 asked you that, does that fairly and accurately depict  
2 the wounds that you observed?

3 A Yes.

4 Q Okay. Please look at State's 's Exhibit number 8.  
5 Can you recognize State's Exhibit number 8? What is  
6 that?

7 A It shows from Jackie's probably about her belly  
8 button on up.

9 Q All right. Is that a photograph of Jacquitta  
10 Thomas ?

11 A Yes, sir.

12 Q The decedent? Does it fairly and accurately  
13 depict the area of her breasts and the neck area?

14 A Yes, sir.

15 Q Does that--also, I believe you testified she had on  
16 a bra that was somewhat pulled up above her breasts?

17 A Yes, sir.

18 Q Does that photograph also show that area of her  
19 clothing.

20 A Yes, sir.

21 Q Can you see in that photograph or does it depict  
22 the other clothing that you described for her upper  
23 body?

24 A Some but they have got blood all over them and it  
25 is just kindly hard to see. Some of the other pictures

1 show them pretty good.

2 Q The flower, the brownish flower?

3 A Yes, sir.

4 Q All right. Would you please look now at State's  
5 Exhibit number 9.

6 A Yes, sir.

7 COURT: Hold up one moment.

8 Q What is State's Exhibit number 9? Hand all of them  
9 up to the judge

10 Q What is State's Exhibit number 9?

11 A It is a picture of the entrance of that service  
12 road right off the culdesac.

13 Q All right . And does it fairly and accurately  
14 depict the entrance way?

15 A Yes, sir.

16 Q There of the culdesac?

17 A Yes, sir. You can see those little marks like I  
18 told you that morning we saw that made me, that made us  
19 think that maybe a car had been up that hill since the  
20 rain and you can see those marks on this picture.

21 Q All right. Please, look at State's Exhibit number  
22 ten, if you will.

23 A Yes, sir.

24 Q What is State's Exhibit number ten?

25 A that's that truck that was stuck in the gully.

1 Q All right. And does that, number ten is a  
2 photograph, is it not, of the Nissan truck that you  
3 earlier testified about observing out there?

4 A Yes, sir.

5 Q Does that fairly and accurately depict the front  
6 end area of the truck and how it was located in the  
7 gulley?

8 Uh-huh. It shows it, you know, stuck.

9 Q All right. Please, look at State's Exhibit number  
10 11.

11 A Yes, Sir.

12 Q Would you tell us what State's Exhibit number 11  
13 is?

14 A That's just a different angle of the same truck,  
15 stuck in the gulley. It shows how it really looked as  
16 far as being stuck as it was.

17 Q All right. And that is a photograph, is it not?  
18 Does it fairly and accurately depict the truck and the  
19 area immediately around the truck as you observed it on  
20 the morning of September the 26th, 1991?

21 A Yes, Sir.

22 Q All right. And lastly if you will, please. look  
23 State's Exhibit number 12.

24 A Yes, sir.

25 Q Do you recognize State's Exhibit number 12?

1 A It's the same truck, just a frontal version looking  
2 at it.

3 Q And that is a photograph, is it not?

4 A Yes, sir.

5 Q All right. Does that fairly and accurately depict  
6 the area of the front of the truck?

7 A Yes, sir. An if you look hard, you can see those  
8 skis that I was talking about too through the front  
9 windshield.

10 Q If you will place that down. Mr. Kenan, are you  
11 familiar with this area around the Blount Street  
12 extension?

13 A I worked down there about five and a half years.  
14 Yes, sir.

15 Q Other than going in that service road that is  
16 depicted in State's Exhibit number 1, is there any other  
17 way to get a vehicle to the location where you observed  
18 that truck on the morning of September the 26th, other  
19 than by helicopter or some air lift means?

20 A No, sir.

21 MR. FORD: Could I have just a second?

22 Q During the morning of September 26th while you  
23 were still there at the scene in the culdesac, did you  
24 have occasion to see the defendant seated over here,  
25 Mr. Taylor?

1 A Yes, sir.

2 Q Under what circumstances did you see Mr. Taylor?

3 A Okay. I was down where we had the tape across the  
4 road on the good side of the tape. I wasn't in the  
5 crime scene and there was officer, Officer Russ Kyne was  
6 still sitting in a parole car at the corner of City Farm  
7 and Blount Street making sure no cars came down there or  
8 trucks and tried to turn around and I saw him wave and  
9 he said come here and I walked up there and he said this  
10 is the owner--no. This guy says that his struck is  
11 stuck down there. You know, I was fully aware that his  
12 truck was down there and all and I asked him is your  
13 truck down there?

14 Q Who did you ask that of?

15 A This fellow right here.

16 Q All right .

17 A I wasn't sure of his name. I didn't even ask him.

18 Q When the officer told you that this guy claimed was  
19 his truck stuck down there, was he pointing to  
20 defendant?

21 A Uh-huh. Yes, sir.

22 Q All right. And in response to that, did you ask  
23 the defendant whether or not that was his truck?

24 A Yes, sir.

25 Q What did he say to that?

1 A He said, yeah, he just needs to go get it and he  
2 would be out of the way.

3 Q All right. Did he appear, was he alone?

4 A No, sir, it was, there was a lady with him and  
5 another man.

6 Q About what time of morning was that, as best you  
7 can recall?

8 A We had been there maybe an hour and a half, maybe  
9 an hour or hour and a half. So, 9:30, 9:30.

10 Q Do You recall how the defendant was dressed on that  
11 occasion?

12 A The best I remember he had on blue jeans and a  
13 casual shirt. I don't--no hat. Just casually dressed.

14 Q All right.

15 MR. FORD: I don'[t believe I have any further  
16 question of this officer at this time.

17 COURT: Cross-examination.

18 MR. DODD: Thank you, Your Honor.

19 CROSS-EXAMINATION: [by Mr. Dodd]-

20 MR. DODD: May I approach the witness, Your  
21 Honor?

22 COURT: Yes.

23 Q Officer Kenan, this photograph, this photograph  
24 showing the culdesac area was taken from a crane, was it  
25 not? A crane was brought in and an aerial photograph



1 was taken?

2 A A fire truck with a crane on the back, yes, sir.

3 Q A lift anyway?

4 A Yes, sir.

5 Q Now, how far would you say that truck is from the  
6 culdesac area where the body is? I am talking about the  
7 white Nissan Pathfinder that you described struck down  
8 there in the mud?

9 A Like I say, it is kind'a hard to say with the crest  
10 of the hill but if you just want my opinion--

11 Q Yes.

12 A --I'd say probably about a hundred yards, 300  
13 feet.

14 Q Okay. And the vehicle in this photograph is facing  
15 away from the culdesac, is it not?

16 A Well--

17 Q If you need to come down--

18 A Yes, sir, pretty much so.

19 Q In other words, if--whoever was in this vehicle, if  
20 somebody were sitting in this vehicle either in the  
21 passenger's seat or the driver's seat, they would be  
22 facing into these trees and the water area down here  
23 that you described, right?

24 A Yeah, it was stuck facing right, it stopped right  
25 then when it was facing those trees.

1 Q Okay. You testified earlier that it had rained  
2 that night and this areas was still moist from the rain,  
3 was it not, particularly down there where the truck was?

4 A Well, I wouldn't say muddy or anything but the  
5 ground was--

6 Q Certainly the ground was wet.

7 A The ground was still wet.

8 Q The ground was wet. And the same as you saw out  
9 here some of this had been deluted from the water, from  
10 the rain had it not, also, the fact that it may have run  
11 down some?

12 A Not to my knowledge--

13 Q You didn't notice it?

14 A --it didn't look like to me.

15 Q This runs down hill here, a little bit here,  
16 because there is rain over here, right?

17 MR. FORD: Your Honor, I respectfully ask Mr.  
18 Dodd to let him finish the answer. I believe, he asked  
19 him a question about whether the stain looked like it  
20 was diluted. I don't believe--

21 A I wasn't quite finished.

22 MR. DODD: I am sorry.

23 COURT: Well, okay, you can go ahead and  
24 explain your answer.

25 A I mean, I am not a professional about blood but it

1 looked like to me that probably she didn't bleed until  
2 after the rain. Because, excuse me, but it hadn't  
3 rained on top of her. Put it that way.

4 Q All right. That is what I am trying to get at. So  
5 what you saw it did not look like to you that this blood  
6 was diluted, is that right?

7 A Right.

8 Q Okay. Now, this area from her head, it runs--this  
9 culdesac slopes a little bit down hill, does it not?

10 A Yes, sir.

11 Q Because there is a drain right here, isn't there?  
12 And it slopes down here so the water can run down into  
13 the drain?

14 A Uh-huh.

15 Q So as the blood came out it was naturally tending  
16 to drift down toward this drain, was it not?

17 A I would suspect so.

18 Q Well -- okay. Now, that area you have described it  
19 a commercial area and there were two businesses there I  
20 think you said or three businesses?

21 A Well, there are no businesses near the end.  
22 There's a business at the corner of City Farm and Blount  
23 which I will say is about five hundred yards up the  
24 street and that is cardinal. Cardinal and then on the  
25 left side there's another trucking type company and they

1 are right across from each other and after those  
2 businesses end, there are no more businesses.

3 Q Okay. And that culdesac is not lighted by a street  
4 light, is it?

5 A No, sir.

6 Q So it is completely dark in that culdesac with the  
7 exception of some lights that shine on the businesses  
8 themselves, lights that are directed at night to shine  
9 on the businesses?

10 A No really. Cause that billboard, it has got a  
11 steel pole on it about that big and there is lights  
12 around the steel pole and on the bulletin board to make  
13 it so you could see it at night from the highway and  
14 all.

15 Q Okay. The only lights available there, other than  
16 the billboard that you have described, are lights that  
17 shine on the businesses themselves, is that a fair  
18 statement?

19 A Well, there's one of the businesses that has a  
20 great big parking lot where they leave trucks and there  
21 are lights in that parking lot and that is directly, if  
22 you are standing in that culdesac and Jackie's on your  
23 left, that is directly to your right and those are the  
24 kind of lights that are, they are suppose to look like  
25 sun light. Kindly, they are not white lights. They are

1 the lights like a street light type thing.

2 Q All right now, when you got there, I believe, you  
3 testified it was 7:30, 7:40 somewhere in there

4 A [Nods head.]

5 Q You saw the body. The multi-colored shirt that you  
6 have described, was that still on the victim?

7 A Uh-huh.

8 Q On the body?

9 A The best I remember pulled up around her arms,  
10 maybe up around the top of her chest. Like it was a  
11 button up. Buttons where undone or torn open. I don't  
12 know which and it was flipped up sort'a like this.

13 Q Now, this culdesac area on South Blount Street, you  
14 have been coming there, I guess, as you said earlier for  
15 five years or five and a half years. You are familiar  
16 with that area, is that right?

17 A Yes. I have been aware of it that long and coming  
18 in and out of it.

19 Q And in addition to that being a business area and  
20 with a service road to service the billboard that is  
21 back down there, did you notice or find that things are  
22 dumped there from time to time? Did you see trash or  
23 anything like that around that area?

24 A Not really. I mean, not nothing more than just  
25 some beer cans where somebody, you know, might have

1       dropped a can or two but it is not like where you see  
2       couches and washers and dryers and stuff down there.

3       Q     Okay.  And how far back up this service road did  
4       you get?

5       A     When, that morning?

6       Q     Yes, sir, that morning.

7       A     Well, at certain times I went all the way down it  
8       and before Andy came, which is the dog man, I didn't  
9       never get much pass that puddle halfway down the path  
10      that is the crest of the hill.

11      Q     Okay.  When the areas was searched--I don't know if  
12      that is the right word or not--when people were out  
13      there looking for stuff in the area.

14      A     Uh-huh.

15      Q     How many people participated in picking up the blue  
16      bags and other things that you thought might be evidence  
17      roughly, do you know?

18      A     CCBI pretty much collects all evidence and they had  
19      a couple of higher up people out there.  They are not  
20      going around picking plastic bags.  They only had about  
21      two agents that were, you know, that were actually going  
22      to collect evidence.

23      Q     Well, I guess, I mean, how many people did you see  
24      out there picking up stuff or looking for evidence?

25      A     I can't honest say.  I sat there when they were

1 picking up evidence. I couldn't say who collected it.

2 Q Okay. Were you there when people went in  
3 this area around in here, near the Pathfinder and up  
4 this path and around in this area that goes back down in  
5 the culvert area?

6 A Later in the day after they had removed most  
7 everything, they called SEU Team in and they walked down  
8 in there.

9 Q And this time of year being September, the, all  
10 this growth was pretty high, was it not?

11 A Yes, I'd say so. The weeds probably, you know,  
12 between knee and your waist.

13 MR. DODD: Thank you, Your Honor. I have no  
14 further questions.

15 COURT: Any redirect?

16 MR. FORD: Yes, Your Honor, if I may approach  
17 State's Exhibit one.

18 COURT: All right.

19 REDIRECT EXAMINATION: [by Mr. Ford]-

20 Q Mr. Kenan, I am standing at State's Exhibit number  
21 1. On the right hand portion of the border of the  
22 photograph of the culdesac,--

23 A Uh-huh.

24 Q --there appears to be an area where the grass,  
25 where there is actual grass instead of weeds. Does that

1 fairly and accurately depict that area as you observed  
2 it that day?

3 A You know I was talking about trucks parked down  
4 there behind Cardinal, that's where their yard begins.

5 Q Okay. If this picture was extended on the right-  
6 hand side, you would see the beginning of a parking area  
7 of Cardinal Trucking--

8 A You would see a big chain link fence and inside the  
9 fence where all the trucks park and that's lit to make  
10 sure people don't break in trucks.

11 Q And is that lighted in the manner that you  
12 described as a street type lighting?

13 A Yes, that yellow type light.

14 Q Does that actually come up, that parking area  
15 actually come up and abut the culdesac area?

16 A All along the right hand side.

17 Q All right. Excuse me. During the time that you  
18 were there on the scene until, until Mr. Currin arrived  
19 with Sadie, who had you observed go to the vehicle, if  
20 anybody?

21 A Nobody.

22 Q All right. And had you been there on the scene and  
23 at that location?

24 A Yes, sir.

25 Q Okay. Well, let me ask you this: Did you see, did



1     you observe that area that nobody went back to the truck  
2     pass the crest of the hill or in the immediate area of  
3     the truck?

4     A     Like I said, the only people that went even near  
5     the truck was myself and I believe Allison Blackman,  
6     which is one of those homicide detectives who I was  
7     talking about that walked up there to that puddle at the  
8     top of the hill and he, we argued a little bit, we  
9     kindly dickered. He said look Landice, skid marks going  
10    up that hill. Somebody drove up there. I said are you  
11    sure? And he said, yes. You walk up there and see and  
12    we walked up to the top of the hill and he said I told  
13    you and he pointed at the truck and we come on back  
14    down.

15    Q     And during the course of the time that you were  
16    there nobody that had contact with this, the body of  
17    Jacquitta Thomas went back there before Andy Currin and  
18    Sadie got there?

19    A     No, sir. The only person that really even come  
20    near Jackie was me and that is the only time I did it  
21    when I toughed her leg with my foot. Other than that  
22    nobody was probably was within five or ten feet of her  
23    other than Andy when he put the gauze on her.

24    Q     And until Mr. Currin got there with Sadie, to your  
25    knowledge nobody had even gotten that close to her and

1       went pass the puddle which you described as sort'a the  
2       crest of the hill in State's Exhibit number 1?

3       A       Right.

4       Q       All right.

5                       MR. FORD:  I don't have any further  
6       questions.

7                       COURT:  Further cross?

8                       MR. DODD:  Just one, Your Honor.

9       RE CROSS EXAMINATION:  [by Mr. Dodd]-

10      Q       Officer Kenan, I think you have testified to this  
11      earlier but I want to be sure I understood it correctly.  
12      When you got down there that morning you did not know  
13      this person or this body that you found, you did not  
14      know who it was?

15      A       No sir.  To my knowledge, I had not seen her.

16      Q       And you did not know her at all?  In other words,  
17      you didn't know this person somewhere else, three weeks  
18      before that you met her?

19      A       Not to my knowledge.  Like I say, she was pretty  
20      toughed up.  You can see by the pictures, but from just  
21      looking at her, I didn't, I didn't know her name.  I had  
22      never seen her that I knew of.

23      Q       When you discovered what her true name was, you  
24      realized that you did not know her?

25      A       Not by that name.

1 MR. DODD: I have no further questions.

2 COURT: Any redirect?

3 MR. FORD: No.

4 COURT: You may step down. Call your next  
5 witness.

6 [WITNESS EXCUSED.]

7 -----

8 MR. FORD: Mr. Pagani.

9 AGENT DONALD H. PAGANI, being first duly sworn,  
10 testified as follows during DIRECT EXAMINATION by  
11 Mr. Ford:

12 Q Would you state your name and occupation for the  
13 Court, please.

14 A Donald H. Pagani. I am an agent with the  
15 City-County Bureau of Identification here in Raleigh.

16 Q How long have you been so employed?

17 A Since March the 7th, 1978.

18 Q All right. What are your duties and specifically  
19 on the 26th of September, 1991, what were your duties  
20 with the City-County Bureau of Identification?

21 A To assist the Raleigh Police Department in a  
22 homicide investigation concerning Jacquitta Thomas. My  
23 job primarily along with other agents in the bureau to  
24 assist the investigating agencies in collecting all  
25 types of evidence and testing evidence as necessary,

1       photographing, documenting the crime scene and all  
2       related things.

3       Q     All right.  IN September of 1991, how long had you  
4       been doing that kind of service?

5       A     I had been an agent since September of 1984.

6       Q     Prior to that you were with CCBI.

7       A     I was a technician working in the processing unit.

8       Q     Okay.  What training, if any, had you had in the  
9       collection of forensic evidence at crime scenes prior to  
10      1991 in September?

11      A     I had been sent to a crime scene technology school  
12      in Salemburg.  I had also attended a variety of other  
13      related types courses in Salemburg.  I had also at that  
14      point attended a federal school in Georgia, in Glenco,  
15      the federal training center and also had attended a  
16      school in Jacksonville, Florida at the Institute of  
17      Police Technology and Management.  A variety of related  
18      crime scene type courses.

19      Q     Specifically on the morning of September 26,  
20      1991, did you have occasion to go to the Blount  
21      Street extension known as the fifteen hundred block  
22      of South Blount Street?

23      A     Yes, sir, I did.

24      Q     To the best of your recollection about what time  
25      did you go to that location?

1 A According to my report I received the request to  
2 go to that location at 7:42 a. m. I arrived at 7:57  
3 a. m.

4 Q And in what manner of transportation did you go  
5 there?

6 A A vehicle which is assigned to me with my  
7 equipment.

8 Q What type of equipment were you carrying in your  
9 vehicle?

10 A Quite a variety of collocation containers, camera  
11 unit, fingerprinting kit, et cetera. A lot of things  
12 that we carry to collect evidence to preserve evidence  
13 in.

14 Q If you will, will you please describe what you  
15 observed when you got to the location in question.

16 A Yes, sir. When I initially arrived I was briefed as  
17 to what had transpired up to that point and advised that  
18 Officer Kenan of the Raleigh Police Department had found  
19 this unknown. female and that also there was a white  
20 Nissan four wheel drive truck in a field a short  
21 distance away.

22 Major Crimes with the Raleigh Police Department  
23 had been contacted at that point and we did not proceed  
24 into the crime scene which had been secured by the  
25 Raleigh Police Department until they arrived along with

1 other support personnel from my agency.

2 Q Were you there during the course of the morning?

3 A Yes, sir, I was. I was there from the very short  
4 time period after we were called.

5 Q Were you there, did you have occasion to see Andy  
6 Currin and a bloodhound arrive at the scene?

7 A Yes, sir, I did.

8 Q How long after you were there did that happen?

9 A I don't recall the exact time that he arrived but I  
10 would say it was approximately 30 to 45 minutes after I  
11 arrived. At that point several investigators had also  
12 arrived at the scene. Then Mr. Currin who was the dog  
13 handler, was allowed to go to the body and obtain a  
14 scent item from the victim and attempt to determine what  
15 path the person might have left the area.

16 Q All right. Did you, prior to Mr. Currin coming  
17 there and doing what, his act with the dog, did you go  
18 to the location of the truck?

19 A No, sir. I didn't. I was told that it was there.  
20 I did not go to the vehicle until the scent dog had his  
21 opportunity to do the job that he was there for.

22 Q Okay. Specifically after that occurred would you  
23 tell this Court and this jury what you did in regards to  
24 your job of collecting evidence there at the scene and  
25 what you observed in that regard while you were there?

1       A     Yes, sir. initially after, again I was briefed as  
2       to what Officer Kenan had found. I was accompanied by  
3       my supervisor, Mr. William Hensley, and several other  
4       personnel from the bureau and we first photographed the  
5       crime scene as it was without any items being moved. It  
6       was also video taped. The vehicle which was in the  
7       field was also video taped and numerous rolls of 35  
8       millimeter film were also used just to document  
9       everything along the way and during the course of the  
10      day when we were there.

11             Once that was done, we took measurements of the  
12      culdesac, the position of the body, the relationship to  
13      the curb. I did a crime scene drawing. Then at that  
14      point we went to our next step where we started to look  
15      and collect physical evidence, trace evidence such as  
16      head hairs, fibers exchanges between the possible  
17      suspect or suspects and the victim.

18      Q     Well, let me stop you. let's go back to just  
19      observations that you made first, In regards to your  
20      collection of evidence, your collection of evidence,  
21      first of all you made observations of the scene, did you  
22      not?

23      A     That is correct.

24      Q     Would you state what you observed about the  
25      culdesac, specifically the body, what, if any, wounds

1 that you observed, things of that nature?

2 A Yes, sir. The culdesac basically had one way  
3 entering it and the only way to exit was to literally  
4 circle around in some manner and go back heading north.

5 It was a dead end culdesac and it had a secondary  
6 driveway or access road if you want to call it that off  
7 the end of the culdesac heading towards Hammond Road  
8 which appeared that it went up to a billboard that was  
9 described earlier by Officer Kenan and then a little  
10 area, kindly clearing off to the right of that.

11 Q Off to the right of the billboard?

12 A Off to the right of the billboard, that is correct,  
13 where the vehicle was found.

14 A If you can see State's Exhibit number one from  
15 where you are located, the service road would be that  
16 road that goes off to the top of State's Exhibit number  
17 one?

18 A That is correct, sir.

19 A The service area for the billboard, does that  
20 appear as the part that is more beaten down or maybe  
21 more dirt on that photograph?

22 A Yes, sir, to the top of the center of that  
23 photograph is the area that I was referring to where the  
24 vehicle was located.

25 Q When you got to the location of the crime scene,



1 did it seem to be secure?

2 A Yes. The Raleigh Police Department had done a  
3 very good job in securing the scene. They had crime  
4 scene tape up. They had also run a straight line of  
5 crime scene tape basically in the path of Officer  
6 Kenan's vehicle to show the way it went in and did  
7 everything possible not to contaminate any area and we  
8 used that path to basically circle and come back into  
9 the body to examine the body.

10 Q Would you please describe what you observed about  
11 the decedent's body when you made your preliminary  
12 observations?

13 A Yes sir. The body, at that point we had no  
14 positive identification on the black female. The body  
15 had numerous lacerations or cuts that I noted on a  
16 separate, called a body diagram that is commonly used by  
17 the medical examiner. We also use it to note injuries  
18 on people when we do crime scene work.

19 I indicated that the victim had a cut to the area  
20 that you would probably call the windpipe, right here in  
21 that area, where I am pointing to with my finger. She  
22 also had a laceration or cut across the right breast.  
23 She had numerous superficial lacerations or cuts on the  
24 area directly below the left breast.

25 Also several lacerations or cuts on the hand areas

1 on her left hand and a cut also or. the back portion of  
2 her right arm.

3 In addition, the head of victim. had several  
4 lacerations or deep cuts on the left side, which would  
5 be here, one was directly above the ear approximately  
6 that long and then another laceration was down in this  
7 area.

8 The body had also been disrobed. The blouse had  
9 been torn or pulled apart exposing the chest area. She  
10 was wearing a red in color type bra, had like a floral  
11 pattern blouse, her pants and underwear were pulled  
12 completely down around her ankles and she was wearing  
13 some type of boot or that type of shoe apparel. And  
14 that's basically what I saw when I initially arrived.

15 Q Do you know when and if and how, if you do know  
16 how, how her boots were taken off?

17 A Yes, sir, I do.

18 Q After the body and the crime scene was  
19 photographed and videoed, I expressed a concern of some  
20 trace evidence possibly being lost in the transporting  
21 of the body. Normally, the medical examiner prefers  
22 that we do not disrobe the body in any manner prior to  
23 him, him or her, which ever the case may be, examining  
24 the body. But in this particular case, I was concerned  
25 about that. Therefore, I went ahead and removed her

1 underwear, pants, belt, socks and all of that, shoes.

2 Q And did you secure those items?

3 A Yes, I did.

4 Q Let me ask you to go to your -- did you make --

5 COURT: It appears that you might have several  
6 more questions.

7 MR. FORD: Yes, sir.

8 COURT: This might be a good time to take a  
9 recess.

10 MR. FORD: All right.

11 COURT: You may step down.

12 Ladies and gentlemen of the jury, I am going to  
13 give you your afternoon recess of fifteen minutes. Keep  
14 in mind the order of the court that I have already given  
15 you. Everyone else remain seated and I'll let you go  
16 for your afternoon recess of fifteen minutes.

17 [JURY LEAVES COURTROOM.]

18 COURT: Take a recess, Mr. Sheriff.

19 [SHORT RECESS.]

20 -----

21 COURT: Come back around.

22 All right, all members of the jury are back in the  
23 courtroom. You may continue with your direct  
24 examination, Mr. Ford.

25 Q [Mr. Ford continuing]- Mr. Pagani, right before we

1 took our afternoon break, you testified that you had  
2 observed some wounds to the left side of the decedent's  
3 head, specifically some larger wound. In retrospect  
4 have you reexamined your answer to my question about  
5 that?

6 A Yes, sir, I did. I incorrectly stated it was on  
7 the left side of the head. It is in fact on the right  
8 side of the head.

9 Q Would you please -- may I approach the witness?

10 COURT: All right.

11 Q I'll ask you to look at what has been marked for  
12 purposes of identification as State's Exhibit number  
13 four. Can you identify that item?

14 A Yes, sir.

15 Q What is State's Exhibit number four?

16 A This is a photograph of the victim at the crime  
17 scene showing the lacerations that I was mentioning

18 Q All right. And does that photograph fairly and  
19 accurately depict the right side of the decedent's head  
20 area?

21 A Yes, it does.

22 Q Does that photograph depict the wounds that' you  
23 were describing?

24 A Yes, sir, it does.

25 Q All right. Now,, if I can get your thought back

1 to, after you made the observations and secured the  
2 clothing that you described, what other acts of evidence  
3 preservation did you commit?

4 Q If I haven't already mention it, we did trace  
5 evidence collection which involves taking an adhesive  
6 tape that is statistically designed for the collection  
7 of trace evidence and run it over the clothing and areas  
8 of the body in an attempt to collect any possible hairs  
9 or fibers that would be transferred between a victim and  
10 the person who committed the crime to have an  
11 association so you can show that they did in fact come  
12 in contact with each other.

13 Also, for the purpose of fiber transfers say from  
14 a vehicle to her clothing or any other victim's  
15 clothing. That is the reason why trace evidence tapings  
16 are used and you can also go to a particular item later  
17 on and obtain a known sample from that item and then  
18 compare it to the trace evidence that you obtain from  
19 your victim. or any other part of the crime scene to try  
20 to get the association link. That is done by lab  
21 personnel at the State Bureau of Investigation

22 Q Did you have occasion to fingerprint the decedent?

23 A Yes, I did.

24 Q And what was your purpose in doing that?

25 A For identification purposes to see if the victim

1 was on file in our criminal record section or on file  
2 with the S.B.I.

3 Q All right. How did you do it?

4 A Putting ink, rolled ink--excuse me. Ink onto her  
5 fingers and then rolling her fingers onto a pad and  
6 transferring the fingerprint.

7 Q All right. And did that system, did it work?

8 A Yes, it did.

9 Q And after you had obtained the fingerprints from  
10 the decedent, what did you do with those fingerprints.

11 A They were taken back to my office and then they  
12 were given to Marty Ludas, who is a latent examiner with  
13 our agency and he was asked to attempt to identify the  
14 prints to anybody that we had on file with our agency or  
15 the S.B.I.

16 Q Subsequent to your knowledge did he compare the  
17 prints of the decedent that you took, those rolled  
18 fingerprints and compare them with the known  
19 fingerprints of Jacquitta Lashawn Thomas?

20 A Yes, sir, he did.

21 Q Is it your understanding Ms. Thomas' fingerprints  
22 were already on file with the City-County Bureau of  
23 Identification in their fingerprint file?

24 A Yes, sir, they were.

25 Q All right. And, to your knowledge what was

1 Mr. Ludas' finding in comparing the known fingerprints  
2 of Jacquitta Thomas and the fingerprints that you had  
3 taken from the decedent?

4 A That they were one in the same, sir.

5 Q Now, did you have occasion either by yourself or in  
6 conjunction with Supervisor Hensley or other agents to  
7 examine the area around the body for tire marks and  
8 possible tire marks?

9 A Yes, sir, we did. Based on the information that we  
10 had initially that a vehicle was found in the nearby  
11 field, we had strong reason to believe that it was  
12 involved with this crime.

13 The general area in the culdesac which you are  
14 seeing in this picture up here was thoroughly searched  
15 for signs of tire impressions in either blood or other  
16 type of substances, tire impressions is any sand which  
17 you can see in the left hand lower area of the  
18 photograph, and just general any type of evidence that  
19 had a truck or a car or any other type of vehicle might  
20 have passed through there for evidence purposes.

21 Q And did you observe any?

22 A Yes, I did.

23 Q How were they marked or how were they preserved?

24 A We at several points photographed areas. We also  
25 did a dental stone impression of two tire impressions

1       that were on the sand areas that you are seeing in that  
2       photograph for possible comparison purposes to a vehicle  
3       or vehicles at a later time. At that point we were just  
4       generally collecting information, not necessarily  
5       knowing what we might use it for later on.

6       Q       All right. What had been your experience as to the  
7       success of casting dental stone impressions in sand?

8       A       Sand is usually a very poor medium. It usually,  
9       will shift and not really be a very good substance in  
10      which you can obtain a good impression on.

11            Things like red clay, for instance, is very good  
12      because a tire will go down into it and then pull out  
13      and leave the impression of the tire very, very good and  
14      it will stand out but in sand it has a tendency to  
15      shift. The wind can blow it and distort the actual tire  
16      impression.

17      Q       How successful were you-- excuse me.

18      A       I am sorry.

19      Q       How successful were you in obtaining an accurate  
20      impression of any of the tire prints you saw in the  
21      sand?

22      A       The dental stone impressions that we did of the  
23      tire impressions in the culdesac did not yield any type  
24      of useful castings.

25      Q       And was that unexpected to you?



1 A No, it was not based on your experience.

2 Q At some point during the course of your stay there  
3 at the culdesac did you have occasion to use a system to  
4 mark different tire impressions or potential tire  
5 impressions?

6 A Yes, sir, we did.

7 Q How was that done and why was that done?

8 A We used a combination of little metal numbers that  
9 we set up on top of the pavement to identify the path of  
10 either a person or a vehicle, which ever the case may be  
11 according to the needs at the crime scene.

12 In this particular case we did in fact use these  
13 little metal numbers to show an area of what we believed  
14 to be the path or a vehicle going directly beside the  
15 body and heading in a northly direction facing up Blount  
16 Street, which would be as you are looking at this  
17 photograph would go off to the lower left hand corner  
18 and would proceed northward.

19 Then, we also did a variety of field tests with a  
20 chemical called phenolphthalein which determines the  
21 presence of blood. During the course of these field  
22 tests we did make some determinations of what appeared  
23 to be blood in tire impressions or areas where a tire  
24 might have actually touched the pavement and it was  
25 every so many feet.

1           We later on in the hours of darkness came back to  
2           the scene and used a chemical called luminal. Luminal  
3           is very sensitive to the presence of blood and reacts by  
4           glowing and gives us a better idea of something we can't  
5           see during the daylight hours.

6           Q     Mr. Pagani, at this time--

7                     MR. FORD: Your Honor please, I note that Dr.  
8           Radisch from the medical examiner's office is here. At  
9           this time I would request permission, with the consent  
10          of the defendant, to withdraw Mr. Pagani while I might  
11          place Dr. Radisch on the stand for her testimony and  
12          then to recall Mr. Pagani for further direct and a  
13          complete cross-examination.

14                    COURT : Is there any objection, Mr. Dodd, Mr.  
15          Adams, to having this witness be called out of order?

16                    MR. DODD: No, sir. We have discussed that  
17          before and that will be fine.

18                    COURT: All right, you may step down.

19          WITNESS EXCUSED.]

20                    COURT: Ladies and gentlemen, you will hear  
21          further from this witness on direct at a later time and  
22          then the counsel for the defendant will have an  
23          opportunity to cross-examine this witness at a later  
24          time. Call your next witness.

25          -----

1     DR. DEBORAH L. RADISCH, being first duly sworn,  
2     testified as follows during DIRECT EXAMINATION by  
3     Mr. Ford.

4     Q     State your name and occupation for the Court,  
5     please.

6     A     Deborah L. Radisch. I am a medical doctor. The  
7     Associate Chief Medical Examiner of the State of North  
8     Carolina.

9     Q     Doctor, if you will, would you just briefly tell  
10    the jury what educational background you have and what  
11    training you have in the field of medicine and also in  
12    medical examination?

13    A     Yes. I graduate from the University of North  
14    Carolina at Chapel Hill in 1976 with a Bachelor of  
15    Science Degree in medical technology. Then I attended  
16    Bowman Gray School of Medicine in Winston-Salem and I  
17    graduate from there with a medical doctorate degree in  
18    1980.

19            I returned to Chapel Hill and from 1980 until 1986  
20    I underwent specialized residency training, two years  
21    each in the field of anatomic, clinical and forensic  
22    pathology and at the end of this time in 1986, I was  
23    eligible to take an examination offered by the American  
24    Board of Pathology which I took in May of 1986 and  
25    passed the examination and becoming board certified in

1 the fields of anatomic, clinical and forensic pathology.

2 Forensic pathology is my sub specialty and it is  
3 the branch of or sub specialty of medicine in the field  
4 of pathology which deals with using laboratory methods  
5 specifically the autopsy or post-mortem examinations in  
6 order to determine the cause and manner of death in  
7 violent death or deaths due to external causes or in  
8 case of sudden unexpected or unnatural deaths.

9 Q And in September of 1919, were you so employed?

10 A Yes, I was.

11 Q Sometime after September the 26th of 1991, did you  
12 have occasion to be, to perform an autopsy on the body  
13 of Jacquitta Lashawn Thomas?

14 A Yes, that was performed on September the 27th,  
15 1991, beginning at 1:00 p.m.

16 Q Would you please, at that time doctor, do you have  
17 any recollection of approximately how much autopsies you  
18 had performed prior to that one?

19 A At that time approximately 1100 autopsies.

20 Q And could you describe for the jury what you do  
21 when you perform an autopsy?

22 A Yes. An autopsy examination has several parts.  
23 The first part is the external examination of the body,  
24 examining the body as it is received in our office and  
25 then proceeding from there.

1           The first thing that we would do is weight the body  
2 and get a height of the body and then to, depending on  
3 the type of case, examine the clothing or whatever is  
4 there in order to see if there is any trace evidence of  
5 anything unusual about the clothing, what, if the person  
6 is even clothed. If there is tears in the clothing and  
7 that sort of thing. If there is any trace evidence, as  
8 I said, that is obtained and the clothing needs to be  
9 obtained and that stays for evidence and then it is  
10 removed and any marks or scars or evidence of trauma on  
11 the body is diagnoses, measured, photographed and in  
12 some cases X-rays are made especially in the cases of  
13 gunshot wounds. So this is the, the part of the, the  
14 external examination is the part of the autopsy which  
15 take a very long time or a very short time depending  
16 upon what is found.

17           After that is completed an. internal examination is  
18 performed. This is the part of the autopsy where the  
19 different body cavities are opened and the organs are  
20 examined both as they lie in the body and then they are  
21 removed and dissected, looked at careful away from the  
22 body. And this would include opening the skull and  
23 examining the brain, the chest cavity to look at the  
24 heart and lungs and the abdominal cavity to look at the  
25 remainder of the organs and then making sure you get the

1 neck organs out and take a look at those as well.

2 Before the organs are removed a specimen of blood  
3 is taken and this is tested for alcohol or any other  
4 pertinent drugs. When the organs are individually  
5 dissected, small pieces are saved and made into glass  
6 microscopic slides. At later time when there is a  
7 contest they are examined and then all the information  
8 from the external, the internal, the microscopic, the  
9 toxicology and anything else is put together and a final  
10 written autopsy report is made.

11 Q What is the purpose of doing an autopsy, doctor?

12 A Well, the overall purpose of doing any autopsy is  
13 to determine why somebody is dead, the cause, the  
14 mechanism of death and in the case of a forensic  
15 autopsy, also in order to help determine the manner of  
16 death depending upon what is found.

17 Q Is that the procedure which you followed in the  
18 autopsy of Jacquitta Thomas?

19 A Yes.

20 Q All right. You photographed her body as you, as  
21 you performed the autopsy.

22 A Yes. During the external part of the examination  
23 the traumatic injuries were photographed and then some  
24 injuries were photographed as part of the internal  
25 examination.

1 Q Can you tell us what you observed about the body  
2 as far as traumatic injuries from your external  
3 examination?

4 A Yes. There were several traumatic injuries over  
5 the body of different kinds. Just starting from the  
6 head and going down, there were two large lacerations or  
7 tears of the scalp of the right side of the head. One  
8 was more toward the back and a little higher toward the  
9 back of the head but still on the right side and this  
10 measured about an inch and a half long and then there  
11 was one more toward the front and a little lower which  
12 measured two and one quarter inches in length. These  
13 were both diagonal lacerations or tears and they had  
14 somewhat sharp edges. They weren't ragged edges but  
15 they were still lacerations or tears as opposed to a cut  
16 from a sharp edged instrument. The longer of the two  
17 lacerations, the one more toward the front of the boy,  
18 you could look through that laceration and actually see  
19 the skull, through it. It was torn all the way to the  
20 skull.

21 In addition to those two lacerations there was a  
22 third laceration on the lower part and in front of the  
23 right ear which actually extended onto the back of the  
24 right earlobe. This laceration measured two inches in  
25 length.

1           So on the right side of the scalp or face near the  
2 ear there were three separate lacerations or tears.

3           The chin and neck area had several injuries.  
4 There was an area below the chin and above the neck  
5 which was a rough edged laceration or tear which  
6 measured two and a half inches in length. This one was  
7 very shallow. It was just into the tissue below the  
8 skin and the fatty tissue in the chin.

9           There were several linear or line like parallel  
10 scratches or abrasions between this laceration and a  
11 larger, two larger lacerations of the actual front of  
12 the neck. This, the largest laceration on the neck  
13 measured two inches in length and gaped to a width of  
14 about one inch and the neck organs could actually be  
15 seen through this tear in the neck skin and these would  
16 be the airway primarily. There were some fine--excuse  
17 me--fine linear parallel abrasions or scrapes on the  
18 right posterior neck, on the right back of the neck.  
19 And there were some abrasions or scratches along the  
20 right posterior of the right back of the upper shoulder.

21           MR. FORD: May I approach the witness?

22           A     And there was an area of a puncture wound or  
23 shallow stab wound also present in association with  
24 these abrasions or scrapes on the back of the right  
25 shoulder.



1           The chest showed again some fine linear scraping  
2 type abrasions over the left upper chest near the arm  
3 and then in the middle of the left chest there were some  
4 abrasions that actually had the shape of a, almost a  
5 crisscross shape with the longest toward horizontal  
6 measuring four and a half inches in length and then some  
7 diagonal arms above that measuring anywhere from one and  
8 a half inches to two and three quarter inches in  
9 length.

10           So these looked like, they were abrasions, very  
11 shallow areas in the skin where the top layer had been  
12 scraped away.

13           There was a puncture type wound or a shallow stab  
14 wound over the right breast which measured five  
15 sixteenths of an inch in length and I could probe it so  
16 a depth of one inch and there was some area of bleeding  
17 or bruising around it.

18           On the right lower arm there was a tear of the  
19 skinny tissue of the arm which practically had a flat  
20 shape which could be raised up and the bone, a bone  
21 beneath this area could be seen but was not fractured.  
22 This measured two and three quarter inches long.

23           And on the left lower arm there was also a shallow  
24 tear. Between the left fourth and fifth fingers in the  
25 web space on the left hand there was a large area of

1 tearing or cutting which had a total length of two and a  
2 quarter inches as it curved around from one side of the  
3 hand or palm to the other.

4 Those were the major external injuries.

5 Q You have described some linear marks below the chin  
6 above the neck area as I understood it or above the  
7 larger gash that you described in the neck. How, what  
8 did you observed about the edges of those marks, if  
9 anything?

10 A Well, the large but shallow tear right below the  
11 chin had somewhat irregular edges as did the larger  
12 gaping tear through which the neck organs could be seen.  
13 Between the two were more or less just be very fine  
14 scratch like or slightly deep scratch like linear or  
15 line like abrasions but the two larger injuries on  
16 either side of this had somewhat irregular ragged edges.

17 Q Doctor, did, you prepared photographs of the wounds  
18 that you just described, did you not?

19 A Yes.

20 MR. FORD: May I approach the witness?

21 COURT: All right.

22 MR. FORD: May I approach, Your Honor?

23 Q Dr. Radisch, I placed several items in front of you  
24 marked for purposes of identification as State's  
25 Exhibits 19 through 30. Can you identify those items?

1 A Yes, I can.

2 Q What are State's Exhibits, specifically let's start  
3 with State's Exhibits number 19. Can you identify that  
4 item?

5 A Yes. State's Exhibits 19 is a photograph of the  
6 head and shoulders of the decedent, which could serve as  
7 an identification photograph, but also shows primarily  
8 the injuries to the lower neck.

9 Q Did you take that photograph to the best of your  
10 recollection?

11 A It was taken under my supervision.

12 Q Does that fairly and accurately depict the wounds  
13 that you described in that area?

14 A Yes.

15 Q At the time you took, or the photograph state's  
16 Exhibits number 19 was taken, the body of Ms. Thomas had  
17 been cleaned of blood, had it not?

18 A Yes, for the most part.

19 Q All right, did that, what purpose is that?

20 A Well, that is to show the wounds as clearly as, as  
21 can be shown.

22 Q If you will, please go, just go through State's  
23 Exhibits 20 through 30 and if you will for the Court  
24 identify them and tell what they illustrate, if they do?

25 A State's Exhibit 20 is a closeup photograph of the

1 right side of the decedent's scalp with some of the hair  
2 shaved away, which shows the first two lacerations,  
3 tears in the scalp I described.

4 State's Exhibit 21 is a photograph of the right  
5 side of the head and the front of the neck and this  
6 shows several of the injuries. Shows the lacerations  
7 below the right ear and above the right ear. Some of  
8 the injury of the neck and some of the abrasions over  
9 the left shoulder.

10 State's Exhibit 22 is a closeup photograph of the  
11 laceration involving or right below and involving the  
12 right ear and the laceration above the right ear.

13 State's exhibit 23 is a closeup photograph of the  
14 back of the right ear to show the extent of that  
15 particular laceration.

16 State's Exhibit 24 is a closeup photograph of the  
17 injury of the, underneath the chin, beneath the chin,  
18 the very shallow tear in that area.

19 State's Exhibit 25 is a closeup photograph of the  
20 right back of the neck of the decedent, which shows some  
21 additional shallow lacerations or abrasions of the right  
22 back of the neck.

23 State's Exhibit 26 is a photograph of the right  
24 back and right posterior or back of the right shoulder  
25 of the decedent to show the abrasions, tearing, skin

1 stretching and puncture type wound found back there, in  
2 that area.

3 And State's Exhibit 27 is a closeup photograph of  
4 this same area to better demonstrate those particular  
5 wounds.

6 State's Exhibit 28 is a photograph of the lower  
7 neck and shoulder below the breast to show the injury of  
8 the right breast and the skin injury below the left  
9 breast.

10 State's Exhibit 29 is a closeup photograph of the  
11 inside or the palm side of the left hand that shows the  
12 large tearing or cutting or combination type injury  
13 between the fourth and fifth fingers on that hand.

14 And State's Exhibit 30 is a closeup photograph of  
15 the right breast showing the puncture wound with the  
16 associated bleeding into the tissue of the right breast.

17 Q As to the--I asked you earlier about the abrasions  
18 that you observed, the linear abrasions present on the  
19 breast area below her left breast. What, if anything,  
20 did you observe about the edges of those lacerations or  
21 abrasions.

22 A The three, the three wounds below the breast, they  
23 appeared to have been made by a cutting type of  
24 instrument, perhaps dragged across the skin, the edges  
25 of the, one edge of the longest injury actually had a

1 puncture type wound or very shallow type stab wound at  
2 the end and the rest of the edges of the injuries were  
3 dryer and darker.

4 Q All right. Did those--how did those type of  
5 wounds compare to the wounds that you've described to  
6 the side of the head above the, the scalp, the two  
7 wounds on the scalp and below the ear and also the wound  
8 in the neck, the larger wound in the neck?

9 A As far as being --

10 Q As to the, as to the edges as to, and their  
11 resemblance to each other or lack of resemblance to each  
12 other, as the case may be.

13 A Well, all the, the edges of all of those wounds are  
14 somewhat dried looking, darkened. All looked to be  
15 about, made at or near the same time. The edges are  
16 all, have some, some sharp force component to them but  
17 are generally blunt injury, generally blunt force  
18 injury.

19 Q What do you mean by that?

20 A Blunt force injury is an injury that is made by  
21 some sort of blunt object coming in contact with the  
22 skin and this could be the road coming in contact or  
23 sidewalk or what have you coming in contact with the  
24 skin due to a fall or some sort of blunt instrument such  
25 as a baseball bat or a brick or something like that

1 coming in contact with the skin and this is in contrast  
2 to a sharp force injury or an injury made by an object  
3 with a sharp cutting edge like a knife. The main types  
4 of injuries that you would see as a result of blunt  
5 force or blunt trauma would be contusions or bruises,  
6 lacerations or tears and abrasions or skin scrapes.

7 COURT: Approach the bench, counsel.

8 [COUNSEL APPROACHES BENCH].

9 COURT: All right, you may continue with your  
10 examination, Mr. Ford.

11 Q Doctor, let me digress at this point and ask you if  
12 on other occasions in the court's of this state have you  
13 been declared an expert in the field of forensic  
14 pathology.

15 A Yes.

16 Q On how many occasion would you say that has  
17 happened?

18 A Approximately a hundred fifty times.

19 MR. FORD: At this time, Your Honor, I would  
20 offer Dr. Radisch as an expert in the field of forensic  
21 pathology.

22 COURT: What says the defendant?

23 MR. DODD: No objection, Your Honor.

24 COURT: Without any objections of the  
25 defendant, Dr. Radisch may testify as an expert in that

1 particular field.

2 Q Dr. Radisch, calling your attention back to the  
3 wounds that you have described to the head as being  
4 blunt force, blunt force injuries, did you form any  
5 opinion as to what type of injuries that you have  
6 described on the left breast of the defendant.

7 A Yes. The types of injury on the left breast were  
8 more consistent with a sharp force type instrument with  
9 a cutting edge. You know, as far as the specifics, no,  
10 but something that would have a sharp cutting edge able  
11 to make a very shallow fine cut in the skin surface.

12 Q After you made the observations about the external  
13 damage to the body, what did you do?

14 A Then the internal examination. was performed and  
15 several associated injuries were discovered. The skull  
16 showed a very complex or very complicated depressed  
17 fracture over the bones of the right side or the skull  
18 in association with one or both of the lacerations of  
19 the right side of the scalp.

20 As the skull was removed there were many fragments  
21 of bone which were removed with the skull and then when  
22 the brain was examined some fragments of bone had  
23 actually been driven into the brain.

24 There was hemorrhage, a little bit of hemorrhage  
25 overlying the brain in this area. There was a little



1 bit of bleeding overriding the brain in this area.

2 In addition the bones of the skull start off when a  
3 person is a baby, they are very soft and then as the  
4 person ages the head grows and the bones actually knit  
5 together and the places where they knit together it  
6 becomes whole, you know, you lose your soft spot, are  
7 called sutures. There are, there's a triangular shape  
8 suture running on the back of the head from about the  
9 middle of the back of the head t the bottom of the skull  
10 and this suture had actually been separated. It's  
11 called a suture fracture where the suture line is  
12 actually disrupted by some sort of force and this had  
13 occurred in this case.

14 There was some bleeding over the bottom of the  
15 brain as well.

16 Those were the main injuries to the skull and the  
17 brain.

18 In addition there was a crushing injury of the  
19 upper airway. The thyroid cartilage or the adam's apple  
20 area had been crushed and was found, it was in at leas  
21 four pieces. There, of course, was bleeding in  
22 association with this cartilage fracture in the neck.

23 The body or most of the vertebral body of the 6th  
24 cervical vertebra or one of the upper spondom showed a  
25 fracture in the front of the bone and there was also an

1 area of bleeding over the spinal cord in this area but  
2 the spinal cord was still all in one piece.

3 As I mentioned before, there was some bruising in  
4 the right breast tissue I associated with the puncture  
5 wound in the right breast. And the left third through  
6 sixth ribs were fractured and there was a small amount  
7 of bleeding over the 6th rib in this area. This is in  
8 the front, in the front of the chest. And other than  
9 these findings there were no abnormal findings in any of  
10 the internal organs.

11 Q Doctor, after examining and performing the autopsy  
12 on the body of Jacquitta Thomas, did you have an  
13 occasion to form an opinion satisfactory to yourself as  
14 to the cause of death of Ms. Thomas?

15 A Yes, I did.

16 Q What is that opinion?

17 A In my opinion the cause of death in this case was  
18 due to blunt traumatic or blunt force injuries of the  
19 head and the neck.

20 Q What evidence, if any, did you find that this  
21 decedent had been struck by a vehicle?

22 A I found no evidence of that.

23 Q After observing the wounds in their entirety can  
24 you give us a description at least of a character of the  
25 type of weapon or instrument that would have to, that

1 would have been used to inflict those particular wounds?  
2 Not asking you to tell me what kind it was but what type  
3 of characteristics such an instrument would have?

4 A The types of injuries that would cause the  
5 lacerations and some of the irregular jagged wounds  
6 would be consistent with a heavy blunt object which  
7 might have a sharp edge. So perhaps to be heavy enough  
8 more than likely to be made of metal than say of wood or  
9 in that broad category.

10 Q Did you make any observations to lead you to  
11 believe there was no more than one instrument used?

12 A I think it would really depend upon the specific  
13 characteristics of a particular instrument.

14 Q I take it that what you mean, do you mean by that  
15 that there is possibly an instrument that could have  
16 made this, the wounds that you described to the head and  
17 then also those to the chest?

18 A Yes. If there was a sharp cutting type of edge, a  
19 point-or something like that, a heavy blunt object so it  
20 would have characteristics of both a sharp, object and a  
21 heavy blunt object.

22 Q Earlier you said that you as part of normal autopsy  
23 you performed what I call for lack of a better word,  
24 toxicology?

25 A Yes.

1 Q What tests were performed on the body of Jacquitta  
2 Thomas and what were the results of those tests?

3 A In this case, testing for ethanol or beverage  
4 alcohol, cocaine and morphine were performed. There was  
5 no morphine and that would look for heroin, the type of  
6 drug. That was not found and no ethanol was found.

7 Cocaine was found in a concentration of point zero  
8 seven two milligrams per deciliter. And the main  
9 metabolite which we test for, metabolite being a  
10 breakdown product of cocaine, is called, benzyllectomen  
11 and that was found in a concentration of point three  
12 three milligrams per deciliter.

13 Q Can you explain for the jury the difference between  
14 the cocaine concentration and then this metabolite of  
15 cocaine?

16 A Well, cocaine will breakdown in the body to many  
17 different substances or metabolite. A large part of it  
18 breaks down into this benzyllectomen. So if you add  
19 those two concentrations it would come to about a point  
20 four zero two milligrams per deciliters indicating at  
21 one time that she had that much cocaine in her body but  
22 then it had broken down and this breakdown process even  
23 continues after death. So it is not possible to go back  
24 and say how much of it would have occurred before her  
25 death versus after death.

1 Q From those observations could you characterize the  
2 amount of that cocaine, that amount of either cocaine or  
3 metabolite of cocaine in the body as its strength or  
4 weakness or --

5 A I don't, I don't know specifically what the parent  
6 drug start out as but this is a very high concentration  
7 of cocaine.

8 MR. FORD: May I have just a second? I don't  
9 have any further questions.

10 COURT: Cross-examination.

11 CROSS-EXAMINATION: [by Mr. Adams]-

12 MR. ADAMS: Good afternoon, Dr. Radisch. How  
13 are you?

14 A Good afternoon.

15 Q Dr. Radisch, when you first saw Jacquitta Thomas'  
16 body was there a gib ring in her left ear?

17 A Yes.

18 Q Was her left ear pierced?

19 A Yes.

20 Q Was her right ear pierced?

21 A Yes.

22 Q Was there an earring in her right ear?

23 A No.

24 Q Was there wounds at or about the right ear?

25 A Yes.

1 Q Did those wounds appear to have been inflicted a  
2 great deal of force?

3 A The wounds below the right ear, yes, it was..

4 Q Dr. Radisch, this level of cocaine and cocaine  
5 metabolite that was found in Ms. Thomas' blood stream,  
6 that level potentially lethal?

7 A Yes.

8 Q Dr. Radisch, you have testified that many or  
9 perhaps even most of the wounds which you have observed  
10 on the exterior of Ms. Thomas' body were caused,  
11 potential caused by a heavy blunt object with one or  
12 more sharp edges, is that correct?

13 A Yes.

14 Q Could you summarize for us briefly those wounds  
15 which you believe were caused or could have been caused  
16 by that type of instrument?

17 A Well, all the the major wounds, specifically are  
18 most likely the wounds on the right side of the head,  
19 the three lacerations or tears on the right side o the  
20 head and then below the right ear. The neck injuries,  
21 those were the main ones. Everything else, you know, you  
22 sort of drop down a level depending on the  
23 characteristics of whatever instrument this was that  
24 possibly could make those injuries and also perhaps the  
25 one, or possibly the one in the left hand between the

1 left fourth and fifth fingers.

2 Q Dr. Radisch is it also your opinion that these  
3 wounds that you have just discussed that were possibly  
4 caused by this heavy blunt instrument with a sharp edge  
5 was inflicted while Ms. Thomas was still alive?

6 A Yes, in my opinion they were.

7 Q Dr. Radisch, like to call your attention to the  
8 injury which is apparent from some of the photographs  
9 you have just described under her chin. I am not sure  
10 if I have got this right but that may be--

11 A Yes.

12 Q --may be number 24.

13 A Yes, that is correct. I skipped that one when I  
14 looked at them. That injury, as I said, is a  
15 superficial injury, tear with some ragged edges but the  
16 wound edges are not dried. They are not dark as the  
17 other wounds on the body. So this one may fall into a  
18 category of a wound that could have been made after  
19 death.

20 Q Thank you, Dr. Radisch. And that wound also does  
21 not have a blunt force component to it, does it?

22 A It is a blunt force injury, yes. Although these  
23 wounds, as I have said, are somewhat unusual in that  
24 they have, some of them have varying characteristics of  
25 blunt and sharp force. Again, they were a particular

1 instrument that had a pointed edge. It could have been  
2 drawn across. It, it looks like the type of wound that  
3 could be made by a dull knife.

4 Q Thank you, Dr. Radisch. Calling your attention to  
5 your testimony about the broken ribs. How many broken  
6 ribs were there?

7 A Four.

8 Q And on how many of those broken ribs did you  
9 observe any bleeding whatsoever?

10 A There was a small amount of bleeding on one of the  
11 ribs. The lowest one of the four.

12 Q Dr. Radisch, the fact that only one of those four  
13 ribs showed any bleeding at all and the other three were  
14 basically showing no bleeding, isn't that also  
15 consistent with those injuries being inflicted after Ms.  
16 Thomas' death?

17 A Yes. it could be at the time of death or after the  
18 death, yes.

19 Q Dr. Radisch, isn't, strike that question over.  
20 Dr. Radisch, is the level of force necessary to break  
21 those ribs consistent with that which might be put to  
22 the victim's chest by a stomp?

23 A Yes.

24 MR. FORD: I am sorry. I didn't understand.  
25 By a stomp?



1 MR. ADAMS: [Nods head.]

2 Q Dr. Radisch, are these broken ribs consistent with  
3 the wounds inflicted by this possible blunt, heavy  
4 object?

5 A Well, depending upon the object. If the object has  
6 a, is not very wide, then it would not be as likely say  
7 as a stomp. There are four ribs even then they are  
8 fairly close together, four of them fractured presumably  
9 at the same time since they are consecutive ribs would  
10 indicate more of a broad surface being applied to this  
11 area.

12 Q Dr. Radisch, do neck and head injuries, it is  
13 possible for them to continue to bleed after a victim  
14 has died?

15 A Yes, to some extent but it would be more like a  
16 oozing type or even a gravity type of bleeding  
17 especially the scalp which is very vascular and has a  
18 lot of blood vessels in it.

19 Q Dr. Radisch, during the course of your examination.  
20 did you find two or three hairs on the face of the  
21 decedent which did not appear to belong to her?

22 A Yes. I found a few short dark hairs on her right  
23 cheek and these were obtained as evidence.

24 Q Dr. Radisch, what did you do with those hairs?

25 A They were put in a bag and labeled and sealed and

1 turned over as evidence.

2 Q Dr. Radisch, calling your attention finally to the  
3 abrasions that were on the shoulder.

4 A Yes.

5 Q Were those injuries consistent with injuries that  
6 could be inflicted by someone being dumped on asphalt?

7 A Yes, they have some characteristics of brush burn  
8 or road burn type injury.

9 MR. ADAMS: No further questions. Thank you.

10 COURT: Redirect, Mr. Ford?

11 REDIRECT EXAMINATION: [by Mr. Ford]-

12 Q Doctor, those wounds on the back could have just as  
13 easily been made by somebody struggling to get off the  
14 pavement, could they not?

15 A Yes.

16 Q I get the impression that you don't like us trying  
17 to get you to describe what kind of weapon made these  
18 wounds, is that a fair statement?

19 A Well, I think that there are a lot of different  
20 weapons or potential weapons and I don't want to testify  
21 myself into a corner but I am just trying to get you the  
22 characteristics that would create the characteristics I  
23 see in these wounds.

24 Q It is fair to say some of the head wounds were  
25 obviously made by something that had to have some weight

1 to it?

2 A Yes.

3 Q And some force applied with that weight?

4 A Yes.

5 Q Is it not possible that more than one weapon was  
6 used on this woman?

7 A That's possible.

8 Q Specifically the linear wounds to the chest as  
9 opposed to the wounds to her head?

10 A Yes.

11 Q All right. You are grasping for one object that  
12 would have both of those potentials results available in  
13 its makeup, are you not?

14 A Yes. If you want to find one object the easiest way  
15 to, the simplest way to put all the wounds together  
16 caused by one object that it would have that  
17 characteristic. If you wanted to implicate more than  
18 one, then you could start talking about a dull, sharp  
19 edged instrument in addition to a heavy blunt object  
20 with no sharp edges.

21 Q Was there anything about the injuries to the ribs  
22 that led you to believe that they were, that that injury  
23 was anything but contemporaneously applied with the  
24 other injuries?

25 A There was no evidence of healing, there was not a

1 great deal of bleeding around the ribs that would  
2 indicate that they had occurred before the other  
3 injuries but the fact that they, that there was little  
4 blood is consistent with the type of rib fractures that  
5 I often see when someone had had C P R chest compression  
6 because this is during, this is happening while a person  
7 is dying and they are trying to bring them back and they  
8 are pounding on the chest and sometimes ribs will  
9 fracture but since there is not an effective heart  
10 pumping the blood at that point, there is not a lot of  
11 bleeding from those fractures.

12 Q Does that indicate to you that this is either a  
13 subsequent or at least a wound that occurred or an  
14 injury that occurred when most of the life was gone from  
15 Jacquitta Thomas?

16 A Yes.

17 Q What about the other wounds indicated to you that  
18 they were not inflicted after her death?

19 A Most of, well, the fact that there, concerning the  
20 head wounds, there was evidence of bleeding and actually  
21 some bruising on the brain which would not occur unless  
22 the heart was beating when those injuries were made.

23 In the other characteristics of some drying of the  
24 wound edges, it had evidence of external bleeding or  
25 would indicate that these were made and were the cause

1 of death. There's just the one wound on the chin that  
2 has the different external characteristics and doesn't  
3 really, is not an important wound as far as internal  
4 damage goes.

5 Q Have you ever had occasion, well, strike that.

6 Have you--do you know whether or not bodies are  
7 sometimes injured in transport after death?

8 A Well, I have heard of that. I don't know that I  
9 have ever really, I have never seen it in my experience.

10 Q Were you made privy to the photograph of this  
11 decedent as she was located at the scene of the murder  
12 or the death?

13 A Yes, I saw the Polaroid photographs before I began  
14 the autopsy.

15 MR. FORD: May I approach the witness?

16 Q I will hand up what has been marked for purposes  
17 of identification as State's Exhibit number two, which  
18 has been identified as a photograph o. the decedent at  
19 the location in question. Does that photograph compare  
20 to the photograph that you were shown of the Polaroid  
21 photograph?

22 A Yes.

23 Q I would ask, in looking at State's Exhibit number  
24 two, specifically the amount of bleeding that's or the  
25 area around the body and the amount of blood shown on

1       there does that give you some indication as to whether  
2       or not this person was alive or dead when these injuries  
3       were inflicted on them?

4       A       It is another way of wording that does it look more  
5       like she was killed at this spot and bled there or  
6       brought there and bled or --

7       Q       I think it is fair to say that it looks like the  
8       bled there a whole lot, doesn't it?

9       A       Yes.

10      Q       All right. Does that not indicate to you that she  
11      was still alive when she got to that location?

12      A       Yes.

13      Q       All right. And that also gives you the  
14      impression, does it not, that she was alive when  
15      whatever wounds caused that bleeding were inflicted upon  
16      her, does it not?

17      A       Yes.

18                   MR. FORD: All right. I don't have any  
19      further questions.

20                   COURT: Further cross, Mr. Adams?

21                   MR. ADAMS: Yes, sir, but I would like to  
22      approach the witness to retrieve the photograph.

23                   COURT: All right.

24      RE-CROSS-EXAMINATION: [by Mr. Adams]-

25      Q       Dr. Radisch, based on your autopsy and your

1 examination of other evidence in this case, is it true  
2 that the evidence of which you are aware of the results  
3 of your autopsy are consistent with this person being  
4 killed at one location and dumped at the location that's  
5 demonstrated or shown to you in State's Exhibit 2?

6 A I think it really depends on how much blood was  
7 found at the scene. I don't think that, if it was a  
8 large amount of blood, I don't think that that would  
9 just be a gravity or a leakage type.

10 Q Yes, ma'am. But based upon the evidence of which  
11 you are aware, you are not aware of any evidence that is  
12 inconsistent, are you?

13 A Well, yes, considering that.

14 MR. ADAMS: Thank you very much. No further  
15 questions.

16 COURT: Any further redirect?

17 MR. FORD: I don't have any further redirect?

18 COURT: May we excuse, Dr. Radisch?

19 MR. DODD: Yes, sir.

20 MR. FORD: Yes, sir.

21 COURT: All right. And you've left the  
22 photographs?

23 A Yes, sir

24 [WITNESS EXCUSED.]

25 -----

1 COURT: Mr. Ford, do you have a lot of questions for the  
2 agent of the City-County Bureau of  
3 Identification that was on the stand?

4 MR. FORD: Yes, Your Honor, I do.

5 COURT: I think it would be appropriate to  
6 take a recess at this time until in the morning.

7 Ladies and gentlemen of the jury, I am going to go  
8 ahead and give you a recess until 9:30 in the morning.  
9 Now you know these elevators are real slow. So you  
10 need to come at least fifteen minutes to try to get up  
11 here to the third floor taking the elevator. Keep in  
12 mind the instructions I have already given you and the  
13 order of the Court that I have given you and everyone  
14 else remain seated and I'll let y'all go until 9:30  
15 tomorrow morning. Y'all leave the jury badges in the  
16 seats. Take your jury badges off and leave it in the  
17 seat and y'all are excused until 9:30 tomorrow morning.

18 [JURY EXCUSED.]

19 COURT: Take a recess until 9:30 in the  
20 morning, Mr. Sheriff.

21 [COURT RECESSED FOR THE DAY.]

22 -----

23 4-14-93 A. M. SESSION

24 COURT: Let the record show it is Wednesday  
25 April the 14th. Bring the jury out, Mr. Sheriff.



1 [JURY RETURNS TO JURY BOX.]

2 COURT: Are you ready to continued with your  
3 direct examination, Mr. Ford?

4 MR. FORD: Yes, Your Honor.

5 Q [MR. FORD CONTINUING]- Mr. Pagani, yesterday  
6 before you were withdrawn from the witness stand, you  
7 had begun to describe the manner in which you and  
8 Supervisor Hensley had examined what appeared to be  
9 tire marks and then blood marks on the pavement out  
10 there in the location in the culdesac, is that correct?

11 A That's correct.

12 Q All right. Let me go back and ask you firstly  
13 what just purely visual observations you made and what  
14 you all did in response to visual observations?

15 A We saw what we believed to be tracks of what might  
16 have been blood from a vehicle of some type on the  
17 pavement near the body.

18 We did a field test with a chemical called  
19 phenolphthalein which is a series of chemicals which  
20 will react to the presence of blood and turn purple in  
21 color. We tested several of these spots, suspicious  
22 spots and they did in fact react as if they were blood  
23 of some type. Though some of them could be seen, we  
24 felt there might be some others. So based on that  
25 preliminary examination we decided that we were going to

1       come back to the crime scene after it had turned dark  
2       and use a chemical called luminal which is more  
3       sensitive for the reaction to blood and see if we could  
4       determine if there were more blood than we were not able  
5       to see during the daylight.

6       Q     All right. Even before that did you have occasion  
7       to examine the area for, I believe, earlier you  
8       described of attempting to make some casts with dental  
9       stones?

10      A     Yes, sir we did that. We saw what we knew were  
11      several impressions from a tire of some type and in  
12      several patches of sand near the body. They were cast  
13      with dental stone and collected for possible comparison  
14      to what we thought was going to be the suspect vehicle  
15      out in the field initially or any other vehicle that  
16      might be tied in with this case at a later time.

17      Q     And as a result of looking at those particular  
18      things that you thought were tire impressions, did you  
19      mark those in anyway?

20      A     Yes, I did. I marked them as evidence items for  
21      our purposes and --

22      Q     I don't mean to confuse you. I am not talking  
23      about the actual dental cast, the casting in dental  
24      stone. I am talking about the actual marks on the  
25      pavement or the prints in the, in the sand?

1 A You are referring to the possible blood that we --

2 Q No. I am talking about the--

3 A The stains?

4 Q No, sir. Forget about the blood stains right now  
5 for a minute.

6 A Okay.

7 Q I am talking about what appeared to you to be  
8 evidently tire impressions in sand in separate locations  
9 around in this culdesac. Did you not observe such  
10 items?

11 A Yes, sir, I did.

12 Q All right.

13 A We did mark those. And photographed them.

14 Q How were they marked?

15 A Marked with a little metal placard, I guess, is it  
16 best way to say it. They not only have a metal number  
17 on it and then we photograph them in place.

18 Q All right. Those--how were those tire impressions  
19 located in comparison to the, to the items that you  
20 thought were blood marks on the pavement?

21 A They were basically lined up in a round type curve,  
22 a rounded type curve from the body. It went in a  
23 northerly direction from the body and then it went to a  
24 certain point and then stopped and we again after we did  
25 the field test with the phenolphthalein that I was

1 mentioning, we came up with positive testing for what is  
2 blood. We decided to come back later on in the evening  
3 and use the luminal which is more sensitive and we  
4 determined that there was a track of what appeared to be  
5 blood all the way in a circle going in a northerly  
6 direction turning to the west and then coming back and  
7 then it went into the driveway that goes out into the  
8 field, access road that we were referring to.

9 Q All right.

10 MR. FORD: May I approach the witness?

11 Q I am standing in front of what's previously been  
12 marked for identification as State's exhibit number 1.

13 Now, can you tell me where the items that you  
14 thought were tire marks in the sand were generally  
15 located in this picture.

16 A If you will move you pen down a little bit. Right  
17 in that area. That area right there. That area right  
18 there.

19 Q All right. And you say that generally went in a  
20 northerly direction?

21 A In a northerly direction.

22 Q And then did they, did you run out then because  
23 there wasn't anymore sand or did the truck-

24 A That's correct.

25 Q --or did it --, Okay.

1 A Ran out of it at that point.

2 Q All right. Then you observed some blood markings,  
3 what you thought to be blood markings and subsequently  
4 tested them with phenolphthalein?

5 A That is correct.

6 Q Where did they start as best you can recollect?

7 A In the vicinity of the body where that line is.

8 Q There?

9 A Yes, sir. And then when in the sand area that I  
10 have already pointed out and we had reason to believe at  
11 that point that we may find something later on when it  
12 turned dark. So that is the reason we had to wait until  
13 it did turn dark to use the luminal to do further  
14 testing to see what we could find.

15 Q At the point when you tested these first few  
16 places with phenolphthalein, you could visually see  
17 those with the naked eye?

18 A Yes.

19 Q All right. What is your experience as to the  
20 sensitivity of phenolphthalein as opposed to luminal?

21 A Phenolphthalein is sensitive but it is not as  
22 sensitive as luminal. Basically if you can see a  
23 suspicious stain and you can test it with the  
24 phenolphthalein and that will give you just the reaction  
25 that you have human blood but it is it not specific.

1 Q All right.

2 A As other testing is.

3 Q If you will step down here just a minute.

4 COURT: All right.

5 Q I'll ask you if you will please look at the  
6 general exhibit, exhibit 1. Do you see thereupon I have  
7 marked certain items for purposes of identification as  
8 State's Exhibit 1-A, 1-B, 1-C, and 1-D. I'll ask you if  
9 you can identify those items, sir?

10 A Yes. These are miniaturized photographs of these  
11 areas right in around the body. This one was  
12 photographed right in this area directly to the, that  
13 would be the victim's left side of her left foot.

14 Q All right, what is State's Exhibit 1-A a  
15 photograph of--

16 A Of a--

17 Q --specifically?

18 A Of a scene which was tested with phenolphthalein  
19 and showed a positive reaction.

20 Q All right. And is that the stain that was closest  
21 to the body?

22 A Yes.

23 Q All right. State's Exhibit 1-B, can you identify  
24 that?

25 A Yes. That is a tire impression in sand located

1 right here.

2 Q And does that fairly and accurately depict the way  
3 it appeared to you--

4 A Yes, sir.

5 Q --the way it was the day in question?

6 A Yes, sir.

7 Q State's Exhibit 1-c, what is that?

8 A That is another photograph of a tire impression  
9 located in sand in this position.

10 Q All right. Now, on State's Exhibit, there are  
11 lines draw, are there not, from State's Exhibit 1-B, I  
12 mean, 1-A, 1-B, and 1-C to locations on State's exhibit  
13 1, the larger photograph, are there not?

14 A that is correct, sir.

15 Q Do those lines indicate the location of the  
16 individual items that were photographed in State's  
17 Exhibit 1-A, 1-B and 1-C?

18 A Yes, sir.

19 Q Now, would you please examine State's Exhibit a-D?

20 A Yes, sir.

21 Q What is that?

22 A That is another photograph taken with the numbered  
23 placards that I was mentioning showing the half of what  
24 we believe to be a vehicle.

25 Q All right. State's Exhibit 1-D is illustrative of

1 the placards that you put out to mark the prints in  
2 sand, is it not?

3 A Basically, yes, sir.

4 Q All right.

5 A The path of the vehicle.

6 Q Okay.

7 A That we thought would have made the impressions.

8 Q All right. But at that point you were going  
9 through, you were going by the impressions that were  
10 made in the sand?

11 A That is correct.

12 Q All right. Was there not one impression in sand  
13 up above the victim's body? Please, if you will, refer  
14 to State's Exhibit 1-D. No. Look at the bottom down  
15 there.

16 A Okay.

17 Q You may have to get down to look closely at it.  
18 Where is placard number one located in that exhibit?

19 A Placard number 1 is up ahead of the body. It is  
20 actually, looking at the larger photograph on State's  
21 Exhibit 1, it would be right in this location but very  
22 faint.

23 Q All right. Is your best recollection that that was  
24 in somewhat sandy deposit there?

25 A The sandy deposit really wasn't good enough to do



1 any kind of casting.

2 Q Okay. And it wasn't as that you saw farther down  
3 away from the body.

4 A That is correct.

5 Q Okay. You can return to the stand, if you will.  
6 Based on what you had observed in the daylight hours you  
7 prepared what is photographed as State's Exhibit 1-D,  
8 the placard set up showing an alleged path of a vehicle,  
9 did you not?

10 A That's correct, sir.

11 Q And based on the information that you had gotten  
12 there and some positive phenolphthalein tests on stains  
13 that you could see from the eye, you decided to come  
14 back out after dark?

15 A That is correct, sir.

16 Q And when you, was the area still secured at that  
17 tire?

18 A Yes, sir. The Raleigh. Police Department did  
19 maintain a secure crime scene during the entire  
20 examination of the scene until we were complete with the  
21 investigation.

22 Q And when did this investigation complete in that  
23 location?

24 A Excuse me. It will take a second and I can give  
25 you the exact time. We initially left the crime scene

1 at fifteen forty-seven hours which is 3:47 p. m. on the  
2 9-26-91 with the intention of coming back later on in  
3 the evening. That is basically when we finished the  
4 daytime portion of the investigation.

5 Q What instructions were given the Raleigh Police  
6 Department as to the security of the crime scene when  
7 you left at that time?

8 A Not to allow any personnel at all without our  
9 approval from CCBI into the crime scene or Major Crimes  
10 Division of the Raleigh Police Department.

11 Q And was the scene secured when you left at that  
12 time?

13 A Yes, sir, it was. Also Tyree Young was assigned  
14 for crime scene security and I understand that he was  
15 relieved a couple of times by other officers but it was  
16 maintained constantly until the time we returned.

17 Q And what time did you return, approximately?

18 A Twenty thirty hours is when we returned to the  
19 crime scene that evening 9-26.

20 Q All right. And that is what?

21 A I am sorry. 8:30.

22 Q In the evening?

23 A Yes, sir.

24 Q By that time had it gotten, started to get dark or  
25 was it getting dark

1 A Yes, as I recall it was dark.

2 Q All right. What, if anything, who came back to the  
3 scene with you?

4 A My supervisor, Mr. Bill Hensley. The CCBI and  
5 several other personnel, I believe, the deputy director,  
6 Mr. Roberts was at the scene, numerous investigators  
7 from. the Major Crime section of the Raleigh Police  
8 Department were present.

9 As I recall our forensic photographer,  
10 Gary Knight, was also present. There were a lot of  
11 personnel that were possibly needed for the  
12 investigation were present for their expertise.

13 Q When you returned to the scene at approximately  
14 8:30 that evening, was the crime scene still secured by  
15 the Raleigh Police?

16 A Yes, sir.

17 Q Now, who actually performed the luminal testing on  
18 the paved area of the culdesac?

19 A My supervisor, Mr. Bill Hensley of CCBI.

20 Q This gentleman seated here in the dark suit?

21 A Yes, sir.

22 Q All right. Were you there and did you observe  
23 what he did?

24 A Yes, sir, I did.

25 Q Well, tell us what you observed Mr. Hensley do.

1 A He used a chemical which I have already referred  
2 to as luminal, which is a very sensitive chemical that  
3 reacts to the presence o' human blood. It was sprayed  
4 in the scene and detected the presence of what appeared  
5 to be blood.

6 He is actually better qualified to explain the  
7 reactions than I am. That is one of the reasons why he  
8 did the testing and I did not. I am not trained  
9 adequately in it to really explain it.

10 Q Well, did you observe him during the entirety of  
11 the test.?

12 A Yes, I did.

13 Q And subsequently did you observe areas that were  
14 marked on the pavement in some manner?

15 A Once the reaction occurred with the chemical they  
16 were marked with spray paint by Mr. Hensley.

17 Q And was that done contemporaneously with his using  
18 the luminal?

19 A Yes, sir, it was.

20 Q Approximately what period of time does the luminal  
21 glow as you testified earlier?

22 A It is a very quick reacting and short-lived type  
23 chemical. Again, I am not that versed in it and again  
24 Mr. Hensley can explain it a lot better than I can.

25 Q Now, at some point on that day or the next day, you

1 had the vehicle removed from the scene, did you not?

2 A It was that day, sir. Yes, sir.

3 Q And what time of day was it?

4 A As I recall, it was prior to the time we cleared  
5 the scene. A search warrant was obtained by the Raleigh  
6 Police Department for actually removed the vehicle and  
7 doing further investigative testing and processing on  
8 the vehicle. The vehicle was towed to our garage area  
9 on the second floor--excuse me-- the Public Safety Center  
10 and at that point we did further examination on the  
11 vehicle later on in the day.

12 Q When you, the location that you had the vehicle  
13 towed to, how was it lighted?

14 A Are you referring to our office area, sir?

15 Q Well, wherever you took the vehicle to to have--

16 A We had a secured garage which has a metal door to  
17 allow the vehicle to go in naturally and then we can  
18 secure it in this area and nobody has access to it  
19 beside us. We have plenty of lighting in there. We  
20 have supplemental lighting if we need it and all our  
21 testing equipment that would be necessary to do any  
22 testing of the vehicle or any other type of evidence can  
23 be better used at that location.

24 Q Now, when you got inside the lighted area with the  
25 vehicle, who was with you when you examined the vehicle?

1 A Again, my supervisor, Mr. Hensley, was present.  
2 As I recall, the latent examiner, Mr. Marty Ludas, was  
3 present. Latent examiner, Mr. Johnny Leonard was  
4 present. There were several other personnel that did at  
5 some point come in and out to, you know, offer any  
6 advice, expertise as needed.

7 Q Now, personally did you yourself fingerprint the  
8 vehicle?

9 A Yes, I did.

10 Q Would you explain how that was done?

11 A Yes, sir. We have several different means of  
12 processing an item for fingerprint evidence. In this  
13 particular case, on a vehicle particularly one of the  
14 best mediums we use is what they call mag powder and it  
15 is basically carbon powder finely ground up and has iron  
16 filings mixed in with it and we use a, what we refer to  
17 as a magnetic brush, literally has a magnet in the  
18 center of it. It allows us to pickup the material and  
19 rub it over a surface, the particles of carboning metal  
20 will cling to the deposits of the fingerprints and make  
21 it so we can visually see it. At that point then we can  
22 place a tape specially designed for the lifting of the  
23 fingerprints, remove the fingerprint and place it onto a  
24 white background so we can further inspect the  
25 fingerprint and compare it to a rolled fingerprint of a

1 person who we may have to compare it to.

2 Q Did you fingerprint the door areas of the vehicle?

3 A Yes, sir. The entire vehicle, both exterior and  
4 exterior areas were processed for latent fingerprints  
5 and items also inside the vehicle.

6 Q Can you tell me what, as best you recall the  
7 interior of the vehicle was made of?

8 A The dashboard naturally was a textured vinyl  
9 plastic. The seats were a synthetic material maybe a  
10 polyester type material. I am not exactly sure of the  
11 makeup. It was a fabric, synthetic fabric as far as the  
12 seating. The carpeting was also a synthetic type  
13 material.

14 Q All right. Specifically the material that you say  
15 the seats was made out of, was that a material which  
16 lends itself to fingerprinting?

17 A The material itself, no, sir.

18 Q What about the carpeting?

19 A No, sir, not for fingerprint purposes.

20 Q Is it your recollection -- how many doors did this  
21 vehicle have?

22 A The vehicle had two doors, driver's door,  
23 passenger's door, then had a rear hatch which opens up  
24 like this.

25 Q From the rear of the vehicle?

1 A Yes, sir.

2 Q How many seats did it have in it?

3 A The vehicle had naturally a driver's seat, a front  
4 passenger seat, then it had a rear passenger seat which  
5 had the capability of folding down for cargo if you  
6 wanted to stick larger items in there.

7 Q When you observed the vehicle at first and had it  
8 seized, was the back set up or was it down for cargo?

9 A The back seat was up for passengers to ride in it  
10 but it did have a considerable amount of sport related  
11 gear in the back area that we refer to as the cargo  
12 area.

13 Q Now, the rear seat, what was that made out of?

14 A The same type of material. A synthetic fabric of  
15 some sort.

16 Q So you were unable to fingerprint that area?

17 A Yes. The areas that were fingerprinted were  
18 basically glass, metal surfaces or something like a  
19 smooth plastic, maybe like an item inside of the vehicle  
20 that had a smooth surface versus a rough surface.

21 Fingerprints usually on a textured type surface are very  
22 hard to develop and lift off of them.

23 Q Did you lift, did you have occasion to secure some  
24 latent fingerprints from the vehicle?

25 A Yes, I did.



1 Q All right. And in your opinion after lifting them,  
2 were any of them of value?

3 A Yes, sir.

4 Q All right. Can you describe for the jury what that  
5 term means in your field?

6 A When you have a latent print of value, it refers to  
7 a fingerprint that is basically complete in all areas  
8 that would be necessary to examine it and compare it and  
9 I identify it.

10 You have what you refer, what we refer to as  
11 partial prints which sometimes consist of just a very  
12 light area where it is touched and not necessarily a  
13 complete whole print.

14 So when we say a latent print of value, we are  
15 referring to a good quality fingerprint versus one that  
16 may not be.

17 Q Now, what did you do with those latent fingerprints  
18 subsequently?

19 A They were marked as to the location that they were  
20 lifted from and then they were placed into a jacket that  
21 we use specifically for the filing. They were marked  
22 properly with the case number, the type of case it was  
23 and then outside jacket was properly marked and then  
24 later on it was transferred to the Latent Evidence  
25 Section for storage..

1 Q Subsequently to your knowledge did latent examiner,  
2 Marty Ludas, have an occasion to examine those latent  
3 fingerprints?

4 A Yes, sir, he did.

5 Q And at your request did he compare those with the  
6 known fingerprints of the defendant in this case,  
7 Gregory Flint Taylor, also a person known as Johnny Beck  
8 and also with the fingerprints of the decedent in this  
9 case, Jacquitta Thomas?

10 A Yes, sir, he did.

11 Q What, as to the fingerprints on the driver's door,  
12 do you know from Mr. Ludas whether or not any of those  
13 fingerprints were identified to this defendant.

14 A Sir, I would need to look at the fingerprints to be  
15 able to testify to that.

16 Q Let me go a little further before I do that.  
17 When you lifted these fingerprints, you made a diagram  
18 of the vehicle so that you could show where the latent  
19 fingerprints were lifted from, did you not?

20 A Yes, I did.

21 Q And on each of the latent fingerprints you placed  
22 the number that corresponded with the location that you  
23 showed on the diagram, did you not?

24 A That is correct, sir.

25 Q What was your purpose in doing that?

1       A     When I have a large area to process, I find that a  
2       numbering system like that helps me readily identify the  
3       location. and saves me a little time in the initial  
4       processing. Then I can come back later on after I have  
5       some more time and I can mark them with whatever other  
6       information I need to place on them. The diagram  
7       strictly assist me in doing it.

8               MR. FORD: May I approach, Your Honor?

9       Q     Mr. Pagani, I have placed items before you marked  
10      for purposes of identification as State's Exhibit 31, 32  
11      and 33.

12             Would you please examine State's Exhibit number 32  
13      and tell me if you can identify it?

14      A     Yes, sir. This is the diagram showing the  
15      location of latent fingerprint evidence that I collected  
16      from the vehicle which we towed into our garage that was  
17      located in the open field near the crime scene.

18      Q     All right. And would you please look at State's  
19      Exhibit number 32.

20      A     Yes, sir.

21      Q     All right. What is State's Exhibit 32?

22      A     State's Exhibit 32 is a latent fingerprint which I  
23      developed and lifted from the exterior door frame on the  
24      driver's side of this same vehicle.

25      Q     I am sorry. Where was that one lifted from?

1 A The exterior door frame on the driver's side of the  
2 vehicle. It is marked with the case number and  
3 indicated as latent print number one which' corresponds  
4 with the marking that I have on State's Exhibit 31.

5 Q Would you please examine State's Exhibit 32 and  
6 tell me if there are any markings on that exhibit that  
7 were not on there when you turned it over to the latent  
8 print examiner?

9 A Yes sir. There is a notation indicating that an  
10 identification had been made on this particular latent  
11 print to a Gregory Taylor. He was on file with our  
12 agency.

13 Q You recognize the handwriting and the method of  
14 identification on that state's exhibit?

15 A Yes, sir, I do.

16 Q Whose handwriting is that?

17 A Mr. Marty Ludas, our latent examiner, CCBI.

18 Q And he writes in red, does he not?

19 A Yes, sir, most of the time.

20 Q And would you please exhibit, I mean, examine  
21 State's Exhibit 33?

22 A Yes, sir. This is a latent fingerprint which was  
23 developed and lifted by me on the same vehicle from the  
24 exterior passenger door frame above the window. It is  
25 indicated as latent print number 9 which corresponds

1 with my diagram showing the location of the print for my  
2 purposes and in addition it does have Mr. Ludas'  
3 notation on it that the print was identified as  
4 belonging to a Mr. Johnny Beck.

5 Q All right . Now, you've had conversation with Mr.  
6 Ludas in the last few days about his examination of  
7 those latent fingerprints, have you not?

8 A Yes, sir, I have.

9 Q And was it your understanding that he had made  
10 those identifications?

11 A Yes, sir. He personally advised me of that.

12 Q To your knowledge was he able to make any  
13 identifications to the decedent's body from any of the  
14 latent fingerprints that you lifted out of the vehicle?

15 A Out of the vehicle, no, sir. No latent  
16 fingerprints were identified to the victim.

17 Q All right. Now, after you fingerprinted the  
18 vehicle or during what course of the investigation of  
19 the vehicle did you fingerprint it?

20 A The vehicle initially was not fingerprinted because  
21 we had to do other testing that the powder from the  
22 fingerprinting could have caused a problem with, so the  
23 trace--correction--the collection of trace evidence was  
24 the number one priority that we had to give the vehicle  
25 for the possible transfer of fibers, hairs, and other

1 items of value on the seating and on the carpeting. So  
2 that was actually completed first.

3 Q All right. How was that done?

4 A Well, we have a tape that is specifically used for  
5 this. It has a very mild adhesive on it and you roll it  
6 over the item that you want to collect the trace  
7 evidence from. For instance, hairs that might have  
8 dropped onto the surfaces, fibers between the clothing  
9 and the seating and any other debris that might be  
10 associated with a transfer with a contact between the  
11 two items. It is lifted from the surface and it is  
12 placed into a plastic bag and sealed. After that, it is  
13 properly marked as to the location of it and at some  
14 point it is submitted to the lab for examination and  
15 comparison to other items of evidence. For instance,  
16 clothing, jackets that kind of thing, hairs.

17 Q What did you do with those tape liftings after you  
18 produced those?

19 A Again, they were secured in a plastic bag, as I  
20 mentioned, they were properly marked for evidence for  
21 location and, et cetera. Then they were removed from  
22 the vehicle and then we did, continued on to do testing.

23 Q Subsequently did you submit those to the S.B.I.  
24 laboratory?

25 A Yes, sir.

1 Q Now, specifically the exterior of the vehicle, when  
2 did you examine the exterior of the vehicle and the  
3 bottom of the vehicle for evidence?

4 A During that same time period. Again, we had  
5 certain sequences that we had to go through. Trace  
6 evidence was the first thing and then as I recall, we  
7 did our blood testing at that point with  
8 phenolphthalein.

9 Q Describe for us in regards to the vehicle what you  
10 did in the matter of blood testing?

11 A Several areas that were possible handled that were  
12 good areas for blood to have been transferred, for  
13 instance, the steering wheel area, door handles and also  
14 the under portion of the vehicle, the tire well. We were  
15 particularly interested on the passenger side of the  
16 vehicle because we felt fairly sure that was our main  
17 target area for the possibility of blood having been  
18 slung up into the fender well areas under the carriage  
19 of the vehicle.

20 Q How did you figure that, Mr. Pagani

21 A Based on our examination of the tire impressions  
22 that were visible at the scene near the body and then  
23 later on in the evening when we did our luminal testing,  
24 we had very good reason to believe at that point that a  
25 vehicle had passed through the blood of the victim.

1 Q Well, what I am asking what led to believe that  
2 you needed to look at the passenger side of the vehicle?

3 A Because of the way that the tire impressions were  
4 at the crime scene. It led us to believe that it was,  
5 the vehicle had headed in a northerly direction and we  
6 later on confirmed that by doing the phenolphthalein  
7 testing on the vehicle when it was in the garage. We  
8 got a positive testing on the fender well underneath the  
9 front passenger wheel and we also got a positive testing  
10 with phenolphthalein on the undercarriage of the A, what  
11 is referred to as the A-frame which is basically that  
12 arm that the tire would pivot on where the shock  
13 absorber is and that kind of thing.

14 Q So personally you tested those areas with  
15 phenolphthalein?

16 A Yes, sir, and in several other areas but this is  
17 the ones that tested positive for.

18 Q Do you recall whether or not on the exterior edge  
19 of the fender of the right passenger wheel, right front  
20 passenger wheel whether or not you observed any--

21 A Yes, sir.

22 Q --stains?

23 A Yes, there were several suspicious stains. They  
24 were tested again with phenolphthalein, showed they  
25 could possibly be human blood and then we did additional



1 collection with sterile gauze by removing individual  
2 fibers out of the sterile gauze dipping then in--excuse  
3 me--applying distill water to them which allows any  
4 material that is dried to be soaked up by these threads  
5 and the threads were placed onto a glass slide and then  
6 we can submit them to the lab, at the S.B.I. lab, and  
7 they can be tested for blood grouping and further  
8 testing as necessary.

9 Q All right. Now, subsequent to testing the front  
10 passenger fender, I mean, tire well, and the fender  
11 liner, the A-frame and these area on the exterior edge  
12 of the front passenger fender, did you also test those  
13 areas with luminal?

14 A Yes, we did later on.

15 Q All right. Why did you first test with  
16 phenolphthalein?

17 A Phenolphthalein is an initial test that we use to  
18 determine the presence of human blood. It is not as  
19 sensitive as luminal but it is something that at least  
20 gives us an idea of what the possible stain we are  
21 looking at is and then we can do further testing at that  
22 point, either use luminal to determine if there is any  
23 blood that we cannot see, any other visible stains which  
24 the luminal would show up where we couldn't see it with  
25 our eye or we take the item at that point and not test

1       it with anything else and send it to the lab and let  
2       them conduct those tests. But we have the capability.  
3       Therefore, we try to do everything we can do.

4       Q     Is phenolphthalein more specific to blood than  
5       luminal?

6       A     No sir, it is not.

7       Q     Well, why did you use phenolphthalein at all then?

8       A     Again, it is a test which when we can see a visible  
9       stain we use to determine if it is human blood and it is  
10      specifically designed for that purpose and it is a field  
11      expedient way of doing it.

12      Q     All right.

13      A     Again, it is not a positive way but it is a field  
14      expedient way.

15      Q     What did you--how long did you wait and when did  
16      you test the under side of the passenger side of the  
17      vehicle and the areas that you have described with  
18      luminal?

19      A     We did it in conjunction with the examination.  
20      Again, all of this occurred basically at the same time  
21      but we had to do it in various steps. At some point the  
22      fender liner underneath the front passenger side of the  
23      vehicle along with the wheel--excuse me--the wheels on  
24      both sides--excuse me--the front and the back on the  
25      passenger side were actually taken completely off the

1 vehicle. Those tires were also examined for any type of  
2 blood that might have been transferred onto them by  
3 running through the blood of the victim at the crime  
4 scene.

5 They did not show any type of results for the  
6 presence of human blood but they had to be physically  
7 removed off the vehicle in order for us to examine them  
8 more closely, photograph them, et cetera, to do the  
9 testing that we had to do.

10 Q Okay. What process did you go through to test the  
11 fender liner and these other areas with luminal?

12 A The process is basically you can either leave them  
13 on the item, such as the fender liner, we could have  
14 left it on the vehicle but we wanted to pull it off to  
15 do a better examination so we could see it better  
16 because we were looking up like this, whereas we could  
17 take the liner completely out and look at it better and  
18 we could also submit it to the lab. So we did it that  
19 way.

20 Q All right. When you removed the fender liner, at  
21 some point did you test it with luminal?

22 A Yes, we did.

23 Q All right. Was that in the lighted area or had  
24 you darkened the area?

25 A We had to turn off the lights in the garage area.

1 Q How was that test performed?

2 A By spraying the luminal onto the surface.

3 Q And is it a mist of luminal or, how do you --

4 A It is a chemical that is mixed up. Again. Mr.  
5 Hensley is more versed on that than I am and can better  
6 really answer your questions on that.

7 Q Was he the person that performed the test on the  
8 fender liner?

9 A Yes, sir.

10 Q But you observed that test?

11 A Yes, sir, I did.

12 Q All right. You collected a myriad of evidence in  
13 this case, did you not?

14 A Yes, sir.

15 Q I believe, you described it to me as everything  
16 that wasn't growing out there?

17 A Yes, sir, basically.

18 Q Some of that you submitted to the State Bureau of  
19 Investigation, did you not?

20 A Yes, sir, I did.

21 Q And those items that you submitted to them you made  
22 requests of them to, the experts there at the State  
23 Bureau of Investigation forensic laboratory to perform  
24 certain tests, did you not?

25 A That is correct, sir.

1 Q And after doing that and making that request,  
2 subsequently did you receive a response as to that  
3 request?

4 A Yes, sir, I did.

5 MR. FORD: May I approach the witness

6 COURT: All right.

7 Q Mr. Pagani, I've handed you an item marked for  
8 identification as State's Exhibit number 34 and ask you  
9 if you can identify that item?

10 A Yes, sir. State's Exhibit 34 is a laboratory  
11 report from the State Bureau of Investigation. It is  
12 dated November 7th, 1991. The examination was conducted  
13 by P. D. Deaver and J. S. Taub. t-a-u-b, of the State  
14 Bureau of Investigation.

15 Q Wayne Deaver and Jeff Taub are forensic serologists  
16 at the SBI, are they not?

17 A That is correct.

18 Q At the forensic laboratory?

19 A Yes, sir.

20 Q Do you recognize those names as being those  
21 individuals?

22 A Yes, sir, I do.

23 Q Now, on that laboratory report they listed the  
24 items submitted by specific numbers, did they not?

25 A That is correct, sir. Numbers with my numbers.

1 Q So when you secured certain evidence, you numbered  
2 it in sequence, I take it?

3 A That is correct, sir.

4 Q For instance, on this laboratory report the first  
5 item mentioned is item number 16?

6 A That is correct, sir. Which was one automobile  
7 fender liner.

8 Q How many fender liners did you remove in this  
9 case--

10 A One.

11 Q --and submit? And where did this fender liner come  
12 from?

13 A From the front passenger side wheel well.

14 Q Items 17 and 18 are stained thread samples, are  
15 they not?

16 A That is correct, sir.

17 Q All right. Could you tell us what they are?

18 A Yes. I mentioned to you earlier that we conducted  
19 a phenolphthalein testing of several suspicious stains  
20 in the front passenger wheel area and fender area. Once  
21 they were tested with phenolphthalein and showed up a  
22 positive reaction, at that point there was enough of the  
23 stain left to attempt to collect it by the use of the  
24 sterile threads which was pulled out of a gauze like  
25 material and then it is saturated with distill water

1       which will not add any kind of contaminate to it. This  
2       is used to then pull over a dried substance that we see  
3       the stain or whatever is there and then it will absorb  
4       it and that is placed onto a glass, a laboratory plate  
5       which is also sterile and then that could be air dried  
6       and then packaged and actually examined for blood  
7       grouping or any other testing required?

8       Q     Earlier you described that you performed that  
9       technique on some areas of the vehicle, did you not?

10      A     That is correct.

11      Q     All right. Would you refer to your notes and tell  
12      me where item 17 of this laboratory report and item 18  
13      were removed?

14      A     Yes, sir. I am sorry. It will take me just a  
15      second. Yes, sir. Item number 17, which is on the  
16      S.B.I. lab report which is identified as a stained  
17      thread sample was removed from the A-frame of the front  
18      passenger side of the vehicle, or. the suspect vehicle,  
19      which was identified as a Nissan truck, North Carolina  
20      tag ENS 7529.

21      Q     All right. Was that the vehicle that you had  
22      removed from the scene?

23      A     That is correct, sir.

24      Q     All right. Now, item 18 was also a stained thread  
25      sample, was it not?

1 A That is correct, sir.

2 Q Where was that sample removed from?

3 A That was removed from the edge, removed from the  
4 edge of the fender above the tire and rim on the front  
5 passenger side of the fender.

6 Q All right. Of the same truck?

7 A Of the same truck, yes.

8 Q Did you make requests of the State Bureau of  
9 Investigation as to test those, at least the first three  
10 items for the presence of blood?

11 A Yes, sir, I did, along with the other items on the  
12 form.

13 Q Okay. Specifically now, if you will turn to the  
14 second page of the form. Item number 46 is entitled  
15 "one pair of pants with a belt"?

16 A That is correct, sir.

17 Q All right. Could you refer to your notes and  
18 determine where item 46, where you got that?

19 A Item number 46 was the pants that was removed from  
20 the victim at the crime scene by me.

21 Q All right. And I take it the belt was, was the belt  
22 in the pants?.

23 A The belt was on the pants. Therefore, they were  
24 just sent along with it, yes, sir.

25 Q Okay. On the front, item 21 is noted as one Merit



1 cigarette butt. Can you refer to your notes and tell us  
2 where that item was obtained?

3 A Yes, sir.

4 Q Where was that obtained?

5 A That was obtained from the vehicle in the right  
6 front floorboard of the passenger side of the vehicle,  
7 of the suspect vehicle previously identified that we  
8 towed in.

9 Q All right. You also submitted item 37 which has  
10 S.B.I. sexual assault evidence collection kit, was it  
11 not?

12 A Yes, sir.

13 Q Can you explain to the jury what that is?

14 A Yes. During the course of the autopsy the medical  
15 examiner collected evidence by the use of this sexual  
16 assault kit based on the, the preliminary examination at  
17 the scene the victim' pants had been pulled down around  
18 her angles and we had reason to believe that she had  
19 been sexual assaulted. Therefore, that was requested of  
20 the medical examiner during the course of her autopsy.

21 Q And subsequently you received from this defendant  
22 and Johnny Beck what is known as an S.B.I. suspect  
23 evidence collection kit, did you not?

24 A That is correct, sir.

25 Q All right. Those are noted as items 51 and 52 on

1 the report, are they not?

2 A That is correct, sir.

3 Q All right, you had requested -- what analysis did  
4 you request?

5 A According to the lab report a blood analysis,  
6 semen analysis and blood splatter pattern  
7 interpretation.

8 Q All right. Subsequently you received this report,  
9 did you not?

10 A That is correct, sir.

11 Q All right. As to the presence of blood in item 16,  
12 the automobile fender liner, what did these serologists  
13 report to you?

14 A Examination of item 16 gave chemical indications  
15 for the presence of blood.

16 Q All right.

17 A And that's as far as they elaborated on that  
18 particular item of evidence and they were referring at  
19 that point to item 16, 18 and 46. Then they further  
20 state that examination of item number 17 failed to  
21 reveal the presence of blood.

22 Q All right. So the, the stained thread from the  
23 A-frame didn't reveal the presence of blood?

24 A That's correct.

25 Q but the stained thread from the fender edge did

1 reveal the presence of blood, number 18?

2 A That is correct.

3 Q All right. And in regards to item 46 they made  
4 further observations, did they not, that being the  
5 victim's pant?

6 A That is correct.

7 Q What observations did they report to you in regards  
8 to that?

9 A In the bottom portion of the lab report says  
10 examination of item 46 gave chemical indication for the  
11 presence of blood. Then they further state a blood  
12 stain examination of the pants, item number 46, failed  
13 to reveal any stains on the outside of the pants and  
14 several small stains on the inside of the left leg.

15 Q All right. So in that, item 46 again is the  
16 victim's pants?

17 A That is correct.

18 Q When you first observed those pants, was the  
19 outside showing or the inside of those pants showing?

20 A The inside of the pants were showing. Her pants  
21 were pulled down around her ankles along with the  
22 underwear.

23 Q All right. You had requested them to do a blood  
24 stain analysis of the pants, have you not, of any  
25 sustains they found on the pants?

1 A Yes, sir.

2 Q And were they able to do that?

3 A According to this, it says they failed to reveal  
4 any stains.

5 Q Okay. Would you please refer to page three of the  
6 report where it reads results of the analysis continued?

7 A Yes. It further states that the amount of stain  
8 present on the inside of the left leg was insufficient  
9 to permit a complete blood stain pattern determination.  
10 And then it further states in the conclusions the blood  
11 detected on item 45 is consistent with that of the  
12 victim to the extent of the blood grouping attempted.

13 Q Okay. now, we have not gotten to item 4r. What was  
14 item 45?

15 A Item 45 was one piece of tissue paper.

16 Q Now, where did that come from?

17 A That was located distant, away from the victim. It  
18 was a rolled up piece of tissue paper and it was stained  
19 with what we believed to be blood.

20 Q Do you recall right off the bat how many pairs  
21 panties you removed from this body?

22 A Pairs of panties?

23 Q Uh-huh.

24 A If you will give me a second, I'll refer to my  
25 evidence form. When we refer to panties, just

1 underwear.

2 A Just one.

3 Q Well, were you here yesterday when the doctor,  
4 when Dr. Radish testified?

5 A Yes, I was.

6 MR. FORD: Could I have just a second, Your  
7 Honor?

8 COURT: All right.

9 Q Do you recollect whether or not this lady, this  
10 decedent had on what appeared to a pair of normal  
11 panties and over that what appeared to some sort of  
12 Lycra underwear?

13 A I don't recall exactly what she had. If you will  
14 give me a minute I will refer to some photographs and I  
15 might be able to tell you more clearly.

16 Referring to the photograph that I took I am just  
17 seeing what appears to be a pair of panties only and  
18 then pants and then she was wearing boots.

19 MR. FORD: Could I have just a second, Your  
20 Honor?

21 COURT: All right.

22 Q You attended the autopsy of this body, did you  
23 not?

24 A Yes, I did.

25 Q And you had observed on this body a red spandex

1 bra type top or bra, had you not?

2 A Yes, sir, that was collected and indicated as  
3 evidence item number 38 on my evidence form.

4 Q Well--

5 MR. FORD: May I approach the witness?

6 COURT: All right.

7 Q Mr. Pagani, I've handed you an item marked for  
8 identification as State's exhibit number 34.

9 MR. COURT: Wait a minute. State's Exhibit 34  
10 has been, is an S.B.I. lab report.

11 MR. FORD: It should be 35.

12 Q 35, which is part of the autopsy report from  
13 Dr. Radisch, is it not?

14 A Yes, sir. It appears to be.

15 Q Okay. You were present when Dr. Radisch examined  
16 the body on the outside before she started doing her  
17 further examination, were you not?

18 A Yes, sir.

19 Q All right. And some of the items of clothing and  
20 things of that nature she removed and gave to you  
21 because they are part of the rape evidence kit, are they  
22 not?

23 A That is correct. I see an indication now of the  
24 item you were talking about.

25 Q Would you please, does that State's Exhibit 35,

1 after looking at that, do you recall the fact that there  
2 was one pair of panties on her and then one type of  
3 spandex panties on her?

4 A According to Dr. Radisch's report there were in  
5 fact two pair of panties. Apparently one was rolled up  
6 in the other. I did not make a note of it. That is in  
7 her own words and, yes, it does make a reference to  
8 quote spandex panties.

9 Q All right. In any case the items that were removed  
10 from that body from personal areas such as would have  
11 been panties, you would have placed in evidence in the  
12 rape collection kit, would you not?

13 A Yes, sir. As I recall, they were in fact placed in  
14 the evidence--excuse me--the victim sexual assault  
15 collection kit.

16 Q All right. So Dr. Radisch took them off and put  
17 them in there?

18 A Yes, sir.

19 Q You didn't even get a chance to see them?

20 A Yes, according to this

21 Q Now, let's go back to the piece of tissue that was  
22 found out there in the area that tested for blood.

23 A Yes, sir.

24 Q Do you recall that? I believe it is--

25 A Yes, sir.

1 Q --laboratory report, State's Exhibit 34, it is  
2 referred to as item 45?

3 A That is correct, sir.

4 Q All right.

5 A The conclusion again of the lab report from the  
6 S.B.I. did indicate that item 45 is consistent, the  
7 blood I should say detected on item 45 is consistent  
8 with that of the victim to the extent of the blood  
9 grouping attempted.

10 Q All right. Now., can you tell me how that tissue,  
11 what appearance it had to you when you saw it?

12 A It had the appearance of a tampon at the time that  
13 we actually saw it at the scene and we assumed that it  
14 might have been in the victim's clothing and had been  
15 thrown clear from the clothing at some point.

16 Q Was there anything about the shape or the manner in  
17 which it was folded or--

18 A Yes, sir. It was rolled up.

19 Q All right.

20 A It was rolled up.

21 Q Okay; You also, did you not, requested, that is  
22 when you submitted the victim's rape kit, which was item  
23 47, it has many items in it, does it not?

24 A Yes, sir, it does.

25 Q Among those were the panties?



1 A Yes, sir.

2 Q All right. You requested a serologist examine  
3 those panties for the presence of semen, did you not?

4 A Yes, sir.

5 Q All right. And did they in fact do that?

6 A Yes, sir.

7 Q Okay. On page two under results of analysis they  
8 reported to you that a cutting from the panties, item  
9 37-D, revealed-the presence of semen, did they not?

10 A That is correct, sir.

11 Q Were they able to tell you what type of blood the  
12 person that, that donated that semen had?

13 A The, according to the lab report it is  
14 inconclusive.

15 Q They also--

16 A For the panties, for item number 37, which is the  
17 panties.

18 Q So they did blood testing on all the known blood of  
19 these three people, the victim, this defendant, and  
20 Johnny Beck, did they not?

21 A That is correct.

22 Q So they could determine the blood type to about  
23 seven different manners?

24 A Yes, sir.

25 Q All right. And they also attempted to match, to

1 see what the blood type was of the donor of the semen,  
2 did they not?

3 A That is correct, sir.

4 Q And for various reasons either no reaction or  
5 inconclusive on a larger testing they reported to you  
6 they could not tell you, did they not?

7 A That is correct, sir.

8 Q However, the tissue paper, item 45 that you had  
9 gathered, they matched it somewhat to the victim?

10 A Yes, sir. The basic blood grouping which was  
11 referred to ABO grouping with type O and the victim's  
12 blood, which item number 37-A, was also type G.

13 Q They did seven additional tests involving blood  
14 proteins and things of that nature, did they not?

15 A That is correct.

16 Q In comparing that tissue paper to the victim's  
17 blood?

18 A That is correct.

19 Q And only one of those, what is known as pep-A were  
20 they unable to determine that the blood on the tissue  
21 was identical or of the same type to the blood of the  
22 victim, is that correct?

23 A That is correct. That is the only area of the  
24 entire screen of testing.

25 Q Okay. And that test was inconclusive and so they

1       couldn't give you an opinion about whether it matched  
2       the victim's blood in that particular category?

3       A     In that particular category, yes, sir, that is  
4       correct.

5                 MR. FORD: If I could have just a second.

6                 Your Honor, could I have just a second to run back  
7       through this?

8                 I don't believe I have any further questions of Mr.  
9       Pagani.

10                COURT: Cross-examination.

11                MR. DODD: Thank you, Your Honor.

12       CROSS-EXAMINATION: [by Mr. Dodd]-

13       Q     Mr. Pagani, what was the site like on the morning  
14       when you arrived in terms of what you observed out there  
15       with respect to items other than the body and the car?  
16       In other words, what else did you see out there?

17       A     There were a variety of different items that were  
18       in the culdesac area which is shown there by the  
19       photograph on exhibit one, I believe it is. Although  
20       that is taken from an elevated view, there were things  
21       like matches, as I recall, there were some small plastic  
22       items, miscellaneous debris.

23       Q     Things that people may have discarded-

24       A     Correct.

25       Q     --or dumped there sometime?

1 A Correct.

2 Q Okay.

3 A Not necessarily involved in the crime but however  
4 we did not know that for sure so we had to go ahead and  
5 collect it to be sure that we did not overlook  
6 something.

7 Q This area was somewhat isolated, wasn't it?

8 A Yes, sir, it is. One way in and basically one way  
9 out. To further answer your question as to the other  
10 area, I was advised that there was a vehicle stuck in  
11 the field by officers with the Raleigh Police  
12 Department. I did not initially see that from --

13 Q You couldn't see it?

14 A Couldn't see it directly from where I was in the  
15 culdesac. You had to basically walk up that service  
16 road that you see in the top portion of the photograph  
17 there to see the vehicle. It was kindly hidden back in  
18 the tree line.

19 Q Now, did you go back to where the vehicle was?

20 A Yes, sir, I did. After completing the examination  
21 of the culdesac and the body and all the other  
22 collection of evidence there.

23 Q And you heard what Officer Kenan described as he  
24 testified about the area behind the vehicle. Did you  
25 see that area? Do you know what is down there?

1 A Are you referring to the, the low area that's wet,  
2 et cetera?

3 Q Yes.

4 A Yes, I did recall that.

5 Q Would you describe for the jury what that is and  
6 why that is there?

7 A As to why it is there, I can't say with any  
8 certainty. It is just an area that's not developed, it  
9 appears to be there for purpose of drainage from the  
10 road. Hammond Road is elevated up higher and you can  
11 actually look down in that area from Hammond Road.  
12 Again, the reason for that access area is primarily, I  
13 would assume, to get to that advertising sign that is  
14 there.

15 Q Now, Officer Kenan, you heard him describe that  
16 area behind, under the sign and behind where the car was  
17 where the Elms were growing--

18 A Yes, sir.

19 Q --as a canal. Did you hear him describe that?

20 A I don't remember the exact word "canal" but it  
21 was, I do remember him saying it was wet area.

22 Q Did you see a lot of water running through there?

23 A I didn't personally see it, no, sir. I know it  
24 was a damp area but that's about all I can elaborate.

25 MR. DODD: May I approach the witness, Your

1 Honor?

2 Q Officer Pagani, you have this form with you?

3 A Uh-huh.

4 Q Which is, appears to me to be your handwritten  
5 form of things that were collected at the scene. You do  
6 have that?

7 A Uh-huh.

8 Q Now, on this form--how many pages is there  
9 roughly, just approximately?

10 A Four pages, sir.

11 Q And you have listed on the front and the back of  
12 each page things that you collected to take back to  
13 examine later or to do whatever you felt was necessary  
14 to do with those, is that right?

15 A That is correct.

16 Q And the first items that you have listed are bags  
17 one through four of miscellaneous debris collected from  
18 the east side, is that correct?

19 A The east side of the fifteen hundred and fourteen  
20 hundred block of South Blount Street, which I can  
21 elaborate, if I can, was collected by officers of the  
22 Raleigh Police Department at-the direction of their  
23 supervisors.

24 Q Yes, sir. And bags number five and six , I think  
25 it is, is also miscellaneous debris collected from the

1 west side of the fifteen hundred and fourteen hundred  
2 block of South Blount Street also by those officers?

3 A That is correct, sir, at their direction.

4 Q Now, explain to me what it is that they did. Did  
5 they walk through the area with a bag collecting things  
6 that they saw, is that what happened? ,

7 A Basically, yes, sir. Miscellaneous grouping of  
8 material of bottles, beer cans, matchbook covers.  
9 Basically anything that they thought might be connected  
10 or have been thrown out of a vehicle or thrown out to  
11 the side by someone walking through those areas.

12 Again, we didn't know exactly what we had and the  
13 Raleigh Police Department basically took it upon  
14 themselves to start that and collect that in conjunction  
15 were our examination of the crime scene.

16 Q All right, sir. And all of those bags that you  
17 collected you took with you to either store in the  
18 evidence room or wherever you secured them in your  
19 secured area?

20 A Yes, sir. They were transferred to me and then I  
21 later spread them out on a lab table back in our office,  
22 examined them, processed a lot of the items that were  
23 suitable for fingerprint evidence to try to determine  
24 any type of fingerprint evidence on it. And as I  
25 recall, I believe I did in fact obtain one or several

1 latent fingerprints from some of these items.

2 Q And none of those fingerprints were of any value,  
3 is that--

4 A Some of them were of value but as far as I am  
5 aware none of them were identified to the suspects or  
6 the victim in this particular case.

7 Q All right, sir. Now, you personally observed the  
8 body as well at the scene, did you not?

9 A That is correct.

10 Q And you were examining the body for pieces of  
11 trace evidence or things that you might want to examine  
12 at a later time?

13 A That is correct, sir. In fact, trace evidence was  
14 collected.

15 Q You already mentioned some of that earlier?

16 A That is correct, sir.

17 Q And one of the things that you list in the same  
18 that I have talked to you about now--look with me  
19 if you will on page three of that report.

20 A Are talking about the evidence forms now?

21 Q Yes, sir. Your handwritten form.

22 A Okay. Yes, sir, I am on page three.

23 Q Page three.

24 MR. DODD: May I approach the witness?

25 Q Page three, number 41 down here.



1 A Yes, sir.

2 Q Do you see that? On my sheet number 41 says  
3 unknown hairs on victim's face. Is that what you have  
4 on yours?

5 A Yes, sir, that is correct.

6 Q Tell me a little bit about what that is and where  
7 you found it.

8 A I in fact did not find this particular item of  
9 evidence. My notation in the right-hand column where it  
10 says location of evidence, says N period E period TCCBI.  
11 That indicated to me that it was collected by the  
12 medical examiner which was Dr. Radisch and then later  
13 transferred to me and I assigned it item number 41 for  
14 my purposes and for identification.

15 Q And you heard her testify yesterday afternoon about  
16 these hairs that she found in describing what she found  
17 on the victim?

18 A Yes.

19 Q And item 42, the next line under that, victim's  
20 earrings from her left ear. Dr. Radisch found that as  
21 well and turned that over to you?

22 A That was on the body, that is correct.

23 Q And did you examine the right ear of the victim?  
24 Did you get a chance to look at that?

25 A Yes, I recall yesterday--again, this case occurred

1 in 1991 and there's a lot of things that sometimes come  
2 back to you as you are hearing information--

3 Q I understand.

4 A during the course of the case. As I recall, the  
5 right ear was in fact missing a earring. It appeared  
6 that the ear had one but it was missing.

7 Q The right ear had three pierced holes in it, did it  
8 not, and there were no earrings in any of the ears  
9 even though there were earring holes?

10 A I know there were several holes. I can't say  
11 exactly how many. I would have to go back to a  
12 photograph.

13 Q Now, when you examined the body at the scene tell  
14 us what you noted about the right shoulder of the body?

15 A Give me a second. I will have to refer to the  
16 diagram that I did.

17 MR. DODD: Sure. You may take whatever time  
18 you need.

19 A I do not have an indication of any injury on the  
20 right shoulder but I would say this because I recall the  
21 testimony from Dr. Radisch yesterday and also the  
22 sequence of the events during the course of the  
23 examination. A lot of times due to the mass coagulation  
24 of blood on clothing and on the body it is not hard to  
25 overlook an injury. To give you a specific example,

1 when I initially looked at the body along with several  
2 other persons who were experienced in crime scene  
3 investigations, it did not appear that the throat, the  
4 airway had been severed as far as the outer skin area  
5 but later on we did in fact see it when the body was  
6 moved and I have seen that there was several injuries,  
7 on the body which I did not initially detect at the  
8 scene. It is easy sometimes to overlook them.

9 I do not do as complete an examination of the body  
10 as the medical examiner would because the medical  
11 examiner is trained in doing that. Also, they clean the  
12 body up, they remove a lot of the coagulated blood that  
13 would hide things like this.

14 As I recall, the body was pretty extensively  
15 covered in blood in a lot of different areas. I also  
16 did not want to disturb the body any more than I had to  
17 for purposes of collecting the trace evidence. So,  
18 therefore, that was the reasoning.

19 Q You do recall Dr. Radisch testifying there was a  
20 right shoulder abrasion?

21 A Yes, sir.

22 Q All right. Mr. Pagani, would you look with me--

23 MR. DODD: May I approach the witness again?

24 Q --please, at the report that you wrote that has  
25 been apparently typed, transcribed, that is the

1       investigative report. A detail of what you did at the  
2       scene. Do you have that with you?

3       A     Yes, sir, I do.

4       Q     Page two of that at the top. It is the first full  
5       sentence. It begins in addition the right shoulder of  
6       the victim appeared to have minor abrasions, also.

7       A     Yes, sir, I do see that.

8       Q     Do you see that?

9       A     Yes, I do see a notation of that. However, for  
10      some reason apparently I did not note it on the diagram  
11      of the body injuries.

12      Q     Yes, sir. That is fine. I just wanted to confirm  
13      that. Down in the middle of the page a little bit you  
14      were talking about possible physical evidence, hairs and  
15      fibers and trace lift tapes and that sort of thing--

16      A     Yes, sir.

17      Q     --were taken on the areas of the body, is that  
18      right?

19      A     That is correct, sir.

20      Q     And was, was the body examined for any other  
21      areas, any other kind of trace evidence other than by  
22      lift tapes?

23      A     No, sir.

24      Q     It was not lazer examined or anything like that?

25      A     No, sir.

1 Q All right. And you removed the pants and the  
2 socks and the boots at the scene and were retained later  
3 for evidence?

4 A That is correct.

5 Q Did you, you did a visual examination of those.  
6 When you took those off, you did a visual examination to  
7 see if there was anything that you could use?

8 A Any obvious things. That was the primary reason.  
9 Normally we do not remove clothing but I felt it was a  
10 possibility of losing some trace evidence from the outer  
11 portion of the pants or the inner portion of the pants  
12 and, therefore-and also the boots. The boots had to  
13 be removed in order to take the clothes off. So,  
14 therefore, I went ahead and took them off of the body.  
15 All the clothing would be shipped to the medical  
16 examiner.

17 Q What test did you perform on the pants, socks or  
18 boots, if any?

19 A I didn't. I submitted them to the S.B.I. lab later  
20 on with other items of evidence for testing.

21 Q Now, Special Agent Wayne Deaver of the State  
22 Bureau of Investigation was contacted to come to the  
23 scene because his specialty is blood testing and blood  
24 patterns and blood spatter patterns and that sort of  
25 things.

1 A That is correct, sir. Yes, he was contacted and  
2 asked to respond to the scene.

3 Q When he came out, he came there to assist you in  
4 determining, determining what happened with respect to  
5 blood spatter and that sort of thing?

6 A Yes, sir.

7 Q All right. He submitted a report as well as to what  
8 he found, did he not?

9 A Yes, sir, he did.

10 Q With respect to--now, the report you just went  
11 over, which is State's Exhibit number 34, State's  
12 Exhibit Number 34 for identification.

13 A Yes, sir.

14 Q That's the report that Mr. Ford just went over  
15 with you about the blood and the semen and that sort of  
16 thing.

17 A That is correct, sir.

18 Q Okay. In addition to that there's also a report  
19 that he submitted dated November the 7th that has Crime  
20 Scene Investigation on the top that tells, basically is  
21 a paragraph telling what he did?

22 A Yes, sir.

23 Q Do you have that?

24 A Yes, sir, I do.

25 Q And he looked at dripping stains and he noted some

1 of these to the west of the body. Is that what that  
2 reveals?

3 A No, sir. It doesn't specify that.

4 Q All right.

5 MR. DODD: May I approach the witness, Your  
6 Honor?

7 COURT: All right.

8 MR. DODD: I may have con used you and I am  
9 sorry.

10 Q This is the one I am looking for right here. Do  
11 you have that one?

12 A Yes, sir. I am looking directly at it.

13 Q Okay. And the next to the last sentence on my  
14 copy says dripping stains were noted to the west of the  
15 body. Do you see that?

16 A Oh, yes, sir. I am sorry. Yes, sir, I do. I do  
17 see that.

18 Q And the next sentence says that no stains of  
19 interest were noted on the victim's body, is that  
20 correct?

21 A That is correct.

22 Q All right, sir.

23 A According to his report.

24 Q All right. Thank you very much. What, on page  
25 three of your initial report--

1 A My report, sir?

2 Q Yes, your report. The one we were just talking  
3 about.

4 A All right.

5 Q Would you look at that about the middle of the  
6 page and tell me--the mortuary service you have in there  
7 arrived at approximately fifteen ten hours that  
8 afternoon, is that right ?

9 A That is correct, sir.

10 Q So the body then had been there since it was found  
11 by Officer Kenan in the same position it was found until  
12 at least fifteen ten hours--

13 A That is correct.

14 Q --is that right?

15 A This is correct.

16 Q That is 3:10 in the afternoon?

17 A That is correct, sir.

18 Q And what happened to it then, where did it go?

19 A At that point it was transported by Southeastern  
20 Mortuary Service's vehicle to the Wake Morgue per the  
21 order of Dr. Spock, who was the on-duty medical examiner  
22 at the Wake Medical Center and it was stored there in  
23 the morgue.

24 Q All right, sir. Now, shift gears a little bit.  
25 You took the car or the white Nissan Pathfinder that you



1 found stuck out there in the mud?

2 A Yes, sir.

3 Q You took that back to your garage at the Public  
4 Safety Center to secure it and to look at it and to do  
5 any kind of testing you felt was necessary on it?

6 A Yes, sir, that is correct, later on after we  
7 removed the body from the scene.

8 Q Okay. Want to talk to you about that a minute.  
9 Do you have the continuation sheet that involves that in  
10 front of you have?

11 A Yes, sir.

12 Q All right. Now, in your testimony earlier today  
13 you said that you tested the inside and the outside of  
14 the vehicle for fingerprints?

15 A Yes, sir.

16 Q Fully. And in addition to dusting for  
17 fingerprints, you talked about that a little bit with  
18 the powder, the mag powder that you used. Was the  
19 vehicle processed for trace evidence itself by using  
20 lift tape and other methods?

21 A Yes, sir, it was.

22 Q And you were trying to collect hairs or fibers  
23 that were deposited by the victim maybe inside the  
24 vehicle if she had been there?

25 A That is correct.

1 Q Okay. Did you also do a lazer examination of the  
2 vehicle?

3 A As I recall, we did and we also used an ultraviolet  
4 light, also.

5 Q Okay. And did the lazer find any, any trace  
6 evidence that you needed to lift and send to the lab?

7 A As I recall, no, it did not because I have no  
8 indication of collecting it, other than the trace tapes.

9 Q Yes, sir. Which you testified to?

10 A Right.

11 Q What else was the lazer used to check for trace  
12 evidence beside the vehicle, the outside and inside of  
13 the vehicle? What else did you use it for, if  
14 anything?

15 A The vehicle was the only thing that I recall that  
16 we did in fact use it on. I mean the inside areas and  
17 that is the extent of it.

18 Q And Marty Ludas took some fingerprints from the  
19 body, also, did he not? Someone took some fingerprints  
20 and gave them to Marty Ludas?

21 A As I recall, I actually did the fingerprinting of  
22 the body and they were given directly to latent  
23 examiner, Marty Ludas, for examination and comparison to  
24 anything that we had on file to try to identify the  
25 body, which was in fact done later on.

1 Q All right. Now, on your continuation sheet, page  
2 five, which is the second page of that continuation  
3 sheet. Mr. Ludas examined those fingerprints from the  
4 body that you had given him, did he not?

5 A Yes, sir.

6 Q And he determined that the fingerprints matched  
7 those that he had on file of Jacquitta Thomas, is that  
8 correct?

9 A That is correct.

10 Q And she had been assigned a CCBI file number  
11 72750?

12 A That is correct.

13 Q It indicated that she had a criminal record and  
14 that's why they had her on file and that sort of thing?

15 A Yes, sir.

16 Q All right. And that is how he was able to identify  
17 who the victim was?

18 A That is correct. The body at the crime scene had no  
19 form of identification on it at all.

20 Q Now, on page six of that same report, if you will  
21 turn with me there. The third paragraph from the  
22 bottom. This is where you collected the rape kit  
23 evidence from the suspects in this case, Johnny Beck and  
24 Greg Taylor?

25 A Yes, sir.

1 Q You went, you and Detective Bissette went to do  
2 that at the Wake County Public Safety Center in the jail  
3 where they were, is that right?

4 A As I recall, I took custody of the search warrants  
5 from Detective Bissette and I don't recall that he was  
6 actually present at the time of the collection. I went  
7 to the Wake County Jail, had, you know, submitted the  
8 search warrants showing that we had legal means of  
9 obtaining this evidence, a nurse, who is on duty  
10 employed by the sheriff's department assisted in the  
11 collection of the blood only and then the remain--  
12 excuse me--the remaining portions of the kit were then  
13 collected by me.

14 Q Now, when you collect a rape kit from somebody,  
15 what are the kinds of things that you take from them or  
16 that you ask them to give samples for?

17 A The most important part is the intravenous blood  
18 sample which is collected by a person who is legally and  
19 also trained properly in the collection usually as a  
20 nurse or doctor.

21 We do not get involved in the actual withdrawal of  
22 any blood from a person.

23 Once that is completed, they seal it, mark it and  
24 then hand it to us to enclose in the kit. Other  
25 portions of the kit would include saliva sample which is

1       obtained by sticking two sterile cotton swabs in the  
2       person's mouth, saturate it with saliva, air dried and  
3       then it is put into a little container, sealed and then  
4       placed in the kit.

5             You also obtain known head hair and pubic hair  
6       samples from the person and do combings which might have  
7       foreign hairs on top of the person's hair, the suspect's  
8       hair and all of this is placed into the kit and then it  
9       is transported to the lab along with other evidence that  
10      you have collected and then it is compared and  
11      determination of some type is attempted.

12      Q     And this type of evidence, this rape kit evidence,  
13      according to your report, was collected from both this  
14      defendant, Greg Taylor, and from Johnny Beck?

15      A     That is correct, sir.

16      Q     Okay. And you submitted all of those items to the  
17      State Bureau of Investigation laboratory for examination  
18      and analysis and a report, did you not?

19      A     That is correct, sir.

20      Okay. Now, I want to call your attention to two reports  
21      that you have from the State Bureau of Investigation.  
22      One is a laboratory report dated January 6, 1991, which  
23      really needs to be 1992, I think, from J. D. Reaves. Do  
24      you see that?

25      A     I mean looking for it right now. I am sorry. It

1 will take me a second.

2 MR. DODD: That is all right. Take your time.

3 A Would you repeat the date on that laboratory  
4 report, please.

5 MR. DODD: May I approach the witness, Your  
6 Honor?

7 Q This report right here, January the 6th, 1991, the  
8 report says but obviously that can't be.

9 A Yes, sir.

10 Q Do you have that?

11 A Yes, sir, I do have that one in front of me.

12 Q All right. That report lists items that you  
13 submitted, clothing from Gregory Taylor, two items of  
14 clothing from Gregory Taylor, one item from Johnny Beck,  
15 floor mat from Nissan truck, upholstery sample, carpet  
16 sample, hair bushes, bunch of tapings from the suspect's  
17 Nissan truck, is that correct?

18 A All of that is accurate.

19 Q And then on the back page it continues with  
20 tapings from the Nissan truck, a white stuffed bear from  
21 the Nissan truck and a bunch of tapings from Jacquitta  
22 Thomas' body? All, of that?

23 A Yes, sir.

24 Q And clothing from Jacquitta Thomas and clothing  
25 submitted, unknown hair from Jacquitta Thomas' body?

1 A Yes, sir, all of that is accurate.

2 Q All right. And a paper sheet from Jacquitta  
3 Thomas' body. And then you list below that the pubic  
4 hair combings that were submitted, head hair and  
5 clothing. All of those types of things were submitted  
6 from Jacquitta Thomas from Gregory Taylor and Johnny  
7 Beck, the codefendant, is that right?

8 A Yes, sir. That particular section that you are  
9 referring to is like inner office indication of, it was  
10 transferred from one section to another section. I did  
11 not do the transferring.

12 In other words, I took it in bulk to them, so many  
13 items and they in turn transferred it between sections  
14 as needed.

15 Q Well, the purpose of all of this is so that you  
16 will know and they will know exactly what you submitted?

17 A That is correct.

18 Q And how it will be numbered and that sort of thing  
19 and what will be examined. And then the type of  
20 analysis that were being requested was a hair analysis  
21 in this case, right?

22 A I requested quite a few things, fiber transfers,  
23 hair transfers.

24 Q Of all of this material. All right. And J. D.  
25 Reaves is the specialist on hair analysis and he did the

1 examine it and the results of the analysis reported that  
2 the examination of the above listed evidence did not  
3 reveal a transfer of hair between the suspect and the  
4 victim, is that right?

5 A Yes, sir, that is what the results of the analysis  
6 indicated on my report.

7 Q All right, sir. Now, .--

8 MR. DODD: May I approach the witness, Your  
9 Honor?

10 COURT: all right.

11 Q If you will look with me at this report, which  
12 S.B.I. report dated March 15, 1993, J. W. Bendure.

13 A Yes, sir. I have that report in front of me.

14 Q All right. And that report lists a number of  
15 things similar to what were on that other report from  
16 evidence that, that you submitted for examination, is  
17 that correct?

18 A That is correct, sir, quite a few items.

19 Q Tapings of clothing, and tapings from the car and  
20 upholstery samples, carpet samples, tapings of the  
21 driver's seat and just a number of tapings is on the  
22 first and second page?

23 A That is correct. Basically a lot of them are sub  
24 evidence items from a primary item, again transferred to  
25 another section within the S.B.I. lab for testing as



1 needed.

2 Q Yes, sir. Now, Mr. Bendure, his expertise in  
3 fiber analyst and this is what he was asked to do on  
4 this report that you or this submission that you  
5 submitted?

6 A That is what I am looking at, sir. Yes, sir.

7 Q And he did that and the result of the analysis on  
8 page two says that examination and comparison of the  
9 items submitted failed to reveal a fiber association, et  
10 cetera, on that, is that right?

11 A That is correct. According to this report, yes,  
12 sir.

13 Q All right. This was between the victim and the  
14 suspect's clothing and the vehicle. So he examined all  
15 of those things and according to this report failed to  
16 reveal a fiber association, is that correct?

17 A According to his report. Yes sir.

18 Q All right. Mr. Pagani, when you were, I want to  
19 direct your attention now back to the scene when you  
20 were out there that morning.

21 Do you know whether there were other police  
22 officers from the Raleigh Police Department, either  
23 uniformed or not in uniform, who would conduct a routine  
24 canvas of the area or the crime scene to see if anybody  
25 knew anything about this? Do you know if that

1       happened?

2       A     Yes, sir.  The Major Crimes Division was contacted  
3       early on in the investigation after the body was located  
4       by Officer Kenan and they arrived at various times  
5       during the early morning hours.  Again, basically  
6       obtaining information of what we knew up to this point,  
7       delegated other officers to do various tasks, et cetera.  
8       Crime scene security, et cetera.  And asking different  
9       businesses around the area if they had seen anything,  
10      those kind of related questions.  Again, I am not  
11      exactly positive of what was done but that's the gist or  
12      what was done.

13      Q     Yes, sir.  But you do know some officer went to  
14      those businesses out there and asked the people who may  
15      have been present during the night or early morning  
16      hours, did you see anything?  Did you hear anything?  
17      Did you see any people walking around?  Questions of  
18      that type?

19      A     I was aware that was done, yes, sir.

20      Q     Are you aware of any results that were, were  
21      submitted or that came back as a result of those  
22      investigations?

23      A     No, sir.

24      Q     All right.  You testified earlier about the tire  
25      casting that you tried to do out there at the scene?

1 Yes, sir.

2 Q Did you find that sand was still pretty moist at  
3 the time that you tried to do those castings?

4 A No, sir. In fact the sand, as I believe I stated  
5 in my testimony, was a very poor medium to be able to  
6 cast. It shifts very easily, the wind blows it. When  
7 you pour the dental stone which is the medium we use to  
8 do the casting with, it can distort the impression that  
9 we can see visually in photograph. It may look fairly  
10 good but again once something comes in contact with it,  
11 it can make it spread out. Therefore, you don't always  
12 get a good casting.

13 MR. DODD: All right, sir. Thank you. No  
14 further questions.

15 COURT: Redirect?

16 REDIRECT EXAMINATION: [by Mr. Ford]-

17 Q Mr. Pagani, the sand where you tried to lift the  
18 tire prints, that was located on top of asphalt, was it  
19 not?

20 A That is correct, sir.

21 Q This was in daylight by the time you tried to lift  
22 that, was it not?

23 A Yes, sir.

24 Q There was in September?

25 A Yes, sir.

1 Q The asphalt was beginning to get hot, was it not,  
2 the best you can recollect?

3 A In the early morning hours, yes, it just started to  
4 warm up fairly quickly.

5 Q Would you describe that day's weather as to wind  
6 conditions?

7 A As I recall, it was fairly windy.

8 Q Now, you observed the clothing on this lady's body  
9 before it was removed and when it was being removed.

10 Did you observe the type of material that her blouse was  
11 made of?

12 A It was a synthetic material, multi-colored.

13 Q And it was a slick polyester material, was it not?

14 A Again, a synthetic material. I am not exactly  
15 sure.

16 Q Well, it wasn't made out of wool, was it?

17 A No. It was a light weight material.

18 Q All right. Her pants were not wool either, were  
19 they?

20 A As I recall, no, sir, they weren't. Again,  
21 synthetic type material.

22 Q Is it unusual in your experience that you wouldn't  
23 get fiber transfers from synthetic materials?

24 A Is it unusual?

25 Q Yes.

1 A If they are a lot of times you can get them.  
2 Again, they can be blown off. There are a lot of  
3 reasons why you might not get trace evidence from a  
4 slick surface versus a rough surface.

5 Q The age of the clothing and the amount of time it  
6 has been worn and the items that it has come in contact  
7 with over the age of the clothing has something to do  
8 with that, doesn't it not?

9 A All of those are possible factors, correct.

10 Q For instance, a new pair of wool pants and an old  
11 pair of synthetic pants would be completely different in  
12 the likelihood of how many trace fibers they might leave  
13 on a surface, aren't they?

14 A Yes, sir. I would say that the wool pants would  
15 have a better chance of collecting the trace evidence  
16 versus the synthetic.

17 Q Or leaving some?

18 A Or leaving some, right

19 Q Or leaving some in the alternative?

20 A Right.

21 Q Now, when you took pubic hair combings from both  
22 the suspects and the victim, why did you do that?

23 A Just to correct one point. I did not take any  
24 pubic hair samples from the victim. I did from the  
25 suspects.

1 Q All right. To your knowledge--and while you  
2 observed, did Dr. Radisch take pubic hair combings from  
3 the victim?

4 A Yes, she had.

5 Q What was your understanding of the purpose for  
6 doing that?

7 A To see if there was any possible transfer from a  
8 person to her body.

9 Q Now, what was your understanding at the time that  
10 you took pubic hair combings from the suspects about  
11 where they had been for the last day?

12 A As to the last day?

13 Q Yes.

14 A There was a lot of controversy, if that is the  
15 correct word, as to where they had been that time period  
16 other than the time they had actually been picked up by  
17 the Raleigh Police Department, questions and then  
18 arrested.

19 Q All right. They'd been in custody for some of that  
20 time though, hadn't they?

21 A That is correct.

22 Q And some of that they hadn't been in custody?

23 A That's correct.

24 Q Been at their homes or anywhere they wanted to be?

25 A That's correct.

1 Q What based, based on your experience in collecting  
2 those items, what expectation did you have of finding  
3 pubic hairs from the victim on two suspects that hadn't  
4 been in custody for over a day?

5 A I personally felt that there was a less chance of  
6 getting physical evidence from them due the length of  
7 time that had expired from the time we initially  
8 initiated the investigation until the time they were  
9 actually placed in custody.

10 Q Well, basically all of these gentlemen had to do  
11 was take a shower, wasn't it?

12 A Yes, sir, that would be one of the best means of  
13 eliminating a lot of evidence, if not all of it.

14 Q Now, did you observe the hairs that Dr. Radisch  
15 removed and placed in the container for you?

16 A Yes, I did.

17 Q Could you tell whether those were hairs from a  
18 bloodhound?

19 A No, sir. They were, as I recall, again, I don't  
20 have them in front of me but as I recall they were  
21 fairly long hairs and I am not an expert on hair but I  
22 would feel very confident in saying that they were human  
23 hairs versus a canine hair.

24 Q Where did you first observe it?

25 A At the autopsy.

1 Q All right. You didn't see them on the scene when  
2 you--

3 A No, sir, initially I did not. Again, due to the  
4 amount of blood that was on the body, it is very easy,  
5 as I stated, to miss things like that sometimes.

6 Q Was the wind blowing the entire time that you were  
7 out at the body?

8 A Not the entire time, but as I recall it was windy,  
9 gusty. You know, enough wind that it was noticeable.

10 Q Was any of the blood on the body still damp when  
11 you got there?

12 A Yes.

13 Q All right. And was it adherent when you got there,  
14 any part of it?

15 A Yes, sir.

16 MR. FORD: May I approach the witness?

17 COURT: All right.

18 Q I hand you what has been marked previously for  
19 purposes of identification as State's Exhibit number  
20 two?

21 A Yes, sir.

22 Q And can you also identify that exhibit?

23 A Yes, sir. It is a photograph of the victim  
24 Jacquitta Thomas as she was seen at crime scene.

25 Q All right. Does that fairly and accurately depict



1 her presence as you first observed her when you went to  
2 the scene?

3 A I do notice the lower portion of the photograph  
4 where I had already pulled off her pants. Her pants  
5 initially and boots were on the body. This photograph  
6 shows that I had already pulled them completely off less  
7 her panties and her socks were still on her and the  
8 upper portion of clothing which consisted of a  
9 multi-colored blouse and a red in color bra were still  
10 on the body when this photograph was actually taken.

11 MR. FORD: May I approach the witness, Your  
12 Honor?

13 A As far as the amount of blood and the position of  
14 blood stains around the body, does this State's Exhibit  
15 number two fairly and accurately depict it those  
16 blood stains and blood as you observed them on the  
17 morning in question?

18 A Yes, sir, it does.

19 Q All right. Now, let me walk over toward State's  
20 ,Exhibit number 1. State's Exhibit number 2 shows a  
21 closeup position of the body, does it not?

22 A Yes, it does.

23 Q All right. And is it your testimony--there's a  
24 marker on State's Exhibit one showing a northerly  
25 direction?

1 A That is correct, sir.

2 Q Does that appear to be accurate as to your  
3 remembrance of the location of the body in this  
4 culdesac?

5 A Yes, it is.

6 Q So is it fair to say that the right-hand side of  
7 the State's Exhibit number one is the westerly side?

8 A Right where you have your finger, sir, basically is  
9 the, if you will move up to the where the photograph  
10 actually ends. Right there. That is just about due  
11 south. A little bit further down would be --

12 Q I am asking you to refer to the lay of the body as  
13 you might say. It is laying pretty much north and  
14 south, does I not?

15 A That is correct, sir.

16 Q All right. And the left-hand side would be on the  
17 west and her left hand would be on the west side of her  
18 body, would it not?

19 A That is correct, sir.

20 Q All right. Well, Mr. Dodd asked you about some  
21 blood drippings that this expert from the S.B.I.  
22 observed, did he not?

23 A Yes, sir, he did.

24 Q All right. Does State's Exhibit number two not  
25 fairly and accurately depict the blood drippings as

1 identified by Mr. Deaver?

2 A Yes, sir.

3 Q All right. Did you form an opinion of observing  
4 those drippings as to how those drippings occurred?

5 A No, sir, I did not.

6 Q All right. Well, are we not--I will ask you.  
7 Were you referring to this arc of dripping on the  
8 westerly side of this lady's body?

9 A Yes, sir. There is some injury to the left hand  
10 and there is a stain directly underneath that hand.

11 Q All right. Down here?

12 Q That is correct.

13 Q Now, did you find anything significant, and if you  
14 did, what, the fact that these blood drippings are in an  
15 arc around the body?

16 A It would indicate that a possible movement of her  
17 arm would have caused that but again I am not an expert  
18 in blood interpretation.

19 Q All right. But as, you didn't observe any blood  
20 coming from her head and going over this way, did you  
21 not?

22 A No, sir. The majority of what I believe to have  
23 been the blood from the upper portion of her body was  
24 located right here.

25 Q All right. And flowing in a southerly direction

1 from her body?

2 A That is correct.

3 Q All right.

4 A I would also add that the level of the pavement at  
5 that point is also slight downward angle to the south  
6 which would be the head of her body.

7 Q Is it fair to say that you didn't find a law of  
8 gravity violated in this case?

9 A No, sir.

10 Q Well, what other explanation did you find for this  
11 arc of blood out to the west of her body?

12 A The only reasonable explanation would be a movement  
13 of her arm in an outward arcing manner.

14 Q What indication did that give you about whether  
15 that lady was dead or alive when she was laying on the  
16 pavement?

17 A I would make an opinion that she was alive.

18 Q I missed one thing. You used a lazer inside of the  
19 vehicle?

20 A That's correct, sir.

21 Q All right. Was that before or after you had lifted  
22 the tape?

23 A We lifted the tape first.

24 Q All right. And then used the lazer to see if you  
25 missed anything?

1 A That is correct.

2 Q All right.

3 A And we also used an ultraviolet light which would  
4 let us see other items, also.

5 Q All right.

6 MR. FORD: I don't have any further questions.

7 COURT: Mr. Dodd, further re-cross?

8 MR. DODD: Thank you, Your Honor. No, sir.

9 COURT: All right. You may step down.

10 [WITNESS EXCUSED.]

11 -----

12 COURT: All right, ladies and gentlemen of the  
13 jury, I am going to give you your morning recess. I  
14 think I should repeat some portions of the order that I  
15 have already given you. You are not to talk among  
16 yourselves about anything in this case. You are not to  
17 allow anyone else, including family members, to discuss  
18 or say anything to you about this case. You are to keep  
19 an open mind and not form any opinion about the guilt or  
20 innocence of the defendant until all of the evidence has  
21 been presented and the attorneys make their closing  
22 argument to you and I give you the instructions on the  
23 law and again, you are not to read anything about this  
24 case in any newspaper, listen to anything on radio  
25 broadcast or watch anything on TV about this trial.

1 Keep all of the instructions in mind that I gave you  
2 earlier. Everyone else remain seated and I'll let the  
3 jury have a recess of fifteen minutes.

4 COURT: Take a morning recess, Mr. Sheriff.

5 [COURT TAKES SHORT RECESS.]

6 -----

7 MR. FORD: If Your Honor please, the State  
8 would call Andy Currin to the stand.

9 MR. DODD: Your Honor, may we be heard  
10 briefly out of the presence of the jury?

11 COURT: Ladies and gentlemen, if you will go  
12 to the jury room. I will call you back in shortly.

13 [JURY RETIRES TO JURY ROOM.]

14 COURT: Let the record show that the jury has  
15 been sent to the jury room. Mr. Dodd, you want to be  
16 heard out of the presence of the jury?

17 MR. DODD: Thank you. Yes, Your Honor, Mr.  
18 Adams wants to be heard.

19 MR. ADAMS: At this time the defense would  
20 move to exclude Mr. Currin's testimony on the grounds  
21 that it doesn't meet the requirements for the State of  
22 North Carolina to use this testimony about this  
23 bloodhound evidence.

24 COURT: Well, I haven't heard anything at this  
25 point. I would suggest that you go right to the point

1 on voir dire AND then I'll hear some evidence and then  
2 I'll hear arguments and then I'll rule on the objection.

3 MR. DODD: Thank you, Your Honor.

4 MR. FORD: I don't know that I can go right to  
5 the point because I don't know what the point is. I can  
6 try to qualify this man and the dog in the only manner  
7 that I know to.

8 COURT: That is what I mean outside the  
9 presence of the jury. I mean, there is no way that I  
10 can make a ruling at this point. I have not heard  
11 whether or not he--

12 MR. DODD: Well, I guess, really that is what  
13 we are asking for a voir dire hearing outside the  
14 presence of the jury and we will do that as quickly as  
15 we can.

16 COURT: All right. Mr. Ford, I'll hear you  
17 first and all of this is outside the presence of the  
18 jury.

19 MR. ANDY CURRIN, being first duly sworn, testified as  
20 follows during DIRECT EXAMINATION by Mr. Ford:

21 Q State your name to the Court, please.

22 A Andy Currin.

23 Q In September of 1991, how were you employed?

24 A I was bloodhound handler for the Raleigh Police  
25 Department.

1 Q And were you also a uniformed, a sworn police  
2 officer at that time?

3 A Yes, I was.

4 Q How long had you been a police officer in  
5 September of 1991?

6 A Nine years.

7 Q All right. In September of 1991, how long had you  
8 been a bloodhound handler for the police department?

9 A Since January of 1990. About a year and a half.  
10 Year and three quarters.

11 Q Specifically calling your attention to September  
12 the 26th, 1991, and a body that was located on the  
13 fifteen hundred block of South Blount Street, the  
14 culdesac area there?

15 A Yes, sir.

16 Q Did you have occasion to be called to that  
17 location?

18 A Yes, I did.

19 Q All right. And what was your purpose in going  
20 there?

21 A I was called by the Major Crimes Unit of our police  
22 department and the City-County Bureau of Identification  
23 to use the bloodhound in anyway feasible during that  
24 investigation.

25 Q Did you in fact take a dog to the scene with you?



1 A Yes, sir, I did.

2 Q What dog did you take with you?

3 A Sadie.

4 Q Could you describe Sadie for us as to her--I take  
5 it she is a female?

6 A Yes, sir.

7 Q What breed is Sadie?

8 A She is a three year old bloodhound, pedigree  
9 bloodhound.

10 Q What did her health appear to be to you on the date  
11 in question?

12 A Excellent health.

13 Q At that point in September of 1919, how long had  
14 you been the handler of Sadie?

15 A Since January of 1990.

16 Q All right. Was she your primary dog?

17 A I had, yes. Yes, I had two doss.

18 Q All right. What training had you at that point  
19 obtained in the use of bloodhounds and dogs?

20 A During, when I first was placed on the bloodhound  
21 handler part of the police department, I was send to a  
22 two months school, the Canine Sentential School in  
23 Fayetteville for bloodhound basic training. In July and  
24 August of 1990 I was sent to the Connecticut State  
25 Police basic bloodhound training and once a year after.

1           COURT: Excuse me. For my clarification when  
2 you were first made the dog handler in January of 1990,  
3 was it my understanding that you went to a two month  
4 school in Fayetteville for basic bloodhound training?

5       A     Yes, sir.

6           COURT: And then you started to-go ahead.

7       A     And in June and August of 1990, I was sent to  
8 Connecticut State Police basic and medium advanced  
9 bloodhound training in Meriden, Connecticut.

10       Q     Just basically tell us what type or training you  
11 were given in each of these schools.

12       A     The training was primarily for the dog. The dogs  
13 were trained in scent discrimination, discriminating  
14 between one human scent and another human scent. They  
15 were trained to track one specific scent.

16       Q     And you were present during the training?

17       A     Yes, sir.

18       Q     Was part of the training also for the handler?

19       A     Yes, it was.

20       Q     To know how to direct the bloodhound to track  
21 discriminately?

22       A     Yes. It was to coordinate me, the dog, how to  
23 collect evidence, how to present it to the dog. The dog  
24 getting use to my commands and what was asked of her.

25       Q     All right. And Sadie attended both of these

1 schools with you?

2 A Yes, she did.

3 Q Okay. During the course of that time, did she  
4 demonstrate an ability to track a human scent?

5 A Yes, sir, she did.

6 Q I don't know whether to--I hate to ask this. Did  
7 they have a pass-fail at this school?

8 A Yes, they did. We were, the final test for the  
9 school was a trail that was previously laid 24 hours  
10 earlier and a mile and a half long.

11 COURT: Now, for my understanding, is this the  
12 Connecticut State Police basic and advance training  
13 school that you are talking about now?

14 A Previous to that was the Canine Sentential School  
15 in Fayetteville. That was their--

16 COURT: The final test, that is what I am  
17 asking?

18 A Yes, sir.

19 COURT: Was that at Fayetteville and  
20 Connecticut?

21 A Fayetteville and Connecticut.

22 COURT: All right.

23 Q So in each occasion when you and Sadie went to  
24 school, she had to demonstrate her ability to track a  
25 human scent, specific human scent for quite a distance?

1 A Yes, sir.

2 Q Was she able to do that?

3 A Yes, she was.

4 Q And on other occasions during the course of your  
5 use of Sadie as a canine officer, was she successful in  
6 tracking and being able to follow human scent?

7 A Yes, sir, she was.

8 Q About how many times prior to September of 1991,  
9 had you used Sadie for that purpose?

10 A Well over a hundred fifty.

11 Q And on any of those occasions was she successful  
12 in following the scent?

13 A Yes, sir, she was.

14 Q You had described her as being a pedigreed  
15 bloodhound?

16 A Yes, sir.

17 Q Was she full bloodied as far as you know?

18 A Yes, she was.

19 Q What reliability did she demonstrate during the  
20 whole period of time prior to September of '91 to you?

21 A She was used on several criminal cases with the  
22 Raleigh Police Department. She was used on several  
23 missing persons cases with the police department and on  
24 several of those occasions she found what she was asked  
25 to find, along with articles that we found along the

1 trails that belonged to the suspect that I was looking  
2 for and the missing person that I was looking for on  
3 different occasions.

4 Q Well, on this occasion in September of 1991, was  
5 Sadie under your control at that time?

6 A Yes, she was.

7 Q All right. And was she your dog or assigned to  
8 you at that time?

9 A Yes, sir.

10 Q Okay. How did you put her on a specific scent on  
11 that occasion?

12 A She was trained to smell one scent, primarily a  
13 scent article that was taken from a victim, a suspect,  
14 where they left behind at the scene of a crime, trace  
15 evidence that was left behind at the scene of a crime.  
16 We could take, she was trained in, sterile gauze was  
17 used primarily, what I was using to gather up the scent  
18 of a suspect or missing persons or whatever I was  
19 looking for. It was placed in a plastic bag that was  
20 uncontaminated by any other scent and it was placed over  
21 her nose and she smelt that scent and followed it.

22 Q Okay. So on this occasion a sterile gauze was used  
23 and applied to the body of the victim?

24 A Yes, sir.

25 Q All right. So the beginning of the trial in this

1 particular case was not in dispute, was it?

2 A No, sir.

3 Q You started at the, or near the body of the  
4 victim?

5 A Yes, sir.

6 Q With a scent article from the victim's person?

7 A Yes, sir.

8 Q How did you, after exposing her to that scent  
9 article was there anything that you had to do to put her  
10 on the trail?

11 A She was trained to start trailing at the command  
12 of "find".

13 Q Did you do that?

14 A Yes, I did.

15 Q And when you gave her that command, did she appear  
16 to act in a manner commensurate with that command?

17 A Yes, she did.

18 Q What did you observe her do?

19 A She was going from side to side down a path and in  
20 conjunction with where the body was at and this dog was  
21 a winder percent, or per se. She would not take and  
22 keep her nose on the ground as everybody would think a  
23 dog would do. She would hold her nose up into the wind,  
24 which ever direction the wind was coming.

25 At that time she followed her scent, she would

1       roam 20 to 30 feet on either side of where the track or  
2       where the scent was.

3       Q       And had she been consistent in that technique--

4       A       Very much so.

5       Q       --during her tracking? And on these occasions  
6       when you testified that she previously had found missing  
7       persons or suspects or articles dropped by either one of  
8       those, is that the technique which Sadie had used?

9       A       Yes, sir.

10      Q       All right. Well, after you put her on the scene,  
11      on the trail at this time, where in fact did she go?

12      A       She started in a southeasterly direction on both  
13      sides of the path leading away from the culdesac and  
14      headed on down in conjunction with the path parallel  
15      with it working both sides of the path and went on down  
16      pass the vehicle approximately 10, 20, 30 foot on the  
17      other side of the vehicle and stopped and turned around  
18      and came back to the vehicle.

19      Q       All right. Now, you are referring, or looking at  
20      State's Exhibit, what previously has been marked for  
21      purposes of identification, State's Exhibit 1, are you  
22      not--

23      A       Yes, sir.

24      Q       --when you are pointing to or showing the area of  
25      the path that she followed?

1 A Yes, sir.

2 Q All right. After she passed the vehicle some 20 or  
3 30 feet and stopped, what then did she do?

4 A This dog would take and when she lost the scent or  
5 got out of the area of where the scent was that she was  
6 looking, she would start working in circle and if she  
7 completely lost the scent, she would come back and s-t  
8 down beside of me.

9 At the time where she went pass the vehicle, about  
10 ten or fifteen feet on the other side of that vehicle  
11 was a real steep embankment that went straight down.  
12 She went down the embankment, started working in a  
13 circle down that embankment which it is not uncommon for  
14 this type of dog to do, not only Said. It is it not  
15 uncommon for a bloodhound to do this.

16 Normally if there is a scent on the top of a  
17 ridge, the wind will take it and blow it to the bottom  
18 of the ridge. She got into what we call a scent pool at  
19 the bottom of that ridge and I keyed her again on the  
20 scent article. She came back to the top of the ridge,  
21 got to the truck, she went to the driver's side first  
22 and jump up on the door. Then she went down and went  
23 around the back of it and went to the passenger side of  
24 the vehicle, jumped up on that door.

25 Q What indication did that give to you?



1 A It gave to me that the scent article that I was  
2 using which had been taken from the victim, the victim  
3 had come into contact with that vehicle at some point.  
4 somewhere, somehow.

5 Q Was there any specific way that Sadie or was  
6 trained to let you know when she had found the location  
7 or was making an indication that the trail had come to  
8 an end?

9 A Yes, sir, it was.

10 Q And how was that?

11 A If she was, if she would find the specific person  
12 she was looking for, she would sit down right at their  
13 feet and show affection to them.

14 If the trail had ended, like in this case it had,  
15 or the victim or suspect had been picked up by a vehicle  
16 and the trial had just abruptly ended, she would take  
17 and work in a circle and then come back and sit down at  
18 my feet.

19 Q Well, after jumping up on the vehicle, what did  
20 she do?

21 A Came back and sit down beside of me.

22 Q And had she been consistent through the time that  
23 you worked her in using that manner of letting you know  
24 that she had come to the end of the trial?

25 A Yes, sir, she had.

1 Q And had that always been your expertise with her?

2 A Yes, sir. She had been trained in that manner.

3 MR. FORD: May I have just a second, Your  
4 Honor?

5 COURT: All right.

6 Q During the course of time that you and Sadie were  
7 in training at those other schools, had you had occasion  
8 to observe other dogs being trained at the same time?

9 A Yes, sir.

10 Q Did you have occasion to form an opinion as to her  
11 relative reliability in comparison to the other blood-  
12 hounds and other type dogs?

13 A Yes, sir, I did.

14 Q How did she compare in reliability and able to  
15 discern a scent and follow it?

16 A Real good. Excellent.

17 Q Now, this isn't the only type of dog that you have  
18 handled. You had another dog.

19 A I had another dog but it was another bloodhound.

20 Q Was that a male or female?

21 A Both of them were females.

22 Q Is there any significance to the sex or are the  
23 males just as--

24 A In my personal opinion, yes, sir.

25 Q There is a difference?

1 A Yes sir.

2 Q And what is that?

3 A The female will track better than a male will.

4 Q Are females also easier to handle?

5 A Yes, sir.

6 MR. FORD: Your Honor, at this time as far as  
7 the voir dire goes, the State would argue to Your Honor  
8 that it has --

9 COURT: Why don't I let counsel for the  
10 defendant ask him any questions on voir dire they may  
11 wish to ask.

12 MR. ADAMS: Thank you, Your Honor. I do have  
13 some questions.

14 CROSS-EXAMINATION [by Mr. Adams]

15 Q Mr. Currin, all the training that you described to  
16 the judge earlier, how much of that training was  
17 involving taking a scent article off of a dead body and  
18 trying to get the dog to connect that with the vehicle  
19 parked some distance away?

20 A A dead body and, the correlation between a dead  
21 body and a vehicle?

22 Q Yes, sir.

23 A None.

24 Q In fact Sadie is not trained to do that, is she?

25 A No, sir.

1 Q And you were concerned about that when you were a  
2 member of the Raleigh Police Department, weren't you,  
3 sir?

4 A On an occasion prior to this, she was asked to, in  
5 fact, I was asked with both dogs to do this and it was  
6 brought up to my superior that she had not been trained  
7 in this before and I was told to go ahead and do it  
8 anyway.

9 Q When you had Sadie out in that culdesac,  
10 Mr. Currin, she didn't actually track anything, did she?

11 A I don't understand your question.

12 Q Sir, my question is there is no evidence that the  
13 decedent walked from the spot where you scented Sadie to  
14 the vehicle nor is there any evidence that she walked  
15 back. That is, sir, there was not a trail to follow?

16 A No, sir, not any physical evidence that I could  
17 see.

18 MR. ADAMS: That's all the questions I have,  
19 Your Honor.

20 COURT: Any other questions?

21 MR. FORD: Yes, I'd like to go back on  
22 redirect.

23 REDIRECT EXAMINATION: [by Mr. Ford]

24 Q Mr. Currin, the very fact that your dog tracked in  
25 the manner which you have described made her much more

1 reliable to perform the type of, perform in the manner  
2 that you had asked her at that scene, had it not?

3 A Yes, sir.

4 Q Okay. She wasn't necessarily following foot-  
5 prints in the sand or on the ground, was she?

6 A No, sir. That's not what a bloodhound follows to  
7 start with.

8 Q I don't mean that in particular, footprints, but I  
9 mean scent on the ground necessarily?

10 A No, sir.

11 Q Ail right. But Sadie in your opinion had the  
12 ability to detect scent in the wind or scent in the air  
13 from wherever it was coming within a reasonable  
14 distance?

15 A Yes, sir.

16 Q All right. And the manner that she tracked with  
17 her head up and reading the scents in the wind was much  
18 more reliable for the purpose that you were asking her  
19 to perform here than a dog that kept its nose on the  
20 ground, was it not?

21 A Yes, sir.

22 Q How long did you have her?

23 A For three years.

24 Q Okay. Based on your observation during the  
25 entirety of that time as a tracker and based on your

1 observation of how she performed on this occasion after  
2 you gave her this scent article, were you satisfied that  
3 when she terminated at that vehicle that she had, or did  
4 she act in such a way to satisfy to you that she had  
5 found that same scent at the location of the vehicle?

6 A Yes, sir. The scent was not away from that  
7 vehicle, on past it to the east of it, to the west of  
8 it, the only place that that scent was that she  
9 indicated it was, or to me, was to the north of that  
10 vehicle.

11 Q And--

12 A She was taken away from that vehicle to the east to  
13 the south and to the west and re-keyed to try to pickup  
14 the scent that she was looking for on the outer  
15 parameter and she didn't pickup anything.

16 Q All right. That indicated to you that the only  
17 scent was there at the vehicle?

18 A Yes, sir.

19 Q And on those occasions she performed to you in the  
20 manner that she had been trained to when she had  
21 discovered the scent and the end of the trail?

22 A Yes, sir.

23 Q Now, basically what we are asking, you were asking  
24 her to do, was to have the scent given to her and then  
25 start as if the trail had come to an abrupt end and she

1 had to re-trail is that not --

2 A Exactly.

3 Q All right. And many times during the course of  
4 the time that you had this dog and you were tracking  
5 people, she would lose their trail for different  
6 reasons?

7 A Yes, sir.

8 Q Either terrain or water or many different reasons?

9 A Yes, sir.

10 Q And on those occasions how did you, how was she  
11 trained to begin to find the beginning of the trail  
12 again?

13 A Taken away from where she lost it at, working a  
14 complete circle in an outer parameter away from where  
15 she lost it at and see if she could pick it up again.

16 Q On how many occasions -- at that point this dog  
17 had still the scent. I mean, she still knew what the  
18 scent was but she was completely away from the trail?

19 A Yes, sir.

20 Q Looking for the beginning of the trail again?

21 A Yes, sir. Each time I took her, when she lost  
22 trail and I wanted her to try to pick it up somewhere  
23 else, I would take and re-key her on the scent article.

24 Q All right. And that is basically what you were  
25 asking her to do here?

1 A Yes, sir.

2 Q Take that scent and find where the trail was?

3 A Yes, sir.

4 Q All right. And did she appear to you to be able  
5 to handle that task?

6 A Yes, sir.

7 Q And did she appear to you to complete that task as  
8 she had been trained?

9 A Yes, sir.

10 Q And indicated to you that she had completed that  
11 task?

12 A Yes, sir.

13 MR. FORD: I don't have any further questions.

14 COURT: Further recross on voir dire,  
15 Mr. Adams?

16 MR. ADAMS: Yes, sir, briefly.

17 RECROSS EXAMINATION: [by Mr. Adams]-

18 A Mr. Currin, do you recall preparing some  
19 handwritten notes about your activities with Sadie on  
20 that day?

21 A Yes, sir, I do.

22 Q Do you recall that it was your, if you will,  
23 conclusion that what Sadie had done quote tends to lead  
24 you to the conclusion?

25 A Yes, sir.



1 Q That is not a whole lot of certainty is it,  
2 Mr. Currin?

3 A Based on my opinion, based on what she had been  
4 trained on and based on what she had done in the past,  
5 it tended me to lead or tended to lead me in that  
6 direction.

7 Q Yes, sir. Thank you.

8 MR. ADAMS: Your Honor, no further questions.

9 COURT: All right, now on argue, counsel.  
10 Argument, Mr. Adams, why I should not allowed him to  
11 testify.

12 MR. ADAMS: Your Honor, the purpose of a  
13 bloodhound is to track, used for returning a potential  
14 guilty party who has left the scene, for tracking down a  
15 convict, when someone leaves a scent behind, a  
16 consistent trail for the dog to follow and that is the  
17 type of training which Mr. Currin described that he and  
18 Sadie went through.

19 Your Honor, he also testified that Sadie was not  
20 trained to do this kind of work, which it is not  
21 tracking a trail left by someone who has gone in  
22 between.

23 Your Honor, the case law in North Carolina is very  
24 specific with what must be proven to admit bloodhound  
25 testimony. The first qualification is that they are of

1 pure blood, which is not any dispute here. One of the  
2 others they must possess qualities of discrimination of  
3 scent and have been accustomed and trained to pursue the  
4 human track, that they have been found by experience  
5 reliable in such pursuit and that in particular cases  
6 they were put on trail of the guilty party which was  
7 pursued and followed under such circumstances and in  
8 such a way as to afford substantial assurance or permit  
9 a reasonable inference of identification.

10 Your Honor, the case law that allows bloodhound  
11 testimony is not based on the situation that we have  
12 here. It is materially different in that there was no  
13 track for the dog to follow and the dog was not trained  
14 by Mr. Currin's own admission in this type work.

15 Your Honor, under these circumstances admission of  
16 this testimony is going to be not only contrary to the  
17 law of the State but prejudicial because the bloodhound  
18 by its very nature is not subject to cross-examination.  
19 We have to rely on the testimony secondhand through the  
20 handler.

21 Under these circumstances, Your Honor, we request  
22 that Mr. Currin's testimony be excluded and that the  
23 jury be given a limited instruction as to what they can  
24 and cannot do with the other references as to a  
25 bloodhound being on the scene.

1                   COURT: Mr. Ford.

2                   MR. ADAMS: Your Honor, I would like to hand up  
3 State versus Lanier which was set out in the portions  
4 that I read.

5                   COURT: Let me look at this and then I'll hear  
6 you, Mr. Ford.

7                   I had realized that this was probably going to be  
8 an issue in this case. I had looked at this case  
9 earlier.

10                  Mr. Ford, let me hear from you.

11                  MR. FORD: All right. If Your Honor please,  
12 of course this case, the determination in this case is  
13 couched in the terms that were in this case when they  
14 were looking for a particular suspect. But even in  
15 that, we start, the first premise says that the dog must  
16 be of pure blood. There is no question about that in  
17 this. That he has, he or she has been specifically  
18 trained and accustomed to pursuing specific scents. The  
19 training in this case is unquestioned. That the dog has  
20 experience in determining between different human scents  
21 and being able to find those. That she has this, had  
22 prior to the date of this, use of this, demonstrated  
23 what this handler determined to be an excellent ability  
24 to determine, to determine between human scent and  
25 follow the one that she was suppose to or in fact find

1 the one that she was suppose to.

2 In this particular case, they have stated that,  
3 and they, and they say that in particular case they were  
4 put on a trail of the guilty party and did so and so.

5 This is not 2 case of where they are put on trail  
6 of a guilty party. There is no question about that but  
7 the requirement is, basically there is requirements that  
8 go on pass that. What that really means is that the  
9 beginning of the trail has to be specific, that the  
10 scent that is given to the dog has to be specific.

11 In this case there is no question about that. And  
12 that came from a sterile gauze pad off the victim's  
13 body.

14 That the end of the trail had to be demonstrated  
15 by this dog.

16 It is undisputed that she was trained in a manner  
17 to determine the end of the trail and demonstrated that  
18 to her handler, which she did in his opinion in this  
19 case and losing or changing trails, if that happens, is  
20 to the weight of the evidence.

21 Now, what they have asked this dog to do in this  
22 case she was obviously capable of doing. She was  
23 capable of beginning a trail and when that trail ended,  
24 pursue in such a manner so she would find the trail  
25 again.

1           In this case here, and I would argue that their  
2 argument is not one for exclusion but one for the weight  
3 of the evidence, is that what they basically did was  
4 give this dog the beginning of the trail. the scent, a  
5 known scent, and ask her to find where that trail picked  
6 up, which is exactly what she is trained to do when they  
7 came to a situation where she had lost the trail, she  
8 would, as he determined, work in a circle until she had  
9 redetermined the trail and go on with that. That in  
10 fact under the evidence in this case there's only one  
11 other location that her trail would be and that was at  
12 the vehicle. There's, I'd also ask you to consider the  
13 fact that the very behavior that this dog showed to this  
14 officer at the scene, jumping up on one side of the  
15 vehicle, going around and jumping up on the other side  
16 of the vehicle and then returning immediately to his  
17 feet as she was trained to do when she had determined  
18 the end of the trail lends some credence in itself that  
19 she had been able to accomplish exactly what they had  
20 asked her to do and that was to find a trail that had  
21 been temporarily disrupted for them.

22           I think there are numerous other cases which apply  
23 in this case but basically the fourth requirement,  
24 although they have couched it in terms here of being put  
25 on the trail of guilty party followed under some

1 circumstances in such a way to afford measureable  
2 assurance to permit reasonable inference of  
3 identification in other cases set out just as I have, as  
4 a matter of fact, some of the other cases, I think maybe  
5 even in the Lanier case, I am not sure, I have not had a  
6 chance to look at this case but goes on further to  
7 describe these assurances as I have just told you, the  
8 beginning of the trail has to be a certainty, the scent  
9 itself had to be a certainty. There's no doubt in this  
10 question, in this case that it was.

11 That the end of the trail had to be of reasonable  
12 certainty. No question in this case that she  
13 demonstrated it just, the way she was suppose to.

14 Losing or changing the trail, if it occurred at  
15 all in this case, was when the dog went, the scent was  
16 coming to her from the area of the vehicle. She went  
17 pass the vehicle for a distance and realized she wasn't  
18 getting the scent anymore and thereby returned to the  
19 very item the scent was emanating and demonstrated that  
20 to her handler.

21 I realize this is a different situation from the  
22 normal use of a bloodhound but it is inherent in the use  
23 of any bloodhound by the case law that they be able to  
24 refind a trail when they lose it. They would be  
25 worthless if they didn't. All somebody would have to do

1 would be run through a creek or river and the dog would  
2 be useless. We all know that the case law is contrary  
3 to that. I would ask you that the evidence be admitted  
4 and this officer be allowed to testify.

5 COURT: All right. Outside of the presence of  
6 the jury the Court makes these following findings of  
7 fact: The Court finds that Andy Currin was sworn in and  
8 questioned by the State and the defendant as to possible  
9 testimony in this case concerning the actions of the dog  
10 named Sadie.

11 The Court heard evidence presented on this voir  
12 dire and finds these following facts: that Andy Currin  
13 was a member of the Raleigh Police Department on  
14 September 26, 1991. At that time he had been a trained  
15 law enforcement officer with nine years experience with  
16 the Raleigh Police Department; that in January of 1990,  
17 and Andy Currin had been assigned to be dog handler with  
18 the Raleigh Police Department and from January 1990 up  
19 until the date in question, September 26, 1991, Mr.  
20 Currin had had approximately a year and a half  
21 experience as a dog handler; that he on that occasion  
22 had two dogs under his control; that Sadie was the  
23 primary dog that the Raleigh Police Department had used  
24 at that time.

25 The Court finds that Sadie was a three year old,

1 full-blooded pedigreed bloodhound.

2 The Court finds from the evidence that Sadie was  
3 in excellent health on September 26, 1991.

4 The Court finds that Officer Currin was requested  
5 to bring Sadie to the scene where the deceased, Mrs.  
6 Thomas, had been found on the morning of September 26,  
7 1991, for the purpose of tracking any scents in this  
8 matter.

9 The Court finds as a fact that prior to September  
10 26, 1991, that Officer Andy Currin and the full-blooded  
11 bloodhound Sadie had been sent to a two months basic  
12 training school in bloodhound training in Fayetteville  
13 and received training in the use of the dog tracking and  
14 the handler handling the dog.

15 The Court further finds that in July and August of  
16 1990, that Officer Currin and the dog Sadie had gone to  
17 the Connecticut State Police and attended that school  
18 which was a basic and advanced training for bloodhounds  
19 and for dog handlers.

20 The Court finds as a fact that Sadie had been well  
21 trained and that Mr. Currin had been well trained in  
22 handling bloodhounds and the use of tracking.

23 The Court further finds as a fact that at the  
24 school in Fayetteville and at the Connecticut State  
25 Police School that there had been a final test for this



1 training procedure and that Sadie had satisfactorily  
2 passed the test in tracking and following human scents.

3 The Court further finds on voir dire that  
4 approximately a hundred fifty times prior to September  
5 26, 1991, that Sadie had been used in a tracking  
6 procedure and on those occasions Sadie was successful in  
7 the tracking procedure.

8 The Court finds that the dog Sadie had been used  
9 in several criminal cases in which the Raleigh police  
10 had been investigating prior to September 26, 1991, and  
11 that the dog had been found to be reliable in those  
12 cases.

13 The Court further finds as a fact that Sadie had  
14 been trained to track one scent and that on this  
15 particular date in question, September 26, 1991, that  
16 Mr. Currin used a sterile gauze from the body of  
17 Jacquitta Thomas and then gave the dog the scent from  
18 this sterile gauze in a way that he had been trained;  
19 that this procedure used by Mr. Currin and Sadie on  
20 September 26, 1991, was a manner which the trainer had  
21 been trained in the past.

22 The Court finds as a fact that on September 26,  
23 1991, that this sterile gauze removed from the body and  
24 then the scent given-to Sadie, that on demand Sadie went  
25 from the body of Jacquitta Thomas, pass the vehicle at

1 the scene on September 26, 1991, and then back to the  
2 truck, the truck being located approximately one  
3 hundred yards from the body, that evidence already  
4 coming into evidence from other witnesses, that the dog  
5 Sadie came back to the truck and jumped up on the  
6 driver's side and then around to the passenger side.

7 The Court finds as a fact that Sadie had been  
8 trained; that once a person had been found that Sadie  
9 had been tracking, that she would sit down at that  
10 person; she had furthermore been trained, that if the  
11 trail ended, then she would come back to the handler,  
12 Mr. Currin, and sit down.

13 The Court finds as a fact on voir dire that after  
14 the dog Sadie jumped up on the truck at the driver's  
15 side and the passenger's side, that she then come back  
16 to the handler, Mr. Currin, and set down indicating that  
17 as she had been trained, that that ended the tracking.

18 The Court finds as a fact that Officer Currin has  
19 testified that as a handler of this dog that Sadie has  
20 been reliable and a good track dog.

21 Based upon these findings of fact, the Court  
22 concludes that this dog Sadie is a pure blood pedigreed  
23 bloodhound.

24 The Court further concludes that the dog Sadie,  
25 the bloodhound, and Mr. Currin had received proper

1 training to wit: The training at Fayetteville in 1990  
2 and then the training at the Connecticut State Police in  
3 July and August of 1990.

4 The Court concludes that Sadie is a reliable  
5 bloodhound trained in the tracking of the scent.

6 The Court finds, concludes that on September 26,  
7 1991, that the dog acted in performance to her training  
8 in tracking a scent from Ms. Thomas' body to the  
9 vehicle.

10 The Court concludes that by using the sterile  
11 gauze from the body and allowing the dog to smell that  
12 gauze and then proceed to a tracking procedure, that  
13 this is evidence of circumstances which is in a way  
14 reliable information to this Court that this dog has  
15 acted within the training that the dog had received.

16 The Court further concludes that this is reliable  
17 evidence pursuant to Rule 101.

18 The Court on its own motion has considered whether  
19 this evidence should be admitted under Rule 403 and in  
20 considering all of the evidence the Court finds that  
21 this evidence and its probative value outweighs any  
22 danger of unfair prejudice to the defendant.

23 And over the objections of the defendant the Court  
24 will allow this witness to testify.

25 Bring the jury back.

1           MR. DODD: Your Honor, excuse me just one  
2 second. May I ask one thing real quickly? I noticed in  
3 the findings of fact there was no reference to the fact  
4 that Mr. Currin testified that she, Sadie, had not been  
5 specifically trained to do what she was doing here.

6           COURT: I made the findings of fact and I  
7 wouldn't make anymore on the matter.

8           MR. DODD: All right. Thank you.

9           COURT: Bring the jury back.

10 -----

11

12 [JURY RETURNS TO JURY BOX.]

13           COURT: All right, I believe the witness was  
14 sworn in outside the presence of the jury. Swear the  
15 witness in again.

16 MR. ANDY CURRIN, being first duly sworn, testified as  
17 follows during DIRECT EXAMINATION by Mr. Ford:

18           COURT: All right, the jury is back.  
19 Mr. Ford, you may continue with your examination of this  
20 witness.

21           MR. FORD: Thank you, Your Honor.

22 Q     Would you state your name for the Court, please.

23 A     Andy Currin.

24 Q     Mr. Currin, in September of 1991, how were you  
25 employed?

1 A I was a sworn Raleigh police officer and  
2 bloodhound handler for the City of Raleigh.

3 Q And how long had you been a police officer in  
4 September of 1991?

5 A With the City of Raleigh?

6 Q Right. Total.

7 A Almost 19 to 20 years.

8 Q All right. And with the City of Raleigh how long  
9 had you been a police officer?

10 A Nine years.

11 Q Prior to that were you with other law enforcement  
12 agencies in the area?

13 A Yes, sir. I was with the Zebulon Police  
14 Department and the North Carolina Department of  
15 Correction.

16 Q All right. Now, in September of 1991, how long  
17 had you been a dog handler for the City of Raleigh?

18 A For the City of Raleigh a year and a half, since  
19 January of 1990.

20 Q And prior to that had you been a dog handler for  
21 anyone else?

22 A I was bloodhound handler for the North Carolina  
23 Department of Correction for four and a half years.

24 Q And pursuant to that employment with the  
25 Department of Correction did you receive training in the

1 use and handling of dogs, bloodhounds?

2 A For the Department of Correction?

3 Q While were you at the Department of Correction.

4 A Yes, I did.

5 Q Could you briefly describe what type of training  
6 you had with the Department of Correction or through  
7 them?

8 A I was sent to bloodhound handling schools with the  
9 Department of Correction and also in-service schools  
10 with the Department of Correction.

11 A Subsequently when you came to the City of Raleigh  
12 as a dog handler, what type of dogs were you assigned to  
13 handle?

14 A Bloodhounds.

15 Q And on September the 26th, of 1991, how long had  
16 you been handling any particular specific dogs?

17 A I had been handling two dogs since January of 1990,  
18 a year and a half.

19 Q Year and a half. All right. And what were those  
20 is dogs' name?

21 A One was Sadie and one was Copper.

22 Q Specifically Sadie I am asking you about now. Had  
23 you and Sadie prior to September of 1991, received any  
24 training in the use and handling of blood dogs and as  
25 far as bloodhounds and as far as she went in the

1 tracking of scents?

2 A Yes, sir, we had.

3 Q Would you describe that training for us?

4 A We were sent to a two month school in  
5 Fayetteville, Canine Sentential School and subsequently  
6 after that we was sent to a three week school in  
7 Merdian, Connecticut with the Connecticut State Police.

8 Q All right. Could you describe the type of  
9 training that you and Sadie went through in those two  
10 locations?

11 A Sadie was trained to smell and find one specific  
12 human scent. I was trained along with her on how to  
13 recognize her while she was tracking and how to  
14 administer these scents to her.

15 Q This specific dog Sadie, was she a full-blooded  
16 pedigreed bloodhound?

17 A Yes, sir, she was.

18 Q And during the course of these trainings, what  
19 exercises did she go through to demonstrate that she had  
20 the ability to track specific human scent?

21 A We would take, in our course of training we would  
22 take individuals, i.e., regular people and get a scent  
23 article from those people and put it in a sterile  
24 environment as to not to contaminate it with any other  
25 scent other than the one that we were looking and they

1 would just go out and lay a trail of various lengths, of  
2 various time differences and the scent articles were  
3 given to the dogs and they were asked to find these  
4 people.

5 Q How would you, was she trained to take a, as you  
6 testified, a sterile scent? How did you administer  
7 that to her?

8 A It was either taken off a clothing article from a  
9 particular individual or a sterile four by four gauze  
10 was used to gather the scent from the victim or the  
11 suspect leaving it behind and it was taken with a set of  
12 hemostats by me not to contaminate it with my scent and  
13 put it in a container, plastic sealed bag and it is  
14 sealed and the bag was taken and put over her nose.

15 Q And in that manner you would administer the scent  
16 to her?

17 A Right

18 Q All right. During your course of her training was  
19 she asked to perform certain task in order to complete  
20 that training?

21 A Yes, sir, she was.

22 Q Would you describe those type of tasks to us and  
23 how she performed them?

24 A Well, during the period from the beginning of the  
25 training to the end of the training the trails would,



1 would take and lengthen out in length and time period  
2 from the time that the trail started until the time that  
3 I started tracking the trail or the individual.

4 The final test at each school was to take the dog  
5 and trail somebody that had previously laid a trail 24  
6 hours before I started on it and at least a mile and a  
7 half long.

8 Q So on each of those occasions the trail that you  
9 were asked to follow was a day old?

10 A Yes, sir.

11 Q Twenty-four hours old? And was Sadie successful  
12 on those occasions?

13 A Yes, sir, on both occasions.

14 Q Both before--well, subsequent to that training did  
15 you have occasion to use her practically in your work  
16 with the Raleigh Police Department?

17 A Subsequently -- before?

18 Q After your training?

19 A Yes, sir.

20 Q All right. And in what manners did you use her in  
21 your experience with the police department?

22 A I've used her on numerous criminal cases, numerous  
23 missing person cases.

24 Q On how many--and approximately, before September  
25 the 26th of 1991, about how many occasions did you ask

1 Sadie to track a specific human scent?

2 A Well into the hundreds.

3 Q All right. And what was your experience with her  
4 as to her success at being able to do that?

5 A On the occasions of finding actual peoples that she  
6 was put on, it was over 70% success rate.

7 Q During the course of your training in your  
8 handling of dogs, both as a police officer and as an  
9 agent with the Department of Correction, did you observe  
10 other dogs in training and other dogs being used?

11 A Yes, sir.

12 Q Bloodhounds and other type of tracking dogs?

13 A Yes, sir, I did.

14 Q How did Sadie compare to those type of dogs as to  
15 her ability to discern a specific scent and track?

16 A She was excellent. One of the better dogs I have  
17 ever seen.

18 Q Now, bloodhounds have different methods for  
19 tracking scents, do they not?

20 A Yes, sir, they do.

21 Q Would you describe those to the jury and explain  
22 them to them?

23 A There are two, there are basically two types of  
24 bloodhounds they way that they track. One will kept its  
25 nose close to the ground. The other is what we call a

1 winder. They will take their nose and pick it up off  
2 the ground and get the scent that they are looking for  
3 off of various, not specifically off the ground, over  
4 trees, bushes, leaves, stuff like that.

5 Q Picking the scent up from the air as it came off  
6 those items?

7 A Yes, sir.

8 Q All right.

9 A That is why she was called a winder.

10 Q All right. Now, how had you trained Sadie to  
11 begin a search?

12 A I would take the scent article, whatever it may be  
13 in a plastic bag,, it was also put in a plastic bag  
14 either during training or actual cases so as not to  
15 confuse the dog. I would take the plastic bag, take her  
16 somewhere in the general direction or where we thought  
17 the trail may be and put the plastic bag over her nose  
18 with the scent article in it and give her the demand to  
19 find.

20 Q All right. And in September of 1991, you took  
21 Sadie to the scene of the, of the finding of victim down  
22 on Blount Street, did you not?

23 A Yes, sir, I did.

24 Q At the culdesac at the end of Blount Street?

25 A Yes, sir.

1 Q Before I ask you about that, let me ask you this:  
2 What has been your experience with Sadie as to her  
3 losing a trail and then refinding it?

4 A When Sadie would lose a trail, she would work into  
5 a circle. She would just start running in a circle. If  
6 she completely lost a trail, she would come back and set  
7 down right beside of me. At this time I would take and  
8 go back to where I knew she had had it before she lost  
9 it. Then I would take her out and work in an outer  
10 parameter, say a hundred feet in circumference and I  
11 would take and key her again and give her the command to  
12 find and see if she could pick it up in an outer  
13 parameter.

14 Q All right. And would you explain to us how Sadie  
15 had been trained to demonstrate to you that she had  
16 found either the person she was looking for or the end  
17 of the trail?

18 A When she found who she was looking for, if there  
19 was an actual live person at the end of the trail, she  
20 would take and stop, walk up to them, sit down beside of  
21 them and show affection to them. If the trail abruptly  
22 stopped and there was no evidence that there was a live  
23 human being or anything at the end of that trail, she  
24 would work in a circle and come back and set down beside  
25 of me.

1 Q On the occasion -- now, specifically on September  
2 the 26th, of 1991, did you have occasion to take Sadie  
3 with you to the scene of the body?

4 A Yes, sir, I did.

5 Q All right. And how did you take her down there?

6 A I was assigned a vehicle that was equipped to do  
7 nothing but haul dogs in it.

8 Q On that, at that time about how old was Sadie?

9 A Approximately three years old.

10 Q And what was her health like on this specific day  
11 as best you can recall?

12 A She was in excellent health.

13 Q Well, was she under your control alone on that  
14 day?

15 A Yes, sir.

16 Q All right. What did you do with her when you got  
17 to the scene down there?

18 A After I gathered the sterile gauze with the  
19 victim's scent on it , I put it in a plastic bag and  
20 went and got Sadie out of the car, took her to  
21 approximately 25 feet southeast of the body and put the  
22 plastic bag in her on her nose, give her the command to  
23 find.

24 Q Now, how did you gather the scent article from the  
25 decedent's body?

1       A     I took a sterile four by four gauze and a set of  
2       hemostats, which is like a little pair of tweezers that  
3       we get from EMS personnel, I laid it on the the victim's  
4       leg and let it lay there for approximately ten to  
5       fifteen minutes and gathered the scent from her body.

6       Q     All right.  And what is the purpose of using  
7       hemostats to do that?

8       A     Not to contaminate the sterile gauze with any  
9       other scents, including my own.

10      Q     All right.  After you gave Sadie the command to  
11      find on that occasion, what did she do?

12      A     She headed in a southeasterly direction running  
13      parallel with the path on either side of the path  
14      working in an a zigzag motion which is the way that she  
15      normally ran.  Winders normally run gathering scent--she  
16      would work the whole pattern of that scent ever how wide  
17      the pattern was, she'd work it 20 feet to the right, 20  
18      feet to the left.

19             She went straight down the path, continued on pass  
20      the vehicle approximately ten to fifteen feet on the  
21      other side of the vehicle where it went down a steep  
22      embankment.  She went down that embankment, got to the  
23      bottom of it and started working in a circle and  
24      stopped.

25      Q     What did that indicate to you when she was working

1 in a circle and stopped?

2 A That the scent had stopped somewhere prior to  
3 getting there or stopped right there at that point.

4 Q All right. Being that some 20 or 30 feet pass  
5 this this vehicle?

6 A Yes, sir.

7 Q All right. What did you do after you observed  
8 her, when she stopped, what did she do?

9 A Came back and set down be side of me.

10 Q All right. And what indication did that give you?

11 A The scent had disappeared.

12 Q All right. Then what did you do?

13 A I took her out away from where she had came  
14 originally. I took her back up to the top of the ridge  
15 is what I did. Got her about 20, 30, 40, 50, I'd say  
16 about 30 feet in front of the vehicle away from where  
17 she came in at. Give her the command to find again  
18 after I stuck the plastic bag on her nose and started  
19 working her, let her work in a circle to see if she  
20 could pick it back up again.

21 Q And what did she do on that occasion?

22 A When she got within ten to fifteen foot of that  
23 vehicle, she acted as if she picked up the trail again  
24 or had the scent again. She went straight to the  
25 driver's side of the vehicle, jumped up on the vehicle,

1 on the door, started smelling around the door handle and  
2 on the window frame. She got down then, went around  
3 behind the vehicle. She smelled around at the rear of  
4 the vehicle but she didn't make any indication. She  
5 went on around to the passenger door of the vehicle, did  
6 the very same thing that she had done on the driver's  
7 side of the vehicle.

8 Q All right. And what was that?

9 A Jumped up on the door, smelt of the door handle,  
10 around the window molding, jumped back down. Worked  
11 another circle around the vehicle and then came back and  
12 sat down beside of me.

13 Q What indication did that give you?

14 A That that, that gauze, the scent that was on that  
15 gauze had been somewhere in that vehicle, around that  
16 vehicle or on that vehicle.

17 Q Now, your experience with Sadie on most occasions  
18 had been the tracking of a specific trail, had it not?

19 A Yes, sir.

20 Q All right. Which would be or like you did at the  
21 Department of Correction, following somebody that was  
22 fleeing and leaving a scene?

23 A Yes, sir.

24 Q All right. On occasion when you were using Sadie  
25 to track, did she make it apparent to you that she had



1 lost the trail?

2 A Yes, sir, she would.

3 Q And how would she make that apparent to you?

4 A She'd work in a circle and about two or three  
5 times after she would work in that circle, if she  
6 couldn't find that track or the scent anymore, she would  
7 come back and set down beside of me.

8 Q And is this what she did specifically after passing  
9 this vehicle and going down the embankment?

10 A Yes, sir.

11 MR. FORD: Could I have just a second?

12 COURT: Yes, sir.

13 MR. FORD: I don't have any further questions.

14 COURT: Cross-examination, Mr. Adams or Mr.  
15 Dodd?

16 MR. ADAMS: Yes, sir.

17 CROSS-EXAMINATION: [by Mr. Adams]-

18 Q Mr. Currin, good morning. Is it your testimony  
19 that Sadie can track a trail 24 hours after it was laid  
20 down?

21 A Yes, sir. That's the longest that she has ever  
22 tracked.

23 Q Well, how much time would a person have to stay in  
24 one place before their scent was so prevalent Sadie  
25 could actually find that spot?

1 A It is impossible for me to determine that. Like I  
2 said, the only, the only thing I can go by on that is  
3 what she had done in the past. She had tracked a trail  
4 that was 24 hours old that I knew of and that's as long  
5 as I have ever known her to track one. I have worked  
6 other cases where she tracked a trail that was 18 hours  
7 old but --

8 Q But can she stay on a track even though the person  
9 leaving the scent behind just passed through there very  
10 quickly maybe even running?

11 A Yes, sir.

12 Q Did you and Sadie come down in the same vehicle?

13 A Yes, sir.

14 Q Mr. Currin, on the day we are talking about here,  
15 you weren't tracking an escaped convict, were you?

16 A No, -sir.

17 Q In fact, you and Sadie weren't tracking anybody at  
18 all, were you?

19 A No, sir.

20 Q In fact, Mr. Currin, the purpose was to create  
21 evidence of a link between the body and the vehicle for  
22 the purpose of getting a search warrant, wasn't it?

23 A I can tell you what I was told when I got there.  
24 I was told that they wanted me to get a scent off of  
25 that body and see if I could find whether that body or

1       whether the scent from that body was anywhere out there,  
2       anywhere.

3       Q     Anybody mention. to you a search warrant for that  
4       vehicle?

5       A     I don't remember. They may I have. I don't  
6       remember. When I would roll up on a case like that, it  
7       was very seldom that I talked with a whole lot of people  
8       around there. I would talk to CCBI, or couple of the  
9       guys with Major Crimes but they wouldn't tell me what  
10      their purpose of what they wanted me to do was. They  
11      would just tell me what they wanted me to do. I didn't  
12      ask a whole lot of questions.

13      Q     Who told you there was a white Nissan Pathfinder  
14      out there?

15      A     One of the CCBI technicians, I believe, mentioned  
16      there was one out there.

17      Q     So you knew it was out there before you ever keyed  
18      Sadie out--

19      A     I knew there was one out there somewhere. I  
20      didn't know where it was at because you couldn't see it  
21      from where I was standing.

22      Q     Now, Mr. Currin, this kind of work that we are  
23      talking about here today involving a dead body and a  
24      vehicle a hundred yards away, that is not the kind of  
25      work that Sadie was trained to do, is it?

1 A No, sir.

2 Q In fact, you had some concerns about you and Sadie  
3 being asked to perform that kind of work, didn't you,  
4 sir?

5 A I had had some concerns in the past and had some on  
6 this day, yes, sir.

7 Q Now, in fact, you had such concern, sir, that isn't  
8 it true that you advised your supervisor of those  
9 concerns on past occasions?

10 A Earlier, yes, sir.

11 Q Yes, sir.

12 A Previous cases.

13 Q Sir, how far away were you and Sadie from the body  
14 when you keyed her?

15 A Approximately 25, 30 feet on the other side of it.

16 MR. ADAMS: May I approach the exhibit? Your  
17 Honor?

18 Q Right down here?

19 A Yes, sir, in the general--move your finger back  
20 up--no, the other way. Back up straight behind the body  
21 in those weeds.

22 Q Right there?

23 A Yes, sir.

24 Q So it is about 25 feet closer to the car?

25 A Yes, sir.

1 Q Mr. Currin, was Sadie adequately keyed the first  
2 time you keyed her up?

3 A Yes, sir, she was.

4 Q But she went down that path and didn't stop at the  
5 Pathfinder, isn't that correct?

6 A No, sir, she did not stop at it.

7 Q How close did she come to it without stopping?

8 A Within five to ten feet.

9 Q And this is even though she was well keyed up,  
10 properly keyed up?

11 A Yes, sir.

12 Q Just ran right by it?

13 A Yes, sir.

14 Q But then when she got down at the bottom of the  
15 embankment, she stopped, is that correct?

16 A Yes, sir.

17 Q Then you re-keyed her?

18 A Uh-huh.

19 Q Sir, doesn't re-keying basically tell the dog to  
20 keep looking?

21 A That is exactly what it means.

22 Q And it was only after this re-keying that she went  
23 to the vehicle, is that right?

24 A Yes, sir. After she had worked in a circle and  
25 stopped

1 Q When she was at the Pathfinder she kept sniffing,  
2 is that your testimony?

3 A When she was what, sir?

4 Q When she was at the Nissan Pathfinder, she kept  
5 sniffing, isn't that your testimony?

6 A Yes, sir

7 Q Mr. Currin, did you prepare a investigator's notes  
8 about your activities with Sadie on that date?

9 A Yes, I did.

10 Q Sir, do you know whether notes or any information  
11 contained in them were used for the purpose of getting a  
12 search warrant of that vehicle?

13 A I have no earthly idea, sir.

14 Q Mr. Currin, were there any other vehicles out there  
15 in that area?

16 A Pass the body.

17 Q Anywhere close to where that white Nissan  
18 Pathfinder was?

19 A Not within hundred, two hundred yards of that  
20 vehicle, no, sir.

21 Q Any escaped convicts?

22 A No, sir, not that know of.

23 Q Anything else of interest to you from a law  
24 enforcement standpoint?

25 A Not that I know of no, sir. Nothing except the

1 general area where I generally trained bloodhounds.

2 MR. ADAMS: No further questions your honor.

3 COURT: Any redirect?

4 MR. FORD: Yes, sir.

5 REDIRECT EXAMINATION: [by Mr. Ford]-

6 Q Mr. Currin, you never trained your dog to find  
7 cars, have you?

8 A No, sir. That was not one of my concerns.

9 Q All right. What she had been trained to do was  
10 follow and locate a scent and if she lost the scent  
11 work until she refound that same scent?

12 A Yes, sir.

13 Q All right. And basically what you were asking her  
14 to do at this time, on this date in question was to find  
15 the scent that you knew was lost because--

16 A Yes, sir.

17 Q --you were giving her the known scent off the body  
18 and you didn't know where the trail started?

19 A I wanted her to take me, if that scent was out  
20 there, I wanted her to follow it and take me where it  
21 ended.

22 Q Now, you knew this dog better than anybody in the  
23 world?

24 A Yes, sir.

25 Q You were trained with her?

1 A Yes, sir.

2 Q Did she appear to be accomplishing that task for  
3 you?

4 A Yes, sir, she did.

5 Q There's nothing in her training that you are aware  
6 of or was there anything in her training that would lead  
7 you to believe that she would go to a car any quicker  
8 than she would go to a tree?

9 A No, sir. She never has done anything like that in  
10 the past.

11 Q What she had been trained to do was to go where  
12 that scent was emanating from and let you know it,  
13 wasn't it?

14 A Yes, sir.

15 Q Again, based on your experience with that dog over  
16 hundreds of cases and what you observed her to do on  
17 this occasion, were you satisfied when she went to that  
18 car and demonstrated the way she did on both of the  
19 doors of the car and around the glass that she had come  
20 and found that scent?

21 A Yes, sir. She had done it once in the past and it  
22 proved to be reliable.

23 Q So she had done this same sort of behavior on  
24 another occasion prior to September of 1991?

25 A Yes, sir.



1 Q Is that the occasion where you had expressed some  
2 concern?

3 A Yes, sir.

4 Q And in the totality of that circumstance it was  
5 determined that she was correct in how she had performed  
6 on that occasion?

7 A Real reliable.

8 MR. FORD: I don't have any further questions.

9 COURT: Mr. Adams, is there further re-cross?

10 MR. ADAMS: Yes, sir.

11 RE-CROSS EXAMINATION: [by MR. Adams]-

12 Q Mr. Currin, how steep was that embankment that  
13 Sadie ran down after she went pass the Pathfinder?

14 A It is real steep. It was anywhere from 45 to 60  
15 degrees.

16 Q What was down there?

17 A Nothing. Just other trees.

18 Q Any water down there?

19 A No sir, not that I can--there may have been some  
20 on further down. It was, it was a wash is what it was.  
21 It goes under Interstate 40 or four forty. Goes under a  
22 train trestle out there and there may have been some  
23 water on down further but at the bottom of the hill  
24 where I stopped at, where the dog stopped there was  
25 none, no, sir.

1 Q Mr. Currin, you testified that Sadie had done well  
2 for you on something like over 70% of the times, is that  
3 right?

4 A Yes, sir.

5 Q You mean she was wrong the rest of the time,  
6 right?

7 A I don't know that. I can't prove that she was  
8 right on 70% of the occasions that I know that she was  
9 good. What I am basing my testimony on is when we take  
10 and would use that dog to track somebody, if they were  
11 picked up by a vehicle, that was counted as a find.  
12 That dog got to the end of the track. She ran a good  
13 track. That was included in that 70% and in the other  
14 30% of it, she didn't do, she didn't do well at all,  
15 i.e., weather conditions, length of time in between  
16 tracks and all of that.

17 MR. ADAMS: Thank you, Mr. Currin. I have no  
18 further questions.

19 COURT: Mr. Ford, now for the last time any  
20 other redirect?

21 MR. FORD: Let me just ask you this, sir.

22 REDIRECT EXAMINATION: [by Mr. Ford]-

23 Q As far as the scent article went in this, in this  
24 case on September 26, 1991, there was no question in  
25 your mind that you had a good scent article, was there?

1 A No, sir. One of the best scent articles I have  
2 ever used.

3 Q All right. What effect would that have on your  
4 expectation of success for the dog?

5 Does that make your expectation higher or lower?

6 A Higher.

7 Q All right. The manner in which she performed when  
8 she got to that vehicle. What she did on the vehicle  
9 and then returning it to you, what expectation did that  
10 give you or understanding of success?

11 A That she did exactly what she was trained to do and  
12 what she was suppose to do.

13 MR. FORD: That is all the questions.

14 COURT: Any further recross?

15 MR. ADAMS: No, sir.

16 COURT: All right, you may step down.

17 [WITNESS EXCUSED.]

18 -----

19 MR. FORD: Your Honor, at this time the State  
20 would call William Hensley to the stand.

21 COURT: All right, come around, Mr. Hensley,  
22 and be sworn.

23 AGENT WILLIAM E. HENSLEY, being first duly sworn,  
24 testified as follows during DIRECT EXAMINATION by  
25 Mr. Ford:

1 Q State your name and occupation for the Court,  
2 please.

3 A I am William E. Hensley. I am a supervisor for  
4 the City-County Bureau of Identification.

5 Q Tell me what your--first of all, what is the  
6 City-County Bureau of Identification and what are your  
7 duties with them?

8 A City-County Bureau of Identification is a forensic  
9 crime scene investigative unit which is assigned to the  
10 task to facilitate forensic investigations for 36  
11 agencies in Wake County.

12 That means that we go out and we take photographs,  
13 fingerprints, we process all unnatural death scenes,  
14 homicide scenes and generally everything that comes  
15 within the jurisdiction or scope of those jurisdictions  
16 that we serve in criminal offense cases.

17 Q And as a supervisor what is your duties?

18 A My job as supervisor is to man a rotating shift of  
19 at least 12 field agents and 6 assigned to me  
20 permanently. It is also to respond to any major crime  
21 scene investigation to act as liaison between the  
22 agencies that we serve and the courts along with the  
23 attorneys of the courts, to act as liaison between the  
24 SBI and FBI and ATF labs which we submitted evidence to  
25 and to also give expertise in the training areas that I

1 have expertise in to the field agents and assist them.

2 Q And on, does that include for instance, in this  
3 case, assisting Agent Pagani in the testing of certain  
4 items at the scene of the body of Jacquitta Thomas?

5 A That is correct.

6 Q All right. Prior to September of 1991, how long  
7 had you been a City-County Bureau of Identification  
8 agent?

9 A I have been in law enforcement 24 years. I  
10 started out as a Raleigh police officer, graduated into a  
11 first class officer technician, and then went to an I. D.  
12 technician in '72 or somewhere there. I have been with  
13 the bureau 19 years and five of those has been as a  
14 supervisor.

15 Q And prior to that you were an agent doing much like  
16 Mr. Pagani has done and has been doing?

17 A That is correct.

18 Q All right. Just generally what type of training had  
19 you undergone yourself prior to September of 1991?

20 A Generally I have, I have an Associate Degree in  
21 Police Science, basic law enforcement certificate,  
22 intermediate certificate, advance certificate. I am a  
23 certified instructor of North Carolina State for Police  
24 Agencies. I have attended Wake Technical College, Saint  
25 Augustine College, Durham Technical College, Guilford

1 Institute, FBI Academy, S.B.I. Academy, University of  
2 Georgia, the U. S. Department of Treasure, National Fire  
3 Academy, Rowan Technical College, Searcy Laboratories,  
4 Wake County Technical College, Fairfax Police  
5 Department. I have instructed in the areas of major  
6 crime investigation and homicide investigation, arson  
7 investigation, burglary investigation, fingerprint  
8 classification, advanced forensic technology and covert  
9 photography.

10 I have instructed at six or seven colleges and  
11 academies plus the police department and Wake County  
12 Sheriff's Department.

13 Q And on these occasions that, and the schools that  
14 you have mentioned on those occasions you received  
15 training which was relevant to your position as an agent  
16 or supervisor of an agent?

17 A Specifically relevant, relevant to those  
18 positions, yes, sir.

19 Q As of September the 26th, of 1991, what training  
20 had you received in the use of phenolphthalein and  
21 luminal?

22 A In those areas I attended training sessions  
23 conducted Dave Spittle of the S.B.I. in regard to blood  
24 pattern interpretation. Also, there was on scene  
25 training with regard to Mark Nelson, the supervisor of

1 the SBI serology section with luminal and  
2 phenolphthalein training.

3 Q And on how many occasions prior to September 26,  
4 1991, had you had to use phenolphthalein or luminal in an  
5 attempt to find blood?

6 A Fifty to a hundred, I guess.

7 Q Can you tell us what phenolphthalein is and how it  
8 is used?

9 A Phenolphthalein is a liquid chemical which is used  
10 to identify blood. Now it is, it is very specific for  
11 blood in that that's what it reacts to and actually what  
12 it consists of is a three step series of the chemicals  
13 which was applied to a sterile little filter paper.  
14 These chemicals are put on one at a time. When you have  
15 a positive reaction, what we call a positive reaction,  
16 you get a purple, immediate purple reaction which  
17 indicates that the presence of blood is on the article  
18 that you rub the filter paper over.

19 Q All right. Now, is opposed to luminal, which of  
20 those two are more specific for the detection of blood?

21 A Phenolphthalein is more specific for the detection  
22 of blood.

23 Q Then why is luminal used at all?

24 A Luminal is more sensitive to blood matter but it is  
25 also, you can also, if you do not interpret the

1 luminal tracings right, you can get a, what we call a  
2 false positive because luminal will react to other  
3 chemicals other than blood.

4 Q And is that the reason for using both tests?

5 A Absolutely. You use the two in conjunction with  
6 other because luminal is the test you want to use to  
7 identify blood that has been, that is not visible, that  
8 you can't see in ambient light or lighted conditions.

9 If you can see it, you don't want to spray luminal  
10 on it because luminal will actually destroy the blood  
11 types and groupings, groupings in the category of blood.

12 Phenolphthalein, on the other hand, if you can see  
13 it, and you can test it with phenolphthalein, it doesn't  
14 destroy anything.

15 Q Now, let me ask you this: When you responded to  
16 the scene at the end of Blount Street in the culdesac  
17 there, what if anything, did you observe?

18 A Upon receiving a request from Agent Pagani to  
19 respond to that scene, that we had a possible homicide  
20 situation, I responded to the scene, arrived at the  
21 scene. I noted that there was one police car in the  
22 circle area and that was located at the west side of the  
23 circle; that the area had been cordoned off with what we  
24 call crime scene tape or yellow tape and that there were  
25 several officers at the scene along with Agent Pagani;



1 that on the left side looking in a southerly direction  
2 there was a black female body lying in a prone position  
3 on the back.

4 Q All right. Within the crime scene area when you  
5 arrived, how many folks were there?

6 A Within that area that was taped off there were none  
7 within that area. They were all scattered on the  
8 parameter of the crime scene area.

9 Q What duties in the way of photograph or video  
10 photography did you perform while you were at the scene?

11 A Basically one of the major responsibilities of the  
12 field supervisor is to respond to a scene which we think  
13 is, is a very severe scene that we want to do video  
14 photography on and I have that capacity and that  
15 equipment in my vehicle.

16 So upon responding to this scene, I proceeded to  
17 video tape the scene before anything was moved or  
18 tampered with along with Agent Pagani, still photography,  
19 35 millimeter photography.

20 Q All right. And did you do that on this occasion?

21 A Yes, I did.

22 Q Subsequently did you, what areas did you video  
23 tape?

24 A Video taped everything, three hundred and  
25 sixty-five degrees, everything 300, everything, double

1 over and lapped and on top of that I authorized a fire  
2 truck to come to the scene so that we could use the  
3 hook and ladder truck to take the video and camera shots  
4 looking down within the circle area because we could not  
5 get as much of the area as we wanted to without aerial  
6 photography.

7 A Would you please look at what has been marked for  
8 purposes of identification as State's Exhibit number 1,  
9 the large photograph of the culdesac area. That is an  
10 accurate photograph taken from the fire truck, was it  
11 not?

12 A That is correct.

13 Q Subsequently did you have occasion to video tape  
14 the vehicle?

15 A Yes, sir, we video taped the vehicle at a later  
16 date after we completed the daylight initial crime scene  
17 investigation and we video taped that in the CCBI  
18 processing garage.

19 Q And what did you do with that video tape after you  
20 had completed it?

21 A This is the master video tape that has been in the  
22 file, secured within the photo files of CCBI and it is  
23 marked and labeled as such and I can identify the tape by  
24 handwriting on the tape which is marked homicide  
25 investigation RPD, Jacquitta Thomas, case number 113006.

1 The date, Agent Pagani as the investigating agent and  
2 myself as the one who took the video.

3 Q All right thank you. Now, at some point you and  
4 Agent Pagani made some observations about what appeared  
5 to be automobile tacks in the sand and in the area of  
6 the culdesac, did you not?

7 A That's correct.

8 Q All right. What observation did you make and what  
9 did you do in regards to those observations?

10 A Once photography was taken, the way everything  
11 was before anything was tampered with, we did note some  
12 tracks in the sand. This sand was what I would call  
13 silt that washed over the asphalt pavement in the lower  
14 areas of the asphalt and it deposited itself along the  
15 areas, the lower areas of the asphalt.

16 Upon noticing these impressions we also noticed  
17 that the possibility existed that a tire impression  
18 could have gone through some liquid substance there  
19 which we considered to be blood and in noting these  
20 impressions, I requested latent examiners to come to the  
21 scene, who are also foot and tire impression examiners  
22 for the bureau and to evaluate the potential for  
23 evidence that could be used in this investigation. When  
24 they got there, they proceeded to look at this evidence  
25 and put the placards out indicating the path or the tire

1 impressions in a certain circular motion around the  
2 body.

3 Q All right.

4 COURT: Excuse me a minute. Mr. Ford, I  
5 believe you have a lot more questions--

6 MR. FORD: Yes, sir, Your Honor.

7 COURT: --of this witness and it is lunch  
8 time.

9 You may step down, officer.

10 [WITNESS EXCUSED.]

11 COURT: Ladies and gentlemen of the jury, I am  
12 going to give you your lunch recess now. Now, keep in  
13 mind the instructions and order of the court that the  
14 court has already given you. Please be back at 2:30  
15 today. Everyone else remain seated and the jury may go  
16 for lunch recess until 12:30.

17 [JURY LEAVES COURTROOM.]

18 COURT: Take a recess until 2:30.

19 -----

20 P. M. SESSION

21 COURT: All right, Mr. Sheriff, bring the jury  
22 out.

23 [JURY RETURNS TO JURY BOX.]

24 COURT: All right, the jury is back.

25 Mr. Hensley, if you'd come back to the witness stand.

1 MR. FORD: Thank you, Your Honor

2 Q [Mr. Ford continuing]- MR. Hensely, you were  
3 previously testifying that you made a video tape of the  
4 scene at fifteen hundred South Blount Street?

5 A That's correct.

6 Q Also you either did yourself or supervised the  
7 video taping of the gathering of evidence from the  
8 vehicle in custody?

9 A That's correct.

10 Q To the best of your recollection did you video  
11 tape any particular items or locations during the course  
12 of this investigation?

13 A At the scene or at the vehicle?

14 Q No. Any other places besides those places.

15 A Basically those were the two places we concentrated  
16 on.

17 Q Earlier you testified that, I believe, latent  
18 examiners who, both fingerprint examiners and tire  
19 impression examiners laid out certain markers at the  
20 location on 1500 South Blount Street?

21 A That's correct.

22 Q And--

23 MR. FORD: May I approach the witness?

24 Q Can you see State's Exhibit 1-D from where you are  
25 seated?

1 A Yes. Uh-huh

2 Q What is State's Exhibit 1-D?

3 A It is a photograph representing the culdesac area  
4 with the body and the member or placards in place where  
5 the latent examiners felt there was potential tire tread  
6 evidence.

7 Q All right. And does that fairly and accurately  
8 depict the scene as you observed it after they placed  
9 the placards out?

10 A Yes, it is.

11 Q Is that generally the area that you had observed  
12 some stain markings on the pavement?

13 A Yes, it is generally in that area.

14 MR. FORD: May I approach the witness?

15 q I have given you a number of items. If you will  
16 start with State's Exhibit number 13 please. Can you  
17 identify that item?

18 A State's exhibit 13 is a photograph of the culdesac  
19 area with the body in the center of the photograph and  
20 it also shows the positioning of the placards numbered  
21 one through seven.

22 Q All right. Basically a larger representation than  
23 State's Exhibit 1-D?

24 A It is a duplication, larger representation, yes,  
25 sir.

1 Q Will you please look at State's Exhibit 14. Do  
2 you recognize State's Exhibit 14?

3 A Yes, sir, it is a photograph representing the  
4 victim's body, chest area with three lines or cuts upon  
5 the chest cavity area.

6 Q All right. Does that fairly and accurately depict  
7 the condition of the defendant's chest, I mean, the  
8 victim's chest area on her body as it appeared to you on  
9 September the 26th, 1991?

10 A Yes.

11 Q If would you look at fifteen, please.  
12 Can you identify State's Exhibit fifteen

13 A State's Exhibit fifteen is a photograph of the hand  
14 area in which there is a lot of blood. This would be the  
15 left hand of the victim.

16 Q Does that fairly and accurately depict the area of  
17 her left hand as it first appeared to you on the morning  
18 of September the 26th.

19 A Yes, sir.

20 Q Would you please look at 16.

21 A State's Exhibit 16 is a photograph with the hand  
22 being unfolded and held open to show the wounded area in  
23 the webbing of the fingers.

24 Q All right. That, the left hand of the decedent?

25 A That is correct.

1 Q Were you present when that process was done?

2 A Yes.

3 Q What was the purpose in, basically it was just  
4 pulling her fingers open, was it not?

5 A That is correct.

6 Q All right. Did that provide a better view of the  
7 wound between her fingers?

8 A Yes. and we were specifically inquiring as to why  
9 that much blood was on the hand. We though this might  
10 be a defensive type wound in the fingers itself and  
11 there was a lot of blood in that area that we could not  
12 explain unless the hand had bled.

13 Q In fact, you discovered this wound upon doing  
14 that?

15 A This is correct.

16 Q Would you please look at the next exhibit. What  
17 exhibit is that and how can you identify it, if you can?

18 A This is a photo--

19 COURT: Now, for the record that is  
20 Plaintiff's Exhibit--State's Exhibit number 17.

21 MR. FORD: Seventeen.

22 A Yes, sir.

23 COURT: Okay.

24 A State's Exhibit 17 is a photograph again of the  
25 same hand showing the tear in the webbing area more



1 significantly and the blood associated with the bleeding  
2 in the hand area of the left hand.

3 Q Does it fairly and accurately depict the scene as  
4 it was observed by you on the morning in question?

5 A Yes, sir.

6 Q Lastly, State's Exhibit 18.

7 A State's Exhibit 18 is a photograph of the, again  
8 the chest area, specifically the breast area of the  
9 victim. This was taken when the brassiere was pulled up  
10 to some extent to observe a wound under the cloth.

11 Q Does that fairly and accurately depict that wound  
12 as it appeared to you on the morning in question?

13 A Yes, it does.

14 Q The blood that you have talked about in  
15 relationship to the hand, the wound on the left hand, is  
16 that in the area to the west, immediately to the west of  
17 the body?

18 A Yes, immediately to the west of the body and I  
19 would say toward the head area.

20 Q Now, Mr. Hensley, at some point you decided to do a  
21 luminal or provide a luminal test for the entire area of  
22 the body, did you not?

23 A Yes, we did.

24 Q All right. What made you decide to do that?

25 A Well, the scene itself dictates whether or not we

1 proceed with luminal testing. We had a deceased person  
2 in the culdesac; there was obviously blood tracking in  
3 that area; there had been a severe trauma to the body  
4 and all indications were that the victim was beaten and  
5 in those types of scenes you have the expectation that  
6 blood will blow and be splattered all in other areas and  
7 we would like to determine from that kind of scene if  
8 blood was spattered out, what direction it came in, what  
9 body parts bled to cause tracking of blood, if someone  
10 walked through the blood or if something went through  
11 the blood giving us a track or location of where someone  
12 went to or came from.

13 Q Did you for that purpose return to the site of  
14 where the body had originally been after dark on  
15 September the 26th, 1991?

16 A Yes, we did.

17 Q All right. When you returned at that time, was  
18 the body there or had it been removed?

19 A The body had been removed at that time.

20 Q Had the position of the body been marked in  
21 anyway?

22 A Yes. White spray paint had marked the position of  
23 the body. We--the spray paint, of course, was sprayed  
24 in an arrangement that would have been larger than the  
25 body itself because we did not want to contaminate the

1 blood that was left at the scene with the spray paint.

2 Q All right. Well, can you tell this jury what you  
3 did in regards to performing the luminal test  
4 specifically on the stains that you had observed on the  
5 pavement?

6 A Basically a luminal test has to be done at night or  
7 in almost in complete total darkness. Ambient light  
8 sources from any lights in the area or anything like  
9 that can distort the testing.

10 Luminal as the word infers is luminesce. What  
11 happens is that the chemical that is sprayed on the  
12 blood reacts to the blood enzymes and it fluoresces and  
13 once it fluoresces, it fluoresces in a green light,  
14 very, very brilliant light.

15 The problem with this particular procedure is that  
16 the fluoresces doesn't last very long. In some cases no  
17 more than ten to fifteen seconds. If it is a very  
18 concentrated impression of blood, it can last a little  
19 bit longer, up to two or three minutes. It is very  
20 difficult to photograph and what you have to do with  
21 this particular procedure is make drawings or  
22 interpretations as you go along.

23 You can't cover big areas because you have to  
24 spray the luminal in a fine mist. The mist settles, it  
25 hits the blood, it fluoresces and you can gradually

1 track as you go through.

2 Q Well, is that the manner in which you proceeded?

3 A Yes.

4 Q To track whatever blood stains you would find on the  
5 pavement?

6 A That is correct.

7 Q What did you do to preserve their location when  
8 the luminance failed?

9 A We found through past experience the best way to  
10 photograph and identify what you have done with luminal  
11 testing is to mark it in some way, be it paint, flagged  
12 or in some manner mark it so you can come back and  
13 photograph what you tracked with the luminal. In this  
14 particular instance we did this with white paint, spray  
15 paint.

16 Q Could you tell me how you did that?

17 A Basically we would take the sprayer and we'd go  
18 along to a blocked area that we were tracking. We would  
19 spray the luminal in sections, say maybe six by six and  
20 then we would see the fluoresces as it fluoresced and it  
21 lasted, ever how many seconds it lasted, we would take  
22 the white can and the length of the impression that we  
23 got in this particular case the impressions were linear  
24 and that they were most probably tire impressions and we  
25 sprayed that from the beginning of the impression to the

1 end.

2 So this would give us a reference point into how  
3 far this impression or the blood was on particular item.

4 Q Okay. Now, you did this process for a large area  
5 of the culdesac, did you not?

6 A Yes, just about the entire area of the culdesac,  
7 including a path that went off to the east-southeast  
8 area.

9 Q Did you, upon doing these tests, observe any  
10 pattern whatsoever?

11 A There was a definite pattern in the spraying of  
12 luminal. what happens is when you have an object that  
13 goes through blood, the blood transfers to the object.  
14 If the object happens to be a wheel or a circular in  
15 it's configuration, then if you have a blood stain on  
16 the ground about this long, as the tire rolls over it,  
17 it is going to pickup that stain to be about the same  
18 amount of inches on the tire. If you, if you unroll a  
19 general tire, you would get five to six feet of thread.  
20 While in that foot that you have there, would represent  
21 one foot of tire tread within five to six feet of  
22 circular design. Every time this wheel rolls over, it  
23 is going to deposit what it picked up from the surface  
24 in the same distances or in the same configuration with  
25 the same length.

1 Q Well, did you make any observations of such linear  
2 marks under the luminal that in any distance, either  
3 near or from the body in a continuous line?

4 A Yes. The luminal reacted to linear marks left on  
5 the pavement, which we also tested with phenolphthalein  
6 to verify this was reacting to blood, that would  
7 indicate a circular motion, that circular object went by  
8 the the body probably through the pool of blood by the  
9 head and left arm area and that it traveled in a  
10 northerly direction, turned sharply, went back to a  
11 southern direction and then went to a southeasterly  
12 direction up toward the path and every time the wheel  
13 rolled over, it left a luminal impression there.

14 A All right. Did you subsequently or  
15 contemporaneously with that make notes in a drawing of  
16 what you were observing or what you had observed there?

17 A Yes, I did.

18 MR. FORD: May I approach the witness?

19 COURT: All right.

20 Q Mr. Hensley, I have handed you what for purpose of  
21 identification has been marked State's Exhibit 36. Can  
22 you identify the exhibit?

23 A Yes. This is a drawing that I made, a rough crime  
24 scene drawing that I made on 9-26-91 of the luminal that  
25 was sprayed and the areas that reacted to luminal in

1       which I marked where I started at spraying at the foot  
2       of the victim and continued to get a reaction 300, about  
3       in a full circle, three quarters of the circle around.

4       Q     All right.

5       A     There are fifteen separate areas which there gave  
6       reactions to something hitting the pavement.

7       Q     All right.  And in conjunction with preparation of  
8       State's Exhibit 36, did you either yourself or have  
9       under your supervision prepared an overlay showing the  
10      linear marks that you had observed under the luminal?

11      A     Yes, I did.

12                 MR. FORD:  May I approach the witness?  
13      I'll ask that the witness be allowed to step down and  
14      approach this exhibit.

15                 COURT:  You may step down, Officer Hensley.

16      Q     I have placed an overlay which has been marked for  
17      purpose of identification, State's Exhibit 1-E over  
18      State's Exhibit 1.  Do you recognize that item?

19      A     Yes.  State's Exhibit 1 is a blowup photograph of  
20      the culdesac area and 1-E is an overlay with what  
21      appears to be little tread designs on the overlay.

22      Q     Was that overlay made under your supervision and  
23      based on the information that you provided?

24      A     Yes.

25      Q     All right.  What does State's Exhibit 1-E show?

1       A     1-E, the overlay, shows the tracking of the  
2       luminal which was felt to be a tire impression starting  
3       in this area marked as number 1 with spray paint. As we  
4       sprayed in this area back and forth here, we got spotted  
5       or material which would show medium loss, high velocity  
6       spatters, much like you would hit a sponge with a hard  
7       instrument and the sponge would throw off material.

8             In this case, luminal and phenolphthalein reacted  
9       to blood in this area.

10            These solid impressions or the tire impressions,  
11       which look much like this, appeared to track in this  
12       area, coming through this area, making a full turn,  
13       going back in this bath and actually tracked up. We got  
14       a positive reaction in this area of the same track  
15       design.

16       Q     All right. That last positive reaction was  
17       actually on the curbing or into the --

18       A     Right up the curbing.

19       Q     And into the service road as shown in that state's  
20       Exhibit 1?

21       A     Yes.

22       Q     All right. Now, if you could step to the other  
23       side, please.

24       A     Okay.

25       Q     On State's Exhibit number 1-E there is a tread



1 mark or a mark that was luminescent under luminal, is  
2 that correct?

3 A That is correct.

4 Q One is very close to the body?

5 A Very close.

6 Q All right. Referring to State's Exhibit 1-A, did  
7 it, to the naked eye resemble what State's Exhibit 1-A  
8 depicts?

9 A Yes, it did.

10 Q All right. State, well, let me ask you this:  
11 What, if any, observations did you make in regards to  
12 that first tire mark and the victim's arm, left arm?

13 A Well, basically if the victim's arm was in the  
14 position it is now the tire mark, the vehicle would have  
15 to run over it and crushed the left hand.

16 Q Did you observe such an injury to her left arm?

17 A No, and the medical examiner's office did not give  
18 us any indication of that kind of injury.

19 Q But the very first blood marking was close enough  
20 to her body that it was within the radius of her arm  
21 extended?

22 A Yes. It even shows it better on the video.

23 Q All right. If you could return to the stand,  
24 please. Mr. Hensley, at some point you performed  
25 phenolphthalein and a luminal test on parts of the vehicle,

1 did you not?

2 A That's correct.

3 Q Specifically I call your attention to the front  
4 passenger wheel well, wheel well of the vehicle?

5 A Yes, sir.

6 Q Did you have occasion to perform phenolphthalein  
7 and a luminal test on that area?

8 A Yes, we did.

9 Q And why did you do that?

10 A Well, on the outside edge of the right front  
11 passenger side wheel well of the car there was a red  
12 substance which had all indications of possibly being  
13 blood and this gave us a visual contact of possibly  
14 blood was in that area.

15 Q All right. Did you have occasion. to then perform  
16 phenolphthalein test on that, that substance as well as  
17 the interior of the wheel well, the fender liner?

18 A Yes, we did. Basically we used the  
19 phenolphthalein to test the red spot on the fender. We  
20 got a positive reaction. And after that, then we  
21 collected that sample. If you have a visual sighting and  
22 the test is positive, the phenolphthalein, you do not  
23 want to spray luminal on it because it will destroy  
24 the blood groupings and type.

25 So we took that sample off using the method that

1 Agent Pagani explained and submitted that sample and  
2 then with the inner lining of the fender, we checked  
3 this with phenolphthalein and got a reaction and  
4 basically we did not want to spray that much because it  
5 would again destroy the lining. So we took the lining  
6 out and then we proceeded to do the luminal after we  
7 removed the things that we got a positive visual  
8 reaction on.

9 Q So you tested not only the linear but the remainder  
10 of the wheel well?

11 A Yes.

12 Q All right. Can you tell me what results you got  
13 when you sprayed the interior of the wheel well with  
14 luminal?

15 A When we sprayed the interior with luminal, we had  
16 a lot of fluoresces in that rear.

17 Q And what did that indicate to you?

18 A That indicated that possibly a substance like  
19 blood might have come in contact or was slung off the  
20 wheel in that area.

21 Q Did you test the fender liner itself with  
22 phenolphthalein?

23 A Yes, sir.

24 Q And what type of reading did you get from the  
25 phenolphthalein?

1 A We got a positive reaction for that reading.

2 Q For blood?

3 A Yes.

4 Q Okay. Was any of that--well, I take it that you  
5 tested it with phenolphthalein and then it was visible  
6 to you?

7 A Right. Definitely. If you see it, you do not  
8 want luminal.

9 Q All right. Can you tell me, or describe the  
10 amount of stain that you saw under that, on the inner  
11 fender liner and under there?

12 A IT is very faint. Almost very, very minute. You  
13 had to look real closely.

14 Q I want to ask you about the tires.

15 A Yes, sir.

16 Q Did you observe the vehicle at the scene.

17 Q Yes, sir, I did.

18 Q Can you state the condition of the vehicle at the  
19 scene as to it's wheels?

20 A The front wheels were in a gully, a washout. The  
21 front of the car was just about sunk, totally down. And  
22 it appeared that the vehicle had got stuck and that the  
23 wheels were spun more or less to try to get out of the  
24 ditch.

25 A What affect would that have on the life expectancy

1 of any blood stain that was on those tires or wheels?

2 A It would almost like be taking sandpaper and  
3 cleaning the wheel because that was sand and the  
4 spinning of the tires or the movement of the tires would  
5 pretty well obliterate or clean off a lot of the  
6 material.

7 Q Did you notice whether or not that was a four  
8 wheel drive vehicle?

9 I believe it was.

10 Q The front wheels specifically, did you have  
11 occasion to look in the area of the front wheels?

12 A Yes, I--

13 Q The ones that were in the ravine or stuck?

14 A Yes, I did.

15 Q Did they appear to have been moved after they  
16 were, or spun after they had been in the ravine.

17 A Basically I am not sure that they were spun more  
18 or less but they had dirt all the way around them and I  
19 don't know if that came from spinning or what but the  
20 impressions on the dirt in the washout area was all the  
21 way around the tire.

22 MR. FORD: May I again approach the witness,  
23 Your Honor?

24 COURT: All right

25 A Mr. Hensley, I have handed you back an item that I

1 have marked for identification as State's Exhibit number  
2 37. That is the video, is it not, that you have  
3 previously testified that you shot yourself and then  
4 preserved in the film files at the State Bureau of  
5 Identification?

6 A That is correct.

7 Q Have you reviewed that video prior to today in  
8 court?

9 A Yes.

10 Q And at the time that you took the video did the  
11 apparatus that you were using appear to be operating  
12 correctly?

13 A Yes, it did.

14 Q And in viewing the video since that time have you  
15 found it to be an accurate depiction of what you viewed  
16 and what you attempted to video at the time and the date  
17 in question?

18 A Yes, very accurate.

19 MR. FORD: Your honor, I would ask at this  
20 time we be allowed to play that video for the jury.

21 COURT: Any objection?

22 MR. DODD: No, sir.

23 COURT: Without any objections of the  
24 defendant-- You offer that into evidence?

25 MR. FORD: I will.

1           COURT: Without any objections of the  
2 defendant State's Exhibit number 37 is introduced into  
3 evidence and without any objections of the defendant it  
4 may be viewed before this jury.

5           Well, as to the State's Exhibit 37, do you want to  
6 mark the tape as State's Exhibit 37-1, Mr. Ford?

7           MR. FORD: I will do so.

8           court: All right.

9           State's Exhibit 37 is a video tape case and  
10 State's Exhibit 37-1 is the video tape itself.

11           MR. FORD: Mr. Hensley, would you step down  
12 for us please?

13           MR. FORD: If you would while that is, while  
14 State's Exhibit 37-A is being played would you use that  
15 to illustrate your testimony of earlier?

16           A     This is the culdesac area, the body that you saw  
17 in this area. This is the opening and this is the  
18 trucking area. The video has a few breaks in it.

19           Again, this is the cassette for the culdesac area.  
20 This is the path. The body is laid out in this  
21 position. You can see that the wind is blowing fairly  
22 strong this day and we had a small, what I call a dew  
23 like rain that settled that morning. It was cloudy that  
24 morning and it cleared up and gradually got clearer and  
25 warmer during that day.

1           You can see the growth of the bushes. This is in  
2           September. The weeds had started dying out. There's a  
3           drain in this area. You can notice the bank, too. You  
4           see the police car that was parked in this area. I  
5           understand it was the first vehicle on the scene. It is  
6           still parked in that area. You can also see the line  
7           that went to the body and the line surrounding the area  
8           which cordoned off the crime scene, the investigation  
9           area.

10           The next portion of the video you will see the  
11           street looking up Blount Street in a northerly direction  
12           and you will see both sides of the street. This a three  
13           hundred and sixty degree starting off in this way and  
14           swinging from left to right going in this direction.

15           This is the businesses up Blount Street. This is  
16           where City Farm Road comes in. This is the Ralston  
17           Purina Plant.

18           This is the trucking area or the storage area or  
19           the other side of the culdesac which ends. This road up  
20           here is what is referred to as Hammond Road that goes up  
21           to I-40. This is the sign with all the lights in this  
22           area, by this area here and you can see the position of  
23           the body from the sign and to the path. This is the  
24           sign here. This is the body. This is the area which is  
25           a lot of the debris that Agent Pagani collected was found



1 in.

2 As you notice at this time the pants were located  
3 in that position for--

4 Q Would you -- can you stop that and run it back  
5 just briefly. Earlier you testified that the stain  
6 which is showed as the first stain on State's Exhibit  
7 1-E was apparent in the video. Would you please examine  
8 it as the hand near the body and point that out?

9 A There is another sequence that gets closer to  
10 that, if you want to do--

11 Q Either way.

12 A There is some debris. the body is situated here.  
13 We are going back from right to left, going in a  
14 northerly direction.

15 When the video is made, you don't know what is  
16 what. So what you try to take is 360 degrees of  
17 everything in the area and then back off and take 360  
18 degrees of that. We are gong from right to left this  
19 time.

20 This is the debris area. This is the closer area  
21 here. As you notice these stains here, they go this  
22 way.

23 As the video gets over to the left a little bit, you  
24 see this area is pretty well saturated in here.  
25 Goes here.

1           Okay, you see this place, this place and this  
2 place. This, it is liked to an arc, very much like an  
3 arc right here with the left hand. You can see that  
4 deposit of dirt on the skin here. At one time the body  
5 had to be lying on it's left side. This, there is dirt  
6 is adhered to the skin.

7           Some bleeding of the knee area, pants area and  
8 then get back to the way the pants were pulled off.  
9 Blood stains were found on the inside of the pants.  
10 These pants were pulled in this way.

11           Notice where the waist is compared to the shoes.  
12 Again, you see the hand area here. This is the hand  
13 that we were talking about that had possibly the  
14 defensive wounds or cut and you see the arc of the hand.

15           This is a closeup of the right side with these  
16 gashes in this area here.

17           This is the track we are talking about. Look  
18 where the hand is in the track. If the vehicle got that  
19 close, it would have to crush the hand.

20           This is the debris again. Little pieces of paper,  
21 matches, cigarettes. the matches weren't wet. So it  
22 had not rained on the matches. They were paper matches.  
23 If it had rained on them, it would have absorbed the  
24 water and retained it because they were made out of  
25 cardboard.

1           See the matches here. they are in pretty good  
2 shape. This is a little piece of blue cellophane type  
3 paper.

4           Lot of match stems partially burnt, the heads, two  
5 or three matches at a time.

6           In a moment you will see where the video tried to  
7 show this area in relationship to the body. We were  
8 panning that area. This is the area, this is the  
9 relationship of the body to the different items that  
10 were found in here. Again, you will see these items  
11 that we found on the asphalt.

12       Q     Was the tissue paper with the blood stain on it  
13 among those items?

14       A     It was somewhere in, I don't recall whether Agent  
15 Pagani picked it up. But again, a lot of these items  
16 were blown to some extent because the wind was blowing  
17 pretty much.

18           This is a closeup of the hand area. See this  
19 wound between the little finger on the left hand. A lot  
20 of bleeding in this area and being that the slope is  
21 downward toward the head area, we could not explain how  
22 this blood got here unless the hand was being moved at  
23 some point in time.

24           This is the wound area. As you say, you could not  
25 tell this was a hole because the blood had dried on it,

1 was coagulated over it. These wounds were very hard to  
2 see in them. Once the body was cleaned up, you can see  
3 this wound penetrated into the esophagus area.

4 This is the path. This is the sign. This is on  
5 the ridge of the path looking back toward the truck.  
6 The body would be over here. From this area you could  
7 not see the vehicle and turning around and looking  
8 toward the vehicle, you can see the top of it over  
9 here.

10 Again, this is Hammond Road. This is the dirt  
11 area or field that comes up from the path, starts over  
12 here. We are looking back, going back toward the  
13 culdesac. This is the path the investigator is walking  
14 up. The trucking company is approximately in this  
15 position here.

16 You are going from the body from the path to a  
17 distance to a vehicle, a white vehicle in the wooded  
18 area.

19 This is the area and this is the down slope. This  
20 area used to be a lake. In fact, it use to be two lakes.  
21 It was filled in when the highway was built. Use to be  
22 a fishing club there and it is right behind a housing  
23 development between that and the highway. And also it  
24 was used at one time by the city for a landfill type  
25 situation. So it is a swampy area back down further.

1           Shows the vehicle here. This is a lighted, very  
2 large sign with the lights on top.

3           The trucking company. Of course, you cannot see  
4 the other trucking company really, basically or the  
5 culdesac or anything going on from the position of the  
6 vehicle.

7           You see the vehicle's wheels turnt. You see the  
8 dirt, as referred to. The dirt being on the wheels.  
9 You see the vehicle is in this area. The front end of  
10 the vehicle was pretty well submerged in the gully.

11          This is the vehicle once we got it in the CCBI  
12 processing. We had it jacked up on jacks once the  
13 wrecker got it out and we had initiated a search of the  
14 vehicle after obtaining a search warrant.

15          You can see all the dirt on the tires. This is  
16 passenger side. this is a two-door vehicle with the  
17 windows of the vehicle only opening on the doors  
18 themselves. No rear window, rolls down more or less.

19          This is the fender well area, the tread. This is  
20 a, trying to focus in on a spot in this area. And you  
21 see we are pointing to this here. This is virtually too  
22 close for the video camera to pickup on the spot.

23          This is the inner wheel area. We also did some  
24 stuff on the A-frame area. We found some spots here  
25 that were suspicious to us or this is the inner well

1 area of the tire, right hand side, and we also took the  
2 wheel well area apart to have it examined.

3 Q Is that the fender liner that was sent to the  
4 S.B.I.?

5 A Yes, sir.

6 Q So it is, it really covers only a part of the  
7 wheel well.

8 A It covers the inside portion of the wheel well  
9 area.

10 This is the A-frame area in which we had some  
11 positive reaction with phenolphthalein and the problem  
12 with spraying luminal on this is that you have oxidation  
13 rust and you got to get a reaction with the luminal  
14 which is going to give you a false positive.

15 This is the tire that has been removed. Again,  
16 this is the inside wheel area.

17 Went back to the scene, this was on the 27th,  
18 revideoed the scene again. Basically this is the day  
19 after. Bright, pretty sun shiny day and wanted to show  
20 the relationship of the members that we draw.

21 If you notice these lines and members here, this  
22 was a video of the luminal that we did the preceding  
23 night at the darkness hours, these lines painted here  
24 and numbered in sequential order as to the drawing.

25 As the drawing would indicate leading around from

1 the body area here make a circle and go into the right  
2 side of the path. The diameter of this circle from the  
3 body area to the length of the outer circle was  
4 approximately 36 feet 6 inches.

5 In this area here would be about fifteen to twenty  
6 feet from where the vehicle into where the body was.

7 And basically the rest of the video is just  
8 showing that.

9 MR. FORD: All right, turn it off.

10 Q Mr. Hensley, do you know what the term four  
11 wheeling means.

12 A Yes, sir. I have heard that terminology.

13 Q What does that mean to you?

14 A Well, if I compare that terminology used by my  
15 son, it means that he's going out and costs me a bunch  
16 of money by using his four wheeler running up paths and  
17 trees and running over lakes, ponds and things.

18 Q Did you see any evidence in this field area up  
19 that path or any field area back anywhere close to this  
20 vehicle that anybody had been four wheeling?

21 A The area was pretty well intact. It really  
22 surprised me to a certain extent. The path was not torn  
23 up and it looked like the vehicle went right down into a  
24 gully area and the tire impressions that you could tell  
25 to me appeared to almost go into the gully area and

1 that's where it got stuck.

2 I did not see any figure 8's or circular doughnuts  
3 or things of that, if that's what you are talking about.

4 Q You didn't see any indication there that the area  
5 had been abused by some motorized vehicle, did you?

6 A No, I didn't see that.

7 MR. FORD: I don't have any further questions.

8 COURT: Cross-examination?

9 MR. DODD: Thank you, Your Honor. No  
10 questions.

11 COURT: No questions?

12 MR. DODD: Yes, sir. No questions.

13 COURT: You may step down, Mr. Hensley.

14 [WITNESS EXCUSED.]

15 -----

16 MR. FORD: Your Honor, for the record before I  
17 call my next witness, at this point I am going to move  
18 to introduce State's Exhibits 1 through 37, Well, 1  
19 through 36. I believe, you have already admitted 37 and  
20 37-A.

21 COURT: Any objection, Mr. Dodd?

22 MR. DODD: No, sir.

23 COURT: Mr. Adams, no objection?

24 MR. ADAMS: No, sir.

25 COURT: All right, State's Exhibit 1, 2, 3, 4,



1 5, 6, 7, 8, 9, 10, 11, 12, and State's Exhibit 13, 14,  
2 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28,  
3 29, 30, State's Exhibit number 31, 32, 33, 34, 35, and  
4 36 and also State's Exhibit number 1-A, 1-B, 1-C, 1-D,  
5 1-D is introduced into evidence without any objections  
6 of the defendant.

7 State's Exhibit number 37 and State's Exhibit  
8 number 37-A has already been introduced into evidence  
9 without any objections of the defendant.

10 It may be a good time to take a recess. Ladies  
11 and gentlemen, I am going to give you your afternoon  
12 recess at this time.

13 Keep in mind the instructions of the Court.  
14 Everyone else remain seated and I'll let you go for a  
15 fifteen minute recess.

16 [JURY LEAVES COURTROOM.]

17 COURT: Mr. Sheriff, we will take our  
18 afternoon recess.

19 [SHORT RECESS.]

20 -----

21 COURT: The jury is back. Call your next  
22 witness.

23 MR. FORD: The State would call Detective  
24 Johnny Howard to the stand.

25 DETECTIVE JOHNNY HOWARD, being first duly sworn,

1 testified as follows during DIRECT EXAMINATION by

2 Mr. Ford:

3 Q Will you state your name and occupation for the  
4 Court, Please.

5 A J. W. Howard, investigator, Raleigh Police  
6 Department.

7 Q Detective Howard, how long have you been so  
8 employed?

9 A Twenty-two and a half years.

10 Q In September of 1991, what were your duties with  
11 the Raleigh Police Department?

12 A Investigator with the Major Crimes Unit.

13 Q Did you have occasion to join in the investigation  
14 of the death of Jacquitta Lashawn Thomas?

15 A I did.

16 Q What were, when did you first become aware of that  
17 death?

18 A Sometime that morning our unit was called to go to  
19 the dead end of Blount Street, that a body had been  
20 found that was an apparent homicide.

21 Q And did you respond with other officers to the  
22 scene?

23 A I did.

24 Q Would you state what you observed when you arrived  
25 at the scene?

1 A I was only there a short period of time. I saw  
2 the body of a victim laying in the culdesac. Some other  
3 investigators were there prior to me arriving. Someone,  
4 I believe, it was Detective Blackman had located a  
5 vehicle. A license number was ran to determine who  
6 owned that vehicle and shortly thereafter Mr. Taylor  
7 came up.

8 Q Were you at the scene when Mr. Taylor came up?

9 A Yes, I was.

10 Q What did you observe and what did you do in regard  
11 to that observation when Mr. Taylor came up to the seen?

12 A Mr. Taylor arrived with his wife and a co-worker,  
13 as I recall.

14 I asked Mr. Taylor if he would accompany me to the  
15 Investigative Division, that I, it would be necessary  
16 for me to interview him because of the locale of his  
17 vehicle to the body and he said that he would be happy  
18 to.

19 Q What time of day or night was that?

20 A This was, I think probably 9:00 a. m. or so. I am  
21 not certain. Maybe 8:30 would be the correct time.

22 Q And was that on the 26th of September, September  
23 26th, 1991?

24 A That's correct. Thursday.

25 Q What did you do, how did you go to the

1 Investigative Division and how did the defendant get  
2 there?

3 A If I recall, the defendant rode with me. I am not  
4 certain. He may not have. He may have went with his  
5 wife but in any event, we did meet at the Investigative  
6 Division.

7 Q And who else was present?

8 A Detective Lyles.

9 Q Did you, at that point had you placed the  
10 defendant under arrest for anything?

11 A No, sir.

12 Q And did you have him in custody?

13 A No, sir.

14 Q Had he been told that he couldn't leave the scene?

15 A Oh, no.

16 Q Well, tell us what happened after you arrived at  
17 the Investigative Division?

18 A I asked him how his vehicle come to be where it  
19 was located and what had he done the night prior to  
20 Thursday morning, which would have been Wednesday night.  
21 He told me that after work he went to visit a friend.  
22 From there, he went to see another friend and watched  
23 part of the Brave's ball game. Leaving there he decided  
24 to stop by the codefendant's residence. Had a few beers  
25 with him and they decided to go four wheeling?

1 Q Okay. And had he provided you with an approximate  
2 time of day or night that they had decided to go four  
3 wheeling?

4 A As I recall, it was somewhere around 2:30 a. m.

5 Q 2:30 in the morning?

6 A Yes.

7 Q All right. Would that, would that have been the  
8 morning of September the 26th, 1991?

9 A That's correct.

10 Q The morning of Jacquitta Thomas' death?

11 A That's correct.

12 Q All right. Well, the best you recollect how did  
13 you react to him telling you that.

14 A Well, I didn't believe that to be true.

15 Q Did you have further conversation with him?

16 A Yes, I did.

17 Q And the best you recollect how long did the  
18 entirety of that conversation last?

19 A This particular interview probably lasted close to  
20 an hour maybe, 45 minutes.

21 Q Did the defendant continue to tell you what you have  
22 just described.

23 A To some degree. He went on to say that from four  
24 wheeling the vehicle became stuck, that he and the  
25 codefendant was walking out. The codefendant brought to

1 his attention said, you know, I believe, here's a body.  
2 He says he looks and he sees possibly a roll of carpet  
3 or he believes probably a body, that they proceeded on  
4 some distance. The codefendant tells him, don't look  
5 back there's someone standing over the body. He says he  
6 is unable to resist. He looks back and at that time he  
7 sees some unknown person standing over the body.

8 Q Had you asked him with regards to any other  
9 vehicles at the scene?

10 Q Yes, I did.

11 Q All right. And did he give you a response to  
12 that?

13 A Yes, he did.

14 Q What did he say?

15 A He saw no other vehicles there.

16 Q Subsequently during the course of that  
17 conversation with the defendant did he have occasion to  
18 tell you another reason why he had been at the location?

19 A Yes, he did.

20 Q What did he tell you?

21 A He was smoking crack.

22 Q All right. Did he tell you how that had been  
23 obtained and where and the circumstances leading up to  
24 that?

25 A Yes.

1 Q To the best of your recollection did you record  
2 the entirety of the conversation you had with  
3 Mr. Taylor?

4 A Yes, I did.

5 Q All right. And what manner of recording did you  
6 use?

7 A A mini cassette.

8 Q Did you preserve the recording either personally  
9 or in the evidence room of the police department since  
10 that date?

11 A Yes, it has been.

12 Q And do you have that item with you?

13 A I do.

14 Q I have marked for purposes of identification an  
15 item as State's Exhibit 38. Can you identify that item,  
16 detective?

17 A Yes, sir, I can.

18 Q What is State's Exhibit 38?

19 A This is a tape recording of that interview with  
20 Gregory Taylor.

21 Q All right. Now, after that recording was made,  
22 did you subsequently have occasion to review the  
23 recording?

24 A Yes, I did.

25 Q And did you subsequently request that staff

1 members of the police department prepare a transcript of  
2 that recording?

3 A Yes, I did.

4 Q And after that -- Well, was one prepared?

5 A Yes, it was.

6 Q All right. And did you have occasion to check the  
7 transcript for its apparent accuracy to what you had  
8 heard?

9 A Yes, sir.

10 Q And was the tape played?

11 A I did.

12 Q Would you please look at State's Exhibit 39. Do  
13 you recognize State's Exhibit 39?

14 A I do, sir.

15 Q What is State's Exhibit 39?

16 A It is a transcript of the taped interview with  
17 Gregory Taylor.

18 Q Detective Howard, with you today did you bring a  
19 recording device similar to the one that you used?

20 A I did.

21 Q All right. And is that recording device capable  
22 of playing the tape that you had previously recorded?

23 A It is.

24 Q Did you bring any means with you of amplifying the  
25 sound of that recording?



1 A I have.

2 Q What means did you bring with you.

3 A Some mini microphones or speakers which are  
4 directly behind you.

5 MR. FORD: If Your Honor please, at this time  
6 it would be the state's intention to have  
7 Detective Howard play State's Exhibit 38 and in  
8 preparation for that I have had my staff prepare  
9 numerous copies of the transcript which is a copy of  
10 State's Exhibit 39.

11 COURT: You moving into evidence State's  
12 Exhibit 38 and 39?

13 MR. FORD: I certainly am.

14 COURT: Any objections?

15 MR. DODD: No, sir.

16 COURT: Without any objections of the  
17 defendant, State's Exhibit number 38, the tape of the  
18 interview is introduced into evidence, State's Exhibit  
19 number 39, the written transcript of the taped  
20 interview, is introduced into evidence without any  
21 objections of the defendant.

22 MR. FORD: May I approach the witness?

23 COURT: All right.

24 MR. FORD: If Your Honor please, I would ask  
25 that the bailiff be allowed to pass --

1           COURT: Well, let me see 39 and let me see  
2 your copies first.

3           MR. DODD: Your Honor, may we approach the  
4 bench while we are waiting?

5 [COUNSEL APPROACHES BENCH.]

6           COURT: All right, Mr. Bailiff, since they are  
7 exact copies of State's Exhibit 39, I'll ask that you  
8 pass those out to the jury.

9 [COPIES OF STATE'S EXHIBIT 39 PASSED TO JURY.]

10 Q Mr. Howard, would you please attempt to play  
11 State's Exhibit 38.

12 [NOTE: STATE'S EXHIBIT 38 PLAYED FOR THE JURY.]

13 Q Detective --

14           COURT: Mr. Bailiff, I'll ask you that you  
15 pickup those copies.

16 Q Detective Howard, at some point in that  
17 conversation with the defendant you were asking him  
18 certain directions that he operated his vehicle?

19 A Yes.

20 Q How was he indicating that to you?

21 A On a drawing.

22 Q All right. And what was that a drawing of?

23 A Of the culdesac.

24 Q Okay. Basically when he first told you that he  
25 went in there, how did he tell you that he went in?

1 A The best I recall, he indicated that he went  
2 around to the right and circled around.

3 Q And he indicated to you at some point that he  
4 parked where he could see up the street?

5 A That's correct.

6 Q And where would that have been, or where did he  
7 indicate that was?

8 A Near the beginning of the culdesac on the, that  
9 would be the east side of the street, I guess.

10 Q That was before he told you, that was when he was  
11 saying his purpose was for being there was for four  
12 wheeling?

13 A That's correct.

14 Q You went to that location at some point?

15 A Yes.

16 Q Did you ever have occasion to go back in the area  
17 of the vehicle?

18 A No, I did not.

19 Q At some point during the course of this interview  
20 you broke your conversation with this defendant and  
21 talked with his wife, did you not?

22 A Yes, I did.

23 Q What, if anything, did you ask her in regards to a  
24 weapon?

25 A I asked her did her husband, Mr. Taylor, have a

1 knife.

2 Q Did you yourself make any mention to her as to in  
3 the vehicle?

4 A No, I did not.

5 Q As a result of that conversation with her, did you  
6 do anything in specific with your conversation with the  
7 defendant?

8 A We eventually went to his residence and made a  
9 search.

10 Q After asking and having a conversation with his  
11 wife, when you went back in and talked with him--

12 A Uh-huh.

13 Q --you asked him some more questions, didn't you?

14 A That's correct.

15 Q All right. There was some questions in here about  
16 having a knife to cut seat belts or something of that  
17 nature?

18 A That's correct.

19 Q Did you ask him those questions after the  
20 conversation with his wife?

21 A Yes, I did. His wife told me that --

22 MR. DODD: Objection.

23 COURT: Sustained as to what his wife said at  
24 this time.

25 Q Now, the defendant originally told you that when he

1       came out the culdesac, he couldn't tell whether that  
2       was a body or not, it looked like some piece of  
3       carpeting or could have been carpet or something of that  
4       nature?

5       A     As best I recall, yes.

6       Q     What was--at that point, to the best of your  
7       recollection, how far was he indicating that he was from  
8       this body when he couldn't tell it was a body or not?

9       A     Ten to fifteen feet.

10      Q     All right. Subsequently he said some fifty to a  
11     hundred yards up the street, the fellow that was with  
12     him made some remark about somebody else being on the  
13     scene?

14      A     That's correct.

15      Q     And as a matter fact he indicated it was up near  
16     the first buildings on the right?

17      A     That is correct.

18      Q     How far is that actually in your best estimate to  
19     the beginning of the first building on the right back to  
20     where this body was located?

21      A     I would say it would be several hundred yards.

22      Q     And at that point he indicated to you that he  
23     could see the color of clothing on somebody standing  
24     over this body?

25      A     In the culdesac, yes, sir.

1 Q And he was at the first building on the right at  
2 that time.

3 A Yes, sir.

4 Q That's what he indicated to you?

5 A That's correct.

6 Q Now, subsequently you had a occasion to talk with  
7 the defendant again, did you not?

8 A I did.

9 Q All right. And under what circumstances was that  
10 and where did you talk to him?

11 A This was after he permitted us and had accompanied  
12 us to his residence. We came back to the Investigative  
13 Division. I had an opportunity to talk with the  
14 codefendant and then I talked with him again.

15 Q On the second occasion did you ask the defendant  
16 whether or not this body had been there when he had  
17 driven into the location?

18 A I did.

19 Q Did you ask him whether or not he was operating  
20 his vehicle himself when he went in there?

21 A I did.

22 Q All right. What did he tell you about that?

23 A He said that he was driving the vehicle. He had  
24 his lights on and there was no body laying in the  
25 culdesac as he pulled in.

1 Q And what degree of certainty did he express to you  
2 that there was no body there when he drove in?

3 A No doubt.

4 Q Subsequent to speaking with the defendant in this  
5 investigation, you had occasion to speak with numerous  
6 other people, did you not?

7 A I did.

8 Q All right. Were you in the presence of Detective  
9 Allison Blackman when he spoke with several people?

10 A I was.

11 Q All right. Specifically do you know who Eva Marie  
12 Kelly is?

13 A I do.

14 Q All right. Who is Eva Marie Kelly?

15 A Ms. Kelly is a white female who is a prostitute,  
16 lives on, did live on East Street, 400 block.

17 Q Did you have occasion to either talk with her  
18 yourself or be present when Ms. Kelly was talked to by  
19 Allison Blackman?

20 A I was.

21 Q When did that contact occur and under what  
22 circumstances?

23 A I believe, this was on the first, 10-1. We had  
24 been --

25 MR. DODD: I am sorry. ten one?

1 A Uh-huh. I believe, it was on the first  
2 attempting to locate individual or individuals that may  
3 have seen the victim with the suspects. We knew that  
4 the victim had been in this particular location, from  
5 there we located Ms. Kelly and subsequently an interview  
6 was held.

7 A Do you know whether or not prior to you-- Well,  
8 how many times were you present with detective Blackman  
9 when he spoke with Ms. Kelly?

10 A The best I recall it was one time.

11 Q That was at the police department?

12 A That's correct.

13 Q Do you know whether or not Detective Blackman  
14 spoke with Ms. Kelly at approximately 3:30 on September  
15 the 27th, 1991, in front of 419 South East Street?

16 A I don't know that personally.

17 Q All right. From the conversation that you had or  
18 that you observed between Mr. Blackman and Ms. Kelly--

19 A Uh-huh.

20 Q --did it appear that Mr. Blackman knew Ms. Kelly?

21 A Yes, it did .

22 Q Would you tell whether or not from their  
23 conversation whether they had had previous conversation  
24 out of your hearing?

25 A It appeared from their conversation that it had



1       been and that she was aware of the incident of the  
2       homicide.

3       Q       Well, in fact in the conversation that you  
4       observed between Detective Blackman and Ms. Kelly he  
5       thanked her for coming down there, did he not?

6       A       He did.

7       Q       All right. And expressed that he knew that would  
8       probably be troublesome to her considering where she  
9       lived, did he not?

10      a       I think I did. One of us did.

11      Q       Why did you do that?

12      A       Because of where she lived, the people that  
13      frequent the residence she was at, it was a drug house,  
14      a house of prostitution. Her coming up there people  
15      would realize that she was assisting the law enforcement  
16      in attempting to determine who was responsible for the  
17      death of Jacquitta Thomas.

18      Q       Well--did, do you know how her visit to the police  
19      department was arranged?

20      A       I want to say we brought her up there. We went  
21      and picked her up.

22      Q       During the, you were present and took part in the  
23      taking of a statement from Ms. Kelly?

24      A       Yes, I was.

25      Q       All right. What did she tell you and Mr. Black-

1 man in regards to her observations on the night of the  
2 25th of September and the early morning hours of the  
3 26th of September, 1991?

4 MR. DODD: Objection.

5 COURT: Sustained.

6 MR. FORD: May I have just a second?

7 Q Do you know a black female by the name of  
8 Shelia Crowder?

9 A Yes, I do.

10 Q Who is she?

11 A She is a black female who works the street as a  
12 prostitute.

13 Q Subsequent to the investigation of Jacquitta  
14 Thomas' death beginning did you have occasion to either  
15 personally or with, accompany by Allison Blackman to  
16 question Ms. Crowder in regards to that?

17 A I did.

18 Q Do you know a person by the name of Farley Ann  
19 Pate?

20 A I do.

21 Q Also known as Tec?

22 A Yes, I do.

23 Q Who is she?

24 A She is a white prostitute.

25 Q And subsequent to the death of Jacquitta Thomas

1 did you have occasion either yourself or in conjunction  
2 with Allison Blackman to question her with regard to the  
3 date in question?

4 A I did.

5 Q Did you have occasion yourself personally to  
6 question Johnny Beck?

7 A Yes, I did.

8 Q During the course of that questioning did you have  
9 occasion to ask Mr. Beck if he saw any other person near  
10 or around this body at any time on the evening of or the  
11 early morning hours of September the 26th, 1991?

12 A I did.

13 Q What did he tell you?

14 A He did not.

15 Q He denied seeing this person in the white shorts  
16 or red shorts. Did you give him ample opportunity to  
17 tell you that that person existed?

18 A Yes, sir, I did.

19 Q And he never mentioned that person to you?

20 A No, he did not.

21 MR. FORD: Thank you. I don't have any  
22 further questions.

23 COURT: Cross-examination?

24 MR. DODD: May I approach the bench, Your  
25 Honor?

1 COURT: All right.

2 [COUNSEL APPROACHES BENCH].

3 COURT: After the bench conference Mr. Dodd,  
4 do I understand that you have considerable amount of  
5 cross-examination of this witness?

6 MR. DODD: Yes, sir, I have more than ten or  
7 fifteen minutes.

8 COURT: All right. In view of that, I will  
9 without any objections of the State or the defendant we  
10 will go ahead and take a recess now. It is about ten  
11 minutes till five. You may step down, Mr. Howard.

12 Ladies and gentlemen of the jury, we are going to  
13 take a nightly recess now until 9:30 in the morning.  
14 Again, keep in mind the instructions that I have given  
15 you. You are not to discuss among yourselves nor allow  
16 anyone else, including family members, to say anything  
17 to you about this case. Be sure that you are not to  
18 read anything in the newspaper, listen to anything on  
19 radio or watch anything on TV about this trial. Keep  
20 all of that order in mind. Everyone else remain seated  
21 and I'll let you be excused until 9:30 in the morning.  
22 Leave your badges here in your seats.

23 [JURY LEAVES COURTROOM.]

24 COURT: Let the record show the jury has been  
25 excused.

1           Mr. Dodd and Mr. Ford and Mr. Adams, I believe,  
2           Mr. Dodd, you had indicated earlier when this case  
3           commenced that you had a long range engagement Friday  
4           after lunch to go to the law school to make a speech or  
5           something of that sort?

6           MR. DODD: Yes, Your Honor. I have been asked  
7           to speak and give a paper at Chapel Hill on Friday.

8           COURT: And I understand the State, it appears  
9           to the Court that we are not going to be able to finish  
10          this matter by 12:00 o'clock on Friday.

11          MR. FORD: I knew of that engagement.

12          COURT: You have no objections to that?

13          MR. FORD: I have no objection to that.

14          COURT: All right. I might tomorrow, if it  
15          appears, as it looks like now that we are not going to  
16          finish, I might go ahead and tell the jury so they can  
17          make their, the jurors, so they can make their schedule  
18          known.

19          All right, take a recess until 9:30 in the  
20          morning.

21          [COURT RECESSED FOR THE DAY.]

22

23          [4-15-93 A.M. SESSION]

24          COURT: All right, sheriff, bring they jury  
25          out.

1 [JURY RETURNS TO JURY BOX.]

2 COURT: Let the record show, it is Thursday  
3 morning, April the 15th. All the the members of the  
4 jury are present. Detective Howard, if you would come  
5 back around to the witness stand.

6 You indicated that you were through with  
7 direct examination yesterday, Mr. Ford?

8 MR. FORD: That is correct, Your Honor.

9 COURT: Mr. Dodd, or Mr. Adams, you may know  
10 cross-examine the witness.

11 MR. DODD: Thank you, Judge Allen.

12 CROSS-EXAMINATION: [by Mr. Dodd]-

13 Q Mr. Howard, what time did you get to the scene  
14 that morning of September the 26th?

15 A I think, it was around 8:30.

16 Q And I believe you said earlier that the defendant  
17 came up a little bit later than that?

18 A Just a few minutes after.

19 Q A few minutes later. Did you talk to the  
20 defendant out at the scene when he arrived with his  
21 wife?

22 A Briefly.

23 Q Okay. And that's when you talked to him about  
24 making a statement and he agreed to come down to the  
25 police department and make a statement, is that correct?

1 A That's correct.

2 Q What time did you take him down to the police  
3 department to make that statement, just roughly?

4 A I would say then 9:00 o'clock or so. I am not  
5 certain of the time.

6 Q Okay. Do you have your transcript of the taped  
7 interview with you or some notes that might indicate  
8 when that interview started? If you would look at that,  
9 I would appreciate it.

10 A Okay. No. I can tell you from the first  
11 interview it concluded at 11:20 a. m. What time it  
12 began, I am not certain.

13 Q Okay. Now, when you took, Greg went with his  
14 wife, did he not go down to the police station and meet  
15 y'all down there?

16 A I think that's correct.

17 Q Okay. And you took him to an interview room. It  
18 was you and Detective Lyles, is that right?

19 A Yes, that's correct.

20 Q The interview room is a place that y'all have  
21 reserved to interview potential witnesses or potential  
22 suspects and that sort of thing?

23 A That's correct.

24 Q And it is a room that has a table in it and a few  
25 chairs?

1 A That's correct.

2 Q And there are no windows in there and you just go  
3 and sit in there and talk. Is that just basically what  
4 it is?

5 A There is a viewing window. I think that window  
6 has some paper taped over it.

7 Q And that's where the interview was conduct, is  
8 that correct?

9 A That's correct.

10 Q Now, the interview, as we know, was recorded,  
11 right?

12 A Excuse me?

13 Q The interview was recorded?

14 A Yes, it was.

15 Q All right. And what do you normally record those  
16 interview on.

17 A A cassette player.

18 Q And what kind of cassette player is it? I don't  
19 mean the type. The size.

20 A It is a mini cassette.

21 Q Is that something that you are issued or usually  
22 carry around with your or you leave it there for  
23 interviews?

24 A Most of the time I leave mine at the office unless  
25 it is a prearranged interview that I go somewhere else



1 to do.

2 Q Is it sort'a like a dictator that you can dictate  
3 into it?

4 A That's correct.

5 Q And that's what, the interviews that the jury read  
6 and heard yesterday was the one that was taped on the  
7 recorded that we are talking about?

8 A That's correct.

9 Q And that's the one that started early that  
10 morning?

11 A Yes.

12 Q And ended at 11:20, is that right?

13 A It appears to be that way.

14 Q Okay. After the interview ended at 11:20 Greg was  
15 still down at the police department, was he not, with  
16 you?

17 A Correct.

18 Q And at some point after you got this information  
19 from him about Johnny Beck, he told you who Johnny Beck  
20 was, where he lived and his telephone number and you  
21 called Johnny Beck and tried to get up with him, didn't  
22 you?

23 A That is true.

24 Q And you did get up with him and got him to come down  
25 to the police department, too, is that right?

1 A That is correct. True.

2 Q What time did he get down there, just roughly? I  
3 don't have to have the exact minute. Just close.

4 A Sometime in the afternoon because I think after I  
5 talked with Mr. Taylor and his wife, we then went to his  
6 residence. We had lunch. came back later in the  
7 afternoon, the best I can remember.

8 Q He took you to his residence?

9 A Yes. I believe, he showed us where it was at.  
10 That is correct.

11 Q And let you go in and look and get whatever you  
12 needed out the residence?

13 A True.

14 Q And then at sometime later, I think he went with  
15 you in the car, did he not, to show you things, where  
16 things were?

17 A The best that he could recall, yes, sir.

18 Q You were trying to pin down as best you could  
19 where he had gone, what he had done and how things  
20 happened and he went around and showed you those things?

21 A Yes, he did.

22 Q All right. And then after you finished that, did  
23 you come back to the police department with him?

24 A Yes, sir.

25 Q Now, Johnny Beck was at the police station from

1 mid afternoon on, was he not?

2 A Yes, he was.

3 Q And he was interviewed as well?

4 A Yes, he was.

5 Q And you interviewed him as well?

6 A Yes, I did.

7 Q And when you interviewed him, you interviewed him  
8 either in the same room or a similar room to the room  
9 that you interviewed Greg Taylor?

10 A That's correct.

11 Q And you used that same tape recorder or a similar  
12 tape recorder to record the entire statement that Johnny  
13 Beck made?

14 A That's correct.

15 Q And subsequent to that you asked to have that  
16 statement transcribed in it's entirety, did you not?

17 A I did.

18 Q All right. And you have that statement with you?

19 A I do.

20 Q What time did Johnny Beck make that statement, if  
21 you can recall roughly or if you need to look that is  
22 fine?

23 A I don't know what time I began. It ended at 7:10.

24 Q Okay. So obviously you began sometime before  
25 7:10?

1 A Yes.

2 Q And ended up roughly about 7:10?

3 A Yes.

4 Q Now, in Johnny's statement there were different  
5 parts of that statement, were there not? By that, I  
6 mean this: You would start the statement and you would  
7 stop it for a period of time, perhaps to take him  
8 somewhere else so he could show you something about what  
9 happened that he had just told you in the first  
10 statement and come back and make another statement, is  
11 that accurate as to what happened.

12 A I don't recall it being as such.

13 Q Well, we will go through the statement in a  
14 minute.

15 A Okay.

16 Q So you can refresh your recollection. But on  
17 Greg's statement you did essentially the same thing, did  
18 you not? You started and interviewed with him and then  
19 you finished that portion of the interview and then you  
20 would take him somewhere, like to his house?

21 A Uh-huh.

22 Q And let you see what you needed to see and get  
23 what you needed to get. Then you'd go back and talk to  
24 him again and then you would take him out to the scene  
25 and he would show you exactly what they did and you'd

1 record that and then you'd come back and talk to him  
2 again. Basically that's what happened in a general  
3 sense, isn't that true?

4 A True.

5 Q All right. Now, there's a second tape that you  
6 made of Greg's statement after you talked to Johnny  
7 Beck. In other words, you had talked to Greg, you had  
8 done to his house and then you talked to Johnny Beck?

9 A True.

10 Q And then you came back to talk to Greg, to talk to  
11 him a little bit about information that Johnny Beck told  
12 you?

13 A True.

14 Q And you made a tape of that conversation with Greg  
15 Taylor in the room at the Public Safety Center, in the  
16 interrogation room down there as well, did you not?

17 A at the Raleigh Police Municipal Building.

18 Q At the Raleigh Police Municipal Building. But you  
19 didn't make a tape of that, too?

20 A Yes, I did.

21 Q And you have a transcript of that which is  
22 labeled, Tape 2 Greg Taylor, is that correct?

23 A That's correct.

24 Q All right. And that particular tape--do you know  
25 the time when that started?

1                   MR. DODD: May I approach the witness, Your  
2 Honor?

3                   COURT: All right.

4 A     Okay. 6:25 p. m. is when it ended. I don't know  
5 when it began.

6 Q     So it began sometime before 6:25 p. m.?

7 A     Yes.

8 Q     Now, tape one is the tape that you played and the  
9 jury got a transcript of and was passed among them  
10 yesterday, right?

11 A     that's right.

12 Q     Tape two was this transcript here that you have  
13 now, which they have not seen, and was not heard and not  
14 passed to them?

15 A     True?

16 Q     Mr. Howard, when these tapes are made I assume  
17 there are lots of investigators making tapes on lot of  
18 different things, is that correct?

19 A     That's correct.

20 Q     And the tapes are all given to a, I don't know  
21 what you will call it. This may not be the right word.  
22 But you know what I am talking about. The central  
23 typing pool to transcribe these tapes?

24 A     That's correct.

25 Q     All of these tapes are turned in and transcribed

1 at some point and then the transcriptions are given back  
2 to the officers who submitted the tapes, is that  
3 correct?

4 A Yes, sir.

5 Q Mr. Ford asked you yesterday in tape number one  
6 that was given to the jury as opposed to two which was  
7 not, you asked, he asked you if you had read that  
8 transcription before coming to court and you said that  
9 you did?

10 A That's correct.

11 Q And that you listened to the tape and read the  
12 transcription to that make sure it was accurate and that  
13 sort of thing?

14 A that's correct.

15 Q And you testified that it was accurate and all of  
16 that. And that that is when we played the tape to the  
17 jury.

18 Did you do that same thing with the tape for  
19 Johnny Beck that you made?

20 A Yes, I did.

21 Q You got the transcript, you went over it and  
22 listened to the tape and made sure it was also accurate?

23 A To the best of my knowledge, I did.

24 Q And that Johnny Beck's statement said what was on  
25 the tape that you heard in that interview?

1 A Yes, it did.

2 Q Were you and Detective Lyles either involved in or  
3 aware of all the interviews that were conducted as a  
4 result of the investigation in this case?

5 A Later on probably, yes, but not as they were being  
6 done at specific times.

7 Q What I am getting at you and Detective Lyles would  
8 not possibly have done them all?

9 A No, that's correct.

10 Q You had to have help but you were aware what was  
11 going on, ultimately you knew what was going on, is that  
12 a fair statement?

13 A Yes.

14 Q And you or someone in the, that you were aware of  
15 and interviewed Barbara Avery, did you not?

16 A That's correct.

17 Q All right. Barbara Avery was the girl that Greg  
18 Taylor said picked him up at 4:00 or 5:00 o'clock in the  
19 morning and gave him a ride to the crack cocaine house  
20 and then took him to a station near his home so he could  
21 call his wife, is that right?

22 A That's correct.

23 Q But you did talk to her?

24 A At a later time, that's correct.

25 Q And without telling what she said, she essentially



1 confirmed that, she picked him up and took him home?

2 MR. FORD: Objection.

3 COURT: Well, objection sustained.

4 Q All right. You had talked to her about the things  
5 that he had told you about her having given him a ride,  
6 is that right?

7 a That's correct.

8 Q Thank you, sir. Now, Detective Howard, look with  
9 me please at the first transcript statement of Gregory  
10 Taylor that was shown to the jury yesterday and played  
11 on the tape, if you will.

12 COURT: Well, for my clarification, Mr. Dodd,  
13 are you referring to State's Exhibit number 39?

14 MR. DODD: Yes, sir.

15 COURT: All right.

16 Q Do you have that in front of you now?

17 A Yes, I do.

18 Q All right. Listening to that tape yesterday and  
19 read along with the jury as we heard the tape, did you  
20 notice any language in the tape itself that was not  
21 transcribed in the statement?

22 A Some, some words, yes.

23 Q So everything that you heard or was written in the  
24 statement was simply not transferred from that tape,  
25 correct?

1 A That's correct.

2 Q All right. Now, at the bottom of page one, look  
3 with me at page one. The last question that you asked  
4 Greg, no one forced you had to come down. I think your  
5 boss man and your wife came down with you is that  
6 right?

7 Greg said yes, I had to make sure I got a ride at  
8 work, is that accurate?

9 A Well, that is what is here, yes.

10 Q And after that, which is it not on her, Greg also  
11 said I felt like it was pretty important. Do you  
12 remember hearing that yesterday?

13 A I don't recall.

14 A All right. Look with me, if you will, on page  
15 five of that same statement. The fifth line from the  
16 bottom. The 6th line is your question, where were you at  
17 when you said John told you not to look back? Greg's  
18 answer according to the, to the transcript is, I've been  
19 trying so hard to memorize this. Is that what the  
20 transcript says?

21 A Yes, it does.

22 Q But on the tape yesterday did you not hear him  
23 say, I have been trying to so hard to remember all of  
24 this? Did you hear that?

25 A I don't recall.

1 Q All right. How many, how long have you been with  
2 the police department?

3 A 22 and a half years.

4 Q And just roughly how many types of these  
5 interviews have you conducted in 22 and a half years? I  
6 know you cannot remember that.

7 A Hundreds.

8 Q And you've had some instruction on how to  
9 interrogate suspects?

10 A Minimal.

11 Q And some practice through the years?

12 A Yes.

13 Q Did you follow the same procedures and training  
14 and experiences that you have used in this interview  
15 that you have used throughout the years?

16 A Yes, I did.

17 Q Okay. And this particular interview that you did  
18 with Greg was nothing unusual. I mean you didn't do  
19 anything different particularly in this interview that  
20 you don't do in other interviews?

21 A That's correct.

22 Q The same type technique and that sort of thing?

23 A That's right.

24 Q And that same thing is true with Johnny Beck?

25 A That's correct.

1 Q Okay. I would direct your attention now if you  
2 will to page 8 of that same interview.

3 The third line from the bottom. This is your  
4 question: You say--you are talking to Greg now. You've  
5 got a choice, son--and the son is not on the tape but  
6 what I heard. You've got a choice son. You can be a  
7 witness or you can be a defendant and I don't think you  
8 want to be a defendant. Do you recall saying that to  
9 him?

10 A Yes, sir.

11 Q Is that accurate?

12 A Yes, sir.

13 Q And he said no, sir, I am not guilty of anything,  
14 except for making a mistake or probably leaving the  
15 scene.

16 Now, on page nine. Look with me at page nine. On  
17 page nine your first question on that you tell him, tell  
18 me what happened. You haven't told me what happened and  
19 I can prove different. Do you remember saying that to  
20 him?

21 A That's what's on the transcript.

22 Q Okay. And then a little bit further down the page  
23 there is another question that you asked him, is there  
24 not, that says now, I've got too much evidence there to  
25 disprove exactly what you told me, okay. You told him

1       that, didn't you?

2       A       According to the transcript, yes, sir.

3       Q       And then he said I don't understand that and then  
4       your next question was, what I am telling you is you or  
5       John or both of you are involved in this and he said  
6       no, sir. Is that right?

7       A       That's correct.

8       Q       And you said, I can prove it. And then he said, I  
9       don't understand. We can't be involved in that but you  
10      said, but you are. Is that right?

11      A       That's correct.

12      Q       Look at the next page if you would, page ten.  
13      Now, you are talking about Gerald Smith here at the top.  
14      Do you see that with me.

15      A       Yes.

16      Q       Gerald Smith, the fellow that worked at Raleigh  
17      Bonded Warehouse, is that correct?

18      A       That's correct.

19      Q       Which is out there. And you told the defendant in  
20      that interview, referring to Gerald Smith. He gave me  
21      your description. He gave me John's description. The  
22      whole nine yards. Now, if you want to go down with John  
23      and take part of the blame, that's fine. If you want to  
24      tell me what John done, what happened, I'm willing to  
25      listen. You said those things, did you not?

1 A That's correct.

2 Q All right. Now, you had interviewed Gerald Smith,  
3 had you not?

4 A I had.

5 Q I mean, Gerald Smith was a real person?

6 A Yes, he was.

7 Q He really worked out there and he was out there at  
8 3:00 o'clock in the morning, was he not?

9 A Yes, he was.

10 Q All right. And you told this defendant that he  
11 gave me Greg's description and he gave me John's  
12 description, is that correct?

13 A That's correct.

14 Q But that wasn't true, was it? He did not give you  
15 Greg's description nor did he give you John's  
16 description. He described two black males out there,  
17 did he not?

18 A That's correct.

19 Q All right. Greg, of course, is not black?

20 A No, he's not.

21 Q But you told him that, that Gerald Smith gave you  
22 his description, id you not?

23 A Yes, I did.

24 Q All right, sir. And then later on you go on, Greg  
25 saying I didn't have nothing to do with it and a little

1 bit further down the page, I can prove that. I can  
2 prove differently. And then the next question is, well,  
3 why would this witness tell me differently? And you are  
4 referring to Gerald Smith, right?

5 A That's correct.

6 Q but it wasn't true, was it? Gerald Smith didn't  
7 tell you differently because he didn't know, did he?

8 MR. FORD: Objection, this defendant, I mean,  
9 this witness couldn't know what Mr. Smith knew.

10 MR. DODD: He does know that. He interviewed  
11 him, Your Honor.

12 COURT: Wait a minute. I hadn't ruled yet.  
13 Objection overruled. This is cross-examination. You  
14 can answer the question and you can explain your answer,  
15 Detective Howard.

16 Q Detective Howard, Gerald Smith did not see this  
17 murder or know anything this murder, did he? He didn't  
18 tell you anything about that. He just told you about  
19 seeing two black males out in that area about that time  
20 of night, right?

21 A That's correct.

22 Q That is what I need, what I wanted to get at. But  
23 that's not what you told him, is that correct?

24 A That's correct.

25 Q All right. Now, late on toward the bottom of the

1 page, your next to the last question, you are talking to  
2 Greg. Maybe you don't want to remember. I don't know  
3 how much you had to drink. I don't know. I know you are  
4 in a position where a lot of people are not in and  
5 that's a position to decide what's going to happen to  
6 Greg in the next thirty or forty-five minutes and he  
7 said, yes, sir.

8 And then you say, and that's a decision you need  
9 to make whether you want to be a witness or whether you  
10 want to be a defendant. Is that right?

11 A That's correct.

12 Q Look at page 11. The first question at the top of  
13 the next page. You ask him there, you want to be  
14 truthful with me or whether you want to stick with this  
15 story that I can prove is wrong and then you be charged  
16 with something that maybe John done and he said, sir I  
17 have been truthful with you. Did he not?

18 A That's correct.

19 Q All right. Then two questions later you asked  
20 him, what does physical evidence at the scene tell me  
21 different or why does physical evidence at the scene  
22 tell me different. Have you ever heard of luminal? And  
23 he says, no sir. Is that right?

24 A Yes. Correct.

25 Q Okay. And then you go on to tell him about the



1 luminal and the blood. By this time in this interview  
2 you knew that they had conducted or were going to conduct  
3 luminal blood testing?

4 A We were gong to. I don't think--

5 Q You hadn't done it at this time, had you?

6 A No.

7 Q So you were telling him that, that luminal detects  
8 blood and why is this blood type being detected at your  
9 vehicle right now when you didn't know whether it was or  
10 it wasn't?

11 A No, at this point I sure didn't.

12 Q Okay. And later on you go head and talk to him about  
13 a dog that you are going to bring out there and at this  
14 time you did not know whether the dog had been run or  
15 not. You just knew that you had plans to do it, is that  
16 right?

17 A I believe, this was the second interview. The dog  
18 had been out there. No, this is the first interview.  
19 No, I did not know.

20 Q this is early in the morning.

21 A Right. I didn't know what the dog had done at that  
22 point.

23 Q But you are telling him we have got that but you  
24 don't have it yet, do you?

25 A No.

1 Q All right. Now, look with me if you will on page  
2 12, Mr. Howard. Look at question number two if you will  
3 which is a large paragraph starts exactly so the scene  
4 from her body shouldn't be in your vehicle and all that  
5 sort of thing. Are you with me?

6 A Yes, I am.

7 Q Now, down toward the last sentence of that, you  
8 say to Greg, we certainly are going to be drawing a  
9 search warrant to go to your house, get your clothes.  
10 You are going to show me John. I am gong to get his  
11 clothes and I am going to talk to John and when I get  
12 through, here's what is going to happen. And then Greg  
13 says you will find that I was telling the truth. I  
14 promise she was not in my car. She was not there when  
15 we got there. She was when we left. And then you say,  
16 do you think anybody is going to believe that. Right?

17 A Uh-huh.

18 Q All right. And the last question on that page  
19 again is now, what you need to decide is if you are  
20 going to be charged with that murder or you going to be  
21 charged, or you going to be a witness to that murder.  
22 Same thing you had been telling him before?

23 A That's correct.

24 Q In other words, he can make the decision of what  
25 is going to happen to him basically?

1 A That's correct.

2 Q Top of the next page, 13. Greg says I didn't see  
3 the murder, sir. And then you say what that tells me is  
4 you are the person that done it? Is that what you told  
5 him?

6 A Yes, it is.

7 Q All right. Now, two questions down you say, have  
8 you ever heard of fingerprints being lifted off bodies?  
9 You know they can do that. And Greg says, okay. My  
10 fingerprints aren't going to be on her. And then you  
11 say, then that tells me John and Greg says, no, his  
12 won't either. He was with me the whole time.

13 Now, at that point you didn't know whether they  
14 had any fingerprints or not, did you?

15 A No, I did not.

16 Q All right. All right, look with me again now on  
17 page fifteen. Turn to that first part of that  
18 statement. Your question, second question from the  
19 bottom. You are still telling Greg that you are going  
20 to check all of this stuff out and you say to him, I can  
21 disprove that from this witness number one and you may  
22 not believe me. I don't know. I'll let you go down  
23 there and talk to him and he will identify you. He has  
24 already given me the physical description. You are  
25 talking about Gerald Smith, right?

1 A That's correct.

2 Q And what you have just told Greg Taylor about  
3 Gerald Smith in that statement is it not true?

4 A It was an attempt to obtain the truth.

5 Q Well, I understand what you were doing. But the  
6 statement you made to him was not true?

7 A No, it was not true.

8 Q All right. And then up say, and that's the story  
9 you want to stick to?

10 A That's correct.

11 Q He says, that is the story, sir. Did he not?

12 A That's correct.

13 Q All right. Now, look at page 16, the third  
14 question on page 16 of that same statement. You are  
15 talking to Greg and you say first degree murder, I just  
16 got a man sentenced to death for something like this,  
17 okay? And you know the reason why he got the death  
18 sentence? And Greg says, no, sir. And you say because  
19 he told a lie. You told him that?

20 A That's correct.

21 Q All right. And he says I'm not lying and you say  
22 because he didn't show any remorse because he contended  
23 something that was not true. And then you go on to tell  
24 him I will pull in my experts and I will bring in my dog  
25 and will convict you in court and all of that stuff.

1 None of that you have yet, right?

2 A That's correct.

3 Q Okay. Greg tells you right after that I did not  
4 do it. I'm telling you the truth. Is that correct?

5 A That's correct.

6 Q Look at page 17 with me, if you will. Now, your  
7 first question up there, you are trying to tell Greg  
8 that he has a way to help himself. Greg answers and  
9 says my truck got stuck. I know I'm doing the right  
10 thing by coming down here and talking to you guys, okay.  
11 He said that, didn't he?

12 A That's correct.

13 Q And you said, that's true. He said, I'm telling  
14 you everything I know, okay. And later, your next  
15 question, okay, let me ask you then if you would, would  
16 you go with us and show us where John lives and he says  
17 uh-huh. Anything you want me to do to help, I will.

18 Did he say that?

19 A That's correct.

20 Q And that interview concluded at 11:05 a. m., is  
21 that right? Do you see that down at the bottom of the  
22 page?

23 A I do.

24 Q Now, after that interview concluded, what did you do  
25 with Greg then?

1 A He remained in the interview room.

2 Q You didn't take him back to his house or anywhere  
3 to collect or search or anything?

4 A Not immediately. Immediately after I spoke with  
5 his wife about some items in her vehicle.

6 Q All right. What I want to do now is find out the  
7 sequence after this concluded at 11:30--excuse  
8 me--11:05, 11:05, you talked with his wife and then you  
9 and Greg went back out to his house. He took you to his  
10 house and showed you whatever it was you wanted to look  
11 at?

12 A That's correct.

13 Q Okay. Then you come back and you pickup and you  
14 start interviewing him again on his same tape, the same  
15 one that the jury heard yesterday?

16 Look with me at the bottom of that page.

17 A That tape, that was after I spoke with his wife.

18 Q Okay. This is before you went out to the house?

19 A That's correct.

20 Q Okay. Now, after you spoke with his wife, you are  
21 still, you come back and start interviewing Greg Taylor  
22 again, the same room, turn the tape on again and start  
23 asking him questions?

24 A That's correct.

25 Q All right. And after a while, Greg gets to the

1 part where he, he finally tells you about the cocaine,  
2 is that right ?

3 A That's correct.

4 Q All right, look with me on page 22! if you will?

5 Your first question on the top of that page is  
6 where did y'all go and Greg says we went to, to be  
7 honest with you, I don't know exactly where it was. I  
8 mean, I don't know want to incriminate myself but we did  
9 go buy some cocaine. And you said, did you smoke it?  
10 And he said, yes, sir. Is that correct?

11 A That's correct.

12 Q And you said where did you smoke it at and he says  
13 we got some to begin with and went to his brother's and  
14 e went and got some more and that sort of thing. Is  
15 that right?

16 A That's correct.

17 Q Okay. He's describing again what he did. Look  
18 with me, if you will, on page 23 of that same statement  
19 where you are still talking to Greg.

20 Now, on this page you are still talking to him  
21 about the dope that he got and where he got it and where  
22 they drove the vehicle and how they got to the circle and  
23 that sort of things. Right?

24 A Yes, sir, it appears to be.

25 Q Okay. You are talking to Greg toward the end of

1 that page you circled around and parked your vehicle and  
2 he says, right there. He's showing you where he parked  
3 it, right?

4 A That's correct.

5 A You got a diagram out and he's trying to explain  
6 to you where he went?

7 A That's correct.

8 Q And you asked him how close to the intersection?  
9 And Greg says, close enough. You know, I wasn't  
10 sticking out in the road or nothing. I was back here  
11 this way a little so couldn't nobody really see me. And  
12 then he's talking about all the stuff that's in the back  
13 seat of the car and all of that, right?

14 A Uh-huh.

15 Q And he moved some of that stuff around, is that  
16 what he says?

17 A That's what it appears to be.

18 Q Okay. All right. If you will, look with me on  
19 page 29 of that statement, same statement.  
20 Now your third question on that statement is on that  
21 page, okay, if you don't mind I'd like to go and let you  
22 show me where John lives. I want to try to get up with  
23 him. Also, I'd like to go to your home, get your  
24 clothing. Of course, you know we have been in the  
25 process of processing your car.



1           Like I've told you, I have not told you anything  
2           that was not true. You made that statement to him,  
3           didn't you?

4           A Yes, I did.

5           Q     Like I've told you and I have not told you  
6           anything that was not true. You're in a bad situation  
7           by being there. You know, I have, I do have a witness  
8           that tells me a little different story than what you  
9           have told me. So you are repeating this same thing  
10          about Gerald Smith again, right?

11          A     That is what I was referring to, yes.

12          Q     Okay. Greg says that is the best I can recall and  
13          that is the truth. Is that correct?

14          A     That's part of the paragraph, yes.

15          Q     I am going to read the rest of it. I mean the  
16          timings might not be exact but I can pretty much trace  
17          down exactly what we did and then he goes on to talk  
18          about Barbara and the silver Honda Civic, is that right?

19          A     That's correct.

20          Q     That's the Barbara that you interviewed later,  
21          right?

22          A     Excuse me.

23          Q     That's the Barbara, the Barbara that he's talking  
24          about is the Barbara Avery that you interviewed later?

25          A     That's correct.

1 Q Look with me on page 31 of the statement, if you  
2 would. Your second question on there, you are talking  
3 about a picture, showing him a picture of the girl, the  
4 deceased, I guess, it is. And you are saying this lady  
5 that I'm showing you a picture of has never been in your  
6 vehicle. And he says, no, sir. Is that right?

7 A That's correct.

8 Q And you say you have never seen her before and he  
9 says, no, sir. And then you ask him if it becomes  
10 necessary, would you take a polygraph test to that  
11 effect, is that right?

12 A Yes, sir.

13 Q A polygraph test is a lie detector test. That is  
14 commonly referred to as a lie detector test?

15 A That's correct.

16 Q And he says, yes, sir. Is that right?

17 A That's correct.

18 Q And he was never offered a polygraph test by the  
19 police department or anybody else in this investigation  
20 for 17 months up to today, was he?

21 A I haven't.

22 Q All right. Now, Detective Howard, --

23 MR. DODD: May I approach the witness, Your  
24 Honor?

25 COURT: Yes.

1 Q Look with me, if you will, to tape number 2, the  
2 second tape that you made or the statement to you by  
3 Greg Taylor which was transcribed and is recorded by  
4 you which you have read and said is accurate which was  
5 not shown to the jury or the jury has not heard it yet.  
6 Have you got that in front of you?

7 A Yes, I do.

8 Q All right. Now, Greg Taylor--I am still back on  
9 that day and in the interview process with Greg Taylor.

10 Now, Greg has been at the police station or with you  
11 or with Lyles or with somebody from the police  
12 department all day long, hadn't he?

13 A Yes, he had.

14 Q And he hadn't been home. He hadn't talked Johnny  
15 Beck, had he?

16 A He had been home with us to obtain clothing.

17 Q I mean, with you guys. I mean, he hadn't been  
18 anywhere that you guys weren't with him, right?

19 A Not to--he attempted to call Johnny Beck earlier in  
20 the morning.

21 Q But he didn't?

22 A I don't know.

23 Q As far as you knew he had no contact with Johnny  
24 Beck at all?

25 A To my knowledge, no.

1 Q All right. Now, this second tape, the transcript  
2 of the statement that I have got here and I just asked  
3 you to get out, this tape was made and after you had  
4 talked to Greg Taylor the first time obviously.

5 MR. FORD: For the record, I am going to  
6 object to him referring to that unless he is going to  
7 mark it so that we can refer to it in the transcript.

8 COURT: All right. If you are going to refer  
9 to it, let's do identify it--

10 MR. DODD: All right, I'll--

11 COURT: --for the record.

12 MR. DODD: Let me mark your copy, how about  
13 that. I am going to mark this as exhibit for  
14 identification, Your Honor.

15 COURT: Yes, I understand.

16 MR. DODD: And this obviously will not be  
17 introduced.

18 COURT: I understand.

19 MR. DODD: Because it is it not my turn.

20 COURT: Go to the jury room, ladies and  
21 gentlemen.

22 JURY RETIRES TO JURY ROOM.]

23 COURT: Let the record show the jury has gone to  
24 the jury room. Mr. Ford.

25 MR. FORD: If Your please, I may be a little

1 bit premature in this but it appears that Mr. Dodd is  
2 going to ask this witness to read specific cites from a  
3 tape which has not been introduced from or a transcript  
4 that has not been introduced or not been properly  
5 identified and if he is going to publish this not as  
6 this detective's recollection of what was asked and what  
7 was answered but an actual transcript of it, if he is  
8 going to publish that to the jury in that manner, then I  
9 am going to ask that it be introduced for that purpose.

10 COURT: Well, I am not going to allow -.well, I  
11 am not going to allow Mr. Dodd to present any evidence at  
12 this time if he intends to because the State has not  
13 rested.

14 Mr. Ford, you asked that this be marked so the  
15 record could be straight. I have just assumed to mark  
16 it and let him go on cross-examination.

17 As I understand the law, Mr. Dodd has an  
18 opportunity to cross-examine Detective Howard about any  
19 other statements that Greg Taylor gave since the State  
20 has already opened up the door on the first interview.

21 MR. FORD: That certainly is the law. It  
22 appears to me that what Mr. Dodd is attempting to do is  
23 to ask this witness to read from an item that is not his  
24 recollection but purported to be a direct transcript  
25 from a recording.

1           COURT: Well, if he asked that it be read , and  
2 you object, then I will have to rule on that but at this  
3 point he has an opportunity to cross-examine this  
4 witness about any other statement that Greg Taylor gave.

5           Now, the question is if you want it marked for the  
6 record, Mr. Ford, I'll require it to be marked. If you  
7 don't want it marked, then I won't require it to be  
8 marked.

9           MR. FORD: I definitely want this item  
10 marked--

11          COURT: All right.

12          MR. FORD: If he is going to refer to it, I  
13 want this marked as Defendant's Exhibit 1.

14          COURT: Mr. Dodd, mark this for the record as  
15 an exhibit that you are going to be referring to.

16          You are marking it as D-1?

17          MR. DODD: Defendant's Exhibit 1 for  
18 identification.

19          COURT: All right.

20          MR. FORD: May we approach? The reason I mean  
21 doing this, Your Honor, I am somewhat aware of a case, a  
22 Court of Appeals case that Judge Braswell decided some  
23 long time ago in which during the State's case the  
24 defendant attempted to do just what Mr. Dodd is going  
25 except with a drawing. He had it marked and then

1 subsequently attempted to use it not for the witness'  
2 recollection but the drawing in the testimony and the  
3 ruling in that case was, in fact the defendant had  
4 introduced evidence even during the course of the  
5 State's evidence and he lost last argument. That is  
6 basically why I am doing this and we will get to that  
7 point at that time but I definitely ask that it be  
8 marked.

9 COURT: Well, I think you'd have to be  
10 careful, Mr. Dodd, on how you are asking questions on  
11 this cross-examination.

12 MR. DODD: That is correct but the difference  
13 in that case is, the reason they said the defendant had  
14 introduced evidence is because he published that to the  
15 jury.

16 MR. FORD: That is right.

17 MR. DODD: In other words, he took the map or  
18 whatever it was and he had it published to the jury so  
19 they could see it. And it was passed around to the jury  
20 and the Court said well, that is the same thing as  
21 introducing evidence.

22 COURT: Well, I think I have made myself clear  
23 what my ruling will be. Mr. Dodd, you will have an  
24 opportunity to cross-examine Detective Howard about any  
25 other statements that Greg Taylor give simply in view

1 because of the fact that the State has already offered  
2 into evidence State's Exhibit number 39, the first tape.

3 MR. DODD: Thank you.

4 COURT: Bring the jury back.

5 [JURY RETURNS TO JURY BOX.]

6 COURT: All right. Now, it appears that all  
7 the jurors are back and, Mr. Dodd, you may continue with  
8 your cross-examination.

9 MR. DODD: Thank you, Your Honor.

10 Q [MR. DODD CONTINUING]- Detective Howard, I am  
11 referring now to your second interview with Greg Taylor,  
12 after you talked to Johnny Beck, the codefendant.

13 A Uh-huh.

14 Q You talked to Greg once. You have talked to his  
15 wife. You went to his house and talked to Johnny Beck  
16 now.

17 A That's correct.

18 Q And now you are coming back to talk to Greg again?

19 A That's correct.

20 Q Okay. You made this interview and this tape in  
21 the same manner that we have described earlier, is that  
22 correct?

23 A That's correct.

24 Q Now, during the course of that interview you said  
25 earlier that you had read that interview, had you not?



1 A Yes, I have.

2 Q You also have listened to the tape?

3 A Yes, I have.

4 Q And you remember what was in that interview, don't  
5 you?

6 A The majority, yes.

7 Q Well, you conducted it and then you had it  
8 transcribed and you listened to the tape, is that right,  
9 in preparation for this trial?

10 a Back in 1991, yes, sir.

11 Q So you haven't read it at all before coming to  
12 court?

13 A Not since then, no, I haven't.

14 Q Okay. If you were to read that tape now before I  
15 ask you any questions, do you think that would refresh  
16 your recollection as to what you did at that time?

17 A Sure.

18 Q All right. Would you read that tape to yourself  
19 at this time, please.

20 Q Detective Howard, you have now read the statement  
21 that I have just referred to, is that right?

22 A That's correct.

23 Q In its entirety?

24 A Yes, I have.

25 Q Did your reading of that statement in its entirety

1 refresh your recollection as to what happened in the  
2 interview, the second interview that you conducted?

3 A It did.

4 Q All right. Now, during the course of the first  
5 interview--I am going to get to the second one in a  
6 minute--but during the course of the first interview you  
7 with telling Greg things that were not true as an  
8 investigative technique to try to get him to admit that  
9 he committed the crime. Is that a fair statement?

10 A That's true.

11 Q All right. Now, you continued that same type of  
12 thing in the second statement, is that correct?

13 A That's correct.

14 Q Except you picked up the pace a little bit. You  
15 told him about things in the statement of Johnny Beck,  
16 is that correct?

17 A That's correct.

18 Q All right. And those things that you tell him are  
19 not true and he doesn't know that, is that correct?

20 A That's correct.

21 Q You tell him that Johnny says things about him  
22 that is absolutely not true but he doesn't know that?

23 A That's correct.

24 Q And then later on, when you are talking to him, do  
25 you remember talking to him about do you know what a

1 life sentence means?

2 A Yes.

3 Q That sort of thing.

4 A Yes.

5 Q And what is your wife going to say and things like  
6 that. Do you remember telling him that?

7 A That's correct.

8 Q Several times throughout that interview you told him  
9 things that Johnny Beck has attributed to him that were  
10 not true to get him to admit that he committed this  
11 murder, is that correct?

12 A That's correct.

13 Q But he denied it steadfastly, did he not?

14 A That's correct.

15 Q And you asked him questions like well, why does he  
16 say that you did. He continues to say that I didn't have  
17 anything to do with it or words to that effect?

18 A That's correct.

19 Q And you asked him things like well, what do you  
20 think your wife is going to do if you are in prison for  
21 the rest of your life. Do you remember asking him that?

22 A Yes, I do.

23 Q Now, throughout this interview you go back to some  
24 techniques you used in the first statement and continued  
25 to tell him things about physical evidence that if it

1       were true may tend to incriminate him and he continued  
2       to deny it, is that correct? He continued to deny any  
3       involvement in this just as he did in the first  
4       interview?

5       A       That is correct.

6       Q       And just as you did in the first statement you keep  
7       telling him well I can prove differently, is that  
8       correct?

9       A       That's correct.

10      Q       And you continue to try to get him to tell you  
11      that he committed this murder and you tell him things  
12      like that the judicial system is going to find you  
13      guilty. Do you remember telling him that?

14      A       Yes, I did.

15      Q       And telling him things like the judicial system  
16      doesn't have anything to do with you being innocent and  
17      because you are not innocent, putting pressure on him in  
18      that manner, is that right?

19      A       I made those statements, yes, sir.

20      Q       All right. At some point in the interview you  
21      told him you leave me with no other alternative.

22      A       Correct.

23      Q       Meaning that you are going to charge him?

24      A       That's correct.

25      Q       All right. And do you remember Greg, do you

1 remember Greg at that point saying oh, please. I didn't  
2 do it?

3 A Yes, he did.

4 Q All right. He got very emotional at that point,  
5 didn't he?

6 A He did.

7 Q He cried?

8 A The best I can remember, yes.

9 Q And then at the conclusion of that interview you  
10 remember asking him again, as you did in the first  
11 interview, would you consider taking a polygraph test  
12 and he said, yes?

13 A I may have. I don't recall.

14 Q And that interview, do you recall about what time  
15 that interview concluded that night?

16 A It was late in the evening, 7:30, 8:00 o'clock  
17 maybe. I am not certain.

18 Q Okay. Greg Taylor never left your custody. By  
19 your custody, I mean the police department from the  
20 morning that he arrived until you charged him that day,  
21 did he?

22 A He was not in custody, he never--

23 Q I understand. I used a legal term of art I didn't  
24 mean to use. I mean that he was present with you and  
25 he didn't go anywhere else without somebody from the

1 police department being with him, except maybe the bath-  
2 room, until he was charged and taken to jail, is that  
3 right?

4 A He was free to go as he pleased. He went to the  
5 bath room and went and got food.

6 Q I understand that. But he didn't go anywhere and  
7 leave. He was there all day long and finally he got  
8 charged and went to jail. That is what happened, is  
9 that right?

10 A That's correct.

11 Q Okay. Now, when you do investigations, usually  
12 you close an investigation when arrests are made and  
13 that sort of thing, is that a fair statement?

14 A No, sir.

15 Q All right. What I mean is lot of the reports you  
16 see closed by arrest and things like that?

17 A At the conclusion of an investigation yes, sir.

18 Q Okay. And both Greg and Johnny Beck were arrested  
19 on that same day, were they not?

20 A That's correct.

21 Q And both of them were taken to jail on that same  
22 day?

23 A That's correct.

24 Q Johnny Beck was charged with first degree murder  
25 as well?

1 A That's correct.

2 Q All right. Detective Howard, Johnny Beck's  
3 statement that you took from him in between Greg Taylor's  
4 statement--that is what I am talking about. Are you  
5 with me?

6 A Uh-huh.

7 Q Now, Johnny Beck's statement, you did the same  
8 interview process with him to try to find out what  
9 happened in this case, did you not?

10 A I did.

11 Q And what, one of the things you were looking for  
12 you were trying to see if Johnny's story matched up with  
13 Greg's at all, right?

14 A Correct.

15 Q You were trying to see whether the stories were  
16 generally similar or whether they were exactly the same  
17 or whether they had major or minor discrepancies in  
18 them?

19 A That's correct.

20 Q Okay. And some of the things that you told Greg  
21 Taylor in the second interview that Johnny Beck said  
22 were not true. Johnny Beck did not say those things, is  
23 that correct?

24 A That's correct.

25 Q Okay. For example, in that statement you remember

1 that you told Greg Taylor that Johnny Beck said that he  
2 did it?

3 A That's correct.

4 Q But that was not true. Nowhere in Johnny Beck's  
5 statement did he say that Greg did it, is that correct?

6 A That's correct.

7 Q And you repeated that to Greg Taylor throughout  
8 that statement several times that Johnny Beck said that  
9 he did it but Johnny Beck never in truth said that in  
10 that statement, did he?

11 A That's correct.

12 Q But that was simply an investigative technique  
13 that you were using that you had been taught, is that  
14 correct?

15 A That's correct.

16 Q Okay.

17 MR. DODD: Thank you. Your Honor, I don't  
18 have any further questions of this witness at this time.

19 COURT: Redirect, Mr. Ford?

20 REDIRECT EXAMINATION: [by Mr. Ford]-

21 Q Mr. Howard, I believe in response to one of  
22 Mr. Dodd's questions early on in his cross-examination  
23 when he was asking you about the technique that you were  
24 using that you answered that the technique was an  
25 attempt to obtain the truth?



1 A That's correct.

2 Q All right. Subsequently he's been couching it in  
3 terms was this technique by you designed to get this man  
4 to confess to this crime or to admit to something he  
5 hadn't done. Was that the purpose of the technique?

6 A No, sir.

7 Q What was the purpose of the technique that you  
8 were using?

9 A To obtain the truth.

10 Q Now, this defendant told you I assume that he had  
11 gone--well, let me--first of all, this defendant didn't  
12 say anything but he had gone four wheeling, isn't that  
13 the gist of what he said?

14 A Yes, sir.

15 Q And until you started using this technique, he  
16 didn't admit to anything, did he?

17 A That's true.

18 Q Was he able to take you to the crack houses that  
19 he had visited or the rock houses as he referred to  
20 them?

21 A He attempted to. Some of them he couldn't locate.

22 Q So there was more than one?

23 A Yes, he did go to more than one place.

24 Q How did the size and clothing of the gentlemen  
25 observed by Mr. Smith compare to the two defendants and

1 the clothing that they purported to have been wearing on  
2 that occasion?

3 A It was as they were.

4 Q Other than the fact Mr. Smith said he thought he  
5 saw two black males, did he not?

6 A That's correct.

7 Q Now, could you please refer to what has been  
8 previously marked for purposes of identification as  
9 State's Exhibit number 39, page 16.

10 A Which is 39?

11 MR. FORD: That is the statement, the first  
12 statement of this defendant.

13 A Okay.

14 Q Published to the jury yesterday.

15 Q Would you please refer to page 16.

16 A All right, sir.

17 Q Do you recall this defendant in response to one of  
18 your questions asking you if someone had cut this  
19 woman's throat?

20 A Yes, he did.

21 Q Had you told him how that woman had been killed at  
22 that point?

23 A No, sir, I had not.

24 Q Now, if you will, please refer to page 23 of the  
25 tape that I introduced into evidence yesterday and the

1 transcript which was published to the jury.

2 Now, down near the bottom of page 23 the defendant  
3 is describing how he pulled his vehicle into the circle  
4 down there or the culdesac, is that correct?

5 A Yes, sir.

6 Q All right. He says he pulled in there but, you  
7 asked him how close to the intersection, do you recall  
8 that?

9 A Yes, sir.

10 Q And he was giving you a description of how he had  
11 parked in the culdesac and wasn't sticking out but was  
12 parked in a way that he couldn't be seen from folks  
13 coming down the street, is that correct?

14 A Yes, sir.

15 Q All right. Do you recall that right after the  
16 first sentence, close enough you know I wasn't sticking  
17 out in the road or nothing. I was back here. This was  
18 way a little so nobody couldn't really see me. At that  
19 point your tape ran out, didn't it?

20 A It stopped. I don't know if it ran out or  
21 whatever reason.

22 Q And the defendant kept talking momentarily, did he  
23 not.

24 A I would think so, yes, sir.

25 Q But your transcribers had no way of knowing that,

1 did they?

2 A That's correct.

3 Q And it took right back up where a couple of times  
4 and John to get, to try and get the truck out. All  
5 right. At that point he was referring to the truck  
6 stuck back there in the field, was he not?

7 A Yes, he was.

8 Q So at some point he had told you that he had come  
9 to this culdesac, stopped and parked in a particular way  
10 where he couldn't be seen from people coming down the  
11 street and then while the tape was being changed or you  
12 were messing with the tape, he went on to a situation  
13 when the truck was stuck back there?

14 A that's correct.

15 Q All right. Your best--I believe, I may have asked  
16 you this yesterday. Did he point out to you on a  
17 drawing that he made about where he had parked when he  
18 had originally come in the culdesac?

19 A Yes, he did.

20 Q All right. What is your recollection of where he  
21 told you that he parked when he first came in the  
22 culdesac?

23 A The best I can recall it was just beyond the curb  
24 line entering the intersection, the culdesac on the east  
25 side.

1 MR. FORD: May I approach this exhibit?

2 Q Now, this would be the eastern curb line, would it  
3 not?

4 A That's correct.

5 Q Is the point where he indicated to you that he first  
6 parked shown on State's Exhibit number 1 that I am  
7 referring to?

8 A It would be close probably where your pin is now.

9 Q Down here to the very corner?

10 A Yes, sir.

11 Q Okay. But some distance away from this body?

12 A That's correct.

13 Q Now, Mr. Dodd asked you if the defendant had had any  
14 contact with Johnny Beck during the course of this time  
15 that you were interrogating him or whatever and you said  
16 no. Was that true as far as you knew?

17 A That's correct.

18 Q All right. What was your understanding of where and  
19 whose company this defendant had been in since the time  
20 that he had been at the culdesac until the time that he  
21 called his wife from a service station at about 7:30 that  
22 morning?

23 A Johnny Beck's.

24 Q That he had been in the presence of Johnny Beck the  
25 codefendant?

1 A That's correct.

2 Q Now, at the time you made the second interview  
3 which Mr. Dodd questioned you about, he asked you about  
4 a number of evidentiary things that you had told the  
5 defendant in the first interview were true. At that  
6 time when he asked you about them when you were telling  
7 those to the defendant the first time, you told Mr. Dodd  
8 that those evidentiary facts weren't true. Was that  
9 right?

10 A They were not. I didn't know them to be true at  
11 the time that I was interviewing him. They have since  
12 turned to be true.

13 Q All right. And some of them had in fact come to  
14 fruition before you interviewed him the second time,  
15 hadn't it.

16 A That's correct

17 Q The dog had certainly been used at that point and  
18 keyed on his car, had it not?

19 A Yes, it had.

20 Q And to your knowledge some phenolphthalein tests  
21 had been run on his vehicle and blood had been found on  
22 it, hadn' it?

23 A Yes, it had.

24 Q Some of those things that you told him that you  
25 were just guessing at the first had come to fruition

1 before the time you questioned him the second time?

2 A That's correct.

3 Q What would you have done, sir, in regards to  
4 questioning Johnny Beck if this defendant had told you  
5 that Johnny Beck did it all; that he had committed the  
6 murder and that he had seen it?

7 MR. DODD: Objection.

8 COURT: I believe, I'll sustain what he would  
9 have done.

10 Q The technique that you used, would you have used  
11 that same technique then to Johnny Beck in an attempt to  
12 obtain the truth, the complete truth?

13 A I would

14 MR. FORD: I don't have any further questions.

15 COURT: Further recross?

16 MR. DODD: Yes, I just have--this won't be  
17 long.

18 COURT: All right. Okay.

19 RE-CROSS-EXAMINATION: [by Mr. Dodd]-

20 Q Detective Howard, the statement one that has been  
21 published to the jury that Mr. Ford has just talked to  
22 you about, look with me again on page 16 of that  
23 statement, if you will.

24 Now, about three quarters of the way down the page  
25 toward the bottom, this is what Mr. Ford had just asked

1       you about, about her throat being cut. Do you see that?

2       A     Page 16?

3       Q     Page 16, yes sir. About three quarters of way  
4       down.

5       A     Okay.

6       Q     Are you with me?

7       A     Uh-huh.

8       Q     All right. Now, the question was asked by  
9       Mr. Ford about did Greg say that her throat was cut and  
10      you responded that he did. Now, in this transcript  
11      which is the same page Mr. Ford was referring to, what  
12      you say before that happens and before that answer is  
13      this: And you are talking to Greg. I want you to look at  
14      these photos. That woman died a horrible death.  
15      Somebody is gong to pay one hell of a price. Didn't  
16      you say that?

17      A     Yes, I did.

18      Q     And he looked at the photos that you had taken of  
19      this woman at the scene, is that right?

20      A     That's correct.

21      Q     That showed the wounds and all that sort of stuff  
22      and had the dirt and everything that was on there,  
23      right?

24      A     As she was at the crime scene.

25      Q     Okay. And then Greg says after you say somebody



1 is going to pay one hell of a price, Greg says, how did  
2 she die? Did someone cut her throat question mark.

3 Isn't that what he says?

4 A That's correct.

5 Q Because the police thought that too until they got  
6 the--

7 MR. FORD: Objection.

8 COURT: Sustained.

9 Q And the answer that Greg gave you in that regard  
10 was after you had shown him the photos and he was  
11 inquiring basically how did this lady die, did someone  
12 cut her throat. Was that the basis of what was going  
13 on?

14 A It was after I showed him the photos.

15 Q All right. And he looked at the photos and he was  
16 asking you the question how did this lady die? Did  
17 someone cut her throat?

18 A That is correct.

19 Q Thank you.

20 MR. DODD: That is all.

21 COURT: Any redirect, Mr. Ford?

22 MR. FORD: I have just a couple of questions.

23 COURT: All right.

24 REDIRECT EXAMINATION: [by Mr. Ford]-

25 Q Mr. Howard, the photograph that you were showing

1 the defendant is not the 8 by 10 glossy photographs that  
2 have been introduced in this case, Are they?

3 A No.

4 Q This was a Polaroid picture, was it not?

5 A Yes, sir, that's correct.

6 Q Could you yourself look at that Polaroid picture  
7 and tell how this woman died?

8 A I could not.

9 Q Thank you.

10 COURT: Any further recross on that redirect?

11 MR. DODD: Thank you, Your Honor. No.

12 COURT: All right you, may step down.

13 [WITNESS EXCUSED.]

14 -----

15 MR. FORD: May we approach?

16 COURT: All right.

17 [COUNSEL APPROACHES BENCH.]

18 COURT: Go to the jury room, ladies and  
19 gentlemen.

20 [JURY RETIRES TO JURY ROOM.]

21 COURT: Let the record show the jury has gone to  
22 the jury room and I did this for a particular reason.

23 Mr. Ford, you asked if we could approach the bench  
24 and Mr. Ford and Mr. Dodd and Mr. Adams, I believe,  
25 y'all approached the bench two or three times but I want

1 to put it on the record here. Nothing has been  
2 discussed at the bench concerning this case itself, any  
3 evidence, is that correct, Mr. Dodd?

4 MR. DODD: Yes, sir.

5 COURT: And the only time we have approached  
6 the bench in the past would have been to talk about  
7 taking recesses or about quitting fifteen minutes earlier  
8 and about not working on Friday, is that right, Mr.  
9 Ford?

10 MR. FORD: That's correct, scheduling has been  
11 the only --

12 COURT: And, Mr. Dodd?

13 MR. DODD: Yes, sir.

14 COURT: And, Mr. Adams, you agree with that?

15 MR. ADAMS: Yes, sir.

16 COURT: Okay. The reason I say, you know, the  
17 Supreme Court has frowned on bench conferences.

18 MR. FORD: Well, and the reason I wanted to  
19 approach the bench I thought there was going to be some  
20 delay in this witness arriving. But as you can see, he  
21 has walked in the courtroom in the meantime.

22 COURT: And that is the reason you wanted to  
23 approach the bench?

24 MR. FORD: That's correct.

25 COURT: All of this is being done outside of

1 the presence of the jury. I wanted to put on the record  
2 that there's nothing that has been discussed at the  
3 bench except scheduling of this trial. And all agree, is  
4 that correct, counsel?

5 MR. ADAMS: yes, sir.

6 MR. DODD: Yes, sir.

7 COURT: Okay, do you want a recess or you want  
8 to go forward?

9 MR. FORD: I would prefer to have the morning  
10 recess at this time

11 COURT: All right, I will bring the jury back  
12 and give them their morning recess. Bring the jury  
13 back.

14 [JURY RETURNS TO JURY BOX.]

15 COURT: Let the record show the members of the  
16 jury is back in the courtroom. Ladies and gentlemen,  
17 I'm going to give you your morning recess at this time  
18 of fifteen minutes. Keep in mind the instructions and  
19 the order of the court that I have already given you.  
20 Everybody else remain seated and the jury may go for a  
21 recess now of fifteen minutes.

22 [JURY LEAVES COURTROOM.]

23 COURT: Take a recess, Mr. Sheriff, for fifteen  
24 minutes.

25 [SHORT RECESS.]

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

-----  
COURT: All right, let the record show all members of the jury are back in the courtroom.

Mr. Ford, call your next witness.

MR. FORD: I would call Allison Blackman to the stand.

MR. ALLISON BLACKMAN, being first duly sworn, testified as follows during DIRECT EXAMINATION by Mr. Ford:

Q Would you state your name and occupation, please.

A Yes, sir. I am a retired police officer, Homicide Division of the Raleigh Police Department. I retired February. I am now in business as East Coast Accident & Reconstruction, Inc., with two engineers in Raleigh on West Morgan Street.

Q And what is your name, sir?

A I am William A. Blackman.

Q All right. Mr. Blackman, in September of 1991, how were you employed?

A I was a detective in the Homicide Division of the Raleigh Police Department.

Q Pursuant to those duties did you have occasion to go to the scene of the death of Jacquitta Thomas?

A I did.

Q And did you have occasion to participate in the investigation of that death?

1 A I did.

2 Q Can you tell me basically what you as a detective  
3 did on the first day of that investigation?

4 A The first day I was at the crime scene with  
5 Detective Bissitte and Howard and Detective Gardner of  
6 CCBI came out and took some aerial photos. We collected  
7 evidence and when we finished that day, we had a meeting  
8 in the office and discussed that we needed to come in  
9 later and work the streets at night trying to located  
10 witnesses at night when witnesses were out like from  
11 7:00 o'clock at night to the a. m. of the next day.

12 Q All right. What kind of witnesses were you looking  
13 for?

14 A We were looking witnesses that might have  
15 witnessed anyone being in a vehicle fitting the  
16 description of Jacquitta Thomas or seen a vehicle of the  
17 type that we located at the crime scene.

18 Q And for that purpose, had you secured a quick  
19 photograph of the vehicle?

20 A Yes, sir.

21 A Now, CCBI hadn't been able to provide you with that  
22 real quickly had they or did they?

23 A Later they did but not at that time. I had a  
24 picture that was taken, I believe, it was a flash quick  
25 camera type thing.

1 Q And then produced on that same day?

2 A Yes.

3 MR. FORD: May I approach the witness.

4 COURT: All right.

5 Q Mr. Blackman, I hand you what has been marked for  
6 purposes of identification as State's Exhibit number 40.

7 Can you identify that photograph or that picture or  
8 whatever it is?

9 A I can identify this picture as a picture of the  
10 same type, if not the picture, that I had on that date.

11 Q All right. Now, was it--why did you determine  
12 that you needed to come in at night?

13 A Because the, we felt that this happened late at  
14 night and where this girl was located and where she hung  
15 around was in an area that people frequented at night,  
16 frequently prostitutes were in this area.

17 Q And did you in fact come to work--I guess that  
18 would have been the night of the 26th?

19 A Yes, sir. And we worked through the morning of  
20 the 27th.

21 Q All right. Pursuant to those, to that, those  
22 hours you worked, did you have occasion to talk with a  
23 white female known as Eva Marie Kelly?

24 A I did.

25 Q All right. About what time of day--well, first of

1 all, was that on the 26th or 27th you were able to talk  
2 to her?

3 A 27th.

4 Q And about what time of morning was it?

5 A Approximately 3:30 a. m.

6 Q And where did talk with Ms. Kelly?

7 Q In front of her residence on South East Street.

8 Q At that time did you tell Ms. Kelly what your  
9 purpose was in being there?

10 A I did.

11 Q All right. And as best you can recollect what did  
12 explain to her?

13 A I know Eva from working the streets as a  
14 prostitute and she will tell you that. I've talked to  
15 her in the past and I advised her that we were looking--  
16 I had a picture of this vehicle, and I had a picture of  
17 a black and white male in my possession and I told her,  
18 had she seen these people and she told me that she had  
19 seen the people.

20 MR. DODD: Objection.

21 COURT: Sustained.

22 Q Specifically, the photograph of the vehicle,  
23 State's Exhibit 40, did you have that in your possession  
24 on the loccasion that you talked with Ms. Kelly?

25 A Yes.



1 Q All right. Well, did you tell what, I mean, what  
2 this investigation was about?

3 A Not when I first started talking to her. I told her  
4 that I was looking for this truck or anyone that had seen  
5 this truck.

6 Q All right. And did you tell her during what time  
7 period you were looking for someone to have seen that  
8 truck?

9 A Yes.

10 Q What time period did you tell her?

11 A I told her the night before last or in the early  
12 morning of the next day.

13 Q All right. Which would have been the night of the  
14 25th or the early morning hours of the 26th?

15 A Yes, sir.

16 Q All right. And did you at that point or at some  
17 point during the conversation show her the photograph,  
18 State's Exhibit 40?

19 A I did.

20 Q All right. Did you receive or did you get a  
21 response from Ms. Kelly as to whether or not she had  
22 seen that vehicle?

23 MR. DODD: Objection.

24 COURT: Sustained.

25 Q Now, Ms. Kelly, you had a conversation with her

1       there during the period of time in the early morning  
2       hours of the 27th of September, 1991, didn't you?

3       A     Yes, sir.

4       Q     All right.  And you made some notes and  
5       recordations of that conversation, did you not?

6       A     Yes, sir.

7       Q     All right.  Subsequently on October the first,  
8       1991, a few days later, did you have occasion in the  
9       company of Detective Howard to again talk with Eva Kelly  
10      together?

11      A     Yes, sir, we did.

12      Q     And where did that conversation take place?

13      A     The police department.

14      Q     All right.  Did you again ask Ms. Kelly questions  
15      regarding -- well, what did you ask her at that time?

16      A     I asked her had she ever seen this vehicle on the  
17      night of the 26th or early morning of the 25th or 26th  
18      in the area of where she lived or in that three block  
19      area and she had stated -

20                 MR. DODD:  Objection.

21                 COURT:  Well, sustained as as to what she  
22      said.

23                 MR. FORD:  All right.

24      Q     Where were you, where--you said where she lived.  
25      The first day that you talked with her or the first

1 night you talked to her, where was she actually?

2 A Standing in front of her residence on South East  
3 Street beside the street curb.

4 Q All right. And did she appear to you to be at  
5 work at that time?

6 A Well, she stays out there from approximately 9:00  
7 or 10:00 to about 5:00 or 6:00 in morning until it  
8 starts getting light.

9 Q And the place that you were in front of was that a  
10 residence?

11 A Yes.

12 Q All right. Did you have prior knowledge as to  
13 whether or not that particular lady lived there?

14 A Yes, sir. I know Eva.

15 Q And that was in the 400 block of East Street?

16 A Yes, sir. The house has been torn down I believe  
17 now.

18 Q And on the occasion on October the first of 1991,  
19 when you and Detective Howard talked to Ms. Kelly, did  
20 you have occasion to make notes yourself and make a  
21 recordation of, recording of that conversation?

22 A Yes, sir, we did.

23 Q All right. Would you state the degree of  
24 cooperation you received from Ms. Kelly on both of those  
25 occasions?

1 A Very cooperative. She came down on her own. Very  
2 cooperative.

3 Q All right. On the night and early morning hours of  
4 the 27th when you talked to her, did you make any  
5 promises to her?

6 A No, sir.

7 Q Did you threatened her in anyway or anything?

8 A No.

9 Q But you had known her before this time?

10 A Yes, I have.

11 MR. FORD: I don't have any further questions.

12 COURT: Cross-examination.

13 MR. DODD: I don't have any questions, Your  
14 Honor.

15 COURT: You may step down.

16 [WITNESS EXCUSED.]

17 -----

18 COURT: Call your next witness.

19 MR. FORD: If Your Honor please, I need  
20 Ms. Kelly.

21 COURT: All right.

22 MS. EVA MARIE KELLY, being first duly sworn, testified as  
23 follow during DIRECT EXAMINATION by Mr. Ford:

24 Q Would you state your name to the Court, please  
25 ma'am.

1 A Eva Marie Kelly.

2 Q And, Ms. Kelly, in September of 1991, where did you  
3 live?

4 A At 419 East Street.

5 Q Would you describe that residence for us?

6 A It's a house no longer there.

7 Q Can you describe how it, what it looked like and  
8 what it was in September of 1991?

9 A It was a large yellow rooming house.

10 Q And in what part of that rooming house did you  
11 live?

12 A All around in the back, off the kitchen.

13 Q And did you have a room or an apartment or what?

14 A A room.

15 Q How long did you live at that location?

16 A About three months.

17 Q In September of 1991, what type of profession were  
18 you in?

19 A A prostitute.

20 Q And what were the general hours that you worked?

21 A There was no set time. Just when I woke up, I went  
22 out and worked.

23 Q All right, was it mostly daytime or nighttime?

24 A It varied really.

25 Q Well, do you recall sometime in September of 1991,

1       having a conversation with Detective Allison Blackman  
2       over here--

3       A     Yes.

4       Q     --in front of your residence at 419 South East  
5       Street?

6       A     Yes, sir.

7       Q     Under what circumstances did you have that  
8       conversation?

9       A     He came and asked me questions, you know, about,  
10      you know, different people. He asked about a guy Andy  
11      and, you know, different people and then he told me the  
12      reason that he was asking was that they had found a  
13      girl's body.

14      Q     Now, were you outside when he approached you on  
15      that occasion?

16      A     Yes. There was a wall in front of the house, like  
17      a concrete wall that you had to go up to get to the  
18      steps of the house and I was sitting out on the wall.

19      Q     All right. Now, this was in the early morning  
20      hours of one night, wasn't it, or the early morning  
21      hours of the next, of one day?

22      A     Yeah.

23      Q     All right. And did Detective Blackman tell you  
24      what time period he was asking you questions about?

25      A     Yes, but I couldn't remember them now and exact

1 time.

2 Q Okay. I am talking about what day. And this was,  
3 he was talking to you in the early morning hours of one  
4 day. Did he tell you when he was, from what time period  
5 prior to that he was seeking information about some  
6 people and dates?

7 A I believe, the day before.

8 Q Now, specifically you were asked about a vehicle,  
9 were you not?

10 A Yes.

11 Q And at some point shown a photograph?

12 A Yes.

13 MR. FORD: May I approach the witness?

14 COURT: All right.

15 Q Ms. Kelly, I am handing you an item which has been  
16 marked for identification as State's Exhibit 40. Do you  
17 recognize State's Exhibit 40?

18 A Yes, I do.

19 Q What is State's Exhibit 40?

20 A It is, I don't know what kind of vehicle, but it  
21 is a station wagon type truck.

22 Q Is that a photograph--is that similar to or the  
23 photograph that Detective Blackman showed you on the  
24 date in question?

25 A Yes, it is.

1 Q All right. What did he ask you about it?

2 A Had I seen the vehicle.

3 Q And had you?

4 A Yes, I did.

5 Q And did you tell him that?

6 A Yes.

7 Q Tell us what you told him in regards to that  
8 vehicle and its occupants?

9 A I had seen the vehicle driving around the  
10 neighborhood, you know, going up Bloodworth, down East  
11 Street. You know, kindly cruising around.

12 Q And was this the night before he was talking to  
13 you?

14 A Yes, sir.

15 Q All right.

16 A They had been driving around during the day, too.  
17 You know, into the night.

18 Q All right. On any occasion did you have an  
19 opportunity to get close to the vehicle?

20 A Yes.

21 Q All right. Explain how that happened for us?

22 A Okay. I was sitting on the wall in front of the  
23 house. You know, looking for dates. And the truck  
24 stopped in front of the house and one of the guys rolled  
25 the window down and called me over. The passenger.



1 Q Can you describe that person for us?

2 A It was a black guy, you know, he was sitting down.  
3 You know, I don't know what he was wearing or anything  
4 but he called me over to the truck and I went over and  
5 he asked me if I wanted to go party, get high, with him  
6 and his friend.

7 Q Was, was he referring to somebody else in the  
8 vehicle?

9 A Yes. The driver.

10 Q I take it there were other people in the vehicle?

11 A Only two.

12 Q All right, describe the other person?

13 A It was a white man driving.

14 Q And what, describe this conversation that you had?

15 A Okay. They asked me if I wanted to go, you know,  
16 party with them and get high and they showed me some  
17 money. You know, I told them, I mean, I have done drugs  
18 but I told them at the time I was not doing them. And I  
19 told them no that I would not go with two guys anyway.

20 Q Why was, why was that?

21 A I mean, I just don't go with two men at one time.

22 Q Okay. What else did you tell them?

23 A I told them, you know, I rather have money. So  
24 they you know, were showing me money. They had money,  
25 drugs, whatever I wanted.

1 Q Who was showing you money?

2 A The black guy, he had money and cocaine in his  
3 hand.

4 Q All right. And at that point had you had  
5 experience with cocaine?

6 A Yes.

7 Q All right. Can you describe the substances that  
8 he had in his hand that he was displaying to you?

9 A I didn't look that close but I mean he had some  
10 rocks in his hand. You know, it looked like cocaine  
11 rocks to me and had some more little plastic bags.

12 Q All right. What did you take that to be?

13 A Powder.

14 Q Had you ever seen cocaine in such a manner?

15 A Yes.

16 Q All right.

17 A Quite often.

18 Q How close did you get to the vehicle when you were  
19 having this conversation?

20 A About as close as I am to right here.

21 Q You went right up to the door?

22 A Yes. I touched the truck.

23 Q Did you go to the driver's door or the passenger's  
24 door?

25 A Passenger.

1 Q And which man, the white man or the black man was  
2 the passenger in the vehicle? The passenger.

3 A The passenger, the black man.

4 Q All right. And that was the person you were  
5 closest to?

6 A Yes, sir. You know, they were trying to talk me  
7 into going with them or get another girl and come with  
8 them. I mean, I told them, no. They asked me do you  
9 have any girlfriends down there. I said, there's lots  
10 of girls down here, you know.

11 Q Your best recollection what other girls had you  
12 seen in the vicinity or had you talked to on that  
13 occasion?

14 A A girl by the name Patrick.

15 Q Okay.

16 A That's her street name. There was another girl  
17 called Whoppie.

18 Q All right. Now, describe Whoppie to us.

19 A Okay. She is short, very dark skinned, wears her  
20 hair, I believe, they call it dray locks. You know, a  
21 lot of braids in her hair most of the time.

22 Q Was there anybody with Whoppie that you can  
23 recall?

24 A Yes.

25 Q All right, who was with her?

1 A A girl by the name of Jackie.

2 Q All right. Can you describe her to us as to the  
3 length of her hair? Well, first off all was she a  
4 white girl or black girl?

5 A A black girl.

6 Q Describe her body configuration as best you  
7 recollect it.

8 A She was a couple inches shorter than I am. Kindly  
9 on the hippy side. Had short hair.

10 Q All right. How long or-- let me strike that. Had  
11 you ever seen this Jackie before?

12 A A few times, you know, like on--you know, actually  
13 she was like new on the block and I might have seen her  
14 a day or two before and then, you know, briefly and then  
15 like a period of three days I saw her maybe four or five  
16 times.

17 Q And she was with Whoppie on the occasion of the  
18 night that you saw this vehicle?

19 A Yes.

20 Q Where were they in relationship to your house?

21 A They hung out in front of the house, too, because  
22 a lot of guys, you know, would drive up there. A lot of  
23 the girls would, you know, hang out in front of the  
24 house. There were some guys that sold drugs out of the  
25 house.

1 Q Okay. Now--and you knew that?

2 A Yes.

3 Q How long did your conversation with these males in  
4 the -- let me get to it. The photographs, State's  
5 Exhibit four zero, 40, that I, how does the vehicle  
6 pictured in that photograph compare to the one that you  
7 saw these two men riding in?

8 A It is the same truck. I told Detective Blackman,  
9 you know, that's the vehicle that I saw them riding  
10 around. That's the vehicle that stopped in front of the  
11 house with the two men.

12 Q How long did your conversation with these men  
13 take?

14 A Just a few minutes.

15 Q All right. And then what happened?

16 A They drove away.

17 Q Did you see them later again in the evening?

18 A Yes, I did.

19 Q All right. Under what circumstances did you see  
20 them later?

21 A I came up in the house with a date and went back to  
22 my room with the date and they were sitting in the  
23 kitchen. There were insulin syringes on the table.  
24 There was, you know, they were smoking crack. The girl  
25 Jackie and these two guys.

1 Q All right. Describe the guys that you saw with  
2 Jackie on that occasion in the kitchen of your house.

3 A The same two that were in the vehicle that had tried  
4 to pick me up earlier.

5 Q The white male and the black male?

6 A Yes.

7 Q Now, what made you take note of the fact that they  
8 were there when you came in?

9 A I told them to leave. You know, at that time my  
10 date got scared. He was an older fellow and, you know,  
11 he started to leaving. He said, I can't be up in here.  
12 So I told him, you know, when I come back, excuse me, I  
13 want the house clean. You know, I mean out.

14 Q You were telling that to whom?

15 A Yeah, to everybody that was in the kitchen.

16 Q All right, that being Jackie and the two males?

17 A And Whoppie.

18 Q And Whoppie was in there, too?

19 A Yes.

20 Q Okay. And I take it from what you said that you made  
21 it emphatic that you wanted them out of your place?

22 A Yes. I mean, you know, that's my business. You  
23 know, and I couldn't let them --

24 Q Well, were you paying rent on the room that was  
25 right there off the kitchen?

1 A Yes.

2 Q Did you, at that time what was the lighting like  
3 in the kitchen area at that time?

4 A Had one overhead uncovered bulb.

5 Q Did you have any difficulty seeing the faces of  
6 either the ladies or the men?

7 A No.

8 Q How certain were you that the two men that you saw  
9 with Jackie inside the kitchen were the two that had  
10 approached you in the white truck?

11 A I really didn't pay attention, you know, at the  
12 time. You know, I was mad. You know, I had money get  
13 away from me. You know, I got mad and my boyfriend was  
14 in the room, in my room. You know, he was to wait there  
15 so I didn't have any trouble out of anybody. He could  
16 go outside and wait until I finished what I had to do.  
17 And I wasn't, you know, I didn't really care who it was.

18 Q Well, did you recognize the two men when you saw  
19 them in the kitchen with these two women?

20 A Not right off but, you know, when I went back out,  
21 you know, Jessie--that's my boy friend, he told me that  
22 that was the two guys that were --

23 MR. DODD: Objection.

24 COURT: Sustained as to what Jessie said.

25 Q All right. Now, was that the last time you saw

1 these people?

2 A No.

3 Q All right. Under what circumstances -- I take it you  
4 left your own house after--

5 A Yeah. I went out and caught the guy and we went  
6 somewhere in the car.

7 Q All right. Then what happened?

8 A I came back maybe 45, 50 minutes later. You know,  
9 I didn't pay attention what time but when I got out of  
10 the guy's car and started to go up to the house, the  
11 girl Jackie, the black male and the white male were  
12 coming out the kitchen door and down the side of the  
13 house.

14 Q Was Whoppie with them at that time?

15 A No.

16 Q All right. Did you see where they went?

17 A They all three walked--because I sat back down on  
18 the wall. Jessie had come out on the front porch and he  
19 came down, you know, and sat on the wall with me and  
20 when they came down the side of the house that's like a  
21 driveway, they came down the driveway turned to the left  
22 and walked, you know, maybe half a block to Cabarrus  
23 Street and turned the corner to the left.

24 Q All right. And at that point could you see where  
25 they went?



1 A No, but shortly thereafter the truck came out of  
2 Cabarrus Street, went up the hill toward Bloodworth and  
3 I don't know where it went from there.

4 Q All right. Did you recognize the truck at that  
5 time as being the same one that you had seen earlier  
6 occupied by the white driver and the black passenger?

7 A Yes.

8 Q I am just, just asking you honestly, do you, did  
9 recognize or do you recognize the people that were in  
10 the kitchen with Jackie and then thereafter leaving with  
11 Jackie as the two males that you had seen in the truck  
12 earlier?

13 A Like I said, you know, I saw the white boy from the  
14 back and the black guy was standing up bugging her,  
15 looking all around. So I didn't really relate it as to  
16 those guys but when I saw them leaving, out of the house  
17 the second time I came back, when they went around  
18 the corner and got in the truck and left.

19 Q Then you --

20 A Yeah.

21 Q --recognized them?

22 Q I take it that, you said they went, you mentioned  
23 Cabarrus Street?

24 A Yes.

25 Q All right. And what other street?

1 A Bloodworth.

2 Q Okay. And then they went out of your sight?

3 A Yes.

4 Q Do you know what time of night this was or early  
5 morning, do you know?

6 A No. It had to be early in the morning. I wasn't  
7 usually out sitting on that wall until after 12:00.

8 Q Did you, well, Detective Blackman talked to you at  
9 some point on that wall, did he not, the next night?

10 A Yeah.

11 Q Okay. Now these, these events that you testified  
12 here today, you told the officers about those events,  
13 did you not?

14 A Yes. Except for, you know, the kitchen part  
15 because at the time there were still guys still in the  
16 house selling drugs and I did not want to bring, you  
17 know, the police up in the house asking questions.

18 Q So you told the officers about being seeing the  
19 men in the truck?

20 A Yes.

21 Q And their description but you didn't tell them  
22 about seeing them in the house and that the cocaine use  
23 was going on in the house?

24 A Right.

25 Q But since that time the house has been torn down,

1 has it not?

2 A Yes.

3 Q When you went into the kitchen area and saw these  
4 people in there, can you describe more fully what was  
5 going on or what you observed while you were in there?

6 A Just that there were drugs and, you know, I knew  
7 they were getting high. Jackie was sitting on a little  
8 stool that I had in there because my room was too small  
9 to put all my furniture so I had a chest and a stool and  
10 there was two kitchen chairs.

11 Q And what was Jackie doing?

12 A She was sitting on the stool smoking a pipe.

13 Q Smoking a pipe?

14 A Yes, a stem.

15 Q And the black male, what was he doing as best you  
16 can recollect?

17 A Standing up looking around, you know. He had his  
18 back to me but it was like, you know, looking.

19 Q And the white male, what was he doing? Sitting at  
20 the table using a syringe.

21 Q He was using a syringe?

22 A Uh-huh.

23 Q In what manner was he using a syringe?

24 A In his arm.

25 Q Had you observed people using a syringe in that

1 manner prior to that?

2 A Yes.

3 Q Well,--

4 A Years ago I did it.

5 Q Did you recognize what was happening?

6 A Yes.

7 Q Now, did anybody, up-when you talked to Detective  
8 Blackman, both out there in front of your house and then  
9 at the police department, had anyone promised you  
10 anything or offered you anything for giving those  
11 statements?

12 A No, sir.

13 Q Was what you told him the truth?

14 A Yes, sir.

15 Q Is what you have told us the truth?

16 A Yes, sir.

17 Q Since that time you were convicted of cocaine  
18 possession, were you not?

19 A Yes, sir.

20 Q You are on probation, aren't you?

21 A Yes, sir.

22 Q As a matter fact, you are facing a probation  
23 violation right now?

24 A Yes, sir.

25 Q You and I have an agreement for your testimony, do

1 we not?

2 A Yes, sir.

3 Q As best you can recollect what is that agreement?

4 A Well, the judge gave me five years and five years  
5 on another charge and I was told by you if I came to  
6 court and answered honestly to what I knew about the  
7 death of Jackie that you would have no objection to him  
8 running them concurrently or together. You know, that  
9 so -- it is not a split sentence.

10 Q All right. And told you that I would tell the judge  
11 also--

12 A Yes, sir.

13 Q --did I not? You and I signed an agreement to that  
14 effect, did we not?

15 A Yes, sir.

16 Q With your attorney?

17 A Yes, sir.

18 Q Viewing it and signing it, also?

19 A Yes, sir.

20 Q Eva, I have handed you a paper writing marked for  
21 identification purposes as State's Exhibit 41 and ask  
22 you to please look at that for a second. All right, do  
23 you recognize State's Exhibit 41?

24 A Yes, sir.

25 Q What is State's Exhibit 41?

1 A It is the agreement that I signed as to your not  
2 opposing to running my sentence concurrent.

3 Q Your agreement with me for your truthful  
4 testimony?

5 A Yes, sir.

6 Q All right. Now, had you ever heard of Tom Ford or  
7 talked to me at all when you told Mr. Blackman what you  
8 had observed out there back in 1991?

9 A No, sir. I have only seen you in the courtroom.

10 Q All right. As to approximate age, coloring and  
11 hair color, how does this defendant seated at the end of  
12 the table over here compare to the white man that you  
13 saw in the kitchen on the occasion of September 19,  
14 1991?

15 A That's the man. I believe, his hair was a little  
16 bit lighter. It appeared to be a little bit lighter.

17 Q Are you saying that based on seeing him in that  
18 kitchen on that evening and out in the--

19 A Like I told you, in the kitchen -- I didn't -- I  
20 didn't, you know, actually look at him and I was mad.  
21 You know, there were people up in my house doing drugs  
22 and I had a man running away because he was scared to be  
23 in the house.

24 Q Well, I'll ask you to look at this man over here  
25 seated at the end of the table. Is that the man that

1       you saw operating the white truck and the man that you  
2       saw leaving the house with Jackie?

3       A       Yes.

4       Q       And have I to this moment in time ever asked you to  
5       identify that person to me?

6       A       No, you have not.

7       Q       Is that part of your agreement?

8       A       You, you haven't showed me any pictures or anything  
9       else.

10      Q       All right.

11               MR. FORD: I don't have any further questions.

12               COURT: Cross-examination.

13               MR. DODD: Thank you, Your Honor.

14      CROSS-EXAMINATION: [by Mr. Dodd]-

15      Q       Ms. Kelly, my name is Mike Dodd and I have a few  
16      questions on behalf of Mr. Taylor.

17               Ms. Kelly, how long have you lived at this place  
18      approximately, this place you just described, 419?

19      A       About three months.

20      Q       Okay. And in that area it was fairly routine for a  
21      number of people to come through that house on a given  
22      night.

23      A       Yes, sir.

24      Q       Also, through the neighborhood?

25      A       Yes, sir.

1 Q There's a lot of drugs and prostitution in that  
2 area,--

3 A Yes, sir.

4 Q --is that a fair statement? On the night that  
5 you are talking about having seen this vehicle and the  
6 black male and the white male, do you recall the weather  
7 conditions on that night?

8 A It wasn't rainy, wasn't snowing. I mean, you  
9 know, it was a --

10 Q Do you remember anything unusual that night?  
11 Any unusual weather conditions at all?

12 A No. I had been sleeping, you know. Taking a nap.  
13 I had just really got up, you know, when the vehicle  
14 pulled up. I had been lying down for a couple of hours.

15 Q When the vehicle pulled up, did you, when you said  
16 that you were just a couple feet away from the passenger  
17 window, is that a--

18 A Not even a couple feet away. I walked up to cars,  
19 you know. I am like right to them.

20 Q Yes, ma'am. Did you notice anything inside the  
21 vehicle? Did you look in the vehicle to see what was in  
22 there?

23 A No. I was really talking to the guys.

24 Q Okay. You didn't, you didn't see anything in the  
25 vehicle except the two guys or you don't remember



1 anything in the vehicle?

2 A No.

3 Q Did you by any chance look at the license plate  
4 number?

5 A No.

6 Q You never recorded the license plate nor ever had  
7 reason to do that that night?

8 A No.

9 Q Ms. Kelly, do you remember the statement thank you  
10 made to Detective Howard on October the first concerning  
11 this same thing about what occurred that evening and  
12 what you were doing and who you saw that night and that  
13 sort of thing?

14 A Do I recall the conversation?

15 Q Yes, ma'am. Do you recall coming down and having a  
16 statement recorded by the police?

17 A Yes, I do.

18 Q With Detective Howard and Detective Blackman?

19 A Yes, I do.

20 Q Do you remember that? Have you seen a copy of that  
21 statement? Nave you had an opportunity to read that  
22 statement?

23 A Yes.

24 Q All right. When did you, when did you read that  
25 statement last?

1 A Yesterday.

2 Q Yesterday afternoon?

3 A No. No. I am sorry. Last week it was given to  
4 me.

5 Q Not yesterday?

6 A Well, I mean it has been in my room. I mean I  
7 glanced over it.

8 Q Well--all right, you have it with you in your room,  
9 is that right?

10 A Yes.

11 Q You had it since last week or so, have you not?

12 A Yes, sir.

13 Q Now, are you currently housed in the Wake County  
14 Jail or where are you?

15 A Wake County Jail.

16 Q All right. How long have you been there?

17 A Since the 23rd of March.

18 Q After you gave this statement to Detective Howard  
19 and Detective Blackman, this is the one that they  
20 referred to before as having, that we just talked about.  
21 When did you next talk with them, do you remember?

22 A I haven't talked to Detective Blackman since this  
23 statement.

24 Q All right. Who from either the District  
25 Attorney's Office or the police department contacted you

1 next after you gave that statement and when was it?

2 A It was last week.

3 Q All right. So between the time you gave that  
4 statement on October the first, 1991, and last week you  
5 had no contact with the District Attorney Mr. Ford or  
6 his office or any of the Raleigh policemen?

7 A No, sir.

8 Q Okay. And last week they contacted you, did they  
9 not?

10 A Yes.

11 Q And you didn't call from the jail and said,  
12 Mr. Ford, I need to talk to you, right?

13 A No.

14 Q So somebody came to see you in the jail, did  
15 they?

16 A Yes.

17 Q Who was it?

18 A Mr. Ford and the fellow in the pink jacket and the  
19 fellow beside of you.

20 Q The reason they came to see you in jail was to talk  
21 about the statements that you--

22 A If I was going to testify.

23 Q Yes. And they also came to you about this  
24 agreement for truthful testimony that is sitting there  
25 in front of you, is that right?

1 A Mr. Ford came up and talked to me about that.

2 Q Yeah. And they did talk to you about that at that  
3 time, right, about the agreement?

4 A Mr. Ford came, yeah, about the agreement at a  
5 later date, another date.

6 Q All right. When was the date they talked to you  
7 about the agreement?

8 A I don't keep dates in jail. You know, I am doing  
9 day by day.

10 Q Well, it was after they came to contact you about  
11 this statement, wasn't it?

12 A Yes, sir.

13 Q All right. So let's get it straight now. First  
14 they came and brought you a copy of the statement,  
15 right.

16 A Yes.

17 Q And next they came--

18 A --I don't know if that is the one.

19 Q All right.

20 MR. DODD: May I approach the witness, Your  
21 Honor.

22 COURT: All right.

23 Q First they come and bring you the statement and  
24 the next thing they talk to you about is this agreement  
25 for testimony, is that right?

1 A Yes, sir.

2 Q Now, this came after the first visit by Mr. Ford,  
3 right?

4 A Yes.

5 Q The second visit by Mr. Ford was approximately how  
6 long after you talked to him about the initial statement,  
7 just roughly? I know you can't remember.

8 A I am trying to think. He may have brought me this  
9 first. I believe, Mr. Ford came and saw me first and  
10 brought this.

11 Q So the first thing that he wanted to talk to you  
12 about when he contacted you was the agreement to testify,  
13 right? That is what you are saying.

14 A Yes.

15 Q All right. And at that meeting is when this  
16 agreement was hammered out where he agreed not to oppose  
17 concurrent sentences, meaning the sentences would run  
18 together at the same time; that you wouldn't have to  
19 serve one five year sentence and then serve another five  
20 year sentence, is that right?

21 A Yes, sir.

22 Q So instead of having to serve a five year sentence  
23 and then having another one put right behind it at the  
24 expiration of the first one, this agreement says that  
25 you will serve them both together?

1 A If I gave truthful testimony.

2 Q All right. That's what y'all talked about. And  
3 that was the purpose of this first meeting and the  
4 purpose of this agreement, right?

5 A I assume the reason that I am here is to, you know,  
6 testify what I know --

7 Q Tell about what went on -

8 COURT: Wait a minute. Let her, let her  
9 finish.

10 A --about this girl's death. I mean I felt bad  
11 about it. Like I told Blackman, when he first come and  
12 questioned me, that, you know, a girl ended up dead.  
13 Okay. It could have been me if I had got in that truck.  
14 Okay.

15 Now, I mean there was no agreement to me. I wish  
16 there were.

17 Q Ms. Kelly, my question to you was that this was  
18 the purpose of that first meeting with Mr. Ford. This  
19 is when you hammered out that agreement, correct? Yes  
20 or no?

21 A Yes.

22 Q All right. Thank you. Now, later he comes back  
23 and he brings you a copy of your statement to the police  
24 for you to familiarize yourself with, right?

25 A The reason for the copy of the statement from the

1 police was they asked me to look over and see, you know,  
2 if all of this was correct.

3 Q I understand that.

4 A I didn't look over anything. I stuck it up in the  
5 room. I look at it everyday just laying up there.

6 Q Yes, ma'am.

7 A It isn't mulled to death. I mean, I just didn't  
8 read anything.

9 Q Do you have that statement with you today?

10 A It is upstairs. It can be got.

11 Q Okay. Do you remember what you told the police in  
12 that statement?

13 A Basically, yes.

14 Q Okay. Now, when the police came to see you that  
15 night, and you were sitting out on the wall, they came to  
16 talk with you that night?

17 A Yes.

18 Q All right. Now, one of the two police officers,  
19 either Howard or Blackman, I don't know which one but  
20 you do, came up to you and said I am going to show you a  
21 picture of a white guy by the name of Greg Taylor and  
22 said did you see him and he showed you a picture, did he  
23 not?

24 A I talked to Mr. Blackman on two different  
25 occasions. One time he was talking to me on the wall

1 and another time --

2 Q All right, let's go back to the first time then.  
3 The first time that they came to talk with you on the  
4 wall, that may have been in September. The statement is  
5 October the first. But in the event, the first time,  
6 whatever date it was, they showed you pictures at that  
7 time, did they not, of some people?

8 A On one occasion. I don't remember if it was the  
9 first or the second. It has been a while.

10 Q And they told you who people were?

11 A No. They asked me. They didn't tell me nothing.  
12 They asked questions. I told them. They asked me  
13 questions. They showed me this picture. They showed me  
14 a picture of two different people or three different  
15 people and ask if I had seen them and I picked out a  
16 black man that I believe was one in this truck and a  
17 white man and they didn't tell me who they were--

18 Q Wait a minute.

19 A --or, you know, what it was about. They asked  
20 questions about a lot of different people, about girls,  
21 guys, another guy that, you know, guys that are around  
22 the block a lot. A fellow named Andy.

23 Q They showed you three photographs?

24 A I don't remember how many.

25 Q All right. Well, you just said three. Now, is



1 that right or not?

2 A No. They showed me a picture of the Pathfinder  
3 and showed me a couple of pictures, yeah.

4 Q All right. One was a Pathfinder. What were the  
5 other two?

6 A A black man and a white man.

7 Q That is all they were. Wasn't a group of fifteen  
8 photographs and you had to pick somebody out of these  
9 photographs, right? They didn't do that, did they?

10 They gave you two photographs and showed you those,  
11 right, of people?

12 A Yes.

13 Q Okay. Now, in that statement -- well, the  
14 statement I am referring to now is the one October the  
15 first, the one that was recorded. Okay. The one that  
16 you have got back in your cell. All right. In that  
17 statement they showed you a photograph of Jacquitta  
18 Thomas, did they not?

19 A Yes.

20 Q And they asked you if you knew her and you said,  
21 no. I have known her but that photograph doesn't look  
22 like anybody that I know, is that correct?

23 A Right.

24 Q Now, you testified earlier about somebody named  
25 Jackie but that was not the photograph that they showed

1       you, right, the Jackie--

2       A       Well, I know a girl Jackie that works on the  
3       street. Okay.

4       Q       And that's who you were referring to?

5       A       That's who I thought he was referring to. He  
6       showed me a picture of a girl's body. This was while I  
7       was downtown. I believe he showed me a picture of the  
8       body and I told him I don't know anyone, you know, that  
9       resembled this picture.

10      Q       Yes, ma'am.

11      A       And I still from the girl Jackie that I saw with  
12      these two men, you know, when they came out of my house  
13      and that dead body still doesn't look like the same  
14      person.

15      Q       Ms. Kelly, you testified earlier about things that  
16      you observed and conclusions that you drew from things  
17      that you saw in the kitchen, remember?

18      A       Yes.

19      Q       None of that was in this statement that you gave to  
20      the police on October the tenth that was recorded, was  
21      it?

22      A       Like I said, it was a crack house, also. I held  
23      back that part of it for the reason those guys were  
24      selling drugs and they carried guns. I mean, I am not  
25      going to bring the police up in the house. Okay.

1 Q Yes, ma'am. But my question was none of that in  
2 which you said this man was there and identified him in  
3 open court like you just did, none of that was in this  
4 statement to the police, was it?

5 A No.

6 Q None of that came out until you had signed this  
7 agreement and until you had an opportunity to talk to  
8 Tom Ford on at least two occasions, is that correct?

9 A That came out I believe before the, before the  
10 signing of this statement when I agreed to testify. I  
11 was asked to testify before, would I testify in this  
12 case before I even seen this.

13 Q Yes, ma'am. But you didn't tell anybody. You didn't  
14 call up Detective Blackman or Detective Howard and say  
15 hey, wait a minute, I remember seeing this person out  
16 there. I remember these two guys now because they were  
17 in the kitchen smoking dope. You didn't tell anybody  
18 about that until Tom Ford comes to see you about a deal,  
19 isn't that the truth?

20 A Yes, sir.

21 MR. DODD: All right. Thank you. No further  
22 questions.

23 COURT: Further redirect?

24 MR. FORD: Yes.

25 REDIRECT EXAMINATION: [by Mr. Ford]-

1 Q Ma'am, would you look at the date on our written  
2 agreement that was brought to you and signed?

3 A 4-12.

4 Q That was just this past Monday, wasn't it?

5 A [Nods head.]

6 Q All right. Now, the first time you heard about  
7 that in the recent history was when myself and the young  
8 lady seated on the back, Ms. Culva, came up to talk to  
9 you?

10 A Right.

11 Q We talked to you by phone through those little phone  
12 things, didn't we?

13 A Yes.

14 Q At that point I told you who I was, did I not?

15 A Yes, sir.

16 Q And I told you why I was there?

17 A Yes.

18 Q And we had a brief conversation of what you had  
19 told Mr. Allison Blackman out on this, on the street on  
20 the 27th of September?

21 A Yes, sir.

22 Q At that time you started telling me about this stuff  
23 in the kitchen, didn't you?

24 A Yes, sir.

25 Q And I about dropped my teeth, didn't I?

1 A Yes, sir.

2 Q I hadn't made any agreement with you to testify at  
3 that time, had I?

4 A No.

5 Q Was what you were telling me at that time the  
6 truth?

7 A Yes, sir.

8 Q Was there any other reason you held back other  
9 than you didn't want to trouble the house that you were  
10 living in and the only place that you had to live?

11 A Right. Well, I was afraid the guys, you know, if  
12 I brought police up in there, you know, might have been  
13 bringing harm to myself.

14 Q So you, is it fair to say that you tried to help  
15 Mr. Blackman as much as you could without putting  
16 yourself in danger?

17 A Yes. I, I--yes.

18 Q Then you told me basically what you have testified  
19 here today, did you not?

20 A Yes, sir.

21 Q All right. I asked you if you were willing to  
22 testify?

23 A Yes, sir.

24 Q And the fact of the matter is I am the one that  
25 suggested that you be rewarded in some way for

1       testifying, isn't it?

2       A     Yes, sir.

3       Q     You didn't ask me that, did you?

4       A     No.

5       Q     Did we talk about what problems this might give  
6       you in jail and prison?

7       A     Yes, sir.

8       Q     And did I indicate to you that I thought you  
9       deserved some sort of reward if you had to undergo that?

10      A     I don't believe you offered me any reward as such.

11      Q     I am talking about reward on what would happen on  
12      your probation violation?

13      A     Yes, sir.

14      Q     All right. And as a matter of fact we put that  
15      right in the agreement, did we not?

16      A     Yes, sir.

17      Q     That I knew that somebody in prison may give you a  
18      time over this?

19      A     Yes, sir

20      Q     That was the first occasion that you had ever seen  
21      me. I was in the company of this young lady back here.  
22      There weren't any police officers with me, were there?

23      A     No.

24      Q     Subsequently, and as a matter of fact, that's the  
25      occasion when you were through the jailer given copies

1 of your previous statements, weren't you?

2 A Yes.

3 Q You had already told me what you had said?

4 A Yes.

5 Q And I gave them to the jailer so he could give  
6 them to you directly?

7 A Yes.

8 Q Subsequently the officers came up there with me,  
9 Detective Howard seated behind me and I believe  
10 Mr. Bisette was with us, also?

11 A Yes.

12 Q We talked to you briefly in person?

13 A Yes, sir.

14 Q And you attempted to give us some aid in finding  
15 some of these other folks, didn't you?

16 A Yes, sir.

17 Q Now, you mentioned one of the ladies out there and  
18 her name was Tex. Did you know her real name?

19 A Parley Pate.

20 Q Do you know what has happened to Parley Pate?

21 A No.

22 Q Have you seen her lately?

23 A No.

24 Q Sometime, how long after Jacquitta Thomas' death  
25 and the time you talked to Allison Blackman did you move

1 from 419 East Street?

2 A No.

3 Q How many times have you moved since then?

4 A I have lived out in the Garner for a while and I  
5 lived in Wake Forest for a while.

6 Q And at some point you were living in a motel  
7 somewhere?

8 A Yes. I was working there. At The Comfort Inn.

9 Q Do you have any idea that, you know, the DA's  
10 office and the police were looking for you during that  
11 period of time?

12 A Yes, I did.

13 Q All right. And what was that, what was your idea  
14 that they were looking for you for?

15 A Violation of probation.

16 Q So you made yourself pretty scarce?

17 A Yes.

18 Q You didn't know that we were looking for you to be a  
19 witness in this case, did you?

20 A No. I assumed that it had already gone to court.

21 Q Because it had been such a length of time?

22 A Yes.

23 Q Who actually brought you State's Exhibit 40? I am  
24 sorry. State's Exhibit 41, the agreement for your  
25 testimony?



1 A You and the lady.

2 Q All right. Well now we talked about it, did we  
3 not?

4 A Yes.

5 Q All right. You are represented by an attorney,  
6 are you not?

7 A Yes.

8 Q And his name is what?

9 A Oh. Can't remember his name.

10 Q All right. Is it James Cline?

11 A Yes, it is.

12 Q All right. Do you recall whether or not Mr. Cline  
13 brought you several copies already signed by myself of  
14 that agreement on the Monday of this week? The actual  
15 agreement. Now not the discussion but the actual  
16 agreement there?

17 A Yes, sir.

18 Q Now, I believe he gave you a copy to keep, didn't  
19 he?

20 A Yes.

21 Q Let me get right to the heart of this. Is what you  
22 are telling us today the truth?

23 A Yes.

24 Q What you told Allison Blackman out there and what  
25 you told him and other detectives and me before we

1 discussed any agreement, was that the truth?

2 A Yes, sir.

3 Q Thank you, ma'am.

4 COURT: Further recross?

5 MR. DODD: Thank you, Your Honor. I don't need  
6 to ask any further questions.

7 COURT: All right. You may step down.

8 [WITNESS EXCUSED.]

9 -----

10 MR. ERNEST ANDREWS, being first duly sworn, testified as  
11 follows during DIRECT EXAMINATION by Mr. Ford:

12 Q Would you state your name for the Court, please.

13 A Ernest Andrews.

14 A Mr. Andrews, where do you live?

15 A New Bern, North Carolina.

16 Q And what do you do for a living?

17 A I install underground cable.

18 Q Are you self-employed or work for a company or  
19 what?

20 A I work for a company out of Kinston or Dover, North  
21 Carolina, H & H Construction.

22 Q And how long have you been working with them?

23 A Since September of '92.

24 Q Now, in September of 1991, did you have occasion to be  
25 in the Wake County Jail?

1 A Yes, sir, I did.

2 Q For what purpose?

3 A Had just been given a five year sentence for  
4 embezzlement.

5 Q And around the 26th of September and the 27th of  
6 September, you had already been sentenced?

7 A Yes, sir.

8 Q What were you doing in the Wake County Jail at that  
9 point?

10 A Waiting for transport to Troy, North Carolina, Southern  
11 Correctional Center.

12 Q How were you housed in the jail at that time?

13 A Well, I think four or five blocks within one cell  
14 block and then there was what they will call a bullpen  
15 and everything was full to the max and I was sleeping on  
16 the floor on a mattress, if that is what you mean by  
17 housed.

18 Q Okay. At that point we were, were you still in  
19 the old jail in this building, you weren't in the new  
20 jail?

21 A No, sir. I was in the old jail.

22 Q All right. Were you the only person sleeping on the  
23 floor?

24 A No, sir. There was, I would guess 12 or 15.

25 Q Now, sometime in late September did you have

1 occasion to be in jail and see the defendant seated  
2 over here at the end of the table?

3 A Yes, sir. It was either Thursday night or Friday  
4 morning they brought the defendant in for murder and that  
5 was E-Block if I am not mistaken we were on E-Block in the  
6 old Wake County Jail.

7 Q Well, would you tell us what happened and what  
8 conversations you had, if any, with this defendant  
9 during the course of his incarceration at the same place  
10 you were.

11 A Well, I was there two days I think after they  
12 brought the defendant in and when he first came in, it  
13 is natural I guess for, you know, to be walking around.  
14 Well, he was pacing the floor anyway and I guess after  
15 an hour or so after he were in, we just started talking  
16 and asked him what he was here for and that is when I  
17 found out, he said he was charged with murder or had him  
18 arrested for murder and there was several of us setting  
19 around at that time. And one of them said well, how did  
20 she die and he said with a smile on her face which there  
21 are several ways that could go, you know, there's a  
22 sexual content to a smile on the face but this is not  
23 like that. One of the guys, a black guy asked well what do  
24 you mean? He says, well, she was cut from ear to ear,  
25 throat cut. And he did not say he did that now.

1 You know, I am just saying that is what was conversed.

2 I guess an hour, two hours, something like that,  
3 it was in the early morning hours I am sure of that that the  
4 detectives carried him out for interrogation or to talk to  
5 him, detectives and possibly an attorney.

6 And he came back in and, you know, he was nervous  
7 and at that time there was probably four people watching  
8 television setting around talking and I was smoking a  
9 cigarette. You are not suppose to smoke a cigarette up  
10 there but you can buy anything you want, you know. So,  
11 you know, anyway I was smoking a cigarette and I asked  
12 him, started about the conversation what happened and  
13 all, what is going on and all and he said well, just  
14 interrogating me and all. Over the course of time we  
15 kept talking. I mean, you know, just conversation  
16 talking and he said things really got screwed up. Was  
17 suppose, suppose to just have a party and things got out  
18 of hand. The girl did not want to, I don't know, she  
19 got upset anyway and made an attempt to run and the  
20 statement was he hit her.

21 Now, I don't know if it was him or the this other  
22 guy that was with him, which I don't know the other guy  
23 that was with him. I never saw him. And said things  
24 got out of the hand and they left. The police found his  
25 vehicle there, arrested him him basically. He said that he

1 never told his wife about this girl. Just told her his  
2 vehicle was stuck.

3 She made the statement well you should have had it  
4 pulled--he said she made a statement you should have had  
5 your vehicle pulled out. Not anything about the girl  
6 that was killed at all was said in that statement.

7 Of course, when we first started talking, he was  
8 saying that they didn't even know the girl was out there  
9 until him and this other guy started walking out and  
10 came across the body.

11 Q You mean when you were first talking to him--

12 A Yeah.

13 Q --he denied having known the girl or seen the  
14 girl?

15 A Seen the girl until they were walking out. They  
16 were walking out and he said he looked over, glanced over  
17 his shoulder and saw a body laying there.

18 Q And subsequently did he tell you that wasn't true or  
19 indicate that wasn't true?

20 A That was not immediately. That was later on. He  
21 had just come back from interrogation which was in the  
22 late morning or early morning however you want to speak  
23 of it. It was after 12:00 o'clock. And that's when he  
24 said things just got out of hand. And the guy never  
25 said that he killed the girl or, you know. Just like I

1 say, he said things got out of hand. We were suppose to  
2 go out and party, drink a little, and I think maybe  
3 smoke a little. I don't know about that. You know, I am  
4 not sure about the smoking part but I am sure about  
5 the drinking and partying. Getting high was the word he  
6 used. Now, some people get high by getting drunk.  
7 Others get high by other ways.

8 Q So he used the term they were going out to get  
9 high?

10 A Yes, and party.

11 Q All right. Do you recall whether or not he told  
12 you there was another person with him, another man?

13 A Oh yes, there was another male with him, a black  
14 male, he said.

15 Q All right. Did he tell you whether or not they  
16 had, or where this woman had come from?

17 A No, sir.

18 Q Did he indicate whether it was a date or how she  
19 got up with them?

20 A He said it was a prostitute. I mean, you know, I  
21 don't know where she came from. He never said that they  
22 picked her up, where they picked up. Just picked her  
23 up. I mean, I don't know if it was downtown Raleigh or  
24 out at the fairgrounds or what. He just said they  
25 picked her up and they were going out to party and have

1 a good time and get high.

2 Q During the course of the conversation did he  
3 explain to you whether the term partying had the  
4 connotation of sexual activity?

5 A They was to have, going to have sex. Now I am not  
6 going to say that it was going for sex or what. But  
7 they were going out and party, have sex and get high.

8 Q And what did he tell you regards to the female and  
9 her, did he tell you whether or not the girl was in his  
10 vehicle at any time?

11 A Yes. In fact they were in the vehicle. This is  
12 where the girl jumped out from.

13 Q I am sorry. Did what?

14 A This is where the girl jumped out and ran from.

15 Q All right. Well, what did he tell you about  
16 jumping and running from the vehicle?

17 A They were partying, drinking and then he said  
18 things, the girl got mad or upset, jump out, he hit her.  
19 He hit her and she jumped out. I don't know if he means  
20 he hit her with his, himself hit her or the other guy  
21 hit her or just that he hit her. And she jumped out.  
22 The other guy jumped out and ran after her and that's  
23 the other guy with the defendant. Now, not the  
24 defendant himself but the other guy jumped out of the  
25 car, out of the truck and ran after her.



1 Q Did he tell you whether, did he say something to  
2 you about what this other people had said to him when he  
3 came back?

4 A I am not, I am not real sure but it was something,  
5 I don't think she'll do anymore partying. Something  
6 along those lines possibly.

7 Q Now, in--how long a period of time did this take?  
8 How long a time were you in the presence of the  
9 defendant during the course of your incarceration there?

10 A Total hours, I'd probably say, guessing 24 to 36  
11 hours at the most.

12 Q And during the, over what period of time did he give  
13 you this information?

14 A It was, I'd say within a four hour period, four to  
15 six hours. Somewhere along in there. You know, I don't  
16 know exactly what time they brought Greg in at all. But  
17 I know it was after midnight or, you know, it was dark  
18 hours when we were talking and most of the other people  
19 were asleep or what not.

20 Q When you were talking to him?

21 A Yes, sir.

22 Q Okay.

23 A Well now, at one point there was a black guy named  
24 Duck. I don't know his real name.

25 Q I am sorry. His name is what?

1 A Duck. They called him Duck. I assume he is  
2 probably 35, somewhere along in there. He was in there  
3 for drugs I believe and when we first started talking,  
4 he was up. Now, as far as him ever hearing what went on  
5 after he was taken out and interrogated in the morning  
6 hours, I don't know.

7 Q All right. What made you think that he had been  
8 out and interrogated?

9 A Mostly the expression that he had on his face when he  
10 came back in and he also stated that he had been  
11 interrogated. Now, which I don't know.

12 Q You don't know for what purpose he was taken out  
13 of your own knowledge?

14 A No, sir. In fact, I did not even know the man's  
15 name was Taylor, Gregory Taylor until the bailiff kept  
16 or whatever you call him, the jailer kept coming and  
17 calling him out. I knew his name was Greg but not  
18 Gregory Taylor.

19 Q All right. What, what did you do with this  
20 information and under the circumstances?

21 A Well, under the circumstances, I didn't do  
22 anything probably for I'd say three days, something like  
23 that. I was transferred from there over to the annex  
24 where I could talk on a phone without having to worry  
25 about whose looking over your shoulder. A little bit

1 more freedom over in the annex. At that time I called a  
2 friend of mine, my girlfriend and told her to call the  
3 Raleigh Police Department concerning--

4 Q Did you tell her why?

5 A Yes, sir.

6 Q And what did you tell her?

7 A That one of the defendants here in the jail, at  
8 that time I knew his name was Gregory Taylor and had  
9 told me about him being involved in this case and to  
10 call the detective because I had already been sentenced  
11 and to be honest with you, there was nothing you could  
12 do for me. The term had already passed but yes, it  
13 would look good on for parole purposes.

14 Q That was your --

15 A That was really my only intent.

16 Q Now--

17 A Because when I talked to the detective, I plainly  
18 told him I am not asking you for nothing and you are not  
19 promising me nothing. I am giving you this. You can do  
20 what you want.

21 Q After you gave those instructions to your girl-  
22 friend--

23 A Yes, sir.

24 Q --did, subsequently did a detective from the Raleigh  
25 Police Department come to talk to you?

1 A Yes, sir, he did. He came and picked me up at the  
2 annex, Detective Bissette setting the second in the  
3 middle here and then brought me over to the Raleigh  
4 Police Department.

5 Q All right. And at that time was your recollection  
6 of what the defendant told you fresher or less fresher  
7 in your mind than it is now?

8 A It was a whole lot fresher.

9 Q That was some year and a half ago?

10 A It was in, it was probably--well, I know it was a  
11 year and a half ago because it was late September. It  
12 was after the 26th when probably, it was close to  
13 October first or second maybe when the detective came  
14 and talked to me.

15 Q And at that time did you give the detective an  
16 accurate statement of what you had heard in the jail?

17 A Yes, sir.

18 Q To your knowledge did the detective record that  
19 statement while you were giving it to him?

20 A He did, sir. He had a recorder there. Yes, sir.

21 Q Now, you don't have any charges pending at this  
22 time?

23 A Not to my knowledge.

24 Q You and I don't have any agreement for you to  
25 testify?

1 A I don't have any agreement with anyone, you or the  
2 Parole Commission. I am on patrol but I have no  
3 agreement with you, the Parole Commission or anyone else  
4 concerning this testimony.

5 Q Did you attempt to give the defendant, the  
6 detective when you talked to him an accurate summation  
7 of what you had heard and what had been told to you ?

8 A I gave him an accurate summation of what was told  
9 to me, not what I had heard.

10 Q Okay. And was that--and you attempted to do that  
11 when you talked to him?

12 A When I talked with the detective, yes, sir, I did.

13 MR. FORD: I don't have any further questions.

14 COURT: Cross-examination.

15 MR. DODD: Thank You, Judge Allen.

16 CROSS-EXAMINATION: [by Mr. Dodd]-

17 Q Mr. Andrews, my name is Mike Dodd. I need to ask you  
18 some questions on behalf of Mr. Taylor.

19 A Yes, sir.

20 Q How long had you been in the Wake County Jail  
21 before you talked to Mr. Taylor?

22 A Let's see, I believe I was sentenced the day  
23 before or two days at the most. I was sentenced either  
24 on a Tuesday or Wednesday.

25 Q You had been out and not in jail until the

1 sentence?

2 A Correct. I had been on bond almost two years.

3 Q And this conversation that you had with Mr. Taylor  
4 was about how long after you had been in jail, just  
5 roughly?

6 A A good day.

7 Q Do you remember whether it was in the middle of  
8 the night or whether it was in the afternoon or roughly  
9 when it was?

10 A Well, as I have told, just stated as far as after  
11 him being interrogated, I feel like it was in the early  
12 morning after midnight.

13 Now, the first time, it was, that we talked it was  
14 probably, I would say whatever time your news comes on  
15 here in the afternoons of that day now.

16 Q The place was crowded. Were y'all having to sleep  
17 on the floors?

18 A Yes, sir.

19 Q Had pads or something for y'all to lay down on?

20 A I had a, I reckon you call it a plastic foam  
21 rubber, foam rubber with plastic on it to sleep on and  
22 Mr. Taylor slept, well, he took the position at my feet.  
23 I mean, you just don't have but so much room.

24 Q All right. The nature of this initial  
25 conversation with Mr. Taylor was he was complaining

1 about the fact that he had been charged and telling you  
2 why they were charging him and what they told him, is  
3 that a fair statement?

4 A Initially, yes, sir.

5 Q All right. Or the point I am getting at, he was  
6 upset and he was telling you I've been charged with  
7 murder and they say I did this and say that I did that.  
8 They say the girl's throat was cut and this sort of  
9 thing, is that a fair statement?

10 A Yes, sir.

11 Q Then you say that he went outside for  
12 interrogation and when he came back you talked to him  
13 again?

14 A Yes, sir.

15 Q And then he started talking, complaining again and he  
16 started telling you what they were telling him and  
17 started talking about being with the girl that evening,  
18 is that right?

19 A With the girl, yes, sir. I don't know if you mean  
20 that evening or what.

21 Q Well, when he came back in, if I am misunder-  
22 standing you now, you tell me, because-

23 A Okay.

24 Q --you need to say what you need to say.

25 A Right.

1 Q But I understood you to say when he came back that  
2 is when he started mentioning the fact that he and this  
3 other fellow had been with the girl?

4 A Yes, sir, that was killed.

5 Q And that they had gone to get cocaine and that  
6 sort of thing?

7 A I never mentioned they went to get cocaine. No,  
8 sir. I said, they said they were going to get high  
9 whether it was drugs or what, I don't know. I get high  
10 on whiskey.

11 Q And he never told you where they picked the girl  
12 up as you have testified, right?

13 A Just picked the girl up. As I said never said  
14 anywhere or any place, in other words.

15 Q And he didn't tell you that he knew who the girl  
16 was that was picked up?

17 A No, sir.

18 Q And he didn't describe for you what she had on or  
19 anything like that or her size or hair color or whether  
20 she was black or white or anything else?

21 A Black.

22 Q He said she was black?

23 A Black.

24 Q All right. Now, if he had said that, you would  
25 have remembered that would you not?



1 A I just said that he said she was black and his  
2 codefendant was black.

3 Q All right. So, let me make sure I understand that  
4 now. You are saying now that Greg told you that the  
5 girl he was with was black, is that right? Is that your  
6 testimony?

7 A That the girl that was killed was black.

8 Q Not the girl that was killed but the girl he was with  
9 that night?

10 A That they picked up-- Now, which point are you  
11 talking about, the first conversation?

12 Q Let me rephrase--

13 A All right.

14 Q --my question. He was talking to you about a girl  
15 they picked up that night according to you?

16 A Right.

17 Q And that's the girl that I am talking about.

18 A Uh-huh.

19 Q He didn't tell you anything about that girl, did  
20 he?

21 A That the girl that they picked up was to go out  
22 and party and have a good time and get high.

23 Q All right. But what I am trying to get at is the  
24 description of the girl. He didn't say we picked up a  
25 white girl--

1 A No, he didn't say she was a--

2 Q --that was five three--

3 A No, nothing like that. No, sir, he did not say any  
4 description like that.

5 Q Because you didn't have any idea which girl it was  
6 he picked up or where he picked her up or what she  
7 looked like or whether she was blond, blue eyed or black  
8 or what? He didn't say that, did he?

9 A He said that --

10 Q Wait a minute.

11 MR. FORD: Objection.

12 COURT: Well, go ahead and answer the  
13 question.

14 Q Answer my question yes or no and then you can  
15 explain it all you want to.

16 COURT: Go ahead and answer the question.

17 A Okay

18 COURT: Then you can explain your answer.

19 A All right.

20 Q Did he say --

21 COURT: Wait a minute. Go ahead and answer  
22 the question and explain your answer now.

23 A Okay, but let me have the question again.

24 Q All right. He never did tell you who he was with  
25 partying that night, did he?

1 A Yes, he did. As far as him and a black guy and  
2 they picked up a prostitute.

3 Q All right. Well, let me do it another way. What  
4 else did he tell you about the prostitute? Did he  
5 describe what she looked like?

6 A No, he did not.

7 Q Did he say she was black?

8 A Yes, they did.

9 Q He did?

10 A Yes, he did.

11 Q Now, if he had said that, was that something you  
12 would have remembered, right?

13 A Well, I mean, what do you mean by would have  
14 remembered?

15 Q Well, it's not in your statement.

16 MR. FORD: Objection.

17 COURT: Well, sustained as to what's in the  
18 statement.

19 Q When you talked to the police, when you gave them  
20 the written statement, you did not tell them that he  
21 described any particular girl or any individual, did  
22 you?

23 A Well, I don't have a copy of the statement, but I  
24 don't know about that now. But if you have a copy of  
25 the statement--

1 Q Okay. Do you recall telling the detectives in the  
2 statement that they recorded and transcribed that Greg  
3 Taylor told that he had been partying with a black female  
4 that night? Do you remember telling them that?

5 A That, I don't remember. I don't know if I told that in  
6 the statement or not. Like I said, I don't have the  
7 statement.

8 Q All right. We will get to that in a minute.

9 A All right.

10 Q Mr. Andrews, when you were talking with Greg about  
11 this incident in the jail, he told you that he had been  
12 with somebody named Johnnie, is that a fair statement?

13 A I wouldn't say it is a fair statement.

14 Q Well, is that, is that what he told you or not?

15 A That he was with a black guy. I think, the guy's name  
16 was Johnnie.

17 Q Have you read the statement that you gave to the  
18 police?

19 A I have about a couple months ago.

20 Q You haven't read it in two months or so?

21 A No, sir. The reason -- well --

22 Q Now, as Mr. Ford said, when you gave this  
23 statement to the police, it was much fresher in your  
24 mind, the information that you heard?

25 A Correct.

1 Q Okay. And you haven't seen this statement in  
2 several months according to your testimony?

3 A I saw the statement when this trial was scheduled  
4 before the attorney was dismissed in the case. Ever how  
5 long that has been, been a month or two months.

6 Mr. Ford's office contacted my home to see if I  
7 was willing to testify or what and I said yes, I was and  
8 he came down and talked with me at the Craven County  
9 Sheriff's Department in New Bern, North Carolina.

10 Q When you, when you looked at that statement, do  
11 you recall from that statement telling them that Greg  
12 indicated to you that he and this person named Johnnie  
13 had been working together for a year? Do you remember  
14 anything like that?

15 A Yes, sir.

16 Q And in the course of that statement Greg never  
17 admitted cutting her throat but he kept saying y'all  
18 said that they had cut her throat, meaning the police,  
19 is that true?

20 A The only thing he ever said about her throat being  
21 cut was that she died with a smile on her face, that her  
22 throat was cut from ear to ear. He never said that he  
23 cut her throat and he never said the black guy cut her  
24 throat.

25 Q Do you remember telling the police that Greg never

1 admitted cutting her throat but he said y'all said that  
2 they had cut her throat?

3 A Yes, I remember him telling that, me telling the  
4 police that.

5 Q Mr. Andrews, the reason I believe you said that  
6 you were in the jail on this particular occasion was  
7 because you had just been convicted and sentenced on  
8 embezzlement, the felony of embezzlement, is that right?

9 A Yes, sir.

10 Q And that happened through August and November of  
11 1989, is that correct?

12 A The embezzlement was from August to November of  
13 '89, yes, sir.

14 Q And that was, you were found guilty or plead  
15 guilty rather to having embezzled money from the  
16 Thirty-one-W Installation Company, Inc., where you were  
17 employed?

18 A Yes, sir, in the amount of 32 thousand 9 hundred  
19 and some dollars.

20 Q All right. And what was the sentence you received  
21 on that?

22 A I received a five year sentence.

23 Q Okay. Now, over what period of time did you take  
24 that money?

25 A From maybe late July or August to November. Even

1       though your warrant would state from the time I started  
2       working there.

3       Q     Now, your complete name is Ernest Franklin  
4       Andrews, is that correct?

5       A     Yes, sir.

6       Q     And your social security number is 26591940-I am  
7       sorry. That's your Veteran's Administration number,  
8       right?

9       A     I don't remember my Veteran's Administration  
10      number. I have my card in my pocket. I can verify  
11      that.

12      Q     All right. Social security number is 241-74-4517,  
13      is that right?

14      A     That's correct.

15      Q     And at that time you were working you were working  
16      for Thirty-One-W Installation Company, Inc., you were a  
17      manager, is that correct?

18      A     That's correct.

19      Q     You live now in New Bern?

20      A     Yes, sir.

21      Q     You didn't live in New Bern then. That was a Raleigh  
22      company, wasn't it?

23      A     That is a Raleigh company located out by the  
24      airport.

25      Q     Okay. Were they able to set this 32 thousand

1 dollars back?

2 A I am paying restitution on it right now every  
3 month.

4 Q That's not the only thing that you have been  
5 convicted of?

6 A No, sir. I was convicted in '66 of forgery and  
7 uttering, in 1968 of armed robbery and accessory to a  
8 kidnapping, in 1976 to worthless checks, several counts.

9 Q Do you remember how many?

10 A No, I sure don't.

11 Q And you were convicted in '76 also of obtaining  
12 property by--

13 A By false pretense.

14 Q --by false pretense.

15 A Again in 1988, yes, '88, and --

16 Q Three counts in '88?

17 A Yes, sir.

18 Q All right now 1990. Do you remember what you were  
19 convicted of in 1990? Seven counts of false pretenses,  
20 worthless checks?

21 A Right. Yes, sir.

22 Q Does that ring a bell?

23 A Worthless checks does.

24 Q All right. And several obtaining property by  
25 false pretenses, three counts of that?



1 A If that is in Jacksonville.

2 Q Yes, sir. And you served a good bit of time for  
3 each of those, did you not?

4 A For each of what, sir?

5 Q Well, each of those offenses, for example on the-

6 A On the armed robbery, I served--

7 Q --you were sentenced to 30 years, were you not?

8 A Yes, sir.

9 Q And on the kidnapping you were sentenced to ten  
10 years?

11 A Concurrent.

12 Q And on the forgery and uttering, at least on one  
13 of them you had six months and in any event on each of  
14 those you received separate sentences. How long have  
15 you actually served in the Department of Correction?

16 A I would say roughly 11 years out of my life.

17 Q I believe, you testified earlier that you are currently  
18 on parole, is that right?

19 A Yes, sir.

20 Q Is there any probationary sentence attached to your  
21 parole or will be attached at the end of anything that you  
22 know of?

23 A Not to my knowledge.

24 Q So as far as you know you are not on probation. You are  
25 just simply on parole?

1 A Correct.

2 MR. DODD: Thank you, Your Honor. I have no  
3 further questions of Mr. Andrews.

4 COURT: Any redirect?

5 MR. FORD: Yes, Your Honor.

6 REDIRECT EXAMINATION: [by Mr. Ford]-

7 Q Mr. Andrews, is it, after Mr. Taylor told you what  
8 he was in jail for--

9 A Yes, sir.

10 Q --the first story that he told you about what happened  
11 was what?

12 A Where he and this guy were walking out from where  
13 they went out to party and at that time it was just he  
14 and the guy partying and they were walking out--they got  
15 stuck and they were walking out and he glanced over his  
16 shoulder, he saw a body laying there. He looked closer  
17 and it was a black female.

18 Q Subsequently did he change that story?

19 A After he had been interrogated, as I said,  
20 anywhere from, I think maybe two times. I know it was--

21 Q At least he was taken out of your presence a couple of  
22 times?

23 A Yes, sir.

24 Q And he came back and he had a strange look on his face  
25 or a worried look or what?

1 A He had a real worried look the second time that he  
2 went out.

3 Q All right.

4 A I don't know if the first time was for a lawyer or  
5 what.

6 Q Well, what, what did he tell you about this female  
7 person?

8 A As--the only thing said about that is that they  
9 picked up this prostitute with the intent of partying  
10 getting high and making a little love. Didn't say that  
11 it was going to be sex I don't believe no matter what.  
12 Going to be some, you know, the girl got mad. Never  
13 said why but they were fondling around in the truck or  
14 station wagon, whatever you want to call it, and the  
15 girl got mad, upset or something. She jumped out.  
16 Well, he hit her. I don't know who he is. I don't know  
17 if it is Greg or if the, the Johnnie dude. She jumped  
18 out and this guy with him ran her down.

19 Q All right. Now, can you tell me as best you can  
20 recollect the racial makeup of that cell block you were  
21 in?

22 A It was probably, the standard norm of from six to  
23 eight to one, six blacks to one white, eight blacks to  
24 one white. You know, that's just the same throughout  
25 the whole state.

1 Q And were you aware of that when the defendant was  
2 making this statement to you?

3 A Aware of the ratio?

4 Q The fact that there where many more black people  
5 in there than--

6 A Oh sure. In fact, I mean, you know they may not--  
7 I don't know what happened. I know he got in a fight  
8 there. I mean, I don't know why but -

9 Q Well, do you recall whether or not--I am not  
10 asking you whether or not you told these detectives. I  
11 am asking you what the defendant told you.

12 Do you recall whether or not he told you this  
13 prostitute was black?

14 A Yes, he said that the prostitute was black. He  
15 and a black guy that had worked with him went and picked  
16 up a black prostitute.

17 Q Did you find it wise that he was announcing that  
18 he had taken part in this thing with a --

19 A No, I did not find it wise to even talk about it.  
20 You know, well, there wasn't that many people, like I  
21 said, around at the time that was awake and they were  
22 kindly off, like, they have a table along the bars.  
23 There's a TV up in the through bars and they were  
24 setting at this end, the furthest end and we were at the  
25 other end.

1 Q Okay. Well, what concern, if any, did you have as  
2 to what the defendant was saying out loud in that area?

3 A Well, it wasn't a concern so much for my own but I  
4 was wondering what might happen to him.

5 Q And why was that?

6 A It is, well, that ratio is, well, a lot of things,  
7 I don't know if these people has ever done time before  
8 that was in there, but rape and murder is not an  
9 excusable crime amongst the penal community. There was  
10 a time when you didn't go to the penitentiary for rape,  
11 didn't matter who it was. You didn't go for child  
12 molesting or anything. You didn't make it if you went  
13 and that was my concern because, as I said, I started  
14 out in the old days.

15 Q All right. Did he express to you in a voice loud  
16 enough --

17 A You couldn't never heard what was being said from  
18 where you are at now. This gentleman here if he had  
19 great hearing, he may. It was more of a, you know, just  
20 sitting around the table, eating lunch at the time  
21 conversation. Wasn't any raised voices.

22 Q I am asking you, do you recall whether or not you  
23 were concerned for the fact that he was telling you  
24 about what had happened to a black person with all of  
25 these other blacks in there?

1 A Oh yes, that is what I was saying as far as the  
2 racial content. Yeah, I was concerned not for my safety  
3 so much, but for him.

4 Q And when did that thought cross your mind?

5 A When he first came in. I mean, when he first came  
6 in and this hit the news and it hit the newspaper, you  
7 know, that's when I was thinking about his safety.

8 Q All right. Do you know whether or not he ever  
9 worked, you personally know whether he worked a day with  
10 Johnnie?

11 A I don't know that the man ever worked a day in his  
12 life. I don't know what he did. I don't know if either  
13 one of them ever worked. I am just telling what he told  
14 to me.

15 MR. FORD: I don't have any further questions.

16 COURT: Any further recross, Mr. Dodd?

17 MR. DODD: May I have one minute, Your Honor?

18 COURT: All right.

19 MR. DODD: Yes, Your Honor. Thank you.

20 COURT: All right.

21 RE-CROSS EXAMINATION: [by Mr. Dodd]-

22 Q Mr. Andrews--

23 A Yes, sir.

24 MR. DODD: May I approach the witness, Your  
25 Honor?

1 Q I am going to hand you a copy of this document and  
2 ask you if you recognize what that is.

3 MR. FORD: I again request that be marked.

4 COURT: All right, if your are going to hand  
5 him anything, I think for the record's sake, it needs to  
6 be identified.

7 Q Mr. Andrews, I am going to hand you a copy of a  
8 document that says "Raleigh Police Department  
9 Supplementary Report". The following interview is with  
10 Ernest Franklin Andrews and it has been marked as  
11 Defendant's Exhibit 2 for identification. I'm handling  
12 this to you only.

13 A Yes, sir.

14 Q I want to ask you if you recognize that?

15 A Yes, sir. This is the statement that I gave to  
16 Detective Bissette.

17 Q Okay. Is that the statement that you have read  
18 before? Did they give you a copy of that statement to  
19 read?

20 A Well, I'll say it appears to be a copy of the same  
21 statement. I mean, I don't know word for word.

22 Q All right. Would you read that statement now to  
23 yourself, please.

24 A To myself?

25 A Yes, sir.

1 [WITNESS READING STATEMENT TO HIMSELF.]

2 MR. DODD: May I approach the witness, Your  
3 Honor?

4 COURT: Yes, sir.

5 Q Thank you, Mr. Andrews. Mr. Andrews, having read  
6 this statement, does that refresh your recollection as  
7 to what happened in the jail that evening?

8 A Yes, sir.

9 Q Now, in this statement you just read there's  
10 nothing at all about Greg Taylor either picking up a  
11 black female or a prostitute, is there?

12 MR. FORD: Objection.

13 Q Do you recall now having read this statement--

14 MR. DODD: Rephrase the question, Your Honor.

15 Q Do you recall now having read the statement that Greg  
16 told you anything about picking up a black female?

17 A That he told me about it?

18 Q Yes, sir.

19 A Yes, sir.

20 Q All right. So you are maintaining then that he told  
21 that he picked up a black female even though it is it not in  
22 the statement?

23 MR. FORD: Objection.

24 COURT: I understand that's what you testified, is  
25 that correct?



1 A Yes, sir.

2 MR. DODD: All right, thank you. No further  
3 questions.

4 MR. FORD: I don't have any further questions.

5 COURT: All right, you may step down.

6 [WITNESS EXCUSED.]

7 -----

8 MR. FORD: If Your Honor please, at this time  
9 I am going to move to introduce into evidence State's  
10 Exhibit 38, 39, 40 and --

11 COURT: Well, I already have 38 and 39  
12 introduced into evidence without any objections of the  
13 defendant.

14 MR. DODD: That's correct.

15 MR. FORD: I am moving to introduce State's  
16 Exhibit 40 and State's Exhibit 41.

17 COURT: Any objection to 40 and 41, Mr. Dodd  
18 and Mr. Adams? Any objection.

19 MR. DODD: No, sir.

20 COURT: State's Exhibit number 40 and State's  
21 Exhibit number 41 is introduced into evidence without  
22 any objections of the defendant.

23 MR. FORD: And at this time I would ask that  
24 all the State's Exhibits introduced at this time which  
25 are viewable be passed amongst the jury, those that can

1 be viewed by handling. I am not asking that the  
2 videotape -

3 COURT: Well, I don't believe we have got time  
4 before lunch. I think I will let the jury go to lunch.

5 Ladies and gentlemen of the jury, I'm going to let  
6 you have your lunch recess now.

7 I am going to ask that you be back today at 2:30.  
8 Keep in mind the instructions and the order of the court  
9 and you may now go for your lunch. Everyone else remain  
10 seated.

11 [JURY LEAVES COURTROOM.]

12 COURT: All right. Let the record show that  
13 the jury has been sent to lunch and it has been brought  
14 to my attention that in this lobby right outside, Mr.  
15 Dodd and Mr. Adams, when the jury is out there that it  
16 appears that some of the relatives or friends of the  
17 defendant appear to be close with them. I've instructed  
18 the jury that they are not to have any contact with  
19 anyone connected with this case and I would asks that  
20 y'all talk with your people and ask that they not, that  
21 they avoid getting close to the jury and the lounge.

22 MR. DODD: Yes, sir, we will.

23 COURT: All right. Now, you are asking to  
24 show the exhibits to the jury. I have in mind of  
25 dividing them up into two groups and letting them go

1 down the back row and the front row and then switching  
2 around, Mr. Ford.

3 MR. FORD: The State has no objection to that  
4 method being used. The only, State's Exhibit 1 and 1-A  
5 through E, of course, is going to be -- which ever group  
6 you want to put that in, of course, is cumbersome.

7 COURT: Well, I am, 1-A and, 1 and 1-A, B, C,  
8 and D I will allow the bailiff to stand before the jury  
9 and show one and let all of them look at that and when they  
10 indicate that they are ready to move on, then he can make it  
11 1-A, 1-B and 1-C.

12 MR. FORD: All right.

13 COURT: Do you understand what I have said?

14 MR. FORD: And also State's Exhibit 1-E, which  
15 is the overlay, as it appears on there now with the  
16 alleged luminal tracing on it, Your Honor, didn't  
17 mention that but I assume that you allowed that.

18 COURT: Yes.

19 MR. FORD: Okay.

20 COURT: That's introduced. Anything that's  
21 introduced into evidence.

22 So what I'll do, I'll let the bailiff, before any  
23 of the other exhibits are passed, let the bailiff stand  
24 before the jury, show you one and when they've indicated  
25 they've all had an opportunity to see that, go to 1-A

1 and then when they all have indicated, go forward with  
2 that. Once he does that, then I'll let him pass to the  
3 jury two bundles, one on the back row and one on the  
4 front. I'll let you put the bundles in any order you  
5 would like to have them, Mr. Ford.

6 MR. FORD: All right.

7 COURT: Anything else before lunch, counsel?

8 MR. FORD: No, sir.

9 MR. DODD: No, sir.

10 COURT: Do you anticipate calling another live  
11 witness?

12 MR. FORD: At this time I don't but I would  
13 reserve until after lunch to make that final decision  
14 and during the course of lunch-

15 COURT: All right.

16 MR. FORD: --I may ponder that.

17 COURT: All right. We'll take a recess until  
18 2:30.

19 [COURT RECESSED FOR THE LUNCHEON RECESS.]

1 P. M. SESSION

2 COURT: Let the record show it is now 2:30 and  
3 all the parties are present.

4 You desire to allow the jury to see the exhibits at  
5 this time, Mr. Ford?

6 STPHAO: That's correct.

7 COURT: Bring the jury in, Mr. Bailiff.

8 [JURY RETURNS TO JURY BOX.]

9 COURT: All right, let the record show that the  
10 jury is now back in the courtroom.

11 Ladies and gentlemen of the jury, at this time the  
12 Court is going to give you an opportunity to view the  
13 exhibits that's been introduced into evidence.

14 The bailiff will first of all stand before you  
15 with State's Exhibit number 1, which also reveals  
16 State's Exhibit 1-A, 1-B, 1-C and 1-D. When all of you  
17 have had an opportunity to view that as long as you  
18 would like to view it, if you will indicate by raising  
19 your hand, then we will move on to State's Exhibit 1-E  
20 and then that exhibit will be removed and you will be  
21 handed some exhibits.

22 Ed.

23 {EXHIBITS PASSED TO JURY.}

24 COURT: All right, it appears that everyone has  
25 seen State's Exhibits 1-A, B, C, D and E.

1           Mr. Bailiff, I will hand to you two packages.  
2 Present them to the two gentleman in the corner and let  
3 them go down the row and then they will come back the  
4 other side.

5 [EXHIBITS PASSED TO JURY.]

6           COURT: I would ask that you take as much time  
7 as you like but as soon as you view one exhibit, if you  
8 would, pass that on down to the next juror.

9 [JURY VIEWING EXHIBITS.]

10           COURT: Mr. Price, would you hand the exhibit  
11 to the bailiff and it is time for y'all's recess. Let  
12 me see that one exhibit. Just keep it right there.

13           The Court notes that it appears to the Court that  
14 all members of the jury have seen all exhibits with the  
15 exception of State's Exhibit number 39, which Mr. Price  
16 was viewing. So I think I am going to let y'all have a  
17 recess and then when you come back, I'll let all of you  
18 see a copy of State's Exhibit number 39. It appears to  
19 the Court that all members of the jury have reviewed all  
20 the exhibits with the exception of State's Exhibit  
21 number 39. I am going to give you a recess at this  
22 time. Keep in mind the instructions of the court I have  
23 already given you. I'll let you go for a fifteen minute  
24 recess. Everyone else remain seated.

25 [COURT TAKES SHORT RECESS.]

1

2

-----  
COURT: Bring the jury back in.

3

[JURY RETURNS TO JURY BOX.]

4

5

COURT: All right, let the record show all the members of the jury is back in the courtroom.

6

7

8

9

Mr. Bailiff, first of all, I want you to hand to Mr. Price State's Exhibit number 39, which I still have his place here, and also I want you to hand to all members of the jury copies of State's Exhibit number 39.

10

11

12

13

14

15

16

I realize the members of the jury on the front row have already viewed this. If you don't want to look at that anymore, that is fine. If you do, that is fine. But this is for the purpose of the ones on the back row who have not seen it. Pass that out but let Mr. Price have the original of State's Exhibit number 39 and the other members of the jury receive copies.

17

[EXHIBIT 39 PASSED TO THE JURY.]

18

19

20

21

COURT: I do not want to rush anybody. Whenever you are through, just put it out front on the ledge there and the bailiff will know who is still looking at the exhibit.

22

23

24

25

All right, let the record show now that it appears that all members of the jury have had an opportunity to view the exhibits that was introduced into evidence.

1 Further evidence for the State?

2 MR. FORD: If Your Honor please, that's the  
3 evidence for the State.

4 COURT: State rests?

5 MR. FORD: Yes, sir.

6 COURT: State rests at 4:05.

7 Ladies and gentlemen of the jury, I am going to  
8 let you go up to the jury lounge room up on the tenth  
9 floor.

10 MR. FORD: Sixth floor.

11 COURT: Sixth floor. Y'all were up there  
12 earlier this week. I am going to let you go up there  
13 and ask that you stay there as a body and I'll bring you  
14 back down just as soon as I can and certainly I'll bring  
15 you down before 5:00 o'clock. I want you to keep in  
16 mind, however, that you are not to talk about this case  
17 among yourselves in anyway. You are not to allow anyone  
18 to communicate with you about the case and you are to  
19 still keep an open mind. You must not form any opinions  
20 about the guilt or innocence of the defendant until you  
21 have heard any closing arguments or all of the evidence  
22 that has been presented and then the instructions on the  
23 law.

24 I'll let you go at this time up to the 6th floor  
25 in the lounge and we will call up or either send someone



1 up to get you shortly.

2 [JURY LEAVES COURTROOM.]

3 COURT: All right, let the record show that  
4 the State has rested. And Mr. Dodd and Mr. Adams, I  
5 assume that y'all want to be heard on your motion?

6 MR. DODD: Yes, we do, Your Honor.

7 First, I would move on behalf of the defendant,  
8 Greg Taylor, to dismiss the indictment for first degree  
9 murder, 91-CRS-71728, and I would also move to dismiss  
10 92-CRS-30701, which is the indictment for accessory  
11 after the fact of murder and both of those are made on  
12 the insufficiency of the evidence.

13 We would ask the Court to consider the evidence of  
14 each of the six elements to first degree murder and to  
15 consider each of the two elements as listed in pattern  
16 instruction 202.40, which is accessory after the fact in  
17 considering this, Your Honor.

18 Your Honor, as you well know from your vast  
19 experience--.

20 COURT: Six elements of first degree murder or  
21 five?

22 MR. DODD: Well, there are six listed in the  
23 instructions. I don't know which instruction you are  
24 going to use. Assuming this were to go the jury, I  
25 don't know whether you are going to use instruction ten

1 or eleven, point ten or eleven. Ten is with a deadly  
2 weapon and the other one is no weapon involved. But  
3 those have six elements in them.

4 COURT: Deadly weapon is used has six?

5 MR. DODD: Well, it does in the one that I  
6 have.

7 COURT: I am reading the one that was the  
8 February, 1989, now I charge you that for the  
9 defendant--to find the defendant guilty of first degree  
10 murder the state must prove five things.

11 MR. DODD: Just a minute. Let me pull the one  
12 that I have got to make sure I have got--

13 COURT: I want to get that cleared up so we  
14 both are talking about the same thing.

15 MR. DODD: I have got one from each and the  
16 one, I have got 206.10 which is where a deadly weapon is  
17 used. That one I have got. Mine is January of '89.  
18 Let me see if I -- that one has six and then I have got  
19 206.11 which is where no deadly weapon is used. That is  
20 February '89.

21 COURT: I was looking at 206.13, first degree  
22 murder where a deadly weapon is used. That's the one I  
23 am looking at.

24 MR. DODD: Okay.

25 COURT: And that says replacement February,

1 1989.

2 MR. DODD: I was not looking at that one at  
3 all because apparently I believe 206.10 or 206.11 is the  
4 appropriate instruction. In any event, you can look at  
5 those and decide obviously for yourself.

6 COURT: Well, I think you and I both know that  
7 which ever one I use, if it is six or five, then the  
8 State has the burden of proving all of the elements.

9 MR. DODD: Your Honor, also, as you well know  
10 from your experience in civil cases and in criminal  
11 cases the movant in a motion has the burden of  
12 persuasion on the motion and, therefore, has the  
13 opportunity to open and close the argument in the case.

14 So I would defer at this time to let Mr. Ford  
15 argue and then I will close the argument at that point,  
16 Your Honor, with the Court's permission.

17 COURT: All right.

18 Wait a minute. 206, I see where you are coming  
19 from. 206.10 is self-defense. Certainly you are not  
20 saying any self-defense here?

21 MR. FORD: That was the problem, Your Honor,

22 MR. DODD: No, sir. I don't think absolutely  
23 there's no issue of self-defense that I can see.

24 COURT: Well, well, that's the 6th element in  
25 206.10.

1           MR. DODD: That one is deleted in 213. The  
2 sixth element that is the state has to negate  
3 self-defense is not in 213.

4           COURT: Well, 206.13 is still not but five, Mr.  
5 Dodd.

6           MR. DODD: That is what I am saying. If you  
7 take that, that element out of those two instructions,  
8 then you get 206.13, meaning five elements.

9           COURT: Okay.

10          MR. DODD: Okay.

11          COURT: All right. In any event, I will  
12 address that at the conclusion. Certainly there is no  
13 evidence at all, if we get that far, of any  
14 self-defense.

15          MR. DODD: No, sir.

16          COURT: Okay. Mr. Adams, I'll hear you.

17          MR. DODD: I am sorry. Mr. Ford.

18          MR. FORD: I am hoping, I am taking that to  
19 mean that I am down to five elements of first degree  
20 murder which is what I thought but--

21           Your Honor, this is obviously, the State realizes  
22 at this point in the light most favorable to the State I  
23 must have presented more than a scintilla of evidence  
24 and the reasonable inferences therefrom in order to  
25 defeat this motion for nonsuit.

1           As I understand it, what-I don't believe there is  
2 going to be any argument at this point that, surely the  
3 unofficial element that there's any argument about at  
4 all and that is whether the defendant is the one that  
5 did all the five or in conjunction with somebody else  
6 did all the five.

7           It is a circumstantial case in the most part with  
8 some additional evidence from the defendant's statement  
9 in jail.

10          I wanted you to consider the fact that if we had  
11 only one person involved here, this defendant alone, or  
12 any defendant alone and the evidence was as it is in  
13 this case, the defendant's vehicle being found there,  
14 the evidence that the circumstantial evidence that you  
15 heard in conjunction with statements by this defendant  
16 which are obviously contrary to the circumstantial and  
17 physical evidence at the scene; that his denial of  
18 having seen this woman or had her in his vehicle, the  
19 evidence contra to that, his denial of being at the  
20 scene where she was picked up, any of that, and thereby  
21 giving the State the inference that not only did he have  
22 access to her but that for some reason he is not being  
23 truthful about what occurred.

24          Then when you put into that the evidence at the  
25 scene that's uncontroverted and that being the fact that

1 this woman died as a result of an attack by a weapon,  
2 some form of weapon which obviously can be considered a  
3 deadly weapon because of the circumstances surrounding  
4 the use of it and the damage that it did to this woman,  
5 the evidence that these are not in the opinion of the  
6 expert not self-inflicted wounds or anything that could  
7 have been concerned-I mean, accidental.

8 The defendant's in-jail statement as to his  
9 apparent involvement at least at the beginning of the  
10 assault upon this woman. Now this, I am asking you to  
11 consider that in the light that if there were only one  
12 person involved here, we wouldn't have anything to  
13 consider at all. There would be no problem. None of us  
14 would be worried about that.

15 The rub comes in the fact that there are two  
16 people.

17 I submit to you that when you consider in the  
18 light most favorable to the State as to the physical  
19 evidence at the scene, particularly the body of the  
20 woman, the wounds as they were inflicted, the fact that  
21 the medical examiner really couldn't find anyway to  
22 explain the difference in the wounds, although she used  
23 her best imagination in trying to accommodate us to  
24 describe a weapon that could have made those different  
25 types of wounds. She couldn't do it basically is what

1 the State would argue to you. That there appeared to be  
2 two different types of weapons. There's definitely two  
3 different types of wounds on the body and located in  
4 different parts of her person indicating at least a  
5 scintilla of evidence that more than one type of weapon  
6 was used and because of the ferocity of some and the  
7 different locations, that there is more than a scintilla  
8 of evidence that there was more than one assailant.

9 To, couching the argument of specifics of the  
10 elements in what I have just said, there's no doubt that  
11 this woman was killed by means of a deadly weapon. I  
12 mean, there is no other explanation for the wounds, the  
13 crushing wounds that you viewed and that the medical  
14 examiner determined to have been committed by an outside  
15 force or instrument, a heavy instrument apply  
16 considerable force.

17 So we know that somebody, at that point raising  
18 the inference that malice is present. The killing with  
19 a deadly weapon. The rebuttable presumption that malice  
20 is presumed and that looking at the type of wounds and  
21 how they were inflicted, that intent to kill is  
22 certainly there is more than a scintilla of evidence  
23 that that element of whoever did this intended to kill  
24 the victim, meaning that the third element is satisfied  
25 as to the death of this victim.

1           The second element that the proximate cause, the  
2 actions of the assailant was the proximate cause of the  
3 death. I don't believe there is any dispute in that.  
4 The injuries to the head as the doctor described in her  
5 opinion and to the throat area was the proximate cause  
6 of death. Certainly more than a scintilla of evidence.

7           Now, fourth that the assailant, the defendant  
8 acted with premeditation. That is, that he formed the  
9 intent to kill the victim over some period of time,  
10 however short. Now when you consider the fact --

11           COURT: Let me, let me ask you this, Mr. Ford,  
12 and I'll be glad to let you respond, and let Mr. Dodd  
13 and Mr. Adams respond, also. Are you contending this  
14 should go to the jury as first degree murder simply as  
15 to Gregory Taylor or are you contending that this should  
16 go to the jury as him guilty of acting in concert to  
17 first degree murder?

18           MR. FORD: I am contending that it should go  
19 as acting in concert.

20           COURT: All right. I just wanted to stake you  
21 out.

22           MR. FORD: I would like to be able - I'll  
23 tell you this, Your Honor, I submit to you that there's  
24 enough evidence in this case from the fact that he, he  
25 was talking about the victim and the other codefendant



1 using a weapon or coming back and saying that he had cut  
2 her throat or something of that nature and I'm assuming  
3 that there are, I mean, the knife wounds were inflicted  
4 upon her, the cutting wounds are inflicted upon her but  
5 obviously they were not the fatal injuries in this case  
6 but I wouldn't argue to you that Mr. Beck's  
7 participation in that assault while the actual coup de  
8 grace or the fatal wound was inflicted by whoever used  
9 the heavy instrument or the, gave the blows to the head  
10 and throat.

11 It is really--let me give myself a moment in  
12 thought about that. And just to throw something else in  
13 the hopper while I think about that because of the  
14 circumstances upon which the body was found coupled with  
15 the defendant's statement that they were there for  
16 partying and at some point with the expectation of  
17 sexual activity, that that activity or fondling began in  
18 the car and the woman at that point fled and thereafter  
19 she was found in the situation that she was with her  
20 pants down around her ankles, her underwear down, that  
21 type of thing. The State would also be arguing to you  
22 that there is also the possibility of first degree  
23 murder under the felony murder rule under attempted  
24 sexual assault.

25 Let me argue -- well--

1           COURT: I believe, you are going to have to  
2 argue real strong to get me to buy that.

3           MR. FORD: Well--

4           COURT: I will give you that opportunity.

5           MR. FORD: Well -- of course, that is  
6 circumstantial evidence.

7           COURT: I understand.

8           MR. FORD: No doubt about that. The evidence  
9 from the defendant's statement about how the actual  
10 murder occurred, if you believe that, obviously raises  
11 the evidence to the level that you would have to put  
12 this in acting in concert.

13           I believe, that that statement in conjunction with  
14 the physical evidence at the scene disproving some of  
15 the things that he says or are the way that happened  
16 that Your Honor would be within reason to send that  
17 under either theory but if pressed to choose, I would  
18 certainly choose the acting in concert theory.

19           And again the element, in the element of, toward  
20 the element of premeditation there's no evidence that  
21 either of these people were armed when they were with  
22 this woman.

23           At some point they had to arm themselves with a  
24 weapon. I think that the fact that, that they had to  
25 take at least sometime to arm themselves, that the

1 defendant said she was at one point in the vehicle and  
2 subsequently killed outside. That length of time plus  
3 the fact that the number of wounds inflicted on her from  
4 between the first wound and whatever wound was the fatal  
5 wound had to give the person some opportunity to think  
6 that, and to premeditate and to deliberate over this  
7 murder.

8 I think certainly the number of wounds and their  
9 ferocity gives rise to some scintilla of evidence about  
10 premeditation and deliberation as well as the intent,  
11 the specific intent to kill. Basically I, I realize  
12 that you have to combine here all of the entire physical  
13 evidence at the scene, the defendant's denial of what  
14 physical evidence is obvious, I mean, what the State  
15 would contend would be, the jury could find as untruths  
16 about what is obviously the physical evidence at the  
17 scene or what the State contends it is through evidence  
18 along with the statements that he made in jail and I  
19 would ask you to find that there is more than a  
20 scintilla of evidence from which a jury could find the  
21 defendant had sustained each and every element of first  
22 degree murder.

23 COURT: All right, Mr. Dodd.

24 MR. FORD: Could I ask, if at this time you  
25 want me to respond to the accessory after the fact, I'll

1 be glad to do that. Let me do that.

2 COURT: All right.

3 MR. DODD: Go ahead.

4 MR. FORD: This also has a rub for me and I  
5 don't think there is any evidence, I mean there is any  
6 doubt from this evidence you can submit this as  
7 accessory after the fact that he, if you believe, if you  
8 take his statement in jail that he made to, allegedly  
9 made to the inmate, first of all, we have an unlawful  
10 killing out there with malice presumed, all the  
11 arguments I have already made for somebody having  
12 committed murder.

13 All right. Then you throw in the fact that this  
14 defendant was obviously aware of that fact when he was  
15 questioned by the police. He had been to the scene. He  
16 has seen at least from some distance a body. He had  
17 definitely been told by the police officers they are  
18 investigating a murder. They showed him a picture of the  
19 dead body. He had known that his friend had told  
20 him that the girl had died with a smile on her face and  
21 that thereafter he knowingly aided Johnny Beck by  
22 telling the police untruths that were designed to lead  
23 them away, not only from Johnny Beck, but from himself.  
24 And by that means attempting to aid Johnny Beck in  
25 escaping detection or punishment.

1           I would argument further to you though and I  
2 would, maybe this is not the time for this, that even  
3 though he may have participated, he may--Johnny Beck may  
4 not have committed all the acts requisite for the murder  
5 that he is obviously under the theory of acting in con--  
6 I suppose what I am asking you is that you give, that  
7 you consider this accessory after the fact along the  
8 same terms that Johnny Beck being guilty of murder under  
9 the theory of acting in concert and this is much more  
10 primarily appropriate at a charge conference because I  
11 feel like that the pattern jury instruction on accessory  
12 after the fact is going to need to be doctored a little  
13 bit because generally there is not but one person who  
14 has committed the crime that the person is alleged to be  
15 accessory to and even if there are two or more, it is  
16 generally not a co-conspirator, a codefendant who is  
17 being charged with aiding the other person.

18           I have, I can find nothing that would prevent you  
19 from, or for a jury finding this defendant had  
20 participated in the murder but then thereafter aided the  
21 codefendant.

22           Now, at so many point it may merge if it had been  
23 convicted or judgment may arrest but I am not certain  
24 they are alternative theories in that case. I think  
25 there is more than sufficient evidence to find from the

1 evidence, both from his statements and the evidence at  
2 the scene, that he knew Mr. Beck had committed the murder  
3 and thereafter he aided him.

4 COURT: All right. Thank you, Mr. Ford. Mr.  
5 Dodd.

6 MR. DODD: Thank you, Your Honor. May I  
7 approach the bench, Your Honor?

8 Your Honor, I have submitted to you a brief in  
9 support of the Motion to Dismiss that I have just made  
10 on behalf of the defendant. It is 11 pages and in  
11 addition to that I have, I have submitted for your  
12 consideration the entire cases of 12 cases that were  
13 cited in there or cases that I feel that you need to  
14 consider. They are very similar to this case if not  
15 directly on point with this case.

16 I want to tell you how I came to get those cases  
17 at the appropriate time. But I have set, in the brief I  
18 have set out the facts, which I will not go over. I  
19 taylored those facts at lunch time to what in my  
20 judgment had been presented. I had set out for your  
21 consideration in very, what I think is very concise  
22 form, the ten most commonly used legal principles when a  
23 defendant moves to dismiss an indictment at the close of  
24 the State's case and the citations of each of those and  
25 the importance of those, I have argued in the section on

1 argument.

2 I have cited cases that are similar to this case  
3 which I think the Court will need to consider carefully.  
4 I listed the pattern instruction 206.11 which lists six  
5 elements because at the time I did that I did not know,  
6 I felt certain there was no issue of self-defense but I  
7 could not know that for sure and I submitted that  
8 through error now having heard this and it should be  
9 206.13 but in any event you know as we have just  
10 discussed the first five elements are still intact where  
11 the defendant did not act in self-defense is not present  
12 there, so you may obviously disregard that one.

13 The facts in this case, if believed, in the light  
14 most favorable to the State, show at best one thing,  
15 Your Honor, and that is that the defendant had an  
16 opportunity, I emphasized the word opportunity, because  
17 that is what the cases say over and over, to commit the  
18 crime.

19 As I have emphasized in the brief that simply is  
20 not enough and as the cases I have submitted to you  
21 show.

22 Before I get directly to the argument, Your Honor,  
23 the cases that are cited in there which you have and are  
24 indexed for you, with respect to the brief, there are  
25 12. Each of these cases in determining which cases to

1 use, we used a computerized legal research C. B. Wrong,  
2 which is available at the Supreme Court and the Court of  
3 Appeals, as you know, and which is lazer disks research  
4 and we checked every single homicide case that has ever  
5 been decided that was recorded in the C. B. Wrong's  
6 system. Then after we did that, we checked every single  
7 homicide case in which the appellate court's had reversed  
8 the finding of the trial judge for the insufficiency of  
9 the evidence.

10 In other words, it would not have gotten to appeal  
11 had the trial judge dismissed it, of course, and got it  
12 to appeal and the Supreme Court or Court of Appeals said  
13 that the trial judge was wrong and it should have been  
14 dismissed and should have never been submitted to the  
15 jury.

16 In addition to C. B. Wrong computerized lazer  
17 research, I myself went to the Supreme Court Library and  
18 looked at every one of the homicide cases that I could  
19 find and as you see, we cited cases back to 1890, copies  
20 of which are in there.

21 The law has not changed since then. And everyone of  
22 these cases with the exception of number 7, State v.  
23 McWilliams, is a homicide case in which either the Court  
24 of Appeals or the Supreme Court reversed the trial  
25 judge's finding that there was sufficient evidence and



1 that the case should not have been sent to the Jury. We  
2 culled those twelve cases because each of those are  
3 similar to the fact situation here so that you did not  
4 have to look at a motion to dismiss on a burglary case  
5 or a motion to dismiss on a breaking or entering case.

6 Some of them are second degree murder because it  
7 matters not in this particular context. Most of them  
8 are first degree murder cases.

9 These 12 cases are cases so far as I can find in  
10 our whole history of jurisprudence in this state on  
11 point with the case that we have here. And I will say  
12 this: Number 7, State v. McWilliams does not apply. I  
13 did not put that in there for the specific nonsuit  
14 purpose. I put it in there for another reason which you  
15 will see when you look at that. But the other 11 cases,  
16 every single one of them is a murder case similar to  
17 this one and should have been nonsuited but was not and  
18 every single one of them in my judgment, the fact  
19 situation is clearer and stronger toward a particular  
20 defendant than it is in this particular case.

21 Now, Your Honor, in each of the elements with  
22 respect to first degree murder --

23 COURT: Let me make a suggestion.

24 MR. DODD: Yes, sir.

25 COURT: You have handed me a considerable

1 amount of material that you want me to read.

2 MR. DODD: Yes, sir.

3 COURT: And I will read before I make this  
4 decision. Tomorrow at 12:00 o'clock it is already in  
5 the record that you have to be somewhere else, Mr. Dodd,  
6 is that right?

7 MR. DODD: Yes, sir.

8 COURT: I am suggesting to you and Mr. Adams and  
9 Mr. Ford that I bring the jury in and let the jury be  
10 excused till Monday.

11 Now, if I allow your motion in the morning to  
12 dismiss, we can call the jury and tell them not to come  
13 in.

14 MR. DODD: Yes, sir.

15 COURT: If I deny the motion, they will  
16 already be coming in on Monday. Tonight I can read  
17 through your brief and look at these cases and let you  
18 reargue that in the morning. The jury won't be here.  
19 And let Mr. Ford respond if he wants to and make a  
20 decision tomorrow as to whether or not I'll allow your  
21 motion. If I allow your motion, I will have the clerk  
22 call the jury and tell them not to come in Monday. If I  
23 deny your motion, there will be a question of whether or  
24 not the defendant wants to put on any evidence. If so,  
25 we will hear that Monday. If not, we will have a charge

1 conference and be prepared to go Monday.

2 What do you say to that, Mr. Dodd?

3 MR. DODD: I have no objection to that, Your  
4 Honor.

5 COURT: Mr. Adams?

6 MR. ADAMS: No objection, Your Honor.

7 COURT: Mr. Ford?

8 MR. FORD: None, sir.

9 COURT: All right. Call the jury and tell  
10 them to come back in and I will tell the jury there's  
11 matters that need to come before the Court's attention  
12 why they will have to come back Monday rather and that  
13 one of the lawyers is going to have a scheduling  
14 conflict.

15 COURT: Mr. Ford, have you got a copy of this?

16 MR. FORD: Yes, Your Honor.

17 COURT: Okay. In no way am I cutting you off,  
18 Mr. Dodd. I will be glad to hear you up until five  
19 o'clock today and then hear you as much as you want to  
20 be heard tomorrow in this matter but it seems to me if I  
21 read these cases, I can understand your argument better.

22 JURY RETURNS TO JURY BOX.]

23 COURT: Now, let the record show all members of  
24 the jury is back in the courtroom.

25 Ladies and gentlemen of the jury, it appears that

1 at this time that there are matters that need to come to  
2 the Court's attention outside the presence of the jury  
3 and that procedure will take place tomorrow, which is  
4 Friday.

5 I don't know how long that will take but it is  
6 apparent to the Court that we cannot finish this trial  
7 this week. I will be needing to work with the lawyers  
8 and the parties involved in this tomorrow outside of  
9 your presence. So I am going to excuse you until Monday  
10 morning. You will not have to come tomorrow.

11 I am going to excuse you until Monday morning,  
12 April the 19th, 1993, at 9:30.

13 I do want to give you this order of the Court  
14 over again since you will not be back here for three  
15 days. You must not talk about this case among  
16 yourselves in anyway. Again, the only place that you  
17 may talk about this case is in the jury room and then  
18 after you have heard all of the evidence that will be  
19 presented and the attorneys have an opportunity to make  
20 closing arguments to you and I give you your  
21 instructions on the law and tell you to go to the jury  
22 room. Again, you must not allow anyone else, including  
23 family members, to talk or say anything with you about  
24 this case.

25 Now, I realize each and everyone of you probably

1 have got family members. The first thing they will want  
2 to know is what you have been doing down here. After  
3 this case is over with you can tell them anything you  
4 want to but until this case is over with you have an  
5 order of the Court that you cannot allow anything,  
6 including family members to discuss with you about this  
7 case.

8 You must still keep an open mind and not form any  
9 opinions about the guilt or innocence of the defendant.  
10 You must wait until you get your instructions on the law  
11 and go to the jury room before you express any opinions.

12 Again, after this case is over with you can tell  
13 anybody anything you want to.

14 You must not talk or communicate in anyway with  
15 any of the parties in this case, any of the lawyers, any  
16 of the witnesses. Again, you must not read anything in  
17 the newspaper or listen to anything on radio or watch  
18 anything on TV about this trial and you are not to make  
19 any independent inquiry, investigation about this case  
20 in anyway.

21 I do apologize to you for not being allowed to  
22 finish up this case but that is one of those things and  
23 you must come back Monday morning at 9:30.

24 Now, normally court starts at 10:00 o'clock on  
25 Monday in Superior Court but we are going to start back

1 on this case at 9:30 next Monday morning. You will not  
2 go to the jury lounge room. You will come on down here  
3 to this courtroom. Having said all of that, please  
4 leave your jury badges here and you are excused until  
5 next Monday morning at 9:30

6 Wait a minute. Have a seat. There is one other  
7 information that I will need. I'll need your telephone  
8 number. The clerk will need it. If you have a private  
9 phone number, as soon as this case is over with, that  
10 will be destroyed but pass a couple of tablets up there  
11 down each row and just write your name and your home  
12 telephone number.

13 And as soon as you provide the clerk with your  
14 telephone phone, if you do not have a home telephone,  
15 give a telephone number that you can be reached at.

16 All right, ladies and gentlemen, if you will leave  
17 your badge. Now, that means the alternates need to be  
18 back, also. All of you need to be back at 9:30 next  
19 morning morning. Y'all have a good weekend.

20 [JURY LEAVES COURTROOM.]

21 COURT: Let the record show the jury has been  
22 excused.

23 Now, Mr. Dodd, would you just prefer that I read  
24 these cases before you be heard further?

25 MR. DODD: That is fine, Your Honor.

1           COURT: All right. We will take a recess in  
2 this until 9:30 in the morning.

3 [COURT RECESSED FOR THE DAY.]

4 -----

5 [APRIL 16, 1993, A. M. SESSION.]

6           COURT: All right, let the record show it is  
7 Friday, April the 16th. Counsel for the State and the  
8 defendant is present and the defendant is present  
9 and the jury has been excused until Monday morning.

10           Yesterday when we took a recess, Mr. Dodd, you  
11 handed me a brief with a number of cases and I have now  
12 read them and I'll be glad to hear you if you wish to be  
13 heard further on your argument. Hear you, Mr. Ford, if  
14 you want to be heard. Hear you also, Mr. Adams, if you  
15 want to be heard.

16           MR. DODD: Thank you, Your Honor. I will try to  
17 be as brief as I can. I understand that you have read  
18 the material that I have.

19           COURT: I do appreciate this brief and I can  
20 assure you that I spent a considerable amount of time  
21 last night on the cases that you cited but also as you  
22 see right here cases that I looked at last night at the  
23 library.

24           MR. DODD: Thank you, Your Honor. Before I get  
25 into the meat of the argument, one thing I do need

1 to--I guess this is the argument, too, but I want to  
2 clear up one thing. In Mr. Ford's argument yesterday he  
3 made reference to the standard to be applied in this  
4 case. He used the word scintilla. And honestly we all  
5 know that word from law school and other places but a  
6 scintilla of evidence, as the Court well knows, is that  
7 bit of evidence that is required in the civil law to  
8 determine whether you allow a case to go to the jury.

9 The difference being this. As the Court well  
10 knows in a civil case the plaintiff must simply tip the  
11 scales at all. The burden being a preponderance of the  
12 evidence and the scintilla of the evidence is in civil  
13 cases which I pulled from Black's Law Dictionary and, of  
14 course, I remember it from law school and that's exactly  
15 what it says. All of these are civil cases and talks  
16 about what that is and I'll be glad to hand that to the  
17 Court at the appropriate time.

18 In a criminal case, as opposed to a civil case, as I  
19 have cited in the brief, it is not a scintilla of  
20 evidence. The reason is because the burden is higher  
21 and, therefore, the amount of evidence that should even  
22 get to the jury is a little higher than in the civil  
23 case because in a civil case anything whether it is  
24 believable or not is a scintilla.

25 COURT: Well, I tend to agree with you. I



1 think the cases that I have read about circumstantial  
2 evidence they talk about substantial evidence.

3 MR. DODD: Substantial. And I have that  
4 definition as well and it also is in the brief in the  
5 cases I have cited but I pulled Black's Law Dictionary  
6 in case we needed additional authority. So I am  
7 satisfied it is substantial evidence of each and every  
8 element that needs to be proved by the State in this  
9 case.

10 With respect to, first of all, the charge of  
11 first degree murder, what I will do, Your Honor, if you  
12 want to look at 206.13, or I am sure by now you have got  
13 it memorized, but I am going to go through each of those  
14 and talk about what has been proven, what evidence there  
15 is that is substantial and go over that with you as  
16 quickly as I can.

17 The first element of first degree murder that has  
18 to be proven according to North Carolina Pattern  
19 Instruction 206.13 is that the defendant intentionally  
20 and with malice killed the deceased with a deadly  
21 weapon. In this case there is no evidence that the  
22 defendant killed anyone.

23 There is no direct evidence from the defendant,  
24 from the Johnny Beck or anybody else that he killed  
25 anyone. There is no evidence that he even committed an

1 PAGE NUMBER 465 MISSING FROM TRANSCRIPT

1 State undertakes a prosecution for unlawful homicide of  
2 any kind, whether murder or manslaughter, it assumes the  
3 burden of producing evidence sufficient to prove that  
4 the deceased died as a result of a criminal act  
5 committed by the defendant. That means that the  
6 defendant has actually got to do something. There has  
7 got to be some evidence that he did something. It has  
8 got to be connected to this defendant.

9 Now, element number one talks about intent and it  
10 talks about malice.

11 Now, the State is going to have to have malice  
12 inferred. The intent and the malice are going to have  
13 to be inferred or we don't go any further. And if you  
14 can't do that, the case is over right now.

15 And an intentional assault with a deadly weapon.  
16 Now, we don't have any weapon here. So we don't know  
17 whether what was used was a deadly weapon or not. Well,  
18 the obvious retort to that is look at the results and  
19 that may be true but we don't know this defendant was in  
20 possession of that deadly weapon or whether Johnny Beck  
21 was or whether some third party was or whether there was  
22 four of them out there, including this defendant and  
23 Johnnie Beck or nine of them or 17 of them or that  
24 somebody would we don't know came along. We can't put  
25 any of the deadly weapons that the pathologist or the

1 medical examiner testified to. She said weapon and it  
2 could have been multiple weapons. So we don't know. I  
3 am not sure she used the word weapon. She used  
4 instruments. So--but in any event, I think that's  
5 quibbling over details but the point is all of the cases  
6 that talk about inferring malice from the use of a  
7 deadly weapon, those are cases where somebody shot  
8 somebody or somebody stabbed somebody. You know what  
9 the weapon is or you have an eyewitness that saw this  
10 defendant use some kind of object. That's where you  
11 have, that's where that comes in. If you don't have  
12 that, then you have got to stack one inference upon  
13 another inference that is not there.

14 So, now State v. Lange is a case that you have got  
15 up there and it says this very things, Your Honor.

16 COURT: That was the test in the feet case, 309  
17 NC 515.

18 MR. DODD: Yes, sir. You have got that one up  
19 there.

20 COURT: Yes, I read that last night in detail.

21 MR. DODD: It says while an intent to kill is  
22 not a necessary element of murder in the second degree.  
23 Now, it is in first degree. This is talking about  
24 second degree. The crime does not exist in the absence  
25 of some intentional act sufficient to show malice which

1 proximately causes death. And then it talks about  
2 presumptions that give rise to it but in that case you  
3 have got somebody kicking somebody and, and with hands  
4 and feet and stuff. You have got direct evidence that  
5 that defendant in that case did something.

6 You have got a fact to start out with from which  
7 you can infer something else. We don't have any of  
8 that. You have got to guess at the beginning as to what  
9 happened here, out there. You have got to guess was it  
10 the same lady; was she at this scene and was she with  
11 them. All of those things have to be guessed because  
12 there is no evidence from any source that they were  
13 together that night or anything else until she is found  
14 that morning.

15 So you don't even get to the issue of inferring  
16 malice or inferring intent.

17 Now, deadly weapon, of course, I talked about it  
18 before but nothing was found, nothing was introduced,  
19 speculation by the doctor about multiple weapons.

20 State v. Benton is another case that I have, Your  
21 Honor, which I will hand all of these up if you want to  
22 see them or if you don't have them but Benton is a case  
23 that was decided in January of 1980, that talks about  
24 the deadly weapon situation as well. And basically says  
25 you cannot infer a deadly weapon and then infer that the

1 defendant had it. To get to the issue of malice you  
2 have got to show the defendant had it first and that he  
3 used it unlawfully and then that presumption comes in.

4 Look at your jury charge. That's exactly what you  
5 tell the jury. If you tell the jury that and then they  
6 have any evidence of it, I just, I don't see how with a  
7 straight face you can read an instruction like that to  
8 the jury when there is absolutely no evidence of that.  
9 And that is what you have got to do in this case.

10 State v. Reese is a death penalty case, Your  
11 Honor. And in that case, State v. Reese is talking  
12 about, that the defendant must have caused the wound in  
13 order to be able to infer the intent.

14 That was a case where you got, where you had two  
15 people who were participating in the murder of somebody  
16 and the State argued that premeditation and deliberation  
17 could be imputed to the defendant from a number of  
18 sources. First, on the number of wounds inflicted on  
19 body. That could be the basis of premeditation and  
20 delib--we know that is true. We know that the law says  
21 under some circumstances that can be true.

22 But that case says, however, the number of wounds  
23 is not evidence of mens rya, the necessary mental  
24 state, of an accomplice who does not actively  
25 participate in the stabbing. We don't know which one

1 of them stabbed. If you are going to assume one of  
2 those two killed her like the State's evidence does, you  
3 have got to pick out which one of them did it or you got  
4 to say both of them participated and we don't know that.

5 And, and we don't know that Johnny Beck didn't  
6 kill her and that, that he was wasn't trying to fight  
7 Johnny the whole time trying to stop him from doing that  
8 or saying don't worry about it. Let her go or whatever.  
9 If you assume that it was this girl and she was out  
10 there in the first place, which I don't think you can do  
11 based on the evidence that we have got.

12 But for the sake of discussion I will get you that  
13 far to look at this element.

14 Now, then the case goes on, the Supreme Court  
15 goes on to say in this death penalty case, while the  
16 number of wounds inflicted on the victim will support a  
17 jury's determination that a kill was premeditated and  
18 deliberate on the part of the killer, these principles  
19 allow us to input, allows to input premeditation and  
20 deliberation from the person inflicting the wounds and  
21 not to one whose only held culpable to the murder by  
22 reason of the participation in the underlying felony.

23 In other words, you have got to have an actor, a  
24 defendant who is actually doing something before you can  
25 infer any of this stuff. We have no evidence of what

1 happened out there.

2 Now, it would be different if we had evidence of  
3 him doing something, having a weapon and inflicting any  
4 kind of wound on this person, assuming this was the  
5 right person, assuming you felt comfortable with that,  
6 which I haven't conceded but I am getting there for the  
7 point of this discussion, but you don't have that  
8 either, Your Honor. So you can't make that inference  
9 either. That is another inference that you are stacking  
10 that you can't make.

11 The second element. All right, the first element  
12 the defendant intentionally and with malice killed the  
13 defendant with a deadly weapon. I don't see any of  
14 that. Second element, I don't see a scintilla there,  
15 Your Honor.

16 The second element, the defendant's act was a  
17 proximate cause. You are going to tell the jury the  
18 proximate cause is a real cause. Look at what it says.  
19 It doesn't say that any cause is a proximate cause. It  
20 says the defendant's act. That means there has to be  
21 some evidence that the defendant did something. Doesn't  
22 matter what it was. If there was a slap, that's enough.  
23 If, if, if the slap is going to be the proximate cause  
24 of death but it isn't any way according to what the  
25 pathologist says--there is a case in there on that as



1 well, which is in the brief.

2 The defendant has got to be the actor, the person  
3 who does the act.

4 COURT: Either that or either acting in  
5 concert, Mr. Dodd.

6 MR. DODD: That's correct. But the concert has  
7 got to be proven, too.

8 COURT: Well, I mean, it don't have to be the  
9 defendant doing the sole thing.

10 MR. DODD: You are right.

11 COURT: Okay.

12 MR. DODD: I am talking about with respect to  
13 this case and the reason I say that--and I am glad you  
14 brought that up because I have to bring it up later.  
15 The reason that that is important in this case is  
16 because the minute I tried to say anything about Johnny  
17 Beck in this case, he jumps up and starts screaming  
18 because he didn't want anything about Johnny Beck coming  
19 out in this case and the reason he didn't is because  
20 Johnny Beck says I didn't do it and Greg didn't do it.  
21 And they have no evidence that either of them committed  
22 an act of anything except what you heard from Andrews  
23 and I can't argue believability but that slap is there  
24 but we don't know who slapped who.

25 Now, that the defendant's act was a real cause.

1 Well, the doctor testified that in her opinion it was  
2 blunt force trauma.

3 COURT: But I believe her exact words,  
4 according to my notes, was cause of death was a blunt  
5 force injury to the head and to the neck.

6 MR. DODD: To the head and to the neck. Now,  
7 you have got evidence, again I won't argue credibility,  
8 but you have got evidence of one slap or hit of some  
9 kind and we don't know who it was from or who it was on.  
10 Just some black prostitute. That is all you have got.

11 Now, is it logical for the jury to infer that one  
12 slap is going to be enough to cause that kind of injury.

13 Now, the only evidence that we have after that is  
14 that the State's--there is no defendant's evidence yet.  
15 Only considering the State's evidence. The only  
16 evidence we have, taken as true now. You know, I'm not  
17 arguing creditability now. I am taking it as true that  
18 Andrews says that some, that they slapped somebody and  
19 somebody got out of the car and ran. And that tells you  
20 right there, that nothing else was done. The person ran  
21 away.

22 So you have got a slap and then later we find  
23 somebody with a severe blunt force--

24 COURT: I'll be glad to hear you out. But I  
25 think the evidence according to my notes was that, that

1 once she jumped out, that Beck followed her and then  
2 come and come back and made some statement to the effect  
3 that she wouldn't be partying again. Now, that is what  
4 the evidence tends to show.

5 MR. DODD: Okay.

6 COURT: Now, what it does show if it gets to  
7 the jury would be for the jury to say and determine.

8 MR. DODD: I agree with you.

9 COURT: But it just don't stop there and say  
10 that she ran away. According to my notes. I went back  
11 through them has night.

12 MR. DODD: All right. Well, be that as it may,  
13 if that is the case, then you have got someone else  
14 committing the murder and he, of course, was not there.

15 If your theory is that Johnny Beck ran away and  
16 committed the murder there with her--

17 COURT: Well, it is not really my theory. I am  
18 just referring to my notes. I just want to get that  
19 straight.

20 MR. DODD: All right. Well, if the argument  
21 is, if anyone has the argument that she ran away, Greg  
22 was back in the car.

23 He was back in the car. Then we look at  
24 accessory after the fact. We are not looking at murder.  
25 If that's your theory, we are looking at accessory after

1 the fact because he wasn't there. He was not present at  
2 the scene. So he couldn't have been an aider or abetter  
3 and he couldn't have been a principal.

4 Now, what was the act that proximately caused the  
5 death? What was it? Where was it? When was it?. How  
6 was it? What was it done with? We don't have any  
7 answers to any of those questions. We can think of some  
8 answers and I can speculate and I can make up some  
9 things that would fit and maybe be likely but I don't  
10 have any evidence.

11 The third element. The defendant intended to kill  
12 the victim. Now, intent, of course, you can't prove  
13 always by direct evidence. Look at what the instruction  
14 says. It can be inferred by lots of things. Now look  
15 at what it can be inferred from. It can be inferred  
16 from the nature of the assault. The assault by whom?  
17 If we are inferring it from the nature of the assault by  
18 Johnny Beck, who ran away with her and tried to get her  
19 and then came back and said she wouldn't be partying  
20 anymore and Greg was in the car and didn't have anything  
21 to do with it, then we are out of here. Because the  
22 nature of the assault came from Johnny Beck's hands.  
23 Greg could not have been a principal or aider or abetter  
24 in that case.

25 If we are looking at Greg, where was the assault

1 that Greg did other than in the car, if you believe that  
2 Andrews. What other assault is there? What evidence of  
3 any other assault is there?

4 All right, the manner of the assault, the second  
5 thing we can look at. Look down there with me if you  
6 will, judge.

7 COURT: I am following with you there.

8 MR. DODD: The manner of the assault. All we  
9 have got is a slap or a hit attributable to either  
10 Johnny or Greg. We don't know who did it because  
11 Andrews didn't know and he didn't say. He said that  
12 Greg didn't say is what I meant. And so we don't know  
13 the manner in which it was made.

14 Now, if you want to assume that Johnny Beck ran  
15 off and did that, then it still takes us out of here.

16 Conduct of the party. We don't have any conduct  
17 of the parties, except to what Andrews testified to and  
18 the conduct that he testified to was that there one slap  
19 by somebody that would he don't know against an unknown  
20 black prostitute female. We don't even know if she was  
21 from east Raleigh where they said all of this occurred  
22 and where these guys were trying to pickup somebody  
23 according to that testimony.

24 The conduct of the parties. Well, the conduct of  
25 the parties shows that if are assuming that Greg slapped

1 this person and that Johnny runs out of the car after  
2 her and comes back saying well, you know, she is not  
3 going to party anymore. Well, again he's absolved of  
4 that. We don't have anything of that manner or the  
5 conduct of the folks.

6 Other circumstances. Well, there aren't any other  
7 circumstances. There are no other circumstances except  
8 these two guys walking by what they think is a dead  
9 body. And in his statement there is no evidence that we  
10 stopped and kicked that body and stabbed it and slammed  
11 her against the curb or took out a crowbar and bashed  
12 her and went on. There isn't any of that evidence at  
13 all. We walked right by. Now, it may not be believable  
14 but it is the State's evidence. It's not our evidence.  
15 I didn't put that in and the State's evidence, as you  
16 know, must be taken as true.

17 Also, in the brief I have cited a case which says  
18 that if the State presents evidence in the case which  
19 tends to exculpate the defendant, when all the evidence,  
20 that of the State and of the defendant is to the same  
21 effect tends to only exculpate the defendant's motion  
22 for judgment of nonsuit and should be allowed. Well, so  
23 far as I think we are together on that.

24 MR. DODD: Number four.

25 COURT: State vs. McWilliams. I read that.

1           MR. DODD: Yes, sir. Number four, in that  
2 case-- Well, I will get to that in a minute. The  
3 number four, the defendant acted with premeditation.  
4 This is another one of those things that, that can't be,  
5 usually is not susceptible to direct evidence unless you  
6 have an eyewitness to the assault and/or the murder.

7           So again we are inferring on this element. Every  
8 element we have got so far there has to be an inference.

9           The defendant acted with premeditation. That  
10 means that he formed the intent to kill before acting.  
11 Well, we don't know that. I mean, we don't know what  
12 kind of intent he had. We don't know whether he had  
13 intent to rape, an intent to kill, whether it was the  
14 right person, at the right place, a completely different  
15 prostitute, completely different black woman. We don't  
16 know any of that. We have to makeup all of that or  
17 infer it from something else, which we don't have to get  
18 there. What act did the defendant show to you that he  
19 had the intent to kill anybody? Slapping somebody in  
20 the car. Now in order to say that slapping somebody in  
21 the car is an intent you have got to say he did the  
22 slapping. We don't know that because Andrews didn't  
23 know because according to Andrews Taylor didn't say. So  
24 we have got either to back up, we have got to make that  
25 up, too, and then you have got to infer something from

1 that. So we have got to pick which fact we are going to  
2 apply to which defendant and then we've got to infer  
3 something from that or we've got to infer that both  
4 slapped her when there is no evidence of that. There is  
5 only one slapping or one hitting.

6 Now, the fifth and last element of first degree  
7 murder. The defendant acted with premeditation, with  
8 deliberation, rather. Deliberation being a cool state  
9 of mind, not by some violent passion.

10 Now, we don't know whether they tried to rape this  
11 girl. Assuming this is the same girl that was killed.  
12 We don't know that, but let's assume for the sake of  
13 discussion we don't know that they didn't try to rape  
14 her and that he wasn't in some kind of outrageous  
15 violent passion because she slapped him, because she  
16 kicked him in the wrong place or something. We don't  
17 know that. Now, I can infer that. Why can't I infer  
18 this? He was out there with her. I can infer that just  
19 as well as we can infer anything else you want to infer  
20 from this. But there is no reason to infer because it is  
21 not reasonable to make that inference, Your Honor.

22 What evidence of passion is there from Johnny or  
23 Greg? What evidence of any state of mind whether it was  
24 cool or hot or anything? None

25 Now, sometimes deliberation can be inferred from a



1 number of things as the pattern jury instruction says as  
2 you are going to have to tell that jury if it gets that  
3 far. You are going to tell them lack of provocation.  
4 Well, we don't know whether there was any provocation or  
5 not because there's no relationship between the girl  
6 that was killed and Greg Taylor. None.

7 There's no evidence that he talked to her at any  
8 time, that they went out two weeks before, that he  
9 bought drugs from her, that he took her out two nights  
10 before or anything else. That they got into a heated  
11 argument because she wouldn't sell him the amount of  
12 drugs he wanted four weeks before that. There's none of  
13 that evidence.

14 That's the kind of stuff that you are talking  
15 about, judge. That's the kind of stuff you hear over  
16 and over. You have done this for 20 some years.  
17 Everytime you do this, you hear that in a murder case,  
18 don't you? You hear that kind of evidence coming out.  
19 Well, they were arguing. He threatened to to kill her.  
20 You don't have any relationship here. None. Which also  
21 goes to no motive. We will get to that later.

22 Lack of provocation. We don't know. We have no  
23 idea. We have to make all of that up if you want to  
24 infer that element from some of the facts here.

25 The conduct of the defendant before during and

1 after the killing. Well, we don't know anything about  
2 the conduct of the defendant before, during or after the  
3 killing except what was in his statement that the State  
4 presented.

5 And, of course, they presented half of, they  
6 presented one statement of two statements that he made.  
7 But what was presented tells a completely different  
8 story. That is the State's evidence you must consider  
9 as true in the light most favorable to them and it  
10 doesn't mention anything that would allow you to infer  
11 to this particular individual, the victim, deliberation  
12 in this case. Look at threats or declarations. There  
13 is none of that in here. There is no evidence that he  
14 even knew this girl or ever talked to her. The only  
15 evidence is that this particular girl had never been in  
16 his car, that he had never seen her, that he had  
17 never--he said that and it may not be true but that's the  
18 State's evidence. That's what they put on.

19 Threats and declaration of the defendant. None.  
20 Use of grossly excessive force. That's something else  
21 that you can look at for deliberation. That deals with  
22 self-defense. Grossly excessive force. Used more force  
23 than reasonably necessary under the circumstances.

24 Well, we don't know whether there was any  
25 self-defense in this or not. We don't know whether the

1 cocaine transaction went bad and he got mad at her and  
2 decided to just beat the living snot out of her. We  
3 don't know that. We have to infer all of that stuff  
4 because we don't know whether it was that girl or some  
5 other girl and we don't know that she was out there at  
6 that location or not. All we know she was found there  
7 that morning.

8 Lethal wounds inflicted after the victim is fell.  
9 Well, there are no lethal wounds inflicted after the  
10 victim is fell as far as we know because one of the  
11 major ingredients is the time of death. We don't know  
12 when this lady was killed.

13 The medical examiner was never asked, doctor, can  
14 you tell us approximately what was the time of death of  
15 this victim and how did you determine that and what led  
16 you to believe that it could have been within the last 24  
17 hours or whatever. That was never even asked.

18 Much of the evidence, I think, we didn't object  
19 to it because we didn't feel like it hurt us but much of  
20 the evidence that came in was probably objectionable  
21 because it was not related to the time of death. If  
22 there was no way to relate it to the time of death, then  
23 it doesn't become relevant in this case. Once we can  
24 established that she was killed unlawfully and the time  
25 of death, then all of this other circumstantial stuff

1 becomes relevant to that to narrow it down. We don't  
2 know when she died. The doctor testified that it was  
3 perfectly consistent with the question that he asked.  
4 He asked her is it not perfectly consistent with what  
5 you saw out there with this lady to have been killed  
6 somewhere else and dumped out there and she said, yes.

7 Now, you may not believe it but she said that.  
8 And that is in the record and that's the State's  
9 evidence and it has to be taken into consideration. It  
10 has got to be taken as true.

11 Brutal, vicious circumstances of the killing.  
12 Well, we still don't know who did it. Johnny did it or  
13 Greg did it or 17 other people that I have talked about  
14 did it. So you can't infer any of that until you have a  
15 defendant doing an act of some kind.

16 Manner or means of the killing was done. Same  
17 thing. No act by the defendant shown. It is all  
18 speculation. It is all conjecture.

19 Now, second degree murder is the defendant  
20 unlawfully, intentionally and with malice killed the  
21 victim. Same problems here. I won't go through that  
22 again. You still got an act by the defendant. You got  
23 to have a proximate cause, got to have some unlawful act  
24 that he did or that in the law can be attributed to him  
25 and it must have been the real cause of the death of

1       that victim. Don't have any of that for second degree  
2       murder either. Even if you drop off all the other  
3       elements and get down to the second degree murder, you  
4       still got the same problem. No proximate cause.  
5       Voluntary manslaughter. You have got that problem, too.  
6       Voluntary manslaughter, all he has got to do is have  
7       unlawfully killed the victim.

8               We know nothing of the circumstances of the  
9       death, only that the death occurred. Except the manner  
10      it was testified to by the doctor.

11             The State must prove that the defendant did not  
12      act in the heat of passion. Look at that instruction.  
13      Look at what you have to charge the jury on voluntary  
14      manslaughter. One of the things you are going to have to  
15      tell them is that the State must prove to you that the  
16      defendant did not act in the heat of passion--

17             COURT: I'll stop you right here. If it gets  
18      beyond a nonsuit, there's, there's no evidence for me to  
19      charge on voluntary manslaughter.

20             MR. DODD: All right, I'll stop there then,  
21      Your Honor. And involuntary manslaughter the same way.

22             COURT: Yes, sir.

23             MR. DODD: All right. Now, Your Honor, let's  
24      turn for a minute with me, if you will--

25             COURT: The question is whether or not I

1 nonsuit them on the first and second.

2 MR. DODD: I understand. I agree with that  
3 completely but I wanted to cover all the bases.

4 I want to talk about accessory for a minute and  
5 then I am going to go back to specific cases on murder  
6 and then I will be finished.

7 Accessory after the fact. Now, if you'd look at  
8 the indictment on accessory after the fact. What the  
9 State has alleged in that indictment is that Johnny Beck  
10 committed the murder and that this defendant after  
11 knowing that Johnny Beck committed the murder did those  
12 things to assist him in an escape and detection and all  
13 that sort of thing.

14 Obviously the State doesn't know who committed the  
15 murder. If he did, he wouldn't be charging it like this  
16 and the State is obviously trying to cover its bases.  
17 But in order for them to prove that we have got a real  
18 problem in this case, the State has got a real problem  
19 in this case because Greg cannot be a principal or an  
20 aider or abetter, which is also a principal. He can't  
21 be a principal and at the same time be an accessory  
22 after the fact. It isn't possible. It is factually  
23 possible but it is not legally possible and that is what  
24 the predictment is here in this case.

25 So if the State goes forward on the indictment of

1        accessory after the fact, then there is no choice except  
2        to dismiss the first degree murder because in law the  
3        State is going to have to elect one of those two.

4                COURT: Well--

5                MR. DODD: Can't go to jury or either one of  
6        them.

7                COURT: I'm not so sure they can't go to the  
8        jury. I think and I am not say that they have the  
9        evidence but I think there's evidence to support both of  
10       those crimes. It possibly could go to the jury but the  
11       defendant certainly couldn't be punished for both of  
12       them.

13               MR. DODD: Well,--

14               COURT: Kindly like drugs.

15               MR. DODD: That I agree with. But there is a  
16       difference in the drugs, Your Honor. In the drug  
17       situation you got a man committing two different acts or  
18       one act that amounts to several different crimes. This  
19       is completely different. Accessory is a completely  
20       different crime.

21               COURT: But the point I was making--maybe I  
22       should just be quiet. The point I am making is if the  
23       jury believed the evidence to support a first degree  
24       murder, that's one thing.

25               MR. DODD: Right.

1           COURT: And they wouldn't have to believe the  
2 accessory. On the other hand, they could believe the  
3 accessory and not believe the murder.

4           MR. DODD: Yes, sir. But I guess my point on  
5 the accessory is if the State didn't put on any evidence  
6 about what Johnny Beck did, which they didn't, and they  
7 started hollering when I tried to put on my evidence  
8 about what Johnny Beck said he did or didn't do, then  
9 how are you going to find, how is any rational trier of  
10 fact going to find that Johnny Beck committed this  
11 murder and then afterwards he did something about it,  
12 except on the theory that you said. Now, that is the  
13 only way. But look what you have got to infer from  
14 that. You have got a tremendous gap there in my  
15 judgment but that is the only theory.

16           Well, the State is really saying that the  
17 defendant and Beck are both principals, both acting in  
18 concert or that they acted or that Greg was an aider or  
19 abetter to Johnny Beck which is always a principal.  
20 They are saying they are principals and then in addition  
21 to being a principal, he was an accessory after the fact,  
22 which in law cannot be done.

23           Your Honor, on the specific cases that I cited to  
24 you, the gist of all of those cases is that when the  
25 State only shows evidence of an opportunity to commit



1 the crime then, all of those cases have said that the  
2 motion for nonsuit should have been granted, that  
3 opportunity alone is not enough to convict someone in any  
4 of these homicide cases.

5 There's also a case State against Hood which I did  
6 not include there but later occurred to me that might  
7 not be enough. I need to go further. State against  
8 Hood, which I will hand up to you is a second degree  
9 murder case in which they said the evidence was  
10 insufficient and there they had evidence of motive and  
11 evidence of opportunity and--

12 COURT: Do you have the Reese case there?

13 MR. DODD: I am going to give you all of  
14 these. I do.

15 COURT: All right.

16 MR. DODD: This case lists other cases but it  
17 basically stands for the proposition in this case that  
18 they had evidence of motive, which we don't have here.  
19 None at all. And evidence of opportunity and you can  
20 makeup ^ (a motive, of course, but there is no evidence of  
21 any here because there is no evidence of relationship.

22 So in this case all, the best that the State can  
23 show is evidence of an opportunity to have committed the  
24 crime. But if you assume they showed opportunity and  
25 motive somehow, then you still can't get to the jury on

1 the basis of that case, which I will hand to you.

2 Now, let's look, let me talk just a minute about  
3 particular cases that deal with specific items of  
4 evidence that is similar to this that are stronger than  
5 this case that was nonsuited. State v. Cutler, which is  
6 a case that I will hand up to you. The deceased was  
7 stabbed to death in that case. The defendant was seen  
8 driving his truck to the home of the deceased on the day  
9 of the murder and was later observed in a drunken  
10 condition and bloody as a hog, zippo blood on this  
11 defendant evident. He had a gash on his head. His knife  
12 blade also had human blood on it. And a hair on the  
13 blade was similar to the chest hair of the deceased.  
14 We ain't got any hair. We ain't not any blood. We  
15 ain't got any weapon in this case. The defendant said  
16 that the deceased had killed himself. Well, in this case  
17 the defendant said I don't know how the deceased got  
18 killed. The Supreme Court held that that evidence was  
19 insufficient to go to the jury because it was just  
20 conjecture and speculation. And there they had the  
21 murder weapon. They had this man bloody. They had this  
22 guy in the presence of the victim and the Court held it  
23 was insufficient.

24 Now, in one of the cases that I have got in there  
25 for you State v. White. You have got the deceased, he

1 was stabbed to death in a mobile home, located in a  
2 motel. A black man wearing a white shirt and dark  
3 trousers was seen running from the mobile home in the  
4 direction of the room where the defendant was staying.  
5 Shortly thereafter police officers saw the defendant who  
6 was black and dressed in a white shirt and black  
7 trousers standing outside of his room. Blood of the  
8 same type of that of the deceased was found in the  
9 defendant's shoes. No blood here found on shoes or  
10 anything else.

11 There was blood on the carpet in his room. The  
12 defendant's room. He had nothing on him. There was  
13 blood on the car, but they didn't type it. Don't know  
14 whether it was human or animal blood. We don't know  
15 what type it was. No testimony about that because  
16 nobody from the lab came to testify.

17 Now, one of the guys forgot he said that luminal  
18 test for human blood which is not true. I left it alone  
19 because it didn't hurt him. Luminal reacts to a lot of  
20 different kinds of blood.

21 So we have got all of that. We have got a knife.  
22 The same type as the murder weapon. No murder weapon  
23 here. It was found under the television in the room of  
24 the defendant who had all of this blood on him and a man  
25 was seen running in his room and this evidence was

1       deemed insufficient to remove the case from the realm of  
2       surmise and conjecture.  State v. White, that's in the  
3       brief and you have got that whole case there.

4             Now, in State v. Davis, which I am going to give  
5       to you as well, you have got a case where the victim was  
6       killed and some keys were found in the defendant's  
7       pocket.  Nothing about this victim found on this  
8       defendant or about this defendant anywhere.

9             A knife found near where the defendant was  
10       apprehended fit a sheath found in the victim's  
11       apartment.

12            Nothing here like that, nothing at all and don't  
13       you think they didn't go through the tackle box and  
14       everything else looking for weapons and analyzing them  
15       and lazing them and everything else.

16            And blood stains found in the victim's apartment  
17       were consistent with the defendant's blood type.

18            We don't have any of that here.

19            Now, you have got, you have got none of that here  
20       and in that case, it was nonsuited as well because it  
21       was conjecture and speculation.

22            Now, this case is a shooting.  I hesitated to  
23       give you this one, but I am going to give it to you  
24       anyway and the reason I think it is important--the  
25       reason I didn't want to give it to you is because this

1 case is clearly not a shooting. I wanted to give you  
2 cases that only dealt with blunt force trauma or  
3 something related to that. But this case there is no  
4 question but the man shot this lady and the Court held  
5 that nonsuit should have been allowed for want of any  
6 substantial evidence that the shot fired by the  
7 defendant caused or contributed to the death. There  
8 were two shots and they weren't sure which one of them  
9 killed but there was no question that the defendant shot  
10 the person and the circumstantial evidence was  
11 sufficient to be submitted to the jury as to whether the  
12 defendant had the pistol when the second shot was fired  
13 but not as to the murder.

14 I'll let you see that one.

15 State v. Pope is the one where they found the  
16 victim in the car of the defendant. And they had, they  
17 have had them arguing several weeks before and the  
18 defendant had been seen dragging that body or a body  
19 along the highway where his car was parked in the  
20 entrance of a parking lot and the victim had died from  
21 injury, a head wound. No further indication. And the  
22 court said there was nothing about proximate cause and  
23 they nonsuited that one. They had so many questions in  
24 that one. Did the defendant assault or strike the  
25 deceased?

1           COURT: That's the Pope case. That one you  
2 gave me and I read last night.

3           MR. DODD: Yes, that's the Pope case. And the  
4 case that I think is most similar to us is the Talbert  
5 case, State v. Talbert, which is the 11th one cited in  
6 that brief. In Talbert the State's evidence showed the  
7 deceased was fatally injured by blows on the head by a  
8 blunt instrument. Sound familiar? With evidence of a  
9 struggle near the scene where the body was found and the  
10 defendant made contradictory statements as to whether he  
11 knew the deceased.

12           Well, he didn't make any contradictory statements  
13 here. He said, I don't know that woman.

14           And as to the clothes the defendant was wearing.

15           He didn't do that here. He took them to get his  
16 clothes.

17           Other evidence tended to show the defendant was  
18 driving the deceased around in his car to sober him up.

19           We don't have any evidence like that unless you  
20 choose to infer that that black prostitute was the same  
21 lady that we don't even know where Jacquitta lived or  
22 where she worked or anything else.

23           Now, we know it, but it didn't come out in  
24 evidence.

25           That the defendant drove to a place near the scene

1       whether the body was found, turned his car around and  
2       thereafter, after an altercation, in this case now, the  
3       defendant struck the deceased in the fists, in the face  
4       with his fists four or five times.

5               Now, here if you are going to infer that Greg was  
6       the one that struck, you have got one hit and look at  
7       the result on that woman from one hit but in this case,  
8       you have got the defendant striking four or five times  
9       and then the defendant drove off in his automobile  
10      leaving the deceased standing in the woods.

11             The Court held the State failed to present  
12      substantial evidence whether the defendant was the  
13      person who assaulted the deceased with the blunt  
14      instrument, with some kind of blunt instrument and they  
15      nonsuited that as well.

16             Your Honor, each of these cases is clearly  
17      stronger than in this case.

18             And Your Honor, it simply is, it seems to me  
19      beyond reason that the jury can infer, can be allowed to  
20      speculate on the wide gap that exists here on each of  
21      those five elements of first degree murder or even on  
22      the two elements of accessory after the fact.

23             For those reasons, Your Honor, and the reasons  
24      that I have already prior submitted in a brief, I would  
25      ask you to dismiss this case.

1           I know that dismissing a very significant murder  
2 case is a difficult thing for anybody to do. I know  
3 that because I have read most of the cases and I know at  
4 least 12 or more judges didn't have the courage to do  
5 that and were reversed by the Court of Appeals.  
6 Judges are not reversed by the Court of Appeals and the  
7 Supreme Court when they nonsuit cases and the reason  
8 they don't reverse the State never takes them up even  
9 though legally they could. It is difficult to do. It  
10 takes courage. It takes a thorough knowledge of the  
11 law. I understand that. It is difficult for a variety  
12 of reasons that I wouldn't go into. But I know that you  
13 have that courage and I know that you have the knowledge  
14 of the law necessary to do that when you deem it to be  
15 appropriate. In the 16 years that I have been defending  
16 defendants in criminal cases, I don't believe that I  
17 have had a first degree in which each of the five  
18 elements of first degree murder are as weak as they are  
19 in this particular case.

20           And I would ask the Court to do this: If you  
21 decide to send this case to the jury, I would ask you to  
22 make special findings so they will know and that anyone  
23 else after who needs to know will know what factual  
24 evidence the State presented that you deem was  
25 substantial on each element to support each element of



1 first degree murder and/or second degree murder, if you  
2 decide to send it.

3 Your Honor, I am asking you not to send it. I  
4 think justice will be served by not sending it. It  
5 seems clear to me that if any case ought to be nonsuit,  
6 this case ought to be and I am asking you to do it.

7 COURT: Do you have those cases that I would  
8 like, I think I have read one or two of them--

9 MR. DODD: yes, sir.

10 COURT: --in my research last night.  
11 Mr. Ford.

12 MR. FORD: If Your Honor please, let me  
13 preface this by saying that this only sitting through  
14 Mr. Dodd's argument to this point has only convinced me  
15 of the fact that reasonable men can disagree.

16 I don't consider myself a good attorney when it  
17 comes to arguing when you get to this point in a case,  
18 because I don't consider myself as very good twisting the  
19 facts as I heard them to be. I consider myself a pretty  
20 fair person.

21 Some of the facts that Mr. Dodd submitted to you  
22 as what he says are the facts in this were not my  
23 recollection of the facts and quite frankly I am not  
24 going to use those. I know, Your Honor, is going to use  
25 the facts as you recall them to be and that you reported

1       them to be. So there is no sense in me spending six  
2       pages in writing them out as to what they were.

3             Let me preface this by saying that Mr. Dodd bases  
4       much of his argument on the fact that the State is bound  
5       by all the evidence I put in. Even the statements of  
6       this defendant which says that he didn't do it.

7             Now, if that were a fact in law, we'd left  
8       yesterday. And it is not. The State is not bound by  
9       the defendant's statement particularly if it offers  
10      other evidence, believable evidence which tends to show  
11      that what he is saying is not true and that is exactly  
12      what the State has done in case. As a matter of fact,  
13      one of the very cases that Mr. Dodd provided us with  
14      yesterday speaks directly on that point, that being the  
15      White case, in which therein they say--I am sorry--it  
16      may be even the case that he just cited. Yes, it is.  
17      The State v. Talbert. State by offering evidence of  
18      declarations and admissions of the defendant is not  
19      precluded from showing the facts are other than, as  
20      related by him which is exactly what the State did in  
21      this case for a purpose.

22             Now, yesterday I very inartfully told you that  
23      what I recollect the law to be in this area was that  
24      there had been numerous discussions in the law as to  
25      each individual element and whether or not

1 circumstantial evidence was strong enough to take the  
2 case to the jury and as you can read, if you read the  
3 Bell case which is the very first case the defendant  
4 cited in his brief which gives a wonderful survey of the  
5 law of nonsuit particularly in respect to circumstantial  
6 evidence, you will see that the law is not as they had  
7 told you it was.

8 No longer is the State required to excluded every  
9 other reasonable hypothesis and there's a good reason for  
10 that because they recognize that's a province of the  
11 jury. That having the judge decide all other reasonable  
12 hypothesis had been eliminated is invading the province  
13 of the jury and for that reason, naturally this changed  
14 the way before the Bell case. It changed in a case of  
15 State v. Stevens decided in 1956. That's when this  
16 case, that's when the rule of what Your Honor was to do  
17 actually changed and at that time it was you were to  
18 examine the evidence and determine if there was a  
19 substantial amount of evidence from which a reasonable  
20 trier of fact could find each and every element of the  
21 crime.

22 Now, the Bell case is particularly good in  
23 directing Your Honor as to what to do. It says, and it  
24 is exactly like I said yesterday, as inartfully as I  
25 said. What most of these cases boil down to is not

1       whether the State has offered substantial evidence to  
2       each and every element because in all of these cases  
3       somebody had committed the crime, the essential elements  
4       of the crime of murder were there in every case. It was  
5       a matter of identity of the perpetrator. And in  
6       circumstantial cases, you know, there is no eyewitness  
7       to say that I saw the person that did it. That is  
8       exactly what everyone of these cases say. And the way  
9       these cases came down, basically as Mr. Dodd has said  
10      very truthfully, that they said the State should prove  
11      motive or should prove opportunity and they should prove  
12      motive and in the Bell case they said, I believe, they  
13      said if you don't prove either one of those things, you  
14      are pretty much out of luck.

15             I don't think that is the law anymore but that's  
16      what it was when the Bell case--and I am willing to work  
17      with that law but I don't think that's the law anymore  
18      anyway because I think in light of circumstantial  
19      evidence the Court has even moved further away from  
20      that. But let's take it--and it goes a little bit  
21      further because opportunity really gets divided into two  
22      sort of categories here. One of them is a general  
23      ability to have access to the person and the place where  
24      the murder occurred, like a husband or wife or somebody  
25      whose a, that has general accessibility to the location

1 and the person and other, and otherwise approvable  
2 presence at the death of the person, you know, at the  
3 time the assault occurred.

4 Now, I am not even going to mess with the general  
5 accessibility because--and I am not going to argue to  
6 you you should believe, at this point that there is not  
7 some evidence that the Jackie who was a black female  
8 with extremely short hair and heavy hips perfectly  
9 describes the person in the photograph, that that Jackie  
10 is seen with this defendant in a vehicle that was found  
11 at the scene on the same night that she died and which  
12 the defendant, the same body that the defendant says  
13 that he saw dead a short time after he got to the scene  
14 is a different person. That is absurd. There's more  
15 than enough evidence in this case for you to find that's  
16 the same, that we are talking about the same person.

17 Now, do we have his presence at the scene in this  
18 case? Well, I submit to you that the evidence, the  
19 believable evidence in this case is overwhelming. We  
20 have the defendant putting her in a car, in his car and  
21 taking her to the scene. That is putting him there  
22 before any blows are struck, anything is done.

23 We have the defendant's vehicle being operated at  
24 the body and the defendant's testimony is if he had  
25 wanted to move this vehicle or his statement, he is at

1 the scene between the time the fatal blows are  
2 administered to this woman and the time she dies. And  
3 how do we know that because the vehicle was moved in  
4 such a way that the blood was already on the pavement  
5 and that she was still moving her arm because if her arm  
6 had been at the point where it was later found to be  
7 when she died and could no longer move it, he would have  
8 to crush her arm with the vehicle. So she was still  
9 alive even at the time that he moved the vehicle. Yet  
10 the fatal blows had to have been administered already  
11 because the blood was on the pavement. He is there  
12 before she was struck, during the time she was struck,  
13 immediately after she was struck and by his evidence, by  
14 his statement he was there when she was dead, too,  
15 because he had moved his car and got it stuck and when  
16 he came back by he saw the dead body there. No  
17 movement, et cetera.

18 This isn't a question about what time she died.  
19 It doesn't matter what time she died because the  
20 believable evidence in this case is substantially more  
21 evidence than the State needs is that this defendant was  
22 right there beside the body, whether in the vehicle or  
23 out, at the time she died At the time the lethal blows  
24 were administered and at the time she died.

25 So through that test there is no doubt of his

1 presence and his opportunity. His presence is not even  
2 required. The opportunity is but if you read these case  
3 lines, they all diverge. Many of the cases that  
4 Mr. Dodd has cited are easily distinguished from this  
5 case because even though somebody had ample opportunity  
6 it's within a large period of time, a matter of hours  
7 and they can't say the person was there when the death  
8 occurred or they are found with something or something  
9 where they were eight hours before was found to have  
10 come from the person's house, et cetera, et cetera, et  
11 cetera. It is all, they had an opportunity, they had  
12 been at the location where the person was but we really  
13 can't show they were there within a reasonable time  
14 around the death of the person. That isn't the case.

15 The State has shown actual presence at the scene  
16 of her death at the time that she was dying.

17 So then we go on to motive. Now, the way I have  
18 heard this evidence up to this point, is that this  
19 defendant and somebody else were riding around looking  
20 for prostitutes to go partying with then and get high.  
21 And that they expected sex from that and that is what  
22 Mr. Andrews-now, my way of thinking, that's a bargain  
23 that was struck and I think the evidence is there. You  
24 take a prostitute somewhere and expect her to do what

1 she does, she expects to get paid for it whether it is  
2 drugs or money. That's what the believable evidence is  
3 in this case and what I am getting to is a motive.

4 Now, the evidence to this point is there was at  
5 least enough motive for these men to get mad enough to  
6 strike her and then chase her down, or for his friend to  
7 chase her down and kill her, if you believe what he says  
8 about that, which the State is not arguing to you at  
9 this point is believable to you.

10 However, that is motive enough, motive enough for  
11 them to commit the assault and the state that they were  
12 in could have been motive enough for them to kill her  
13 and was evidently.

14 What is good about the Bell case is that it says,  
15 judge, there are some many possible factual situations  
16 that there is many factual situation times as many  
17 people as you can ever think of and, therefore, we are  
18 not going to constrain you with, letting you look at a  
19 case from 1890 involving a liquor wagon, et cetera, or a  
20 case from 1940 involving this or that and ask you to say  
21 well, does it come closer to this case or to that case.  
22 What it says is if the State has introduced some  
23 substantial evidence of establishing an opportunity and  
24 a motive and at that point you look at all the evidence  
25 in the light of all the circumstances. It is really a



1       totality of circumstances test after that. And at that  
2       point you decide whether the State has met its burden of  
3       giving substantial evidence on each and every element.

4             Now, the reason that I am arguing to you that I am  
5       willing to go along on that test, the very test that  
6       Mr. Dodd handed up in his brief but I don't think that  
7       is the test anymore.

8             In support of that, I am going to hand you State  
9       versus Stone which is a case where a man was killed, his  
10      body was found, which is substantial for me for more  
11      than one reason, another reason it says in the Stone  
12      case the Court says one of these circumstances that you  
13      can use when you decide substantial evidence is whether  
14      or not the defendant has committed falsehood and tried  
15      to covered up things which indicate that they were  
16      involved. I think this is really important in this  
17      case. It sticks out as plain as the nose on my face  
18      that that's a circumstance which any normal and reason-  
19      able person would use to determine whether somebody had,  
20      had committed an act for which they felt like they  
21      needed to cover up and that's what's-this case also  
22      goes on to say though that the State offered no evidence  
23      of a motive. None.' There's strong circumstances in  
24      this case but no motive.

25             COURT: Well, you know, I don't want to stop

1 you but you and Mr. Dodd both argued about motive. As I  
2 understand the law and I might be wrong but motive is  
3 valuable but it is not essential to a conviction and  
4 motive may be shown by facts surrounding the acts. When  
5 they are proved motive becomes a circumstance to be  
6 considered. The absence of motive is equally a  
7 circumstance to be considered.

8 MR. FORD: That's primarily what this case  
9 said but up until the point the Stone case came out, in  
10 cases like this where the State was relying on  
11 circumstantial evidence to establish essential elements  
12 of the crime, they had required at that point for you to  
13 get pass nonsuit motive and opportunity. This case  
14 says, as I read it, there was no motive shown and the  
15 circumstances were still sufficient to get pass nonsuit  
16 and I think they have done exactly what you said,  
17 adopted what has always been the law of direct evidence.  
18 The state wasn't required to show motive and I would  
19 argue that that's what they have done. But even in the  
20 light of the test that Mr. Dodd has handed to you in his  
21 case the State has shown that.

22 Your Honor, the State proceeded in this case on a  
23 theory and is a theory of acting in concert, that this  
24 defendant and Johnny Beck picked up this woman together  
25 and went to this location together, they had the same

1 motive for taking her there. I mean, they can smoke  
2 crack cocaine by themselves. They don't need to take a  
3 prostitute with them down there.

4 What's the motive for taking her. They needed a  
5 female to be with them to smoke crack cocaine. They can  
6 do that by themselves. In fact, they had done that by  
7 themselves earlier or at somebody's brother's house  
8 according to the evidence but they took a female down  
9 there and a prostitute for a reason. When the time came  
10 for that reason, by the defendant's statement through  
11 Ernest Andrews, she balked. This defendant and Johnny  
12 Beck at that point had the same reason to be angry, the  
13 same motive to assault this woman. I submit to you also  
14 that the reasonable evidence the State has offered would  
15 lead Your Honor or any reasonable trier of fact to  
16 conclude that what he says about her jumping and running  
17 from a two-door vehicle without help from somebody and  
18 the other guy just chasing her down and killing her with  
19 a knife is not believable and the State is not relying  
20 on that and this as being the manner in which this  
21 person died.

22 The evidence from the medical examiner is that  
23 there were heavy blunt force traumas to the head with a  
24 type of weapon that she described, there were other  
25 wounds on the body that she really had to use her

1 imagination to determine would have come from a weapon  
2 that had both of those propensities or abilities. But  
3 the defendant has provided the motive. The defendant  
4 has provided that he, as I recollect Mr. Andrews'  
5 statement of the evidence, that he participated in the  
6 assault whether in the vehicle as he said or exterior of  
7 the vehicle, that there is ample evidence that more than  
8 one weapon was used and that more than one person  
9 therefore participated. And when you gather after that  
10 the enormous amount of falsehoods that this defendant  
11 told, not only in regard to himself but also in regards  
12 to Mr. Beck not being there, you know, and the body not  
13 being there when Mr. Beck was there. He was with me the  
14 whole time. I submit to you that is even further  
15 evidence that because he is not only covering up for  
16 himself but covering up for this compadre that they were  
17 acting in concert.

18 COURT: All right. I have done a whole lot of  
19 research last night and before last night and then last  
20 night I read your cases that you handed me in your brief  
21 yesterday, Mr. Dodd. I am going to take a recess and  
22 look over these couple of cases Mr. Ford just handed me  
23 and these several cases that you have given me. I'll  
24 ask that y'all do not leave. I'll be back. Let's take  
25 a short recess. Be available.

1 MR. FORD: Okay. May I go to my office?

2 COURT: Just as long as I can call you back.

3 MR. FORD: Sure.

4 COURT: We will be in a short recess.

5 SHORT RECESS.]

6

-----

7 COURT: All right, let's put this in the  
8 record. Mr. Dodd, I can assure you and Mr. Adams and  
9 Mr. Ford all that this has not been a hasty decision. I  
10 have, Mr. Dodd, as I have already indicated read and  
11 studied the brief that you gave me yesterday and all of  
12 those cases and I appreciate that and now I have had an  
13 opportunity to briefly look over the cases handed to me  
14 by the defendant and the State and as I've already  
15 indicated to you earlier in the course of this trial, I  
16 started looking at circumstantial cases and I looked at  
17 State versus Simpson, a 1990 North Carolina Supreme  
18 Court case, that's 327 NC 178. That was a  
19 circumstantial case. State versus Lane, 309 NC 515,  
20 that was the case already indicated about the fists and  
21 the feet being deadly weapons, considered as deadly  
22 weapons and that was a 1982 circumstantial case decided  
23 by the Supreme Court. State versus Reddick, 315 NC 749,  
24 where on page 760 and 761 it talked about circumstantial  
25 evidence which was sufficient to permit but not to

1       compel a jury to find the defendant guilty. That is a  
2       1983 case. State versus Martin, 278 NC 273, a  
3       circumstantial case and State versus Dawson, 278 NC 351,  
4       a 1970 Supreme Court case concerning a blunt instrument  
5       which also was circumstantial evidence.

6             Let the record show this is Friday, April the  
7       16th, 1993, and let the record show that this case was  
8       called for trial on Tuesday, April 13, 1993, and over  
9       the course of the trial this week the State has  
10      presented a number of witnesses and the Court has  
11      considered the testimony of the witnesses and the  
12      cross-examination of those witnesses.

13            The State has introduced into evidence a number of  
14      exhibits and according to my recollection without any  
15      objections of the defendant to any of those exhibits and  
16      the Court has certainly considered that evidence.

17            The State rested its case on April 15, 1993, at  
18      4:05 p. m.

19            The defendant has made a motion to dismiss and the  
20      Court has heard and considered the defense attorney's  
21      argument for dismissal and has considered the  
22      defendant's brief and the cases presented and the Court  
23      has also considered the argument of the assistant DA and  
24      the cases presented.

25            The Court has, also, and I have 39 pages of notes,

1 has considered my notes and my recollection of the  
2 evidence as it has been presented and from all of that,  
3 the Court finds that there is evidence which tends to  
4 show, what it does show is for the jury to say and  
5 determine, but there is evidence that tends to show that  
6 Officer D. L. Kenan of the Raleigh Police Department  
7 went to a scene as shown in State's Exhibit number 1,  
8 the City of Raleigh, on September 26, 1991, and  
9 discovered a dead body, later found to be known as a  
10 Jacquitta Thomas. The body being discovered between  
11 7:30 and 740 a. m. on the morning of September 26, 1991.

12 The Court finds there is evidence that tends to  
13 show that Jacquitta Thomas had been severely beaten and  
14 cut.

15 Evidence further tends to show that she died  
16 because of a blunt force injury to her head and her  
17 neck.

18 There is evidence that tends to show, but again it  
19 is for the jury to say and determine that, but there is  
20 evidence that tends to show that the defendant, Gregory  
21 Taylor's, Nissan Pathfinder was discovered stuck in a  
22 hole approximately one hundred yards from the culdesac  
23 where the victim, Jacquitta Thomas' body was found on  
24 September 26, 1991.

25 The Court finds that the State has presented

1 evidence which tends to show that the defendant, Gregory  
2 Taylor, came to the scene between 8:30 and 9:00 a. m. on  
3 the morning of September a^6, ^1991; that he was later  
4 questioned by Detective Johnny Howard and the evidence  
5 tends to show from that interview that the defendant,  
6 Gregory Taylor, stated he did not know the victim,  
7 Jacquitta Thomas; that she had never been in his Nissan  
8 vehicle; that he had never been with the victim; that he  
9 had came to the scene in the early morning hours of  
10 September 26, 1991, with a one Johnny Beck to do four  
11 wheeling; that he pulled into the culdesac, did not see  
12 any body when he pulled into the culdesac, then went  
13 down a service road to do four wheeling and did four  
14 wheeling and in this process become stuck up.

15 There's evidence which tends to show from the  
16 statement given by the defendant to the officers that  
17 he, the defendant, and Johnny Beck were unable to get  
18 the vehicle unstuck and they walked out through the area  
19 of the culdesac where the body was later found; that  
20 this was the first time that he and Beck saw a body;  
21 that he never got to within ten to fifteen feet of the  
22 body; that he did not call the police but that he and  
23 Beck thumbed a ride from a stranger, went to a couple of  
24 places and that he, the defendant, later called his wife  
25 to pick him up.



1 Evidence tends to show that further on later in  
2 this interview that for the first time the defendant,  
3 Gregory Taylor, admitted to the police officers to  
4 purchasing cocaine and going to the scene to smoke crack  
5 cocaine.

6 The Court finds that the State has presented  
7 further evidence which tends to show, here again it is  
8 for the jury to say and determine, that the defendant  
9 was not truthful when he made a statement to Detective  
10 Howard on September 26, 1991. Here again this is  
11 evidence for the jury to say and determine.

12 There is evidence that tends to show that the  
13 victim had been beaten severely around the neck and head  
14 with cuts on her body and breast and hand and there's  
15 evidence that tends to show that she bled a considerable  
16 amount at the scene at the culdesac, with a large amount  
17 of blood being on the asphalt at the culdesac where the  
18 body was discovered.

19 There's evidence that tends to show that the  
20 victim, Jacquitta Thomas, was a prostitute.

21 There's evidence that tends to show that the  
22 defendant was in fact with Jacquitta Thomas, the victim,  
23 and Johnny Beck in the early morning hours immediately  
24 before the victim's death on or about September 26,  
25 1991.

1           There's evidence that tends to show that the  
2 defendant, Gregory Taylor, and Johnny Beck and the  
3 victim was doing drugs at a residence of Eva Marie  
4 Kelly's house.

5           This is evidence presented and the credibility of  
6 that evidence is for the jury to say and determine but  
7 there is evidence which tends to show that immediately  
8 before the death of the victim and there's evidence that  
9 tends to show the defendant, Mr. Taylor, left in his  
10 vehicle, the Nissan, the white Nissan, with Johnny Beck  
11 and the victim sometime after the hours of 12:00 o'clock  
12 and the early morning hours, in the early morning hours  
13 of September 26, 1991.

14           There's evidence tending to show that the  
15 defendant did not tell the truth concerning the victim  
16 being in his vehicle since there is evidence tending to  
17 show--the Court notes this was evidence over the  
18 objections of the defendant--through the conduct of a  
19 bloodhound named Sadie tracing a scent of the victim's  
20 body where it was found at the culdesac to the  
21 defendant's Nissan located one hundred yards from the  
22 body on September 26, 1991.

23           There's evidence tending to show, what it does  
24 show is for the jury to say and determine, that the tire  
25 and wheel under the fender on the defendant's Nissan had

1 blood on it and the blood was revealed by chemical  
2 testing of the police officers immediately after the  
3 body being discovered on September 26, 1991, and the  
4 vehicle being discovered one hundred yards away.

5 There's evidence that tends to show that  
6 immediately after the defendant's arrest while he was  
7 incarcerated in the Wake County Jail that through  
8 conversation with another inmate that the defendant  
9 acknowledged being with Beck and picking up a black  
10 prostitute and going out partying and getting high with  
11 the idea of having sex.

12 There's evidence that tends to show that the  
13 defendant and Beck did in fact pickup a black  
14 prostitute, that the prostitute become upset, jumped out  
15 of the defendant's vehicle after being hit by either the  
16 defendant or Beck and that Beck jumped out and went  
17 after the prostitute.

18 There's evidence that tends to show that the  
19 individual Beck came back to the vehicle, told the  
20 defendant that the black prostitute won't be doing  
21 anymore partying.

22 There's evidence that tends to show that there was  
23 a comment made that the black prostitute died with a  
24 smile on her face.

25 There's evidence that tends to show that the

1 victim was brutally murdered and that there was evidence  
2 that tends to show contradicting the defendant's  
3 statement to the police.

4 The evidence tends to show that the defendant was  
5 with the victim immediately before her death and at the  
6 scene and there's evidence that tends to show that the  
7 victim was in fact in the defendant's vehicle even  
8 though the defendant has stated to the police that he  
9 never knew the victim, never had been with the victim  
10 and that he, she had never been in his vehicle.

11 There's evidence that tends to show that the  
12 blood under the front wheel fender cover, that there was  
13 evidence tending to show a tracing pattern which tends  
14 to show that the vehicle and the tire went through the  
15 blood at the scene in the culdesac on the asphalt and  
16 then a tracking pattern leading out to the service road  
17 out to the area where the vehicle was later discovered.

18 There's evidence that tends to show, but again  
19 here it is for the jury to say and determine, that in  
20 the early morning hours of September 26, 1991, that  
21 before Jacquitta Thomas' death that she was in fact with  
22 the defendant and Johnny Beck; that they were in fact  
23 in, the evidence tends to show that they were in the  
24 defendant's vehicle and at the scene and that they had  
25 been doing drugs and that they were partying; that the

1 evidence tends to show that while in the vehicle that  
2 there was fondling going on and that the victim became  
3 upset; that she was hit by either the defendant or Beck;  
4 that she jumped out, out of the defendant's vehicle and  
5 Beck pursued her; there's evidence that tends to show  
6 that she was in fact murdered at this scene between  
7 12:00 o'clock and 7:30 a. m. on the early morning hours  
8 of September 26, 1991.

9 The evidence tends to show, however, it is for the  
10 jury to say and determine, that the defendant or Johnny  
11 Beck or the defendant acting in concert with Johnny Beck  
12 was implicated in this crime.

13 Therefore, in considering all of the evidence in  
14 this case, the evidence tends to show, but what it does  
15 show is for the jury to say and determine, is that there  
16 is a chain or a group of facts and circumstances  
17 implicating the guilt of the defendant and that that is  
18 a jury question.

19 In considering all the evidence presented by the  
20 State the Court finds that there is circumstantial  
21 evidence implicating the defendant that was sufficiently  
22 substantial to withstand a motion to dismiss.

23 And, therefore, the motion to dismiss is denied.

24 Mr. Dodd and Mr. Adams, do you intend to present  
25 evidence in this case?

1           MR. DODD: Your Honor, there will be no  
2 evidence for the defendant.

3           COURT: Will there be rebuttal evidence for  
4 the state?

5           MR. FORD: No, sir.

6           COURT: Well, we are now in a charge  
7 conference then, counsel.

8           I've tried cases with both of y'all and I do it  
9 different than other judges but what I usually do is  
10 tell you what I intend to give in the way of  
11 instructions and then I'll give as much time as you need  
12 to convince me otherwise or present other evidence that  
13 I should give.

14           I make no bones about it, Mr. Dodd, the big  
15 decision I had was whether or not I should allow the  
16 motion to dismiss.

17           Since I didn't, I intend to give a verdict sheet  
18 to the jury in 91-CRS-71728 we, the jury unanimously  
19 find the defendant guilty of first degree murder or  
20 guilty of second degree or not guilty.

21           92-CRS- 30701, we the jury unanimously find the  
22 defendant to be guilty of accessory after the fact of  
23 murder or not guilty. What says the State?

24           MR. FORD: I would agree that those are the  
25 proper verdicts.

1 COURT: Mr. Dodd, Mr. Adams?

2 MR. DODD: Yes, Your Honor. I agree.

3 COURT: All right. Realizing that I denied  
4 your motion, on the verdict sheets there is no  
5 objections from the State or the defendant as to what I  
6 would give in the way of the verdict sheets, again  
7 realizing that you object to me not allowing your motion  
8 to dismiss and that is clearly on the record.

9 By the way of instructions, I will tell the jury  
10 that all the evidence has been presented. It is now  
11 their duty to decide the facts. It's absolutely  
12 necessary that they understand and apply the law as I  
13 gave it to them and not as they think it should be  
14 because justice requires that everyone tried for the  
15 same crime be treated in the same way and have the same  
16 law applied to him.

17 Tell them again that Gregory Taylor has entered a  
18 plea of not guilty. That he's presumed to be innocent  
19 and the State must prove him guilty beyond a reasonable  
20 doubt.

21 I use one definition of reasonable doubt for murder  
22 the same as I do for careless and reckless driving and  
23 that's 101.10.

24 Doubt based on reason and common sense and one that  
25 must fully, entirely convince the jury. I will

1 tell the jury that they are the sole judges of the  
2 credibility of each witness. They can believe all, part  
3 or none of what a witness said on the witness stand. I  
4 will tell them how they can determine whether to believe  
5 a witness, 101.15.

6 And there is some big jobs for the jury here  
7 about credibility and also about the weight, the weight  
8 they can give to the evidence. I will give them an  
9 instruction on 101.20 and on the record, Mr. Dodd, and  
10 Mr. Adams, I will, if you ask for it, I won't if you  
11 don't ask for it, I'll give an instruction about the  
12 affect of the defendant's decision not to testify.

13 Do you want that, 101.30?

14 MR. DODD: Yes, Your Honor, we would like  
15 that.

16 COURT: All right, I will give 101.30, the  
17 effect of the defendant's decision not to testify.

18 I think this is to his benefit, Mr. Dodd, and I  
19 won't give the State the opportunity but I will give the  
20 defendant the opportunity if you want me to I will give  
21 101.36, the highest aim of every legal contest. The  
22 jury the duty, solemn duty to let their verdict speak  
23 the every lasting truth. I'll give the defendant the  
24 option. If you want me, I'll give that. I think it  
25 tends to help you but if you don't want it, I won't give



1 it

2 MR. DODD: Your Honor, we would request that  
3 you not give that one.

4 COURT: All right, then I will not give  
5 101.36. I had intended to give it but I will not since  
6 the defendant is requesting that I not give it.

7 I will give an instruction on circumstantial  
8 evidence, 104.05.

9 I am going to give an instruction on motive,  
10 104.10.

11 I am going to give an instruction on testimony of  
12 interested witnesses 104.20.

13 I am going to give an instruction about testimony  
14 of witness with quasi immunity. It is 104.20 and this  
15 is on the witnesses and the agreement that you had, Mr.  
16 Ford, under an agreement with the prosecutor for a  
17 recommendation of sentence concession in exchange for  
18 her testimony. I will give that one.

19 MR. FORD: Your Honor, what was the number?

20 COURT: 104.21.

21 MR. FORD: Thank you, Your Honor.

22 COURT: I am going to give an instruction on  
23 testimony of expert witnesses, 104.94.

24 I am going to give an instruction about  
25 impeachment of witnesses other than the defendant by

1 proof of crime, 105.35.

2 I will build an instruction on first degree and  
3 second degree murder on pattern instruction 206.13,  
4 building in acting in concert.

5 I will give an instruction as to the other case  
6 accessory after the fact on pattern instruction 202.40.

7 I will give concluding instruction that it will be the  
8 duty of the jury to remember all the of the evidence.

9 If their recollection differs from that of the arguments  
10 of the attorneys, they are to rely on their sole  
11 recollection and I am going to give an instruction that  
12 the law as indeed it should requires the presiding judge  
13 to be impartial. And I can honestly say that I don't  
14 have an opinion in this case. That it must be a  
15 verdict, unanimous verdict, all twelve must agree.

16 Now, basically that's what I said basically I would  
17 give.

18 Mr. Ford, first of all I give the State an  
19 opportunity to object to anything that I said I would  
20 give.

21 MR. FORD: The State has no objection to the  
22 instructions.

23 COURT: Mr. Dodd and Mr. Adams, to you have  
24 any objections to anything that I said I would give?

25 MR. DODD: No, sir, I don't but could I have

1 just a minute. I want to see, I have got all these but  
2 I did not bring them this morning. I want to look at  
3 101.36 just a minute and go over that with Mr. Adams.

4 COURT: 101.36?

5 MR. DODD: Yes, sir. The highest aim of every  
6 legal contest.

7 COURT: I think it would be to your benefit.  
8 Now, on the record you have, you have got your choice.  
9 What I think don't really matter.

10 MR. DODD: Thank you, Your Honor. We will  
11 stand with the request that you not give that  
12 instruction.

13 COURT: Okay, you do not want me to give  
14 pattern instruction 101.36, is that correct?

15 MR. DODD: That's correct.

16 COURT: Then I will not give it.

17 Now, does the defendant have any objections to any  
18 instructions that I told you that I would give?

19 MR. DODD: No, Your Honor. We do not.

20 COURT: Now, Mr. Ford, do you have any written  
21 instructions you want to present up here, additional  
22 instructions that you want the Court to give?

23 MR. FORD: I do not.

24 COURT: Mr. Dodd, and Mr. Adams, do you have  
25 any written instructions that you want to present to the

1 Court to give?

2 MR. DODD: No, sir, we do not.

3 COURT: Mr. Ford, do you have any instructions  
4 that is not in writing that on an oral motion you are  
5 asking the Court to give?

6 MR. FORD: No, Your Honor.

7 COURT: Mr. Dodd, and Mr. Adams, do you have  
8 any instructions, oral instructions not written down  
9 that up want the Court to give?

10 MR. DODD: No, sir.

11 COURT: As I understand, there is no  
12 objections from the State or the defendant as to what  
13 the verdict sheet would be, and there's no objections  
14 from the State or the defendant as to the proposed  
15 instructions I said I would give and there's no request  
16 from the State or the defendant for additional  
17 instructions.

18 Now, let me ask you this: Mr. Dodd, will there be  
19 one or two arguments from the defendant?

20 MR. DODD: One, Your Honor.

21 COURT: Do you waive the right to have opening and  
22 reserve the closing argument?

23 MR. DODD: Yes, I do.

24 COURT: Mr. Ford, how long--and I am not going  
25 to call time on you, but for the purpose of giving

1 recesses, about how long do you think that you will take  
2 Monday morning?

3 MR. FORD: I am guessing that I will be talking  
4 for approximately two hours.

5 COURT: Two hours?

6 MR. FORD: Yes, sir.

7 COURT: Mr. Dodd, about how long do you  
8 anticipate you taking?

9 MR. DODD: I would estimate perhaps an hour,  
10 Your Honor.

11 COURT: All right. I appreciate the  
12 professional manner that all counsel has used in trying  
13 this case and we will come back on this Monday morning at  
14 9:30.

15 MR. FORD: Thank you, Your Honor.

16 COURT: I believe, the D. A. has some other  
17 business that you want to take up before I leave?

18 MR. FORD: We do, Your Honor.

19 [THIS TRIAL RECESSED FOR THE DAY.]

20 -----

21 [APRIL 19, 1993 A.M. SESSION.]

22 COURT: All right, let the record show, it is  
23 Monday, April the 19th. Counsel for the State and the  
24 defendant are present. The defendant is present.  
25 Mr. Bailiff, do we have all jurors in the jury room?

1           BAILIFF:  Yes, sir.

2           COURT:  Mr. Ford, Mr. Dodd, y'all ready for  
3 closing arguments?

4           MR. FORD:  Yes, Your Honor.

5           MR. DODD:  Yes, Your Honor.

6           COURT:  And you will be waiving opening  
7 statement, Mr. Dodd.

8           Mr. Ford, what I'll probably do is let you argue  
9 first and, Mr. Dodd, to be fair to you, when Mr. Ford  
10 gets through argument, I will give the jury recess a so  
11 they will be fresh when you start your argument.

12          MR. DODD:  Thank you, Your Honor.

13          COURT:  Bring the jury out.

14         [JURY RETURNS TO JURY BOX.]

15          COURT:  All right, let the record show all the  
16 members of the jury are now present.

17          Ladies and gentlemen of the jury, there will be  
18 no further evidence presented in this case.  Therefore,  
19 you have heard all of the evidence that will be  
20 presented.

21          It is now time for the attorneys to make closing  
22 arguments or closing statements.  There will be two  
23 closing arguments.  One from Mr. Ford representing the  
24 State and one from Mr. Dodd representing the defendant.

25          Just as I instructed you and explained to you

1 about an opening statement, these closing arguments are  
2 in no way to be construed as evidence in this case.

3 You have already heard all of the evidence.  
4 These closing arguments are not to be construed in  
5 anyway as your instructions on the law. I will give you  
6 the instructions on the law. Nevertheless, the  
7 attorneys have an opportunity to argue to you their  
8 contentions and argue to you what they contend you  
9 should find from this evidence.

10 You should give them your close attention.

11 Mr. Ford.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 [NOTE: Mr. Ford's argument taken at the request of Mr.  
2 Dodd.]

3 MR. FORD: Thank you, Your Honor.  
4 Mr. Bailiff, I am going to need that lectern and also  
5 those exhibits.

6 Good morning.

7 JURORS: Good morning.

8 MR. FORD: I appreciate and I want to express  
9 to you my appreciation on behalf of the people of the  
10 State of North Carolina for the manner in which I am  
11 sure you have paid attention and the thought to what you  
12 are going to give to what you have to do today.

13 When you leave here, I know you are going to  
14 realize just how important and how solemn a duty you  
15 had.

16 I think Mr. Dodd asked you when he was talking to  
17 you in deciding who was going to be on this jury said  
18 something to the effect, about the effect that you have  
19 the courage to vote not guilty if the State hadn't  
20 proven guilt, beyond a reasonable doubt, and y'all said  
21 that you did and at some point some of you got a chance  
22 to see the other side to that story, the solemn duty and  
23 the courage it takes to look somebody in the face and  
24 say you did this. You are responsible for this woman's  
25 death. It takes an amount of courage and the process



1 that you have to go through in arriving at that decision  
2 and having that decision be your decision, it takes  
3 courage and there is no doubt about it.

4 First, let me apologize to you. I have been doing  
5 this for fifteen years and I never stand up in front of  
6 a group of people to argue a case that I am not as  
7 nervous as I can be. I pace, things of that nature. I  
8 apologize for that. That is just Tom Ford.

9 The first thing I want to do this morning is tell  
10 you a little bit about the law. As, of course, we have  
11 all said, the judge is going to give you the law in this  
12 case. But in order for me to couch the terms of what I  
13 think the evidence means or what the state contends  
14 certain evidence means, you have to know where I am  
15 going.

16 In the first case the judge is going to charge you  
17 that there are three possible verdicts, guilty of first  
18 degree murder and within that there's sort of a sub-  
19 section called acting in concert which I will explain.  
20 Guilty of second degree murder. Also acting in concert  
21 or not guilty.

22 In the second case there's only two verdicts,  
23 either guilty of accessory after the fact of murder or  
24 not guilty.

25 Now, let me cover what we mean by acting in

1 concert. The judge is going to cover this but so you  
2 will know as we go along, for a person to be guilty of a  
3 crime it is not necessary that he himself do all the  
4 acts necessary to constitute a crime. If two or more  
5 persons act together with a common purpose to commit a  
6 murder, each of them is held responsible for the other  
7 person's acts in the commission of the crime. It is not  
8 necessary that you decide which one of these two men  
9 administered the fatal blow to this lady.

10 If you find that Johnny Beck and this defendant  
11 acted together in the assault upon her and that her  
12 death grew out of that assault, that's acting in  
13 concert. And why is that theory developed in the law?  
14 I don't know how many of you I asked this question. At  
15 some point in jury voir dire I made a point that people  
16 don't commit heinous crimes with a bunch of witnesses or  
17 seldom do they do that.

18 The State is seldom able to say well, this is what  
19 happened. The first blow to the top of her head right  
20 here and then she was cut right there and then there is  
21 seldom an eyewitness to tell you that.

22 Generally in a homicide, there's two kinds of  
23 parties there, the victim, who can't say anything, and  
24 the perpetrator, who won't say anything. That's the  
25 reason that the law allows the theory of acting in

1 concert.

2 It is also obviously the reason that the law  
3 allows the State to prove guilt beyond a reasonable  
4 doubt on circumstantial evidence. Not eyewitness  
5 testimony but circumstantial evidence.

6 The judge is going to tell you in regards to, in  
7 regard to the first case in regards to the crime of  
8 murder in the first degree, that the State must prove  
9 five things to you beyond a reasonable doubt for you to  
10 convict this defendant of murder in the first degree.

11 The first being that the defendant intentionally  
12 and with malice killed the victim with a deadly weapon.

13 Now, the State is always the beneficiary in this  
14 respect of what is an inference that you can draw. The  
15 law allows, and the judge is going to tell you this, if  
16 you find that Gregory Taylor, the defendant, in this  
17 case participated in an assault upon this lady which was  
18 the proximate cause of her death, and as the expert  
19 witness from the medical examiner's office testified, an  
20 outside instrument was used to apply the fatal blow,  
21 that instrument would be a deadly weapon, not per se as  
22 like a gun or a hunting knife or something like that but  
23 it is a deadly weapon in the way that it was used,  
24 obviously was capable of inflicting great bodily injury  
25 and death because that's exactly what happened.

1           Based on that evidence you are allowed to infer  
2           that the assault and the murder was committed with  
3           malice.

4           Malice doesn't mean only hatred or ill will or  
5           spite, as we ordinarily understand malice to mean, it  
6           really means that condition of the mind which prompts  
7           another person to take the life of somebody else without  
8           justification. Again, the judge is going to go through  
9           all of this with you.

10          I am just trying to let you have a little bit of  
11          understanding of what he's going to tell you before we  
12          go, before I go into the evidence.

13          The second condition is that the State must prove  
14          that the defendant, the defendant's act was the  
15          proximate cause of the death.

16          Again, under the theory of acting in concert, as  
17          the judge will instruct you, it is not necessary that I  
18          prove to you or that you decide for yourself which one  
19          of these two assailants actually administered the blow  
20          that killed this woman. It is not necessary. But you  
21          have to find beyond a reasonable doubt that the blows  
22          that were administered to her, as the medical examiner  
23          said, resulted in her death.

24          The State contends there should be no difficulty  
25          in that vain.

1           Third, the defendant intended to kill the victim.

2           Now, this is just for first degree murder.

3           Let me tell you also there's two more elements of  
4           first degree murder, premeditation and deliberation.

5           Now, these last three that I am mentioning, intent  
6           to kill, premeditation and deliberation are all required  
7           in first degree murder. They are not required in second  
8           degree murder at all.

9           Second degree murder is the unlawful killing of  
10          another person with malice and in this case was a deadly  
11          weapon, where malice can be inferred but as to the  
12          intent to kill, seldom is somebody's attitude about what  
13          they intend to do provable by direct evidence. Seldom  
14          does any murderer scream out at the point that he's  
15          inflicting the fatal blow I am going to kill you. I  
16          intend to kill you with this. That's--seldom does that  
17          happen.

18          Circumstantial evidence is always allowed to prove  
19          what somebody's intent is.

20          When you take a weapon capable of inflicting the  
21          wound that you have seen and intentionally hit somebody  
22          over and over again with it, your intent to kill them is  
23          apparent from the circumstances.

24          The fact that more than one weapon is used, the  
25          way it was used. All of that is circumstantial evidence

1 of an intent to kill.

2 Fourth, that the defendant acted with  
3 premeditation and that is that he formed an intent to  
4 kill the victim over some period of time, however short.

5 Firstly, we know that these people weren't walking  
6 around downtown with weapons. They had to arm  
7 themselves in order to assault this lady with a deadly  
8 weapon. A period of time, however short. That's  
9 premeditation.

10 Deliberation means that you did it in an act of  
11 cool mind. That doesn't mean that you can't be mad  
12 about something. That doesn't mean that you have to  
13 have a total absence of passion or emotion and be like a  
14 hit man for the mafia or something like that. That  
15 doesn't necessarily mean that. Means intent to kill was  
16 formed for a fixed purpose.

17 Again, Judge Allen is going to read you the law as  
18 you are to apply it. You take that law as he gives it  
19 to you and apply it to the facts as you find them. If  
20 you find that he says something different than I say or  
21 Mr. Dodd says, of course, the judge is the giver of the  
22 law in this case.

23 Now, again, neither premeditation or deliberation  
24 are susceptible or are seldom susceptible to direct  
25 proof. Some of the circumstances the judge is going to

1 tell you that allow you to infer those two elements are  
2 lack of provocation from the victim. It isn't a case of  
3 self-defense. This lady didn't do anything to get  
4 herself killed.

5 The conduct of the defendant before and after the  
6 killing.

7 Now, if you think you have justifiably killed  
8 somebody, you don't create this myriad of lies to cover  
9 it up.

10 Use of grossly excessive force in the killing.  
11 Generally that's what, we talk about when we talk about  
12 self-defense. No self-defense in this case.

13 Infliction of lethal wounds after the victim was  
14 fell. That's something we will talk about later.

15 When was this lady beat? Was she running from the  
16 car as the defendant said in his jail statement to the  
17 other inmate or was she laying on the ground? Were her  
18 pants already down around her ankles when she was killed  
19 or when the fatal blows were administered.

20 The general circumstances and the manner in which  
21 the person was killed are all conditions which you can  
22 consider when you decide whether somebody has committed  
23 a premeditated murder after deliberation.

24 Now, the judge is going to tell you that this is  
25 how you go about this. You take that case, you go to

1 first degree murder. You determine whether the State  
2 has offered you sufficient evidence to prove, beyond a  
3 reasonable doubt, each and every element of that crime  
4 and if so, you find the defendant guilty.

5 If I haven't proven to you to your satisfaction,  
6 beyond a reasonable doubt, one or more of those  
7 elements, then you go to the next verdict, which is  
8 guilty of second degree murder by acting in concert.

9 Again, second degree murder differs from first  
10 degree murder. I don't have to prove that these men  
11 intended, specifically intended to kill this woman.  
12 There's a matter of intent in second degree, but it is  
13 just an intent to inflict the wound, or to do that which  
14 causes the wound.

15 If I intend to hit you in the head with a crowbar  
16 or some deadly weapon, I don't have to be intending to  
17 kill you but I am intending to hit you with it. That's  
18 the only intent that is needed in second degree murder.  
19 And that it was done with malice. And when you hit  
20 somebody in the head with a deadly weapon, malice is  
21 inferred.

22 The judge is going to tell you if you find the  
23 defendant, that I have failed to carry the burden of  
24 proof in either first degree murder or second degree  
25 murder, then it is your duty to check not guilty or have



1 your foreman do that, come out and return that verdict.

2 Those are the possible verdicts and a little bit  
3 about the law in a murder case.

4 There are going to be two cases submitted to you.  
5 The second one is accessory after the fact of murder.  
6 And basically what this is is if you believe this  
7 defendant, the story that he gave in jail to the other  
8 inmate. And I am not going to argue to you that there's  
9 probably something to be said for the fact that the  
10 defendant made this to somebody that he never thought it  
11 would come back on him, he never thought Ernest Andrews  
12 would tell about this. He made it at a time when his  
13 conscience was probably bothering him when he realized  
14 that he had been arrested for this murder and that  
15 nobody believed the ridiculous stories that he was  
16 telling. There may be some--I am not to, you know, I  
17 consider myself a fair person and I am not going to  
18 stand up here and argue to you that that doesn't lend a  
19 little credence to what's he's telling in jail might be  
20 the truth. That may be Johnny Beck committed this  
21 murder and that thereafter he knew Johnny Beck had  
22 committed this murder if you believe what he told  
23 Mr. Andrews because he said she, he came back and told  
24 me that she died with a smile on her face and that she  
25 wouldn't be partying anymore.

1           Thereafter, he attempted to drive the man from the  
2 scene. That's aiding and assisting somebody to escape  
3 detection and justice and punishment for what they had  
4 done knowing that he had committed this murder. This  
5 again, if you find that that statement is believable and  
6 you believe that that's what the defendant's part in  
7 this crime was, that's accessory after the fact.

8           The judge is going to tell you that to find the  
9 defendant guilty of accessory after the fact of murder  
10 first, that the murder was committed by Johnny Beck and  
11 that after the crime was committed, the defendant  
12 knowing that the crime was committed and that Johnny  
13 Beck did it, assisted Johnny Beck in escaping or  
14 attempting to escape detection, arrest and punishment.

15           Lying to the police, telling them that Johnny Beck  
16 was with you and you know that he didn't do anything, is  
17 attempting to assist Johnny Beck to escape the detection  
18 and punishment for what he had done. Again--let me tell  
19 you this though: I am going to go through a lot of this  
20 evidence and a lot of this evidence I argue to you tells  
21 you that that story, while getting toward the truth,  
22 still wasn't the truth. That story that he told Ernest  
23 Andrews was a lot closer than the first one I was going  
24 four wheeling at 2:30 in the morning but still wasn't  
25 the truth. There's plenty of physical evidence that

1 does not lie to let you know that.

2 Let's think about--before I get off of what the  
3 judge may tell you, let me tell you a couple of other  
4 things.

5 The judge is going to tell you about credibility  
6 of witnesses, that you are allowed to decide and it is  
7 your job to decide whether you believe everything  
8 somebody tells you, or some of what they tell you or  
9 nothing of what they tell you from this witness stand.

10 Before we started this, I told you that I was  
11 going to put a prostitute on the stand and I did. Eva  
12 Marie Kelly told you flat out that is what she was doing  
13 for a living at the time and where she is living right  
14 now. I hadn't told you that I had agreed to make some  
15 concessions on your probation violation to get her to  
16 testify and that judge is going to tell you that is  
17 something you should consider when you decide whether to  
18 believe her. I agree. I wouldn't argue any other way.  
19 It is something that you can consider. But when you  
20 consider that, consider also the fact that Ms. Kelly  
21 started telling about this, picking out the car and  
22 telling the officers what she saw on the 27th of  
23 September, 1991, before she ever knew Tom Ford, before  
24 she had any probation violation for me to help her with.  
25 She was telling the truth back then and she was

1       telling the truth when she testified for you in court  
2       last week.

3             If you, after considering both the fact that she's  
4       a prostitute, was making a living illegally at the time,  
5       is on probation and I have agreed to give her some  
6       benefit of testifying. I don't know how many of y'all  
7       read the agreement that was introduced into evidence. I  
8       introduced that evidence. I am not trying to hide a  
9       thing. And if you heard, if you heard Ms. Kelly from  
10      the witness stand and this evidence is uncontradicted,  
11      she didn't ask for that. I am the one that brought it  
12      up. That's what the evidence was and why? Because Tom  
13      Ford knows how people that have quote become snitches or  
14      rats are treated in prison. And five years of prison  
15      like that is a lot worse than ten unlike that.

16            The judge is also in regard to Mr. Andrews that  
17      admitted to a long lengthy criminal record tell you that  
18      you are to consider that when you decide whether to  
19      believe him or not. And again, it is something that  
20      should be considered. That's the law. You ought to but  
21      after you consider that and consider the other aspects  
22      of his testimony, was this reasonable, whether it was  
23      consistent with the believable evidence in this case,  
24      the physical evidence.

25            The fact that Mr. Andrews, although Tom Ford can

1 do nothing for him, continues to drive up here from New  
2 Bern to tell what he heard in jail and what was told to  
3 him in jail. That what he told Mallie Bisette right  
4 after this murder, right after meeting this defendant is  
5 still the truth and he's driving up here for no purpose  
6 of reward to tell you that. It is a little bit about  
7 how he talked about the old days in prison. Murders and  
8 rapists just didn't want to come to prison because it was  
9 unacceptable.

10 Murder is still unacceptable to Ernest Andrews.  
11 He's got family. He had a mother. He had somebody.  
12 He's the old school. Murder and rape are still  
13 unacceptable to him and he's not going to let it slide  
14 by even though he is a long time convict. He feels a  
15 responsibility. That's it. I mean. there's no evidence  
16 of any reason why he would come and tell this.

17 Let me get to, spend sometime telling you what the  
18 physical evidence in this case is because the State  
19 obviously is heavily depending on you to interpret the  
20 physical evidence because physical evidence does not  
21 lie. The rules of nature cannot be violated.

22 What did we learn from the scene itself?  
23 Mr. Dodd wants you to believe that this woman was not  
24 killed here. She was dumped at this scene.

25 Now, do we believe that? The medical examiner

1 didn't believe it and she says for good reason she  
2 couldn't tell that at the very beginning because all she  
3 got was a body shipped to her office in Chapel Hill in a  
4 body bag or sheet wrapped up some way and she couldn't  
5 tell whether that woman was killed at the scene. Those  
6 wounds were consistent with being killed anywhere and  
7 dumped anywhere.

8           Then she was asked to examine State's exhibits.  
9 Okay? And she looked at State's Exhibit 2 or 3, which-  
10 ever one it was, basically they were the same  
11 photographs of the lady's body and it was important in  
12 the aspect about whether this lady was killed somewhere  
13 else and dumped at the scene as the defendant would have  
14 you to believe to believe his story. For a good reason.  
15 People don't bleed except by seepage and gravity I  
16 believe is the terms she used after they are dead.  
17 Their heart is not pumping. There's nothing to move the  
18 blood. And she said yes, that's too much bleeding to be  
19 merely seepage or gravity bleeding. Lord, if you recall  
20 the picture, you can see this blood, huge amount of  
21 blood here under the head and then there's blood that  
22 had run all the way down the street by gravity. That  
23 was gravity blood running but it wasn't gravity bleeding  
24 from her head. This lady was killed at this scene.

25           Some other interesting aspects of this. Was she

1 killed at the scene? Well, I apologize for doing this.  
2 For the last few days I have set down and I have written  
3 things that I think are important on this. And I went  
4 back through and I thought everything was important.  
5 And this is something that I don't usually do. Tom Ford  
6 usually paces and talks from the heart. I've written  
7 down everything. I know I am going to miss a lot of  
8 things but there's a lot of things I need to tell you  
9 about right on this sheet and I am going to mark them  
10 off and make sure I don't miss them.

11 This lady had what I, what has been termed by some  
12 of the folks as a defensive type wound in the webbing  
13 between some fingers. There was a photograph introduced  
14 to you that showed this wound, shows the CCBI agents  
15 pulling her fingers apart so you can see that this wound  
16 goes almost from her webbing almost down to whatever  
17 line this is, whether it is the life line or heart line,  
18 I don't know but almost down to this line by this  
19 photograph. And that it obviously bled indicating that  
20 she was still alive. What is more important about that?

21 Folks, we had testimony about this unusual  
22 dripping of blood to the west side of the body. And  
23 contend to you that you don't need to be an expert in  
24 anything except common sense to look at this unusual  
25 dripping to the west side of the body and determine how

1 that got there. It is a perfect arc in the length of  
2 this lady's arm from her body. She's still moving her  
3 hand as it bleeds. She's moving her hand along the  
4 pavement, probably struggling. She's still alive at  
5 this scene. There's no other excuse in the world under  
6 the laws of nature for this arc of blood. We know that  
7 the blood is flowing this way. It didn't flow out in a  
8 nice arc like that. That's from her hand. She was  
9 still alive and there's a wound that we didn't really  
10 get to but the doctor talked about it. She had a wound  
11 on her right arm. Not a super serious wound but she had  
12 a wound on her right arm. Look at the other arm. Do  
13 you see the arc of blood where she's moved her arm?  
14 Here. Different places. She'd move her arm and it would  
15 bleed. Move her arm again and it would bleed.

16 Is that somebody that was killed somewhere else,  
17 dead as a doornail and dumped on this street? No. The  
18 woman was still struggling and still bleeding there at  
19 the scene. Doesn't take any expert to see that.

20 What can we learn from the luminal testing of the  
21 blood at the scene? We learned something in addition to  
22 this and that goes along with this. First of all, that  
23 a vehicle went through the blood here and went in a  
24 circle like this, or semicircle, almost circle and even  
25 up onto this curbing and back into here. We also learn



1 from the officer--and this testimony is uncontradicted,  
2 that when this vehicle went by there, if her arm had  
3 been in the position where it was when she finally died  
4 and expired and couldn't move anymore, this vehicle  
5 would have crushed her arm, would have run over her arm  
6 and would have been obvious to everybody, certainly this  
7 medical examiner that the truck had gone over her arm.

8 He testified to you that the first mark is about  
9 right here and it is inside the radius of her arm. Her  
10 arm was still moving as this defendant moved his  
11 vehicle. Moved after that. More evidence that she was  
12 killed there. But what else is it evidence of?

13 I need to show you that this defendant had an  
14 opportunity to kill this woman and basically what that  
15 means in this case is that he was there when she was  
16 killed.

17 Well, we know that this defendant was at the scene  
18 before she was killed. His truck was found at the  
19 scene. There's all kinds of evidence. The evidence of  
20 Sadie the bloodhound that this girl had been in the  
21 vehicle. Her scent was there. And the evidence of Eva  
22 and Ernest Andrews. Eva tells you that they came to her  
23 first on the street. She told you that most sincerely.  
24 When pressed on--she didn't offer this until Mr. Dodd  
25 pressed her and finally she said, look, I felt bad about

1 this. This could have been me if I had gotten in that  
2 truck. These people came up and asked her first to go.  
3 Why don't you come and go partying and partake in this  
4 cocaine and crack. Lucky for her she had a rule against  
5 going with two men in a vehicle. Unlucky for Jacquitta  
6 Thomas, but it was lucky for Eva but that evidence is  
7 completely believable.

8 The evidence of Ernest Andrews that the defendant  
9 told him they took a black prostitute to the scene. The  
10 defendant's truck and the defendant were there between  
11 the time the fatal blows were administered and the time  
12 that the woman died.

13 Again, it is uncontradicted evidence that the only  
14 way a tire could have gone through this thing with her  
15 arm there would be that she moved the arm later. That  
16 evidence is uncontradicted.

17 Now, I agree or I don't argue that you don't have  
18 to find that the blood on the defendant's vehicle in the  
19 right passenger front fender well and on the outside of  
20 that, just on the edge of that, the blood from this  
21 victim.

22 Think about this, folks, making this arc which  
23 wheel would come closest to the body. The right front.  
24 Had to be. At an angle like that. Okay? That's  
25 exactly where they expected to find it. And it wasn't a

1 miracle that they found it there. You can look at this  
2 and tell that is where you have to go find it. And more  
3 than that, it wasn't just up under the window well. I  
4 mean, it is not like this ran over something out on the  
5 road, driving down the road. Sure that would be in the  
6 fender well. But it is on the outside fender edge.  
7 Now, what does that tell you about what the tire was  
8 doing? To sling that blood up there the tire had to be  
9 making a hard left hand turn to throw stuff outside and  
10 up on the fender, which is exactly what this evidence  
11 tell you was happening.

12 I don't know if they will, kindly struck me when  
13 Mr. Pagani said we didn't find any blood on the tire. I  
14 don't know whether it was Mr. Pagani or maybe his  
15 supervisor, Mr. Hensley, and then he said the man had  
16 been out there trying to get his car, four wheel drive  
17 car unstuck from the mud or wherever it was. He just  
18 rubbed it off. It was obviously on there at sometime or  
19 it wouldn't have thrown it up in the wheel well and on  
20 the fender. Again, it is perfectly consistent with the  
21 reason it is not there because he drove over this damp  
22 ground and spun his tires.

23 We also know that the car was there after her  
24 death. Now, what can we learn from that? What can we  
25 learn from the fact that the car is sitting out here in

1 this field stuck? Well, you've all seen the evidence in  
2 this case, pictures of the vehicle and it's, no doubt  
3 there and it is stuck in this field. Any of you see any  
4 evidence of any four wheeling going on? Look in the  
5 background of these photographs. I don't know if any of  
6 you have seen, after somebody has been four wheeling in  
7 a four wheel drive vehicle over land that was damp what  
8 it does do. It ain't hard to see what has been going on  
9 there. Any of these photographs. You saw them all.  
10 Look at these. Look at this one. This one shows more  
11 of the surrounding area. Any of you see any evidence of  
12 four wheeling going on? Now right in the immediate area  
13 where the tires were being spun trying to extricate  
14 themselves, fine, but not back there driving in or doing  
15 something to have fun in a four wheel vehicle. It is  
16 absurd.

17 This defendant wants you to believe, well,  
18 actually he wanted the officers to believe in the  
19 beginning that he had gone to this location at 2:30 in  
20 the morning to go four wheeling.

21 Now, Johnny Howard didn't bite on that. And you  
22 shouldn't. It is ridiculous. We know this car wasn't  
23 back here so these two guys could smoke crack because he  
24 had already told you and told the officers that they  
25 were parked down this way and pulled down in here where

1 they could see out and nobody could see them and they  
2 smoked their crack. What reason is there to go-back  
3 there? This is obvious. Throw in the fact that--this  
4 is not even a street. It's obvious this is not a  
5 street. It has got a curb. Doesn't even have a drive  
6 going up to this access road. You have to drive over  
7 the curb to get up there. This is somebody leaving the  
8 scene of this murder in a manner so that they are not  
9 seen by the folks in the businesses down here and in a  
10 panic, you know, they have been drinking beer and  
11 smoking crack cocaine or injecting it into their arms.  
12 That's what this is. That's why that truck is back  
13 there. They thought they could get away that way  
14 without taking a chance on having anybody down here see  
15 the vehicle leave. That's what we learn from the very  
16 fact that the car is there and what it is doing back  
17 there. No reason to go back there and smoke crack  
18 cocaine. They've accomplished that already at Johnny  
19 Beck's brother's house, at the crack house and at this  
20 very location without any feeling of any sense of  
21 necessity to move. The defendant has got to explain  
22 something to you. But what he has explained is absurd.  
23 He's already accomplished what he tells you is the  
24 reason for him moving that vehicle back there.

25 Now, what did we learn from the victim as far as

1       whether she was performing the duties that she was  
2       expected to do? I mean, let's get to it. Why is this  
3       lady here in the first place? This defendant doesn't  
4       need Jacquitta Thomas in his car with them down here at  
5       this place to smoke crack cocaine. He certainly  
6       accomplished that by himself. Johnny Beck doesn't need  
7       it. The two of them together don't need her with them  
8       to smoke crack cocaine. They've accomplished it all  
9       over town by this statement.

10       Been to Johnny Beck's brother's house, some other  
11       crack house. They don't need her for that. What do  
12       they need her there for? Come on, folks. It is just  
13       like Ernest Andrews said, they took this lady there for  
14       sex. They are trading drugs for sex. She ends up with  
15       a cocaine level near fatal. They have been, she had  
16       been getting plenty of cocaine. But then as Ernest  
17       Andrews said the defendant said the fondling started or  
18       time came for her to fulfill her part of the bargain and  
19       for some reason she didn't. Now, how do we know --  
20       Ladies, what woman prostitute or otherwise would choose  
21       to have sex on a rough asphalt pavement covered with  
22       sand and debris when they could be in a vehicle. Right  
23       there. You tell me. Prostitute or otherwise that would  
24       choose to do that. It is absurd. This lady wasn't  
25       taking part. She had balked. She had reneged.

1           Now, I don't know how to say this other than the  
2 fact that-and I don't know where I learned this. But  
3 did you guys wonder why I was asking about how many  
4 pairs of panties this lady had on?

5           There's a reason for that. It is coupled with  
6 another piece of evidence found at the scene. They  
7 testified to you that they found a piece of tissue paper  
8 rolled up like a Tampon that it had appeared to be what,  
9 that it had on it what appeared to be blood.

10          In fact, it was sent to the lab, and if I can find  
11 that piece of evidence- Here it is. Piece of tissue  
12 paper. One piece of tissue paper, item number 45. And  
13 again I apologize. I know we inundated you folks with  
14 evidence, numbers, this and that, and that's the reason  
15 I need to talk to you as long as I do to let you know  
16 what the State contends is important and how it fits in.

17          One piece of tissue paper It was tested and  
18 compared to the known blood of this victim. The ABO  
19 type, the first test, the same. Secretor test, there  
20 was no decision on that because there's, I assume they  
21 don't do that test . The next test, PGM . The victim's  
22 type one. Tissue paper type one. PGM sub, one plus,  
23 one plus. ESD, one and one. HP test, two and two. PC  
24 test one F, one S. The PEP A test, which was incomplete  
25 or inconclusive for the tissue paper is the only tests

1 out of the seven tests that this serologist that  
2 administered that didn't show that that blood on that  
3 tissue paper was identical to the victim's blood and that  
4 is just because it was inconclusive. She couldn't tell or  
5 he couldn't tell. What does that tell us?

6 It tells me that Jacquitta Thomas either was or was  
7 expecting to be menstruating. She wore two pairs of  
8 panties and she had this tissue rolled up and was using  
9 it as a make shift Tampon.

10 Is that the reason she balked at the request of  
11 these gentleman? Is that why somebody got angry about it  
12 when her time came to put up for the cocaine that she had  
13 been smoking?

14 Now, something else tells me that this lady wasn't  
15 participating in this voluntarily. And, therefore,  
16 those people that had made that bargain with her would  
17 be upset about it. The pictures that we showed you of  
18 the body that Mr. Pagani told you were after he had  
19 removed her shoes and pants but the videotape. Do any  
20 of you remember the position of the body? I asked about  
21 her pants, how they looked before. The videotape showed  
22 that her pants were pulled down all the way to the top of  
23 her boots and past her feet. It appears that it was  
24 tucked in, her pants were actually tucked in her boots  
25 or they could have been pulled off but no they were



1 tucked in her boots. They were pulled all the way down  
2 past her feet but still stuck in her boots.

3 Now, is that some lady that is cooperating in  
4 taking her pants off. I don't even know if you can do  
5 that yourself. Maybe laying on your back and putting  
6 your feet up in the air or something you could do it. I  
7 don't know how you could do it any other way. It  
8 certainly indicates, and should indicate to you, that  
9 she didn't voluntarily take her pants off to commit  
10 these acts or what was being expected of her.

11 Let's think about one other thing, too. The  
12 evidence is uncontradicted in this case that the only  
13 blood on this lady's clothing other than the obvious  
14 blood on this part up here around her--and particularly  
15 on her pants was on the inside of her pants. One pant's  
16 leg on the inside.

17 Now, what does that tell you about when the fatal  
18 blows were administered to this lady? She wasn't running  
19 down the street with her pants on.

20 Her pants are already down around her ankles.  
21 They were inside out when she was killed because she was  
22 not cooperating. She was not fulfilling her part of  
23 this bargain.

24 We also have the defendant's statement to Ernest  
25 Andrews and I submit to you that this part is probably

1 reasonable. I don't--how it happened but the fact that  
2 she balked, that she got scared and she balked and  
3 wouldn't do what they expected of her and he wants you  
4 to believe it just got Johnny Beck mad enough for Johnny  
5 Beck to get out and chase her down and kill her but not  
6 him. And while you are thinking about that, now, think  
7 about his paying for all of this cocaine. Who do you  
8 think is going to be mad about it? The person just  
9 along for the ride, Johnny Beck? I mean, it is obvious  
10 what Johnny Beck is in this case for. It is due to the  
11 defendant's own words--I don't know how closely you read  
12 his statement. You got a chance to read it very  
13 closely. I met him in one of those neighborhoods and we  
14 just kindly hit it off. They don't know each other at  
15 work. Ernest Andrews was wrong about that. I don't  
16 know whether the defendnant told him that or that he is  
17 wrong about it. He met him in one of those  
18 neighborhoods. What did he need Johnny Beck for at all?  
19 Because when you, a white guy by himself drives down on  
20 East Street trying to buy cocaine in what appears to be a  
21 reasonably new vehicle, everybody down there thinks  
22 you are the man. They think you are an undercover  
23 police officer. Ain't nobody going to sell it to you.  
24 You have got to have some credibility. You got to have  
25 somebody that the people know. Johnny Beck. That is

1 the only reason he's along.

2 Now, whose going to be mad and whose going to be  
3 angry about this woman not fulfilling her bargain? The  
4 guy that is just along for the ride or the guy that's  
5 paying for all of this cocaine? The defendant couldn't  
6 even pay this girl three dollars for the ride to the  
7 service station when this was all over cause in his  
8 words spent all his money. And while we are at this,  
9 let me make one other point. The State, although I  
10 offered this defendant's statement into evidence, isn't  
11 bound by it. I can by believable evidence can prove to  
12 you that what he said isn't truth, parts of it isn't  
13 true and they are not. The evidence is clear as a bell  
14 on that. I am not bound by his statement. Why did I do  
15 it? Accessory after the fact. I have got to prove that  
16 he assisted this man in some way. Mr. Beck, if you  
17 believe that story, lied to the police. A perfect way  
18 to assist somebody to escape detection.

19 Now, what did we learned from the wounds on this  
20 lady's body? Before I leave that statement, let me tell  
21 you this: How many of you folks expected me to put the  
22 officer on the stand and have him tell yon this man  
23 said, yelp, we did it. We murdered her and this is the  
24 way we did it .

25 How often do you think the State is that lucky in

1 a murder case. I didn't offer that statement because I  
2 expected to believe it. I offered that statement to tell  
3 you other things. I offered that statement to tell you  
4 that this man would lie about things that you find,  
5 that you have to find from this evidence to be true.

6 Think about that. Why he is lying about this?

7 What did we learn about the wounds on this woman's  
8 body? We know that there are two distinctively  
9 different kinds of wounds. They are blunt force trauma  
10 wounds that the doctor tells you are made not only with  
11 a, with a instrument she says that is capable of being  
12 swung or some way used to apply heavy crushing blows  
13 with great force to somebody's head.

14 Now, that's the first kind of wounds.

15 Then strangely enough we have cuts, slices. This  
16 doctor tried her best to sit up there for us and think of  
17 a weapon that had both of those types of abilities  
18 and she couldn't do it and there's a good reason for it.  
19 There were two weapons.

20 Also, the fact that--when you think about this now,  
21 the blunt force blows are obviously done with great  
22 force, heavy crushing blows and yet the knife wounds or  
23 the cutting wounds, which would obviously be a much  
24 easier way of killing somebody or doing great bodily  
25 injury to them especially chest area where these cuts

1 are all superficial wounds are not intended to kill  
2 anybody.

3 What does that tell you? Tells me that the same  
4 person isn't administering the blows. On the one hand  
5 you have got somebody that really means business and that  
6 person with that heavy weapon and the person with the  
7 knife, or whatever it is that is used to make cuts, isn't  
8 trying to kill somebody.

9 You got two type of weapons administering wounds in  
10 two different type of ways.

11 Now, think about something else. The body will  
12 tell you this. We know that because blood is on the  
13 inside of this lady's pants, that she had her pants down  
14 at least when some of these wounds were inflicted on  
15 her. Okay? I am doubting, and I expect you are, that  
16 she was running or doing anything with her pants pulled  
17 down over and past her boots. She was either down on  
18 her knees as you saw that one scuff or already down on  
19 the ground. And, folks, why are her pants down, her  
20 panties down, both pairs, and this Tampon like thing  
21 taken out? Somebody is expecting to have sex with this  
22 lady at some point.

23 Now, what's important about these wound is this:  
24 The heavy blows with the instrument, the blunt force  
25 instrument are applied from above and to the right side

1 of her head. Yet also the wounds with the knife, the  
2 vast majority of them or the cutting instrument, I don't  
3 know what it is--I do not even have to prove to you what  
4 instrument was used against this lady. They had a  
5 chance to take the instrument with them and dispose of  
6 it. Not you and not I. This defendant and Johnny Beck.  
7 They left the scene. They had a chance to dispose of  
8 anything they wanted to. They went to this location out  
9 in the woods where there's a swamp and canal all around  
10 it.

11 The law doesn't require me to go in there and find  
12 that weapon or go where they took it to. No. Doesn't  
13 require that. But those wounds with the cutting edge  
14 are applied from below and to the right. You tell me  
15 how somebody up here bashing this lady in the head also  
16 cut her down here.

17 There's a good reason for it. There were two  
18 people with two different kinds of weapons.

19 You tell me how you have a weapon, heavy blunt  
20 force weapon in one hand and knife in the other and you  
21 jerk this lady's pants off. You tell me how you do  
22 that. With your teeth? There was more than one  
23 attacker, ladies and gentlemen.

24 This lady, the best evidence is, was being held by  
25 somebody up here while somebody else took her pants off.

1 She struggled. Somebody down--I mean, she may have even  
2 been pulled on the asphalt. You saw the wounds on her  
3 back. She struggled. She made it up to one thigh,  
4 trying to roll, I assume there's evidence that she had at  
5 least contact with the ground with her thigh. Wounds on  
6 her knees.

7 While I am talking about the blood--now, this  
8 lady, you know, this murder victim was at the scene and  
9 yet on her pants there's just that little bit of blood  
10 on the inside of her pants.

11 Well, I know that you are going to hear from  
12 Mr. Dodd. What about the blood that would have been on  
13 these victims--I mean, these defendants. What about all  
14 of that blood. Mr. Ford didn't introduce a bit of  
15 evidence about that.

16 Well, think about this, folks. Has anybody said  
17 that they had their shirts on when this was going on, or  
18 their pants. Has anybody said they had their shirts on  
19 when this was going on? You think they did? This man  
20 in his own car or Mr. Beck for that matter expecting to  
21 have sex with this woman had their T--shirts on. Plus  
22 the fact that I don't know how you can strike somebody  
23 with a weapon and hit it so that it comes back toward  
24 you and you get the blood on you. You know, our arms  
25 just don't work that way. When you are hitting

1 somebody, you hit them like that and the blood goes.  
2 And both of these men left the scene of this crime for  
3 hours, plenty of opportunity to take care of anything  
4 they needed to, weapon wise, blood wise. We have only  
5 got their word for what they were wearing that night.

6 What can we learn from the debris at the scene?  
7 The defendant says he parked down in this way and, I  
8 believe, it was Mr. Hensley, one of the agents with  
9 CCBI, with absolutely no interest whatsoever to be  
10 served in this case, tells you there was a bunch of  
11 debris down here. Among that debris there were matches  
12 that had been used but weren't wet, which to him was  
13 important because there was dew on everything else that  
14 had been there from the very early, early morning hours.  
15 There were little plastic baggies, type, cellophane type  
16 things described by Officer Kenan to you. Eva Kelly  
17 described them to you. She saw the defendant, Mr. Beck,  
18 held his hand out trying to talk her into the car to go  
19 partying with them. She said they had cocaine. She  
20 described it. That's found at the scene. Gives  
21 credence to everybody.

22 Again, the defendant only knows Mr. Beck for one  
23 thing, from one of those neighborhoods. He's there for  
24 the purpose, Mr. Beck is there for the purpose of  
25 helping the defendant secure cocaine.



1           And what does this tell you about this?

2       First of all, this car was parked down here originally  
3       somewhere. The doors open that way. When this lady got  
4       out, if and when she tried to get away, when she was  
5       scared and she had balked, she couldn't go back this way  
6       because that would put her running through the door.  
7       The first thing would have been to go this way and low  
8       and behold that's where the body is found.

9           Now, Mr. Ford, explain to me then with the car  
10       parked down here, why we have got these tracks back  
11       there. Folks, these folks made more than one turn in  
12       this car. They were parked here or down here in this  
13       area somewhere smoking this crack. The matches are  
14       there, the containers that it came in are there.

15           After this assault, they drove around like this to  
16       see if the lady was alive or dead and at that point got  
17       close enough to her body when her arm wasn't in the  
18       manner that it is now and then did this. I don't know  
19       or do I need to prove to you whether they saw a car  
20       coming, they saw lights down there from the businesses  
21       or they just decided they would go out that way and not  
22       take a chance on somebody seeing them. But they made  
23       this turn and then out.

24           What do we know and what do we learn from the  
25       fact, the untruths that this defendant has told you?

1 This defendant wanted you to believe that that body  
2 wasn't there when he arrived. He wanted the officers to  
3 believe that, too. But the officers knew though if the  
4 body wasn't there when you arrived and you just parked  
5 and pulled back up in here, how did you get the blood on  
6 you?

7 Well, let's think past this. Actually the body  
8 wasn't there when he arrived. It was sitting in the car  
9 with him. That's the believable evidence from Eva Kelly  
10 and everybody else. Why do you go to a dead end on  
11 Blount Street, South Blount Street where he, he  
12 obviously doesn't know this location because he drives  
13 out in a place where you can't leave. Why do you go  
14 there to smoke crack cocaine?

15 He had been at least one other place, Mr. Beck's  
16 brother's house, which has got to be more comfortable  
17 than sitting in your car. You live in Cary. Your  
18 codefendant lives in west Raleigh. Why do you go here?

19 Folks, Jacquitta Thomas was with them. They  
20 expected to have sex with her and then they expected to  
21 drop her off. They didn't expect to take her to Cary  
22 and have her walk back from Cary. They had to go  
23 somewhere near where they picked her up. That is part  
24 of the deal. We give you the cocaine. We party. You  
25 give us the sex and we drop you off and we go home.

1 That's the only reason in this world that they need to  
2 be in this place at all because they have this woman,  
3 they've picked her up ten blocks away or so on East  
4 Street, the 400 block of East Street, and when this is  
5 over with, they can't have her in Cary.

6 Eva Kelly's testimony about whether this woman was  
7 in the car with them when she went here. I again, you  
8 know, I told you, I submit to you that Eva Kelly  
9 regardless of what she is and what she has done is  
10 believable. She I. D.'d the truck from the very  
11 beginning from this photograph in September. She told  
12 the officers, yes, I saw that truck. It came by here.  
13 She described the people in it. Evidently identified  
14 the people in it before anything happened.

15 She felt bad about this because Eva Kelly, no  
16 matter what she is, she's not stupid and she realizes  
17 that she came this close to being the person laying on  
18 the pavement.

19 Now, she also did something else from the stand.  
20 Mr. Dodd wanted you, this lady, Ms. Kelly looked at this  
21 defendant and said that's the man that was in the truck  
22 and in the house and that I saw leaving with Jackie.  
23 Okay? And then she says but his hair was lighter and  
24 she went like this. Did you notice her doing that?  
25 Like fluffing hair back or something but she says it is

1 lighter. Now, how right she was.

2 We are trying this man at the end of the winter.  
3 Some of us have red faces today but our hair hadn't  
4 gotten lighter from the summer hues, from a summer of  
5 water skiing, not yet. But in September of 1991, with  
6 his water skis still in the truck, this defendant's hair  
7 was sun bleached. It was lighter from the sun.

8 Now, either Eva Kelly is being as honest as she  
9 can be with you, saw this defendant right where she saw  
10 him, said he was, described his hair perfectly or she is  
11 the most cunning woman that I've ever met. She has  
12 realized, you know, she wasn't here for the testimony  
13 about the water skis and that stuff. She has hit this  
14 nail right on the head. The only thing that looks  
15 different about him now his hair was lighter after a  
16 summer of water skiing.

17 In fact, he must have still been going on. He was  
18 keeping his water skis in the car.

19 Furthermore, the testimony she gave to you about  
20 how she came in contact with these people and why she  
21 was angry--I mean, you know, Eva Kelly is renting a room  
22 off a kitchen of a crack house. That's the way she is  
23 living. I mean, that is the way that she feeds herself  
24 day-to-day. That's the only place she has of her own.  
25 She takes customers as she called them, dates, I think

1 is the term she used but she is paying rent. That was  
2 important to her. That was her place. She took this  
3 date there and here's four people, Whoopie, Jackie, this  
4 defendant and the black codefendant. She was mad and  
5 she told you that. I was angry about it. I came in  
6 here. My date left because he was afraid of all of  
7 those people. All of that stuff makes her believable  
8 and it is good reason why you feel -- Mr. Dodd said  
9 something in voir dire to you about not making a  
10 decision on your gut feeling. Sometimes, folks, that's  
11 where the truth hits us first. You set there and listen  
12 to Eva Kelly, you know, you got the feeling down deep  
13 inside that as bad as this may be is, the kind of pitiful  
14 life that she has to live and leads, she was telling you  
15 the truth about this. Don't deny that feeling just  
16 because that is where it started. It is sincere. It is  
17 just as jumping up in your heart. What other untruth--I  
18 mean, and for that reason it is perfectly clear that  
19 this defendant is not telling, didn't tell the officers  
20 the truth about this woman ever being in his car. You  
21 got Sadie. You got Ernest Andrews. You got Ms. Kelly.  
22 You have got the physical facts at the scene. That he  
23 was there to go four wheeling, that's what he started--  
24 his first story to the police was, we saw this body  
25 because we went down there to go to four wheeling. At

1 2:30 in the morning in a place you don't know. Come on.  
2 It's absurd. It doesn't make a bit of sense and when  
3 things don't make sense to you, there's generally a good  
4 reason for it because it is not true. These officers  
5 went, right. You know, tell me another one. He's  
6 there at that location with a buddy that is good for one  
7 thing and that is help him get cocaine. He's at a place  
8 that he doesn't know. There's absolutely no evidence  
9 that you have already seen that anybody went four  
10 wheeling in that location.

11 Finally the defendant, I don't know whether he  
12 acknowledges the fact that he didn't go there four  
13 wheeling but he changes his story. No, then we are  
14 there for cocaine use. Again, why did he need to go  
15 there. It's not near his house. It is not on the way  
16 to his house. It is not on the way to his codefendant's  
17 house. That's not why he is there and even if you  
18 believe that he went to this location to use cocaine  
19 solely, I mean obviously they went there to use cocaine  
20 because that was the deal. Jacquitta Thomas was going  
21 to get some partying done before her part of the  
22 partying came. Why is his truck back there? If he just  
23 went there to use cocaine, why didn't he just drive on  
24 out? We know that they accomplished the cocaine.  
25 Smoking right here. No reason for him to be back there

1 if what he is telling you is the truth. Doesn't make  
2 sense. There's a reason for it because he's not telling  
3 you the truth. He didn't tell these officers the truth.

4 Again, the girl is not known to him. There's --  
5 now, Eva Kelly says that she saw this woman leave with  
6 these two men. And Mr. Dodd, and I am not going to tell  
7 you that she didn't, hadn't told the officer that if  
8 that was the person she knew, she couldn't tell it from  
9 that photo, didn't look like her.

10 Then I asked her to describe Jackie to you. Jackie  
11 is a five--I mean, a female about two inches shorter than  
12 Eva Thomas is the way she described her. That she's got,  
13 that she had real short hair and that she was heavy in  
14 the hips or thick in the hips and that her name was  
15 Jackie.

16 Well, what a coincidence. Look at this woman's  
17 hair. If you can look past what has been done to her,  
18 look at her hair. For a woman that is extremely short  
19 hair and she is thick in the hips and her name is  
20 Jackie.

21 Ernest Andrews again--and also the testimony of  
22 Sadie. Why is that important? Sadie doesn't know  
23 anything about this. A car means nothing more to Sadie,  
24 the bloodhound, than a tree does. It means nothing more  
25 to her than an outbuilding. She knows that she's

1       trained, I give you this scent and you follow it or go  
2       find it. If you lose the scent, you look around until  
3       you find it again. That's what Sadie does for a living.  
4       And it is incredibly hard for us to grasp the concept  
5       because we all have a sense of smell and we know what a  
6       burning steak smells like or, you know, what a rose  
7       smells like.

8               It is incredibly hard for us to grasp the concept  
9       that Sadie can do so much more than that, that she walks  
10      through a world where smells are as much to her as  
11      eyesight is to us. That she can tell the difference  
12      between you and you by that brief interlude with your  
13      scent and every person clean, dirty, black, white,  
14      Chinese has a scent and that scent is always there.

15             Now you might wear an old polyester blouse that  
16      just doesn't have any fabric to rub off on something or  
17      pants and sit down somewhere and not leave a fiber but  
18      you are going to leave your scent. There's nothing that  
19      you can do about that. It is not just luck whether that  
20      happens. You can get in the car and only get in by  
21      touching things that won't carry fingerprints. You  
22      climb in the back seat of a Nissan Pathfinder. That's a  
23      two door car. You climb in the back seat. You got to  
24      grab the back of the front seat to get in there. You  
25      can't take fingerprints off that. You heard it. You



1 didn't leave your fingerprints in that car but you left  
2 your scent. You didn't have any choice about that. It  
3 is not a matter of luck. It is a constant giver and  
4 Sadie can detect that and she did.

5         You know, that is something that always happens.  
6 Transfers of fibers is haphazard plus you got to depend  
7 on somebody being able to find it. You know, you may  
8 leave something and even the most dedicated CCBI agent  
9 might not locate it but your scent is going to be there  
10 and Sadie is going to find it. She did.

11         While I am digressing about this kind of evidence  
12 and the hair transfer, there's evidence that was placed  
13 in without objection by me that there was no evidence of  
14 any hair transfer in this case.

15         Now, and you know-- what does that mean? That  
16 means either you expect to find hair transfers, well,  
17 you don't expect it but you expect that you might be  
18 able to find hair transfers from people having  
19 intercourse when they have sex.

20         You hope that you get a hair transfer if you are  
21 in my business for evidence. No evidence that you  
22 always get that. But we know here there was some hairs  
23 on this lady's face and they went to the S.B.I. but the  
24 S.B.I. agent didn't find anything inconsistent with  
25 that. Why? How much of this lady's hair do you think

1 was dislodged when her head was split in the manner that  
2 it was.

3 Now, this is not a pretty picture but it is  
4 definitely explanatory of what I am talking to you  
5 about. This wound administered to the top of this  
6 lady's head, this is after it has been shaved so that  
7 you can see it and the doctor could show it.

8 Do you think that this blood came out of this  
9 wound off that weapon that only blood was left on the  
10 weapon that made that wound with the force that was  
11 applied to it? Hair on this body I argument to you  
12 more than likely came right off this lady's head and  
13 stuck in the other blood that was on her face.

14 Again, there's no evidence that there was transfer  
15 of any kind. Just Jacquitta's scent.

16 What other evidence tells us that that girl was in  
17 the car? First of all, she's got all of this cocaine in  
18 her blood and the defendant tells you that's all that  
19 they had been doing.

20 Another thing I found real interesting about this  
21 was that this defendant was trying to cooperate so much,  
22 was taking them around and showing them everything but  
23 there was a couple of crack houses that he couldn't  
24 remember where they were.

25 Now, if you picked Jacquitta Thomas up and went in

1 a crack house with her where you knew everybody has seen  
2 you, where she obviously knew the people there or you  
3 wouldn't have gotten in there, would you tell the police  
4 that is where you got her so they would go prancing in  
5 there and say did anybody see who this lady left with.  
6 Would you tell them that's where you got your crack  
7 cocaine? What are the police going to do at that point?  
8 Well, have you seen this man and was he with anybody?  
9 That's a convenient memory, folks. And there's a reason  
10 for it. He didn't want to be associated with that house  
11 because that's exactly where, although he was admitting  
12 to the cocaine use. Yes, I was down there buying  
13 cocaine. He's admitting that. Nothing to be hidden  
14 there but I couldn't remember where that house was  
15 because he knew what that meant in the long haul.

16 Now, this is the part that I found particularly  
17 interesting. This man wants you to believe that he got  
18 ten feet from this, ten to fifteen feet to be fair, from  
19 this body and he couldn't tell whether it was a man or a  
20 woman. He thought it was black. He thought it could be  
21 rolled up carpet. Okay? Ten to fifteen feet away,  
22 folks. Okay? Yet by his testimony fifty to a hundred  
23 yards down the road and by the officer's testimony it is  
24 two hundred yards to the first building. He said they  
25 had made it to the first building on the right as you

1 are walking out, where they put a beer in the trash can  
2 or something of that nature but the codefendant says  
3 don't look back. There's somebody back there. Grant  
4 you, the first thing you are going to do, turn around  
5 and look. Okay? Ten to fifteen away he can't tell  
6 whether this is rolled up carpet or a dead woman but at  
7 two hundred yards he can tell not only that it is a male  
8 standing over her body, this mysterious male but he's  
9 either got on a red shirt and white pants or a white  
10 shirt and red pants. However, it was he could remember  
11 those two colors. He just couldn't remember whether it  
12 was the shirt that was red or the pants red. He could  
13 see that from two hundred yards but for ten feet he  
14 couldn't see if this lady was, you know, a body of a  
15 woman. That's absurd.

16 And what is more important about that is this: You  
17 are Johnny Beck. You know that you are about to get  
18 charged with murder, too. You don't know what your  
19 codefendant has said or when the police say, did you see  
20 anybody else at the scene? Was anybody else there? You  
21 don't even mention this man that you have seen standing  
22 over the body just as you are leaving. That is -- man,  
23 they had four and a half hours to get their story  
24 straight but they must have missed, somebody missed that  
25 part. Either this defendant got too creative or

1 Mr. Beck couldn't remember what he was suppose to say  
2 but there isn't any reason in this world somebody  
3 knowing that they are getting ready to be charged with  
4 murder, wouldn't say, gosh, yeah, there was this guy that  
5 was standing over the body. I told him about it.

6 You heard me ask the officer, did you ask him if  
7 anybody else was there? Did you give him a chance?  
8 Johnny Beck never mentioned the mystery man. It is a  
9 figment of this defendant's imagination.

10 Maybe it was meant to explain if anybody was a  
11 white guy down there. I don't know. But it is obvious  
12 when you take into context of this evidence that it  
13 isn't true. Well, we know that he lied to his wife. He  
14 told her that he got the truck stuck and had been hitch  
15 hiking and walking and walking and hitchhiking all night  
16 long.

17 Okay? It's easy enough for you to say. Okay, he  
18 didn't want to tell his wife he was out spending his  
19 money on crack cocaine. Yet, in his own words he said  
20 that when his wife knew that he was Johnny Beck, that  
21 that pretty much, she knew that what that meant in  
22 regards to drugs. That if he was with Johnny Beck,  
23 there wasn't but for one purpose for him to be with  
24 Johnny Beck.

25 So he's telling you up front that he was with

1 Johnny Beck and that she knew that meant that he was  
2 doing drugs. Well, why was he still lying to his wife?  
3 Well, every wife up here can tell you that. Women are  
4 going to put up with your shortcomings when they think  
5 there's nothing that you can do about it or when it is  
6 something that they don't have any part of. Your  
7 husband can be an alcoholic. Your husband can be a drug  
8 addict and you can do what you want to help him and hope  
9 that he does that. That's one thing. But when your  
10 husband starts taking prostitutes off with him, no woman  
11 is going to put up with that. And that's why he  
12 couldn't tell his wife what was going on. He could have  
13 called his wife all along and asked for a ride home. He  
14 could have had his truck towed, towed out of there. He  
15 tells you the first thing he did was walk to a service  
16 station before this lady picked him up. He didn't do  
17 it. Didn't do it. Why not? Because he knew the body  
18 was there and knew of his involvement with it.

19 Who wouldn't, if they had already admitted to the  
20 fact that they were with Johnny Beck and knew their wife  
21 meant - wouldn't say, I am not, I am leaving this stuff  
22 alone. We got down there and walking out and I saw what  
23 appeared to be a dead body. I mean, if he saw a body.  
24 I mean, this is straightening me out. I ain't going  
25 back, going back down to that part of town whatever.

1           The police asked him, did you tell your wife about  
2 the body? No.

3           Why is it important, the physical evidence and the  
4 believable evidence in this case shows the defendant has  
5 told you or told the officers many things that aren't  
6 true. And that's because they show his involvement in  
7 this girl's death.

8           We don't lie about things that don't make a  
9 difference to us. We don't lie about things that aren't  
10 important to us. We certainly would lie about things  
11 that make us guilty of murder. It's a circumstance, all  
12 of these falsehoods that he has told and the reason for  
13 them is a circumstance that you can use when you decide  
14 whether this defendant acting in concert with Johnny  
15 Beck took a part in this murder. He said it was  
16 cocaine, that is the reason he couldn't tell about it.  
17 We know that's not true because he told the officers all  
18 about it. He kept telling the untruth about the body  
19 though. The body wasn't there when I went in. I know  
20 it wasn't there. I had my lights on. You know, I am  
21 looking around. We have drove around and got in a  
22 certain position so nobody could see us. Why is he  
23 still lying about that body? Well, then the other  
24 statement about to his wife, or to the officer about,  
25 about the prostitute. Well, I am pretty faithful in

1 marriage. I do tend to go wild on drugs and alcohol.

2 And Ernest Andrews' statement. It just kind'a got  
3 out of hand. Things just got out of hand.

4 Now, Ernest Andrews was trying to remember exactly  
5 what this defendant, he gave the defendant the benefit of  
6 every doubt when he was saying what the defendant had  
7 told him. I don't want to mislead you here or there.

8 He didn't say this guy that was with me went  
9 berserk. He got out of hand. He went wild and killed  
10 this woman. He said things just got out of hand.

11 Let me ask you this: If you had gone down there  
12 with Johnny Beck and he had done what this defendant  
13 claims to Ernest Andrews that he had done by himself,  
14 out of your car, with you present and put you in the  
15 position this defendant's in, would you be lying for  
16 Johnny Beck? If that was the way it really happened,  
17 would you be telling the officers he was with me all  
18 night. I know he didn't do this. He wasn't with the  
19 girl either. He was with me. If that's the way it was,  
20 if somebody had done that to you, if somebody had come  
21 that close to ruining your life, the first thing you  
22 would have done was told the police exactly what  
23 happened.

24 You know, his wife can get over the fact that he was  
25 with a prostitute, you know. I mean, we have to



1 make some hard choices but if it is like he's trying to  
2 tell you it is, he wouldn't be sticking by Johnny Beck  
3 trying to save him. There's a reason that he's doing  
4 that. He knows that if he tells the truth about Johnny  
5 Beck's involvement, Johnny Beck is going to turn around  
6 and tell the truth, too. Johnny Beck is going to say,  
7 whoa. This ain't the way it happened. We both were  
8 involved in this. The only reasonable -- I mean, no  
9 other, no other reasonable explanation whatsoever for  
10 this.

11 Now, the judge is also going to tell you, why I  
12 get to this, the same reason that he had to lie to the  
13 officers about the girl's death also involves motive for  
14 her death. I mean, I don't have to prove motive to you.  
15 And the fact that a prostitute who you spent some crack  
16 cocaine money on and then balks or can't do what you  
17 want her to do for one physical reason or another or  
18 she's scared or you are being too rough or whatever,  
19 does not seem reason enough for you folks to kill  
20 anybody. but it was reason enough for somebody.

21 The defendant told Ernest Andrews that it was reason  
22 enough for Johnny Beck to do it.

23 The judge is going to tell you again, I don't have  
24 to prove motive to you but I will submit to you that I  
25 have. The motive is exactly what I say. She couldn't

1       come across with her part of the deal and it made them  
2       angry. And you got to take this in the concept of  
3       somebody whose been drinking beer and smoking crack. It  
4       is not exactly sitting there, you know, giving this the  
5       best thought that he's ever had. He really isn't in the  
6       greatest position to reason and say, you know, this just  
7       is not worth it. Let her go and forget it. Uh-uh.  
8       This is somebody by their own explanation has been  
9       drinking beer and smoking crack. And by Eva's  
10      explanation been shooting crack cocaine in his arm or  
11      shooting cocaine in his arm.

12             Again, sex for cocaine. Eva was asked first.  
13      Wouldn't go. She knew what partying meant, Lord. Just  
14      like she knows what a customer or a date is to her. You  
15      and I both now know that Eva Kelly's date isn't somebody  
16      that comes over on Saturday night and takes you to the  
17      prom. Okay?

18             Partying didn't mean just go down there and smoke  
19      up this cocaine. We can do this by ourselves. They  
20      didn't need Jackie Thomas for that. They needed Jackie  
21      Thomas for sex.

22             Again, who is buying all of this cocaine. I have  
23      been through this before. The person spending all of  
24      the money and having the expectation is just as likely,  
25      and I say more so, than the person Johnny Beck whose

1 just along for the ride.

2 And the motivation of a sexual attack in this  
3 case is just plain as the nose on my face, big as it is.  
4 Her pants are down around her ankles or past. Come on  
5 folks no need for that unless that was exactly what was  
6 going on.

7 It is not a motive that you and I would consider  
8 reasonable. You and I who had not been drinking beer  
9 all night and smoking crack cocaine.

10 What's the only reasonable--you take all of this  
11 stuff that we know to be the truth that we feel not only  
12 down here but in our heads and our hearts that are the  
13 truth in this case and what does it mean.

14 Now throw in this man's, we know this man's car is  
15 at the scene of this murder, that it has been within  
16 inches of this lady's body while she was still alive but  
17 while she is lying there dying. We know his car is  
18 stuck back here in a location where it appears that he's  
19 trying to leave in that manner that he can't leave.  
20 There's blood on the car, that the tracks go--I mean,  
21 these tracks go and I mean right even up on the curb so  
22 that we know the vehicle that made them was going up  
23 that road. The cocaine paraphernalia at the scene used.  
24 The toxicology report saying yes, this woman was  
25 filled with cocaine.

1           The different types of wounds. The different  
2 weapons. The different use of the weapons. The way the  
3 body was found. The blood on the inside of her pants,  
4 et cetera. The dog's reaction to the scent of this  
5 woman. Barking. I mean, he goes, climbs up on the car  
6 trying to sniff around the edge of this window. Goes  
7 down around the back and then to the passenger side  
8 doing the same thing. That's, you know, that's not a  
9 Nissan Pathfinder truck to Sadie. It is a vault for  
10 scents. She smells this victim out of that, out of  
11 those places where the air could transfer. That's how  
12 she could get the scent.

13           All the defendant's falsehoods and the stories he  
14 has told. The fact that he didn't tell his wife right  
15 off the bat and trying to get his truck pulled out. All  
16 of that. The fact that he didn't do anything -- I  
17 understand that sometimes you might, you might-- I  
18 mean, here's the situation. Now, you believe this  
19 defendant if you want to. He's walking out of a place,  
20 all the cocaine has been smoked up; his car is stuck and  
21 he needs to get it out of there and go to work the next  
22 morning. He walks out and sees this body.

23           Now, and he's not by himself. Now, this is a full  
24 grown man and he's not by himself. He's with another  
25 full grown man and neither one of them got within ten

1 feet of this body to see if the lady was still alive.

2 It doesn't take the greatest courage in the world,  
3 especially when you are not alone. You are going to do  
4 that. Okay? And you, also, if you didn't have anything  
5 to do with it, you are going to report it. You are  
6 certainly going to tell your wife or somebody else like  
7 that. I mean, your wife already knows it means cocaine.  
8 That you were out all night. You are going to tell your  
9 wife about it if you are not involved.

10 Eva Kelly's statements. Ernest Andrews'  
11 statements. What do these things tell you? Things just  
12 got out of hand. The only reasonable explanation for  
13 all of these facts, as I have described to you this  
14 morning, one thing, these two men picked up this lady,  
15 they had expectations that their partying was going to  
16 culminate in a sex act with her and it didn't come  
17 about. Points unerringly to the fact that this  
18 defendant participated in this murder. The different  
19 weapons. The different manners of use. The fact that  
20 he continues to tell falsehoods about it and also tries  
21 to cover for Johnny Beck.

22 I submit to you that because of all of this  
23 believable evidence nobody can abuse and nobody can  
24 change . The State has proven to you beyond a reasonable

1       doubt that this defendant participated with Johnny Beck  
2       in the murder of this woman.

3             And I realize that what I have told you about  
4       things just got out of hand may have you ushering me  
5       right out of the door as far as premeditation and  
6       deliberation or, you know, first degree murder.    I don't  
7       know.

8             There's plenty of evidence in this case, and the  
9       judge will explain it to you, that shows you that  
10       somebody did deliberate and this was a premeditated  
11       murder with intent to kill the way the wounds were  
12       inflicted, the number of the wounds, the manner, the  
13       force applied.    Plenty there.

14            I also realize and I know you are going to  
15       consider the fact that things just got out of hand means  
16       that they were doing these things and, you know, things  
17       just got out of hand.    Too much force was applied in  
18       trying to make her acquiesce and the woman got killed.  
19       If that's the facts as you find them to be, this is a  
20       second-degree murder.    If you find them to be the  
21       defendant armed himself with a weapon as well as his  
22       codefendant, et cetera, and then intentionally killing  
23       this woman in the manner of these wounds would certainly  
24       indicate to you, the excess and the brutality of the  
25       murder constitutes first degree murder, then it is your

1 duty to come back in here and look this man in the face  
2 and say you are guilty as Johnny Beck. You are guilty  
3 of murdering this woman in the first degree.

4 If you find the facts as you find them applied to  
5 the law as the judge gives it to you, makes this  
6 defendant guilty of second degree murder but proven that  
7 to you, beyond a reasonable doubt, don't hesitate to do  
8 that. Come back and look him in the face and tell him.

9 Now, as to the second charge of accessory after  
10 the fact, I mean, this defendant can't be guilty of both  
11 of these charges. I mean, you can't be a principal to a  
12 murder and an accessory after the fact.

13 I submit to you the believable evidence in this  
14 case is that this defendant, too, he participated in  
15 this murder. That's the only explanation for all the  
16 lying that he has done and the physical evidence of the  
17 wounds on this woman and, et cetera. But if you believe  
18 the story that he told Ernest Andrews that it was Johnny  
19 Beck that got out of hand and chased this woman down and  
20 killed her while he sat in the car, then it's your duty  
21 to come back here and find him guilty of accessory after  
22 the fact of murder and look him in the face and tell him  
23 that.

24 Again, you know, you didn't know what a hard job  
25 you had when you came down here. It is staring you in

1 the face now and it is your duty to complete it and I  
2 know that you will.

3 Again, there's different ways that he could have  
4 been an accessory. I mean, I, he obviously tried to  
5 drive Johnny Beck from the scene but was the woman dead  
6 at that time? You know, I say she wasn't dead at that  
7 time. You might believe that she was dead when they  
8 finally tried to leave. But lying to the police  
9 officers about his involvement as well Johnny Beck's  
10 assistance enough for accessory after the fact.

11 I am leaving this job up to you folks. The facts  
12 are there. It is said that the highest aim of every  
13 legal contest is the ascertainment of the truth. That  
14 somewhere within the facts of every case the truth  
15 abides. And where truth is, justice steps in and tips  
16 the scales. You folks don't have any friends in this  
17 case. You don't have any enemies in there case. I  
18 understand that. But you have a duty without anger or  
19 hope of promise to find the truth in this case and  
20 announce it.

21 Mr. Dodd has got a job to do and I know he is  
22 going to do it well. He is a good lawyer. He's going  
23 to tell you about a lot of things that could have been  
24 different, been done differently in this case. He's not  
25 going to change these physical facts, folks, as you



1 remember them to be.

2 And before you hear about the rights of this  
3 defendant, I want you to remember this: The whole time  
4 you listen to him, I want you to remember these three  
5 things. Jacquitta Thomas, prostitute or not, has as  
6 much right to live and be left to her well-being as  
7 anybody in the world, anybody. That was her right as a  
8 human and as an American just as, just as important as  
9 any right that this defendant has.

10 Her memory has a right for you to demand that the  
11 person responsible for her death, her son or her sons,  
12 be held accountable. And lastly, in your making a  
13 decision about whether this defendant is held  
14 accountable, she has a right for to you apply the same  
15 tests to him in her death as you would apply to somebody  
16 that had killed the mayor, or somebody that killed John  
17 F. Kennedy, or someone that killed one of your family or  
18 friends.

19 The fact that she was a prostitute, you know,  
20 making a living like that being and being high on  
21 cocaine and going off with folks like this doesn't  
22 change the circumstances or the manner in which you find  
23 the facts in this case. It is all the same.

24 I ask you to consider those three things when you  
25 are considering evidence in this case and the arguments

1 of Mr. Dodd.

2 What lawyers hate to have is the first argument  
3 because we all like to have the last word. And I know  
4 there's probably, there's 14 of you at this point and  
5 you've all heard the evidence a little different and  
6 things that have meant something to you that I haven't  
7 touched on. I know it. I mean, I lay awake at night  
8 thinking about that and I'll be sitting there in the  
9 entirety of Mr. Dodd's argument going, why didn't I, you  
10 know, the other side of that argument is this. Why  
11 didn't you ever reflect on that.

12 It's your duty to remember the other side of the  
13 arguments. It's your duty to speak for the people of  
14 the State of North Carolina when there's another side to  
15 what Mr. Dodd says and I know y'all will do that even  
16 though I can't do it because obviously I'll be sitting  
17 there with my turn having come and gone but don't think  
18 that I'm not wishing that I had, that I'm not wishing  
19 that I had spoken about something that he mentioned when  
20 there's another side. And to keep the integrity of this  
21 process, you yourself have to remember the other side of  
22 those things.

23 Again, I thank you for the attention that you have  
24 given me today talking to you and during the course of  
25 this trial and I thank each and everyone of you not only

1 for that but for coming and participating in the  
2 criminal justice system. It obviously mean a lot to me.  
3 And I know it will mean a lot more to you, each and  
4 everyone one of you, after having fulfilled your  
5 responsibility in this case. I thank you.

6 COURT: All right. Thank you, Mr. Ford.  
7 Ladies and gentlemen of the jury, before Mr. Dodd has  
8 his closing argument, I am going to give you your  
9 morning recess of fifteen minutes.

10 Now, you must still keep in mind that you are not  
11 to discuss this case among yourselves in anyway, nor  
12 allow anyone to say anything to you about this case.  
13 You are still to keep an open mind. You still should  
14 not form any opinions about this case. You must wait  
15 until you hear all the closing arguments and I give you  
16 the closing instructions on the law.

17 I'll ask everybody else to have a seat out in the  
18 audience and do not get up until this jury leaves.

19 I am going to give you a fifteen minute recess.  
20 Please be back in your seats in fifteen minutes. You  
21 may go for a recess.

22 [JURY LEAVES COURTROOM.]

23 COURT: Let the record show that the jury has  
24 been excused for their recess and the Court makes note  
25 that Mr. Ford commenced his argument at 9:32 a. m.,

1 concluded at 11:05 for one hour and thirty-three  
2 minutes. We will be in recess, Mr. Dodd, and then you  
3 may have your arguments.

4 MR. DODD: Thank you, Your Honor.

5 COURT: Be in recess, Mr. Sheriff.

6 [SHORT RECESS.]

7 -----

8 COURT: All right, bring the jury back in,  
9 Mr. Sheriff.

10 All right, let the record show that all members of  
11 the jury is back in the courtroom.

12 Mr. Dodd, the jury is with you.

13 MR. DODD: Thank you, Your Honor.

14 [NOTE: Argument of Mr. Dodd was not requested to be  
15 reported by anyone.]

16 COURT: All right. Thank you, Mr. Dodd.

17 Ladies and gentlemen of the jury, I am  
18 going--move this, Mr. Sheriff. Take that down so I can  
19 see all the jurors.

20 Ladies and gentlemen of the jury, I am going  
21 to let you go for your lunch now and we are running a  
22 little bit behind schedule so I am going to ask that you  
23 be back at 2:45 today instead of 2:30 but keep in mind  
24 while you are at lunch that you are not to talk among  
25 yourselves anything about this case. You are not to

1 allow anyone else to communicate or say anything else to  
2 you about this case. After you come back from lunch, I  
3 will give you the instructions on the law and let you go  
4 to the jury room and begin your deliberations. Everyone  
5 else remain seated and the jury is excused until 2:45.

6 [JURY LEAVES COURTROOM.]

7 COURT: All right, let the record show the  
8 jury has now been sent for a lunch recess. The Court  
9 makes note that Mr. Dodd commenced his argument at 11:26  
10 and concluded at 1:17, a total of one hour and fifty-one  
11 minutes.

12 We will take a lunch recess until 2:45.

13 [COURT RECESSED FOR LUNCH.]

14 -----

15 P. M. SESSION.

16 COURT: All right, let the record show all the  
17 attorneys and defendant are present.

18 All right, Mr. Sheriff, bring in the jury.

19 [JURY RETURNS TO JURY BOX.]

20 COURT: All right, let the record show that  
21 all the members of the jury is present.

22

23

24

25

1

2

3

4

5 CHARGE TO THE JURY BY HIS HONOR J. B. ALLEN, JR.

6

From Wake.

7

8 Members of the jury, all of the evidence has  
9 been presented. It is now your duty to decide from this  
evidence what the facts are.

10

You must then apply the law which I am about to  
11 give you to those facts.

12

13 It is absolutely necessary that you understand  
and apply the law as I give it to you and not as you  
14 think it is or as you might like it to be.

15

This is important because justice requires that  
16 everyone tried for the same crime be treated in the same  
17 way and have the same law applied to him.

18

The defendant, Gregory Taylor, has entered a plea of  
19 not guilty. The fact that he has been charged is no  
20 evidence of guilt. Under our system of justice when a  
21 defendant pleads not guilty, he is not required to prove  
22 his innocence. He is presumed to be innocent.

23

The State must prove to you that the defendant is  
24 guilty beyond a reasonable doubt.

25

A reasonable doubt is a doubt based on reason and

1 common sense arising out of some or all of the evidence  
2 that has been presented, or lack or insufficiency of the  
3 evidence, as the case may be.

4 Proof beyond a reasonable doubt is proof that fully  
5 satisfies or entirely convinces you of the defendant's  
6 guilt.

7 Now, members of the jury, you are the sole judges  
8 of the credibility of each witness. You must decide for  
9 yourselves whether to believe the testimony of any  
10 witness. You may believe all or any part or none of  
11 what a witness has said on the witness stand.

12 In determining whether to believe any witness you  
13 should apply the same test of truthfulness which you  
14 apply in your everyday affairs.

15 As applied to this trial these tests may include  
16 the opportunity of the witness to see, hear, know or  
17 remember the facts or occurrences about which he or she  
18 testified; the manner and appearance of the witness; any  
19 interest, bias or prejudice the witness may have; the  
20 apparent understanding and fairness of the witness;  
21 whether his or her testimony is reasonable, and whether  
22 his or her testimony is consistent with other believable  
23 evidence in this case.

24 Ladies and gentlemen, you are the sole judges of  
25 the weight to be given any evidence. By this I mean if

1       you decide that certain evidence is believable, you must  
2       then determine the importance of that evidence in light  
3       of all other believable evidence in the case.

4               Now, ladies and gentlemen, the defendant, Gregory  
5       Taylor, in this case has not testified.

6               The law of North Carolina gives him this  
7       privilege. This same law also assures him that his  
8       decision not to testify creates no presumption against  
9       him. Therefore, his silence is not to influence your  
10      decision in anyway.

11              I further instruct you that it is the law that  
12      there are two types of evidence from which you may find  
13      the truth as to the facts of a case.

14              Direct and circumstantial evidence. Direct evidence  
15      is the testimony of one who asserts actual knowledge of a  
16      fact such as an eyewitness.

17              Circumstantial evidence is proof of a chain or  
18      group of facts and circumstances indicating the guilt or  
19      innocence of a defendant.

20              The law makes no distinction between the weight  
21      to be given to either direct or circumstantial evidence  
22      nor is a greater degree of certainty required of  
23      circumstantial evidence than of direct evidence.

24              You should weigh all of the evidence in the case.  
25      After weighing all of the evidence, if you are not



1 convinced of the guilt of the defendant, beyond a  
2 reasonable doubt, you must find not guilty.

3 I instruct you that proof of a motive for the  
4 crime is permissible and often valuable but never  
5 essential for conviction. If you are convinced, beyond  
6 a reasonable doubt, that the defendant committed the  
7 crime, the presence or absence of motive is immaterial.

8 Motive may be shown by facts surrounding the act  
9 if they support a reasonable inference of motive when  
10 thus proved motive becomes a circumstance to be  
11 considered by you. The absence of motive is equally a  
12 circumstance to be considered on the side of innocence.

13 Ladies and gentlemen, in this trial you may find  
14 that a witness is interested in the outcome of this  
15 trial. In deciding whether or not to believe such a  
16 witness, you may take his or her interest into account.  
17 If after doing so, you believe his or her testimony in  
18 whole or in part, you should treat what you believe the  
19 same as any other believable evidence.

20 There is evidence which tends to show that a  
21 witness was testifying under an agreement with the  
22 prosecutor for a recommendation for sentence concession  
23 in exchange for her testimony. If you find that she  
24 testified in whole or in part for this reason, you  
25 should examine her testimony with great care and caution

1 in deciding whether or not to believe it. If after  
2 doing so, you believe her testimony in whole or in part,  
3 you should treat what you believe the same as any other  
4 believable evidence.

5 In this trial, you have heard testimony from a  
6 witness who has testified as an expert witness. An  
7 expert witness is permitted to testify in the form of an  
8 opinion in a field where she purports to have  
9 specialized skills or knowledge.

10 As I have instructed you, you are the sole judges  
11 of the credibility of each witness and the weight to be  
12 given to the testimony of each witness. In making this  
13 determination as to the testimony of an expert witness  
14 you should consider in addition to other tests of  
15 credibility and weight the witness' training,  
16 qualifications and experience or lack thereof, the  
17 reasons, if any, given for the opinion, whether the  
18 opinion is supported by facts that you find from the  
19 evidence, whether the opinion is reasonable and whether  
20 it is consistent with other believable evidence in the  
21 case. You should consider the opinion of an expert  
22 witness but you are not bound by it. In other words,  
23 you are not required to accept an expert witness;  
24 opinion to the exclusion of facts and circumstances  
25 disclosed by other testimony.

1           When evidence has been received tending to show  
2           that a witness has been convicted of criminal charges,  
3           you may consider this evidence for one purpose only. If  
4           considering the nature of the charges you believe that  
5           this bears on truthfulness, then you may consider it  
6           together with all other facts and circumstances bearing  
7           upon the witness' truthfulness in deciding whether you  
8           will believe or disbelieve his testimony at this trial.  
9           Except as it may bear on this decision, this evidence  
10          may not be considered by you in your determination of  
11          any fact in this case.

12          Now, ladies and gentlemen, in case 91 CRS 71728,  
13          the defendant, Gregory Taylor, has been accused of first  
14          degree murder. Under the law and the evidence in this  
15          case, it is your duty to return one of the following  
16          verdicts: Guilty of first degree murder or guilty of  
17          second degree murder, or not guilty.

18          I instruct you for a person to be guilty of a  
19          crime it is not necessary that he himself do all of the  
20          acts necessary to constitute the crime.

21          If two or more persons act together with a common  
22          purpose to commit first degree murder or second degree  
23          murder each of them is held responsible for the acts of  
24          the others done in the commission of first degree murder  
25          or second degree murder.

1           Now, first degree murder is the unlawful killing  
2 of a human being with malice and with premeditation and  
3 deliberation.

4           Second degree murder is the unlawfully killing of  
5 a human being with malice but without premeditation and  
6 deliberation.

7           Now, I charge that for you to find the defendant,  
8 Gregory Taylor, guilty of first degree murder the State  
9 must prove five things beyond a reasonable doubt.

10           First, that the defendant acting either by himself  
11 or acting together with Johnny Beck intentionally and  
12 with malice killed the victim, Jacquitta Thomas, with a  
13 deadly weapon.

14           Malice means not only hatred, ill will or spite,  
15 as it is ordinarily understood, to be sure that is  
16 malice, but it also means that condition of mind which  
17 prompts a person to take the life of another  
18 intentionally or to intentionally inflict serious bodily  
19 harm which proximately results in her death without just  
20 cause, excuse or justification.

21           If the State proves, beyond a reasonable doubt,  
22 that the defendant, Gregory Taylor, acting by himself or  
23 acting together with Johnny Beck intentionally killed  
24 the victim, Jacquitta Thomas, with a deadly weapon, or  
25 intentionally inflicted a wound upon the victim with a

1 deadly weapon that proximately caused the victim's  
2 death, you may infer first that the killing was  
3 unlawful, and second, that it was done with malice but  
4 you are not compelled to do so. You may consider this  
5 along with all other facts and circumstances in  
6 determining whether the killing was unlawful and whether  
7 it was done with malice.

8 Now, the State has the burden of proving, beyond a  
9 reasonable doubt, that the victim was killed with a  
10 deadly weapon.

11 There is evidence tending to show, but what it  
12 does show is for you to jury to say and determine, but  
13 there's evidence tending to show that the cause of death  
14 to Jacquitta Thomas was a blunt force injury to the head  
15 and neck.

16 If you find from the evidence, beyond a  
17 reasonable doubt, that the victim died as a result of a  
18 blunt force injury by some type of instrument, you may  
19 consider whether that instrument was a deadly weapon.

20 A deadly weapon is a weapon which is likely to  
21 cause death or serious injury. In determining the  
22 instrument involved as a deadly weapon you should  
23 consider its nature', the manner in which it was used,  
24 the size and strength of the defendant acting by himself  
25 or acting together with Johnny Beck as compared to the

1 victim.

2 Second, the State must prove that the defendant's  
3 act acting by himself or acting together with Johnny  
4 Beck was a proximate cause of the victim's death.

5 A proximate cause is a real cause. A cause  
6 without which the victim's death would not have  
7 occurred. The defendant's act need not have been the  
8 last cause or the nearest cause. It is sufficient if it  
9 concurred with some other cause acting at the same time  
10 which in combination with it proximately caused the  
11 death of the victim.

12 Third, that the defendant acting by himself or  
13 acting together with Johnny Beck intended to kill the  
14 victim.

15 Intent is a mental attitude seldom provable by  
16 direct evidence.

17 It must ordinarily be proved by circumstances  
18 from which it may be inferred. An intent to kill may be  
19 inferred from the nature of the assault, the manner in  
20 which it was made, the conduct of the parties and other  
21 relevant circumstances.

22 Fourth, that the defendant acting either by  
23 himself or acting with Johnny Beck acted with  
24 premeditation. That is, that he formed the intent to  
25 kill the victim over some period of time, however short,

1 before he acted.

2 Fifth, that the defendant acting either by himself  
3 or acting together with Johnny Beck acted with  
4 deliberation, which means that he acted while he was in a  
5 cool state of mind.

6 This does not mean that there had to be a total  
7 absence of passion or emotion. If the intent to kill  
8 was formed with a fixed purpose not under the influence  
9 of some suddenly aroused violent passion, it is  
10 immaterial that the defendant was in a state of passion  
11 or excited when the intent was carried into effect.

12 Neither premeditation nor deliberation are  
13 usually susceptible of direct proof. They may be proved  
14 by circumstances from which they may be inferred such as  
15 the conduct of the defendant before, during, and after  
16 the killing, use of grossly excessive force, brutal or  
17 vicious circumstances of the killing, manner in which or  
18 the means by which the killing was done.

19 Now, ladies and gentlemen, second degree murder  
20 differs-from first degree murder in that neither  
21 specific intent to kill, premeditation nor deliberation,  
22 are necessary elements.

23 In order for you to find the defendant guilty of  
24 second degree murder, the State must prove, beyond a  
25 reasonable doubt, that the defendant acting either by

1 himself or acting together with Johnny Beck unlawfully  
2 and intentionally and with malice killed the victim.

3           So, ladies and gentlemen, I charge you that if  
4 you find from the evidence, beyond a reasonable doubt,  
5 that on or about the alleged date, September 26, 1991,  
6 the defendant, Gregory Taylor, acting either by himself  
7 or acting together with Johnny Beck intentionally killed  
8 the victim, Jacquitta Thomas, with a deadly weapon  
9 thereby proximately causing the victim's death and that  
10 the defendant acting either by himself or acting with  
11 Johnny Beck, acted with malice, with premeditation and  
12 with deliberation, it would be your duty to return a  
13 verdict of guilty of first degree murder.

14           However, if you do not so find or have a  
15 reasonable doubt as to one or more of these things, you  
16 will not return a verdict of guilty of first degree  
17 murder.

18           If you do not find the defendant guilty of first  
19 degree murder, you must determine whether he is guilty  
20 of second degree murder.

21           If you find from the evidence, beyond a  
22 reasonable doubt, that on or about the alleged date,  
23 September the 26th, 1991, the defendant acting by  
24 himself or acting together with Johnny Beck  
25 intentionally and with malice killed the victim with a



1 deadly weapon, thereby proximately causing the victim's  
2 death, it would be your duty to return a verdict of  
3 guilty of second degree murder.

4 However, if you do not so find or have a  
5 reasonable doubt as to one or more of these things, it  
6 would be your duty to return a verdict of not guilty in  
7 case 91 CRS 71728.

8 Now, ladies and gentlemen, in case 92 CRS 30701,  
9 the defendant, Gregory Taylor, has been accused of being  
10 an accessory after the fact to first degree murder.

11 Now, I charge that for you to find the defendant  
12 guilty as an accessory after the fact to first degree  
13 murder, the State must prove two things beyond a  
14 reasonable doubt.

15 First, that first degree murder was committed by  
16 another person.

17 Now, I will again give you the five elements of  
18 first degree murder.

19 First, that another person intentionally and with  
20 malice-killed the victim, Jacquitta Thomas, with a deadly  
21 weapon;

22 Second, that another person's act was a proximate  
23 cause of the victim's death;

24 Third, that the, that other person intended to kill  
25 the victim;

1           Fourth, that another person acted with  
2 premeditation;

3           and fifth that that other person acted with  
4 deliberation.

5           Now, I will not repeat my instructions about  
6 malice, deadly weapon, proximate cause, premeditation  
7 and deliberation. You will remember the instructions  
8 that I gave you as to those terms in case 91 CRS 71728.

9           And the second thing that the State must prove,  
10 beyond a reasonable doubt, is that after the crime was  
11 committed the defendant knowing another person to have  
12 committed First degree murder knowingly and wilfully  
13 assisted that person in escaping and attempting to  
14 escape detection or punishment.

15           So I charge you that if you find from the  
16 evidence, beyond a reasonable doubt, that another person  
17 committed first degree murder, that is, that another  
18 person intentionally and with malice killed the victim  
19 with a deadly weapon, that the other person's act was a  
20 proximate cause of the victim's death, that that other  
21 person intended to kill the victim, that that other  
22 person acted with premeditation and that that other  
23 person acted with deliberation and that thereafter on or  
24 about the alleged date, September 26, 1991, the  
25 defendant knowing that person to have committed first

1 degree murder knowingly and wilfully assisted him in  
2 escaping and attempting to escape detection or  
3 punishment, then it would be your duty to return a  
4 verdict of guilty of an accessory after the fact of  
5 first degree murder.

6 However, if you do not so find or have a  
7 reasonable doubt as to one or more of these things, it  
8 would be your duty to return a verdict of not guilty in  
9 case 92 CRS 30701.

10 Now, Members of the jury, you have heard the  
11 evidence and the arguments of the counsel for the State  
12 and for the defendant. It is your duty to remember all  
13 of the evidence and if your recollection of the evidence  
14 differs from that of the assistant District Attorney or  
15 of the defense attorney, you are to rely solely upon  
16 your own recollection of the evidence in your  
17 deliberation.

18 I have not reviewed the contentions of the State  
19 or of the defendant but it is your duty not only to  
20 consider all of the evidence but also to consider all of  
21 the arguments, the contentions and positions urged by  
22 the State's attorney and the defendant's attorney in  
23 their speeches to you and any other contentions that  
24 arise from the evidence and to weigh them in light of  
25 your common sense and as best as you can to determine

1 the truth of this matter.

2 The law as indeed it should requires that the  
3 presiding judge be impartial. You are not to draw any  
4 inference from any ruling that I have made or any  
5 inflection in my voice or expression on my face or any  
6 questions I might have asked a witness or anything else  
7 that I might have said or done during this trial, that I  
8 have an opinion or have intimated an opinion as to  
9 whether any part of the evidence should be believed or  
10 disbelieved, as to whether any fact has or has not been  
11 proved or as to what your findings ought to be.

12 It is your exclusive province to find the true  
13 facts of this case and render a verdict reflecting the  
14 truth as you find it.

15 I instruct you that a verdict is not a verdict  
16 until all 12 jurors agree unanimously as to what your  
17 decision shall be.

18 You may not render a verdict by majority vote.

19 When you have reached a unanimous verdict, have your  
20 foreperson mark the appropriate place on the verdict form  
21 which I will send into the jury room in a few moments  
22 after you enter the jury room.

23 At this point I am going to ask the two ladies, the  
24 two alternates to go out there and have a seat away from  
25 the other 12. I will be back with you shortly.

1           Now, as you 12 retire to the jury room you should  
2 first select one of your members to serve as your  
3 foreperson to lead you in your deliberations.

4           Do not begin your deliberations on the verdict  
5 form until you receive the written verdict form from the  
6 bailiff. Proceed immediately with the selection of your  
7 foreperson and then after receiving the written verdict  
8 form, proceed with your verdict deliberations and when  
9 you have reached a unanimous verdict and are ready to  
10 pronounce it and your foreperson has marked the verdict  
11 on the form, have your foreperson sign and date the  
12 verdict form, notify the bailiff by knocking on the door  
13 to the jury room and you'll be returned to the courtroom  
14 to pronounce your verdict.

15           You twelve may now retire to the jury room to  
16 select your foreperson. I will send in the verdict form  
17 in just a few moments.

18 [JURY RETIRES AT APPROXIMATELY 3:14.]

19           COURT: All right, let the record show that the  
20 twelve has gone to the jury room.

21           Before sending the verdict form into the jury and  
22 allowing them to begin their deliberations, I will now  
23 consider any requests for corrections to the charge to  
24 the jury or any additional matters that anyone feels are  
25 necessary or appropriate to submit a proper and accurate

1 charge to the jury.

2 First of all, Mr. Ford, are there any specific  
3 questions or corrections or modifications or additions to  
4 the charge from the State?

5 MR. FORD: Your Honor, I would ask that you  
6 charge the jury that as to the second charge, accessory  
7 after the fact of murder, that they need not find  
8 premeditation and deliberation and the specific intent  
9 to kill on behalf of this other person, who committed  
10 murder, and that this defendant could still be found  
11 guilty of accessory after the fact even though the  
12 murder was a second degree murder.

13 COURT: All right. Mr. Dodd, first of all,  
14 from the defendant is there any specific corrections.  
15 modifications or additions to the charge from the  
16 defendant?

17 MR. DODD: No corrections. No modifications.  
18 I do have one addition that I failed to tell you about,  
19 and I apologize, but it is my fault and I can correct  
20 it. I would ask you to instruct the jury on the North  
21 Carolina Pattern Instruction Criminal 104.90,  
22 identification of the defendant as the perpetrator of the  
23 crime. It is very short.

24 COURT: All right, let the record show the Court has  
25 received a request from the State to give

1 additional instructions. The Court has received a  
2 request from the defendant to give additional  
3 instructions. The court denies both of those requests  
4 and I'll ask the verdict sheet be carried to the jury

5 All right, it is now 3:16. The jury has the  
6 verdict form at 3:16 and we will be ease, counsel.

7 MR. FORD: Thank you, Your Honor.

8 -----

9 COURT: Let the record show that the jury in  
10 the case of State versus Greg Taylor has knocked on the  
11 door and indicated that they have a verdict. They  
12 knocked on the door at 4:52. The defendant come around.  
13 And his attorneys and Mr. Ford is present.

14 Mr. Sheriff, bring out the jury.

15 Everyone else remain seated and I don't want to  
16 hear any outburst out of anyone when this jury verdict  
17 is pronounced. If you cannot control your outburst,  
18 please leave the courtroom now.

19 [JURY RETURNS TO JURY BOX.]

20 COURT: Ladies and gentlemen of the jury, have  
21 you reached a unanimous verdict?

22 FOREMAN: Yes, sir.

23 COURT: Mr. Foreman, would you hand the  
24 verdict to the bailiff.

25 [FORMS PASSED TO THE COURT.]

1           COURT: I'll ask that the clerk to take the  
2 verdict.

3           CLERK: In file number 91 CRS 71728, State of  
4 North Carolina versus Gregory Flint Taylor, we the jury  
5 by unanimous verdict find the defendant to be guilty of  
6 first degree murder. This the 19th day of April, 1993.  
7 S. Reid Homes, foreperson of the jury.

8           Is this your verdict, so say all of you?

9           JURORS: Yes, it is.

10          CLERK: In file number 92 CRS 30701, State of  
11 North Carolina versus Gregory Flint Taylor, we the jury  
12 by unanimous verdict find the defendant not guilty.  
13 This the 19th day of April, 1993, S. Reid Homes,  
14 foreperson of the jury.

15          Is this your verdict, so say all of you?

16          JURORS: Yes, it is.

17          COURT: Mr. Homes, as foreman of the jury, you  
18 returned a verdict indicating that the jury unanimously  
19 finds the defendant, Gregory Taylor, in case 91 CRS  
20 71728 t-o be guilty of first degree murder, is that  
21 correct?

22          FOREMAN: Yes, sir.

23          COURT: Ladies and gentlemen of the jury, your  
24 foreman has returned a verdict sheet indicating that you  
25 have unanimously found the defendant, Gregory Taylor, to



1 be guilty of first degree murder.

2 If that is your verdict, please raise your right  
3 hand. Let the record show all members of the jury  
4 raised their hand.

5 Ladies and gentlemen of the jury, your foreman  
6 has returned a verdict in 92 CRS 30701 indicating that  
7 you have unanimously found the defendant not guilty to  
8 being an accessory after the fact of murder. If that's  
9 your verdict, please raise your hand.

10 Let the record show all raised their right hand.

11 Poll the jury on the first degree murder charge.

12 CLERK: Reid Homes, you as the foreman have  
13 returned a verdict of guilty of first degree murder. Is  
14 this your verdict and do you still assent thereto?

15 MR. HOMES : Yes, it is and yes, I do.

16 COURT: All right, thank you, Mr. Homes.

17 CLERK: James Price, your foreman has returned  
18 of verdict of guilty of first degree murder. Is that  
19 your verdict and do you still assent thereto?

20 MR. PRICE: Yes, it is.

21 COURT: Thank you, Mr. Price.

22 CLERK: Billy Melton, your foreman has  
23 returned a verdict of guilty of first degree murder. Is  
24 that your verdict and do you still assent thereto?

25 MR. MELTON: Yes, I do.

1           CLERK: Elaine Forrest, your foreman has a  
2 returned a verdict of guilty of first degree murder. Is  
3 that your verdict and do you still assent thereto?

4           MS. FORREST: Yes, I do.

5           CLERK: Judy Holmes, your foreman has returned  
6 a verdict of guilty of first degree murder. Is that  
7 your verdict and do you still assent thereto?

8           MS. HOLMES: Yes, I do.

9           CLERK: Mildred Spivey, your foreman has  
10 returned a verdict of guilty of first degree murder. Is  
11 that your verdict and do you still assent thereto?

12          MS. SPIVEY: Yes, I do.

13          CLERK: Thomas Newton, your foreman has  
14 returned a verdict of guilty of first degree murder. Is  
15 that your verdict and do you still assent thereto?

16          MR. NEWTON: Yes, it is and yes, I do.

17          CLERK: Carolyn Carter, your foreman has  
18 returned a verdict of guilty of first degree murder. Is  
19 that your verdict and do you still assent thereto?

20          MS. CARTER: Yes, I do.

21          CLERK: Ralph Stephens, your foreman has  
22 returned a verdict of guilty of first degree murder. Is  
23 that your verdict and do you still assent thereto?

24          MR . STEPHENS : Yes, I do .

25          CLERK : Linda Skipper, your foreman has

1 returned a verdict of guilty of first degree murder. Is  
2 that your verdict and do you still assent thereto?

3 MS. SKIPPER: Yes, I do.

4 CLERK: Steven Bailey, your foreman has  
5 returned a verdict of guilty of first degree murder. Is  
6 that your verdict and do you still assent thereto?

7 MR. BAILEY: Yes.

8 CLERK: Andrew Cordes, your foreman has  
9 returned a verdict of guilty of first degree murder. Is  
10 that your verdict and do you still assent thereto?

11 MR. CORDES: Yes, I do.

12 COURT: All right, let the record show that  
13 the jury has unanimously returned a verdict in case 91  
14 CRS 71728 indicating that the jury unanimously finds the  
15 defendant, Gregory Taylor, to be guilty of first degree  
16 murder.

17 The jury has been polled and on an individual basis  
18 each and every member of the jury has indicated that they  
19 find the defendant, Gregory Taylor, to be guilty of first  
20 degree murder.

21 The jury accepts, the Court accepts the verdict  
22 and orders that it be recorded.

23 Ladies and gentlemen of the jury, at this time I  
24 can excuse you and I told you all last week and today  
25 that you could not talk with anyone about this case.

1           At this time you are free and at liberty to speak  
2 with anyone about this case, if you want to. You do not  
3 have to. That's up to you.

4           I can excuse you with the thanks of the Court. You  
5 are free to go at this time.

6           Please, leave your jury badges and with the thanks  
7 of the Court, you are excused.

8 [JURORS LEAVE JURY BOX.]

9           COURT: Mr. Ford, and Mr. Dodd, and Mr. Adams,  
10 as I understand the law, the punishment is mandatory. Is  
11 the State ready to proceed with punishment?

12           MR. FORD: Could we have just one second to  
13 speak with Mr. Dodd and myself?

14           COURT: All right.

15           MR. FORD: Your Honor, at this time the State  
16 would pray judgment.

17           COURT: Mr. Dodd and Mr. Adams, as I already  
18 indicated, as I understand it, the Court has no  
19 discretion in this matter. Is the defendant ready to  
20 proceed?

21           MR. DODD: For that reason, yes, we are ready  
22 to proceed.

23           COURT: All right.

24           MR. DODD: Your Honor--

25           COURT: You want to make a motion?

1           MR. DODD: I do. I don't care to be heard on  
2 the motion but I do want to make a motion for  
3 appropriate relief in accordance with 15A-1344, I  
4 believe it is, and I would like the Court to consider  
5 its prior ruling on nonsuit and I would like for the  
6 Court to consider setting aside this verdict as against  
7 the weight of the evidence and the evidence being  
8 insufficient to sustain such a verdict and beyond that I  
9 do not wish to be heard further on the motion.

10           COURT: All right. Let the record show that  
11 the jury has unanimously found the defendant guilty of  
12 first degree murder. The defendant makes a motion, a  
13 motion for appropriate relief and that motion is denied.

14           In accordance with the law, it is HEREBY ORDERED  
15 ADJUDGED AND DECREED that the defendant be sentenced to  
16 the North Carolina Department of Correction for his  
17 natural life.

18           His bond is revoked and he's in custody.

19           MR. DODD: Your Honor, in continuing to  
20 represent the defendant, I need to say this: The motion  
21 that I filed to represent him is limited simply to the  
22 trial of this case.

23           But on his behalf I would like to give notice of  
24 appeal at this time so that no further notice will be  
25 required and then if I represent him later, so be it.

1                   COURT: All right. Let the record show Mr.  
2 Dodd gives notice of appeal. No further notice is  
3 required in this matter.

4                   He's in custody, Mr. Sheriff.

5 [WHEREUPON THE HEARING WAS CONCLUDED.]

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1	NORTH CAROLINA	IN THE GENERAL COURT OF JUSTICE
2		SUPERIOR COURT DIVISION
3	WARE COUNTY	91-CRS-71728
4		

5

6

7	STATE OF NORTH CAROLINA,	:	
8			
9		:	
10		:	
11	VS.	:	CERTIFICATE
12		:	
13	GREGORY FLINT TAYLOR	:	
14			

15

16

17

18

19

20           This is to certify that I, Donald L. Holland, Sr.,  
 21 Official Court Reporter, Tenth Judicial District,  
 22 Raleigh, NC, reported and transcribed the heretofore  
 23 proceedings in the above-captioned case tried in the  
 24 Wake County Superior Court beginning on April 13, 1993,  
 25 before His Honor J. B. Allen, Jr., Judge Presiding,  
 26 consisting of 614 pages, and that the same is a true and  
 27 accurate transcription of said proceedings; and that the  
 28 parties were present as stated in the caption thereof.

29

30           This the 20th day of July, 1993.

31

32

	Donald L. Holland, Sr.
	Official Court Reporter
	Tenth Judicial District
	Raleigh, NC 27602

37

38           TRANSCRIPT DELIVERED 7-20-93.

39