

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
78-CRS-2415 & 16

_____)
STATE OF NORTH CAROLINA,)
)
Plaintiff,)
)
vs.)
)
JOSEPH SLEDGE,)
)
Defendant.)
_____)

NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

HEARING

DAY ONE

At Raleigh, North Carolina

December 3, 2014

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1 JUDGE SUMNER: Good morning. This is the
2 North Carolina Innocence Inquiry Commission hearing. We are
3 assembled this morning to hear the matter arising out of
4 Bladen County, the case of State versus Joseph Sledge, File
5 Number 78-CRS-2415 and 2416. This case was moved for trial
6 purposes to Columbus County. The hearing this morning is
7 open to the public pursuant to North Carolina General
8 Statutes 15A-1468(a). At this time for purposes of the
9 record my name is Quentin T. Sumner. I am the senior
10 resident superior court judge from Nash County. I serve as
11 chairman of this commission. And for purposes of, the court
12 reporter's purposes, that's Quentin, Q-u-e-n-t-I-n, middle
13 initial T, last name Sumner, S-u-m-n-e-r. All commissioners
14 that are present, if you would, for the record, please state
15 your name and spell your name for the record, starting with
16 Mr. Smith to my left.

17 MR. SMITH: Wade Smith, I'm a commissioner,
18 and my name is spelled S-m-I-t-h.

19 MR. HEARD: Isaac Heard, that's H-e-a-r-d.

20 MS. MONTGOMERY-BLINN: Kendra Montgomery-
21 Blinn, I'm the executive director of the Innocence Inquiry
22 Commission.

23 MS. STELLATO: Sharon Stellato, associate
24 director of the Innocence Inquiry Commission.

25 MS. GUICE SMITH: Lindsey Guice Smith,

1 associate counsel of the North Carolina Innocence Inquiry
2 Commission.

3 MS. SANDS BELLE: Aurelia Sands Belle,
4 commissioner.

5 RETIRED SHERIFF PICKENS: Barbara Pickens,
6 commissioner.

7 SHERIFF DUNCAN: Van Duncan, commissioner.
8 Do you want me to spell -- V-a-n D-u-n-c-a-n.

9 JUDGE SUMNER: That's fine. Sir, that's
10 fine.

11 MS. SURGEON: T. Diane Surgeon, Surgeon, S-u-
12 r-g-e-o-n.

13 MR. VICKORY: Branson Vickory, V-I-c-k-o-r-y,
14 commissioner.

15 JUDGE SUMNER: Thank you. We do have all
16 eight members of this commission present this morning. At
17 this time I'd like to make a formal inquiry as to each
18 commissioner present as to whether or not anyone needs to
19 recuse himself or herself pursuant to our rules, rule 6(B)1.
20 Our rules state a commissioner shall recuse himself or
21 herself if some event has caused him or her to become biased
22 about a case and unable to participate in the hearing in a
23 fair and impartial manner.

24 If any such commissioner falls in that
25 category, please state so at this point.

1 (No response.)

2 JUDGE SUMNER: Having not heard from any
3 commissioner, the Chair is of the opinion all commissioners
4 are able to hear this matter at this point.

5 I also want to inquire as to whether or not
6 any commissioner has made an independent investigation of
7 this matter for any reason at this point?

8 (No response.)

9 JUDGE SUMNER: Also, for the record, no
10 commissioner has been involved in any independent
11 investigation. All commissioners are able to hear this
12 matter.

13 We do not have any alternate commissioners
14 present this morning, so at this point I'm going to turn
15 this hearing over to Ms. Kendra Montgomery-Blinn, our
16 executive director.

17 MS. MONTGOMERY-BLINN: Thank you, Your
18 Honor. Good morning, commissioners. Thank you all for
19 being here today, thank you all for your time for this
20 hearing and your time for reading the documents prior to the
21 hearing as well.

22 This case is a double homicide from Bladen
23 County, North Carolina in 1976. You have all been provided
24 with briefs that describe the law enforcement investigation
25 and the trials. We will not review the material during this

1 hearing that is in the brief, but we will present the
2 Commission's and other post conviction investigation. The
3 Commission staff investigators who were the lead
4 investigators on this case are Associate Director Sharon
5 Stellato and Associate Counsel Lindsey Guice Smith.
6 Throughout the hearing I will be calling Ms. Stellato and
7 Ms. Smith to testify about the Commission's investigation.
8 We will also be calling other witnesses as well. This
9 morning Detective Phillip Little and retired SBI Agent Henry
10 Poole will testify. Herman Baker will also testify as well
11 later today. Three forensics experts are testifying on
12 Tuesday, and Joseph Sledge will testify on Thursday or
13 Friday. We also have other people who, attorneys and other
14 people who have been part of a post conviction investigation
15 who may be testifying during the hearing, too.

16 At the end of the day today the commissioners
17 will need to consider an administrative matter in a closed
18 session, so we will ask all who are attending to leave for
19 the closed session, it is unrelated to this case.

20 The victims, Josephine and Aileen Davis's
21 family are here today. A family member will make a
22 statement towards the end of the hearing. They are in a
23 private room and they have asked that people not contact
24 them, not come into the room. They're watching through
25 closed circuit TV, and they have just asked their privacy be

1 respected during this hearing. During the statement made by
2 the victims' family the hearing will be closed to the
3 public. It will continue to be recorded by the court
4 reporter, but only the victims' family, the commissioners,
5 and the commission staff will be in the room at that time.

6 Commissioners, at the end of the hearing you
7 will be asked to determine whether there is sufficient
8 evidence of factual innocence to merit judicial review. The
9 case will only move forward to three-judge panel if at least
10 five of the eight commissioners vote that there is
11 sufficient evidence of factual innocence to merit judicial
12 review. And I'll put that standard up again during your
13 deliberation. If less than five of the commissioners vote
14 for further review, the case will be closed with the
15 Commission and no appeal is available.

16 All right. If there are no questions at the
17 beginning, we'll start going with the presentation of
18 witnesses. The Commission calls Phillip Little.

19
20 Phillip Little, having first been duly sworn,
21 testified as follows:

22
23 **EXAMINATION BY MS. MONTGOMERY-BLINN**

24 Q. Mr. Little, hi. Thank you for being here today.

25 A. Morning.

1 Q. Can you tell us your name for the record?

2 A. Phillip Little.

3 Q. And are you retired?

4 A. I am.

5 Q. Where are you retired from?

6 A. Bladen County Sheriff's Office.

7 Q. And what was your position with the Bladen County
8 Sheriff's Office?

9 A. When I retired I was chief deputy.

10 Q. Okay. And how long were you with the sheriff's
11 department?

12 A. About 37-38 years.

13 Q. All right. What was your position in 1976?

14 A. I was a deputy.

15 Q. Okay. If I call you Detective Little, is that
16 appropriate, or is that --

17 A. Yeah, I became a detective along about that time.

18 Q. Okay. Were you assigned to investigate the homicide of
19 Josephine and Aileen Davis?

20 A. I was.

21 Q. And tell us about how you became assigned to that case.

22 A. Pursuant to a call from the sheriff, who was, at the
23 time, John B. Allen, had called Deputy Earl Storms and
24 myself. We were down in the lower end of Bladen County
25 and received a call about a possible homicide and to

1 come to the location of the Davis residence, which we
2 did, and began the investigation from there.

3 Q. Were you on duty that day?

4 A. I was.

5 Q. And had you investigated homicides before?

6 A. Some, yes.

7 Q. Okay. Now, I know that it's been a long time, and as
8 you and I talked before, I just want to make sure that
9 you know we don't want you to stretch your memory
10 beyond clarity or try to put things together logically.
11 I'm going to ask you a lot of questions about your
12 investigation. If you do not recall, please just tell
13 us that you don't recall or if you don't know.

14 A. Sure.

15 Q. Thank you. All right. Now, who have you talked with
16 about this case in the past sort of three years?

17 A. I've spoken with folks from the Innocence Commission.

18 Q. So the two ladies next to me?

19 A. Yes.

20 Q. Okay.

21 A. SBI Agent Barefoot; I have spoken with the DA's office;
22 Ms. Christine Mumma.

23 Q. Do you remember speaking with the victims' family?

24 A. I have had conversation. They've had some questions
25 about the process that was ongoing and, but I haven't

1 spoken with them specifically about the details of the
2 case.

3 Q. So you've talked with them about Commission process but
4 not the facts of the case, is that what you're saying?

5 A. Yeah, not about the facts of the case. But they had
6 asked me what was going on when the Commission was
7 involved, and I've told them that they pretty much knew
8 as much as I did because the Commission process was new
9 to me also.

10 Q. Okay. And then retired Agent Poole, have you spoken
11 with him?

12 A. I have.

13 Q. Okay. Have you spoken with him pretty extensively
14 recently?

15 A. Well, I wouldn't say extensively, but I have spoken
16 with him on numerous occasions.

17 Q. Okay. And have you two tried to help each other
18 remember parts of the investigation?

19 A. We have, yeah.

20 Q. And has that been helpful?

21 A. It, it has to a certain degree, yes.

22 Q. And did the Commission staff bring you your file once
23 it was located and let you look at your original
24 investigative file?

25 A. I have looked at some of that file, but not, not all

1 the file, no.

2 Q. And did looking at it help you remember some things?

3 A. It did, some things.

4 Q. Okay. Now, you knew Josephine and Aileen Davis, the
5 victims, is that right?

6 A. I did.

7 Q. How did you know them?

8 A. Well, they lived in a community in, at, at that time,
9 like all rural counties, the law enforcement knew most
10 of the people in the county. And they, they actually
11 lived not too far from where I was residing.

12 Q. Okay. So had you known them your whole life?

13 A. Well, pretty much, yes, for several years.

14 Q. Can you go ahead and go back now to when you first
15 arrived, after you just said you got that call to come
16 down from the sheriff. Go ahead and to the best of
17 your memory describe what you saw, what the scene was
18 like when you arrived.

19 A. The best I recall, when Deputy Storms, who later became
20 sheriff, arrived on the scene there was, Sheriff Allen
21 was there, there was some family members in the yard,
22 some EMS personnel, and some other officers. And we
23 had a brief conversation with the sheriff and then went
24 inside the residence and did a survey of the inside of
25 the residence.

1 Q. Do you know if you were the first person to go inside
2 or had EMS already been in --

3 A. I had not, I was not the first person to go inside,
4 unfortunately.

5 Q. Do you know who all had been inside before you?

6 A. I do not.

7 Q. Okay. How do you know you weren't the first person?

8 A. I was told that other folks had been in the house. And
9 I know Wanda Hales, a family member, had been in the
10 house.

11 Q. All right. So you didn't know then and you still don't
12 know who all had been in before you?

13 A. No.

14 Q. When you went in, who went in with you?

15 A. I don't recall.

16 Q. Did then Deputy Storms go in with you?

17 A. He did. Matter of fact, he helped me do the initial
18 processing of the scene.

19 Q. Okay. When you went in at that time did you collect
20 any physical evidence that day?

21 A. The best of my knowledge, we did, we did collect some
22 fingerprints. And I know we returned at a later time
23 after the SBI crime scene folks arrived, that we went
24 back to the scene.

25 Q. Do you know how many times you went back to the scene?

1 A. A bunch of times.

2 Q. Okay. A bunch?

3 A. Yes.

4 Q. And why did you keep going back to the scene and
5 collecting more and more evidence?

6 A. The residence, the structure of the house was very
7 primitive. If -- and I don't mean this disrespectful,
8 but it was a home that one would relate to Appalachia,
9 some primitive style of living, to say the least. Even
10 though I think they lived the lifestyle that they
11 wanted to, the house was unpainted, they had heat it
12 with a wood stove, cooked with a wood stove, heated
13 with a wood heater. The house was very primitive in
14 nature so the initial investigation and the collection
15 of evidence was somewhat challenging. We did return at
16 one occasion and remove a section of the floor.

17 Q. Why did you do that?

18 A. There was a print in blood that we went back and
19 removed that section of floor that contained that
20 print.

21 Q. What kind of print, a fingerprint? A hand print? A
22 footprint?

23 A. I think it was a footprint or a palm print.

24 Q. Please go ahead.

25 A. We returned at a later time and did a Luminol, looked

1 for blood splatter pattern, and collect blood evidence.
2 And then once the initial processing of the crime
3 scene, once we got through with it, like that day I
4 placed a padlock on the door and locked the house,
5 sealed it. And the only time that anyone entered the
6 residence from then on, they had to be with me.

7 Q. When you first arrived you collected, did you also
8 collect hairs?

9 A. I did.

10 Q. And where were those hairs collected from?

11 A. There was hairs collected off of the body of one of the
12 victims, and I think it may have been Aileen.

13 Q. Was it just one? I couldn't tell from the reports.
14 Was it off of the bodies of both victims or just one
15 victim?

16 A. The one I recall was Aileen.

17 Q. Okay. So you said you went back a bunch of times to
18 collect more evidence. Was it that you would collect
19 items, send them to the lab, test, get results, go back
20 collect more, send them to the lab, get results, go
21 back collect more, send them to the lab, and get
22 results; is that the proper order that things happened?

23 A. To a certain degree, yes. As the investigation evolved
24 then, you know, we would go back and look for other
25 evidence.

1 Q. Okay. And that was over about a year-and-a-half time
2 period?

3 A. Yes.

4 Q. When did you first consider Joseph Sledge a suspect?

5 A. Well, it was early on because we found out that he had
6 escaped from the White Lake Prison Unit. And during
7 the process of the prison officials tracking him, they
8 had tracked his route of travel in the direction of the
9 Davis residence.

10 Q. How had they tracked that?

11 A. By use of dogs and personnel.

12 Q. And so you talked with somebody. Do you remember
13 talking with somebody that they tracked the route of
14 travel that way or are you just thinking --

15 A. I did; I did.

16 Q. Did you write that up in a report, do you remember?

17 A. I don't recall.

18 Q. Okay. Do you remember who you talked to that said
19 that?

20 A. Yeah, it was Lieutenant Ransom who, like a lot of
21 witnesses, are now deceased.

22 Q. Okay.

23 A. But he was, he was in charge of that recapture process.

24 Q. And you remember specifically asking him that, but you
25 don't know if you wrote it down?

1 A. I don't.

2 Q. Okay. Now, Mr. Sledge wasn't the only person that was
3 on escape from White Lake at the time. Were other
4 people suspects or was there a reason that he was the
5 only White Lake escapee suspect?

6 A. Pretty much the reason we keyed in on him, I don't know
7 of any other suspects that had escaped at that same
8 time.

9 Q. If Superintendent Sparkman had said that between June
10 and September of that year there were 14 people that
11 had escaped from White Lake and were on escape, would
12 that sound accurate to you?

13 A. I have no way of knowing, but --

14 Q. You just don't know?

15 A. -- they did have a lot of folks run back then.

16 Q. Okay. So were all escapees suspects or Mr. Sledge in
17 particular?

18 A. Well Mr. Sledge primarily because of the timing and the
19 opportunity, his direction of travel. And at some
20 point he had to pass within close proximity of there
21 because he traveled to Elizabethtown, which is on
22 further, it would be south on 701.

23 Q. And you learned that when you interviewed Mr. Sledge?
24 He said where he'd gone then?

25 A. No.

1 Q. This is still from the --

2 A. We knew a car had been stolen in Elizabethtown.

3 Q. Okay. Now, tell me, how did you document your
4 investigation? What was the way you documented
5 investigations at that time period?

6 A. Well, writing, writing it down, transferring the
7 information to paper. And also, when the SBI got
8 involved in the case, they did primarily the most of
9 the paperwork and documentation on it. And we normally
10 would do that just so there would not be repetitive
11 reports. So if I was assigned to a particular agent or
12 an agent was assigned to me, then there was times that
13 I'd write stuff down, and then the agent would take my
14 information and put it in his report.

15 Q. And is that what Agent Poole did in this case?

16 A. Well, Agent Poole and Agent Evans and some of the other
17 agents that were initially involved in the
18 investigation.

19 Q. Now, before, when I look at the report I see some
20 handwritten notes and not a lot of documentation, and
21 then when Agent Poole becomes involved, standard SBI
22 reports. Prior to that, when you wrote things up was
23 it handwritten notes?

24 A. It was.

25 Q. And not a report format?

1 A. (Witness does not respond.)

2 Q. In general was there a reporting format or would a
3 handwritten note be put in the file?

4 A. It was a standard UCR informal crime reporting format.

5 Q. Okay.

6 A. It was on that form.

7 Q. Did you write down everything that you did?

8 A. Probably not but, you know, most of the things we did.

9 Q. In the file that I have that we looked through that we
10 located there are no reports of any of your interviews
11 of Joseph Sledge, but you testified about interviews.

12 A. Right.

13 Q. Do you recall if you documented those?

14 A. I did. There was some of the reports that were lost.
15 I have no idea. Over the years those reports were
16 lost.

17 Q. So you would have documented that and it must be lost?

18 A. Yeah.

19 Q. How many times do you think you interviewed Joseph
20 Sledge?

21 A. One time initially right after he was picked up, if I
22 recall correctly, and then there was, there was another
23 interview at some point.

24 Q. When you testified, at the first trial you said you had
25 interviewed him on September 10 after he came back from

1 South Carolina, 1976.

2 A. That's correct.

3 Q. At the second trial you said it was on September 12,
4 and I haven't been able to find a report. So either
5 the 10th or the 12th. Were there two interviews or are
6 we talking about one interview?

7 A. I don't recall.

8 Q. Okay. Do you recall roughly then how long --
9 Mr. Sledge was arrested in South Carolina, is that your
10 recollection?

11 A. Yes, that's correct.

12 Q. How long after he was brought back to North Carolina
13 was it that you did a first interview or initial
14 interviews of him?

15 A. I think it was the next day.

16 Q. Okay. So if he was brought back on September 9, you
17 think it would have been September 10?

18 A. Yeah.

19 Q. And in that interview did you -- is this the same
20 interview where you drove him around, or is that a
21 different interview?

22 A. That was one of them.

23 Q. Okay.

24 A. Yeah. And I'm sorry, it's been almost 40 years.

25 Q. And I don't want you to stretch your memory if you

1 don't know. I'm just trying to figure out because I've
2 got testimony about the 10th and the 12th, if it's two
3 different or the same, if you know. So before you
4 drove him around did you interview him, sit down with
5 him at the jail or the sheriff's department or
6 somewhere else and interview him before you got in the
7 car?

8 A. I can't say for sure.

9 Q. Do you remember driving around in the car with him?

10 A. I do.

11 Q. Can you tell us what you remember about that?

12 A. Well, the reason we were driving around with him, and
13 that was, I guess you would say was an interview, but
14 we had asked him to retrace his route of his escape,
15 and that's, that's why we were driving him around.

16 Q. And was he cooperative with retracing the route? Did
17 he agree to do that?

18 A. Well, pretty much, yes.

19 Q. What do you mean by pretty much?

20 A. Well, I think he was being deceptive with us about
21 certain things.

22 Q. But he said, I am willing to get in the car, I am
23 willing to show you where I went?

24 A. Yes.

25 Q. Where did you go? Where did you drive him?

1 A. Well, we drove back to the area of Turnbull Creek.

2 Q. Turnbull Creek?

3 A. Yeah.

4 Q. And what is Turnbull Creek?

5 A. Turnbull Creek is a tributary off of the Cape Fear
6 River and it dissects Bladen County between White Lake
7 Prison Unit and where the victims live. The --

8 Q. Is there a housing development in Turnbull Creek, or
9 was there?

10 A. At the time not much, no. There was some scattered
11 housing, but nothing like it is now.

12 Q. So it's between, you said it was between Elizabethtown
13 and White Lake Prison?

14 A. Yes.

15 Q. And was this an area also known as Newtown?

16 A. No.

17 Q. This is different than Newtown?

18 A. Yeah; yeah.

19 Q. Is Newtown in that same area?

20 A. If one leaves White Lake Prison Unit and travels toward
21 Elizabethtown, about halfway or maybe not quite halfway
22 between Elizabethtown and White Lake Prison Unit you
23 cross Turnbull Creek. And that Turnbull Creek
24 continues on into the Cape Fear River and also goes up
25 into Cumberland County. But it pretty much dissects

1 that end there, that particular area of Bladen County.
2 Turnbull Creek was, is probably about two or three
3 miles from where the victims reside as the crow flies.
4 And what was interesting about the case was when they
5 were tracking Mr. Sledge after he escaped, they tracked
6 him to an area known as Hoover Bridge.

7 Q. Go ahead.

8 A. All right. If one leaves the prison, and it was a very
9 popular escape route when folks would run from the
10 White Lake Prison, there is a dirt road that travels
11 south through a wooded area and through a swamp area,
12 and it crosses, it crosses one paved road and then it
13 intersects with Turnbull Creek. All right. At
14 Turnbull Creek, the area known as Hoover Bridge, there
15 was an old wood bridge there that was used years ago,
16 but it was dilapidated, it was -- one was not able to
17 -- it was not open to vehicular traffic. It was later
18 destroyed by the United States Special Forces on a
19 training mission, they used it as a training scenario.
20 But when, when -- it was my understanding that when the
21 Department of Corrections was tracking Sledge, they
22 tracked him to the area of Hoover Bridge, and that's
23 pretty much where they lost the, his tracks. Now, if
24 you continue on in a straight, pretty much into a
25 straight line, there's, when you cross Hoover Bridge

1 area, Turnbull Creek, you pick up Hoover Bridge Road.
2 Hoover Bridge Road comes out about 300 yards from where
3 the victims' residence is.

4 Q. Detective Little, I'm going to hand you a map that you
5 drew at the hearing, or the trial, and see if that
6 might help you a little bit.

7 MS. MONTGOMERY-BLINN: Commissioners, this is
8 on page 115 in your brief, so we're not going to put it
9 up on the overhead.

10 Q. But if that helps, Detective Little, do you recognize
11 what I've just handed you?

12 A. (Witness examines document.) Yeah. It appears to be a
13 sketch of the Davis residence and the crime scene.

14 Q. And then to the right of the sketch of the crime scene,
15 is that a sketch of the area with Turnbull Creek drawn
16 on it?

17 A. (Witness continues to examine document.) Yes, it is.

18 Q. Okay. And do you recall, maybe you don't recall, but
19 do you recall doing this for the trial?

20 A. I don't recall, but --

21 Q. Okay. But would it help you just as you're explaining
22 to us the setup now and where Turnbull Creek is to use
23 this sketch?

24 A. Yes.

25 Q. If it would be helpful, please use it; if it's not,

1 don't worry about it.

2 A. What the sketch is, it shows a, it shows a sketch of
3 the actual residence. But then to the side there's a
4 smaller to scale sketch -- well, not to scale, but a
5 smaller sketch of the area that shows Turnbull, the
6 prison unit, and the Davis residence.

7 Q. Okay. Well, if that would be helpful as you're trying
8 to explain the area, please reference it. If you don't
9 -- if it isn't helpful and you don't need it, then
10 please don't.

11 A. I will.

12 Q. So I had asked you about Newtown. Where is Newtown
13 then?

14 A. Newtown is actually a part of Elizabethtown.

15 Q. Okay.

16 A. It's on the, be on the southwest side of Elizabethtown.

17 Q. Okay. So is that -- on this map would it be between
18 Turnbull Creek and the victims' residence?

19 A. No.

20 Q. Okay. Where would it be, if you can tell us roughly on
21 this --

22 A. Well, it would be on, it would be on through the
23 intersection of 87 and 701, and then back to the west
24 from there.

25 Q. So down here on the, sort of on the bottom of the map?

1 A. (Witness examines document.)

2 Q. It would be down at the end of the -- on the bottom of
3 the chalkboard picture?

4 A. Yes, it would be down the -- on the sketch that shows
5 701 and 87, it would be down on the lower left portion
6 of that sketch.

7 Q. Okay. So you said that when you drove around with
8 Mr. Sledge that you started up in the Turnbull Creek
9 area, is that right? Is that what you just said?

10 A. No, I didn't start there.

11 Q. Okay. Where did you start?

12 A. I started at the jail.

13 Q. Okay. At the jail where he was?

14 A. Yes.

15 Q. All right. And then tell us, tell us the route and
16 where all you drove.

17 A. All right. I drove back -- the most significant thing
18 that I remember of that travel was we were traveling,
19 we stopped in front of the Davis residence, across the
20 street from it, and at that time Mr. Sledge made a
21 statement pertaining to the victims.

22 Q. You can go ahead.

23 A. All right. He -- we sat there for a moment and he was
24 not prompted in any way or nothing was said. We just
25 pulled over and was looking at some papers. And

1 Mr. Sledge was sitting in the back of the car
2 handcuffed and he turned around and pointed, held his
3 hands up like this and pointed towards the Davis
4 residence and made a statement that a black guy didn't
5 kill those two old women, it had to be a white guy
6 because a black guy wouldn't of cut them up like they
7 were.

8 Q. And you felt that was an admission?

9 A. Well, I felt that that was a significant statement at
10 that time, yes.

11 Q. Okay. Now, you said you had just stopped and were
12 sitting in front of the victims' residence when that
13 happened.

14 A. Uh-huh (yes).

15 Q. And was the victims' residence -- I've seen a
16 photograph of it where it's roped off with a sign that
17 says, Keep Out, Sheriff. Was it in that state at that
18 time?

19 A. I can't say for sure, but I don't, I don't know, but
20 there was crime scene barricade tape later put up, yes.

21 Q. Okay. And you said after you left that day you
22 padlocked it and secured the scene, so it was in some
23 kind of secured, noted condition?

24 A. It was, yes.

25 Q. And how many cars, all three of the -- I'm sorry, I

1 don't have a report about this, but you've testified
2 that there were three cars driving around?

3 A. There was.

4 Q. Okay.

5 A. The car that I was in with Mr. Sledge, and I think
6 Deputy Storms was in the car with me, and then we had
7 two other cars that were basically providing security.
8 There had been what we thought was possible threats and
9 we wanted to make sure that we had, while we had him in
10 our custody outside of the jail area that we had
11 sufficient security.

12 Q. Did all three cars stop at the house?

13 A. I don't recall, but -- I don't, I don't recall.

14 Q. Do you remember if anybody from the other cars got out
15 and walked around?

16 A. No, they did not.

17 Q. Had you stopped at multiple places during the drive?

18 A. We stopped at different places along the line, yes.

19 Q. And these were different places that Mr. Sledge had
20 directed you to?

21 A. Yeah.

22 Q. But he had not directed you to this place?

23 A. No.

24 Q. But you stopped and parked there and sat there. How
25 long was the car sitting there before he made the

1 statement?

2 A. Almost immediately.

3 Q. Okay.

4 A. We had, had not been there long when he said that.

5 Q. And if there's no documentation of any of this it's
6 because you either didn't write it up or because it was
7 lost or do you know?

8 A. I don't know.

9 Q. So maybe you didn't write it up?

10 A. Well, I, I know I testified to that but, I mean, I
11 would assume that I had written it up at some point.

12 Q. But you don't recall for sure? You don't remember
13 writing it up or --

14 A. No, I can't say for absolutely sure, but --

15 Q. Okay. Now, where else did you drive?

16 A. We -- I don't recall every place because it was pretty
17 insignificant. But we did go back to the prison and
18 then go back to a couple places in Elizabethtown and
19 back to the jail.

20 Q. So this was you went to the prison and then the places.
21 Was this the places that Mr. Sledge was directing you
22 to and saying here, here, here?

23 A. No, not, not -- he was not directing us to all of them,
24 no. We drove to some of the areas and pretty much to
25 see if it would refresh his memory on where he had

1 traveled.

2 Q. Okay. So you drove him to places that you thought he
3 had traveled to?

4 A. Yes.

5 Q. Okay.

6 A. And, and when I say that, I'm talking about to the area
7 where the DOT officials had tracked him.

8 Q. Okay. And what other things did he say then during
9 that drive?

10 A. Not, not -- he didn't talk much.

11 Q. Okay. But was he showing you places where he had
12 hidden clothing during his escape?

13 A. At, at some, at some point he did, but that was one of
14 the contentions that we had. He never showed us all
15 the clothing that he supposedly had when he escaped.

16 Q. Okay. Did he take you to places and say clothing would
17 be here and it wasn't there, or he just refused to say
18 where items were?

19 A. Well, he, he told us that he had hidden some, or had
20 put some clothing in some locations. And I'm sorry, I
21 don't recall all he said without going back looking at
22 the notes.

23 Q. Okay. And I don't want to push you. If you can't
24 recall, you can't recall.

25 A. Yeah.

1 Q. Okay. Now, do you remember that you did find some
2 items of clothing though?

3 A. We did.

4 Q. Do you remember now what you found?

5 A. Not specifically, no, but I know we did find some
6 clothing.

7 Q. Do you remember the locations for the clothing that you
8 did find?

9 A. We found, we found some items close to the Cape Fear
10 River Bridge.

11 Q. And do you remember if those ultimately were connected
12 to the crime scene or not?

13 A. I don't think that we ever established that.

14 Q. Okay. What about two, do you remember finding two
15 pairs of pants, the green prison pants and a grey pair
16 of pants?

17 A. And a grey -- (Witness nods head affirmatively.)

18 Q. Do you remember where you found those?

19 A. No.

20 Q. Do you remember if it was in Fayetteville where you
21 found those items?

22 A. It may have been, I don't recall for sure.

23 Q. Now, do you remember when the SBI became involved in
24 the investigation?

25 A. I do.

1 Q. And at that point in time when Agent Poole was
2 assigned, who was in charge of the investigation, you
3 or Agent Poole or somebody else?

4 A. Well, I was the lead agent with Bladen County Sheriff's
5 Office, but Agent Poole, I would say, was the, took the
6 lead on it. He had more experience than I did and he
7 was working with the special operations division that
8 specifically were assigned unsolved homicides.

9 Q. Okay. Now, when you were doing this investigation
10 over, and I understand it was over a long period of
11 time and it was a long time ago, were there many people
12 that were identified as suspects in this case?

13 A. There were people that were named as suspects which,
14 that kept us pretty busy running down leads and
15 interviewing folks and polygraphing folks and trying to
16 confirm whether they were either a viable suspect or
17 whether it was just part of the conspiracy theory, if
18 you will, about who, who had murdered the ladies.

19 Q. Okay. Well, let's talk about those people that were
20 named as suspects. I'm just going to go through the
21 ones that we found listed as suspects in your file and
22 if you can remember them and tell us anything about
23 them or why they were ultimately ruled out as a
24 suspect, I'm going to ask you if you can, okay? I know
25 you may not for everybody.

1 Do you remember Raymond Alves?

2 A. No.

3 Q. Or Alves. I'm not sure if I said it right. This was a
4 man, according to reports, told officers in New Jersey
5 that he had raped and killed eight to ten women between
6 New Jersey and Florida, and his fingerprints were
7 compared. Does that sound --

8 A. I do, I do know that we, that we looked at some, some
9 homicide suspects in some other states. As a matter of
10 fact, I traveled to Florida and did an interview or
11 tried to do an interview with an individual there that
12 had been, had been arrested in the Orlando area for
13 similar crimes, but we pretty much established that he
14 had not been in that area of Bladen County. Matter of
15 fact, he became real hostile and wouldn't talk to us.

16 Q. Okay.

17 A. And I, yes, I do, I do know that we reached out to some
18 other surrounding states to see if there were similar
19 crimes.

20 Q. Okay. But other than that, you don't remember anything
21 in particular about that person?

22 A. No.

23 Q. And the person that you interviewed in Florida, was
24 that Larry Wayne White, if you remember?

25 A. If it's, if it's in my records, if that -- yeah.

1 Q. All right. How about Mildred Tyndall Barnes, do you
2 remember her prints were compared as well with no
3 identifications affected according to reports; does
4 that ring any bells to you?

5 A. No.

6 Q. How about Johnny Ray Benton?

7 A. (Witness shakes head negatively.)

8 Q. Does not ring any bells?

9 A. I recall the name, but I don't remember what the
10 circumstances of him, you know, being a suspect was.

11 Q. And if the reports state that he thought he'd seen
12 Elisha Robinson coming out of the victims' house, does
13 that sound familiar?

14 A. We did -- as a matter of fact, a lot of folks would
15 come to the office or call and say, hey, you know, you
16 need to check out so-and-so, you need to check out this
17 one, the son-in-law killed them, the grandson killed
18 them, or different individuals in the community. We
19 would just have folks to call up with no basis for that
20 other than, you know, in their own mind that was
21 possibly a suspect. But we, we checked all of those
22 leads that we had out and we even polygraphed folks.
23 We polygraphed people that we treated as suspects. We
24 polygraphed folks that were witnesses to see if they
25 were telling us the truth.

1 Q. Okay. Do you remember who that you did?

2 A. There's a list of them in the report somewhere.

3 Q. Okay.

4 A. I don't recall all of them.

5 Q. Well, I'll just keep going through, if it's okay, and
6 if you remember anything additional, please tell us; if
7 you don't, you don't.

8 How about do you remember a David Bryant? Do
9 you remember who that was?

10 A. No.

11 Q. What about Mary Sue Gaither?

12 A. (Witness does not respond.)

13 Q. The report says that you collected a knife from her and
14 it was tested for blood. Do you remember who she was?

15 A. Was that in Fayetteville?

16 Q. Uh-huh (yes). Actually, I'm not sure. There's a
17 handwritten note from you that you obtained a knife
18 from her and then an SBI report that the knife was
19 tested for blood. Does that sound familiar?

20 A. It does, but I don't recall. It was, I'm pretty sure
21 it was in Fayetteville, but I'm not positive.

22 Q. Okay. How about Danny Haire, Jr.?

23 A. Yes.

24 Q. Do you remember him?

25 A. Yeah.

1 Q. And do you remember him being a suspect?

2 A. I remember him being named and I remember us
3 investigating and eliminating him.

4 Q. And Danny Haire, III, as well.

5 A. Right.

6 Q. I believe that's his son?

7 A. Right.

8 Q. Do you remember anything additional about him?

9 A. I think we later confirmed that possibly they were out
10 of, out of the county or out of the state when --

11 Q. And what about Larry Wayne Haire, do you remember
12 anything in particular about him?

13 A. No, not, nothing in particular except that he was not
14 retained as a viable suspect.

15 Q. Okay. And I'm just going through people that in the
16 reports are listed as a suspect at some point in time
17 and trying to ask if you remember why they were ruled
18 out or anything extra.

19 A. Right. We, we checked every, everybody that was named
20 or every lead that we got. I mean, even no matter how
21 frivolous it was, we did make some effort to check it
22 out.

23 Q. You ran it through to the end?

24 A. Exactly.

25 Q. All right. How about William Thomas Haire, do you

1 remember --

2 A. Yes.

3 Q. Anything to add? Anything you might remember about him
4 in particular, or just his name?

5 A. No. And, and, you know, if I may, let me say this.
6 These, most of these guys that you have named here were
7 good ole boy rednecks in the community and, you know,
8 they like to drink and have a good time but, you know,
9 there was never any indication that they were involved
10 in the homicide.

11 Q. Well, I'm just asking because a lot of the reports, I
12 can't tell from the reports why they were ruled out.
13 Some of them I see you collected fingerprints and they
14 didn't match any of the prints of the crime scene, but
15 of course neither did Joseph Sledge. So I'm just
16 trying to understand if I'm missing reports. And if
17 you don't know, you don't know, so I understand. I'd
18 just like to keep reading through them. If you
19 remember anything or why they were ruled out, please
20 tell me.

21 A. Well, there, there was so many of them. I honestly do
22 not remember all of them. I know that we checked out a
23 lot of people.

24 Q. Well, will you bear with me and let me just finish
25 reading out the list?

1 A. Sure; yeah. I will.

2 Q. And if you've got anything to add, please do; if you
3 don't, I'll move on quickly.

4 How about Billy Ray Hales?

5 A. Right, that's the grandson.

6 Q. Okay. And do you remember, his prints were compared
7 and it was listed as a suspect. Do you remember
8 anything additional?

9 A. No.

10 Q. Marion Hales?

11 A. That's the son-in-law and brother-in-law.

12 Q. Anything that you remember in particular?

13 A. No.

14 Q. David Hamilton?

15 A. (Witness shakes head negatively.)

16 Q. His fingerprints are compared, listed as a suspect, but
17 I can't learn anything else about him from the reports.
18 Do you remember him?

19 A. No.

20 Q. Does his name --

21 A. I remember -- I know David Hamilton, but I don't
22 remember that --

23 Q. You don't remember why he was printed as a suspect?

24 A. No.

25 Q. Okay. How about Robert James?

1 A. No.

2 Q. The same thing, all I've got is a report that
3 fingerprints are compared as a suspect, but I don't
4 have any investigative reports about him.

5 A. No, I don't remember on that.

6 Q. Okay. Ernest Johnson, do you remember him?

7 A. Ernest Johnson, now, Ernest Johnson may have been one
8 of the family members that was on the scene when I
9 arrived, or that potentially had access to the house or
10 the crime scene there.

11 Q. There is a report about him that states that he had
12 scratches on his body, and you interviewed him and saw
13 the scratches. Does that help remember anything?

14 A. On Ernest Johnson?

15 Q. Uh-huh (yes).

16 A. No.

17 Q. Okay. How about Carlos Mateo Padella?

18 A. Yeah, he lived in an area behind the victims.

19 Q. And he's on a handwritten list of suspects.

20 A. Right.

21 Q. Is there a reason that he was a suspect?

22 A. Somebody mentioned his name and we, and we put him
23 down.

24 Q. Okay. And if there's no report about why he's ruled
25 out, it's because why?

1 A. Because he was eliminated for one reason or another.

2 Q. Okay. And so if there's no report about it, it's
3 because you either didn't write it up or a missing
4 report?

5 A. Right.

6 Q. How about Troy McCoy, Jr., do you remember him?

7 A. No.

8 Q. So I have for him a report that he's fingerprinted as a
9 suspect, but nothing that tells me who he is or why
10 he's in the investigation. You don't remember him at
11 all?

12 A. No.

13 Q. Okay. Willie Clarence McLaughlin, do you remember him?

14 A. No, I can't tell you about that one.

15 Q. And I have his prints being compared as well, and a
16 couple people making statements that he drove Joseph
17 Smith home the night of the murders, but he's listed as
18 suspect and I can't tell why. You don't recall why?

19 A. (Witness shakes head negatively.)

20 Q. How about Leslie Raynor?

21 A. Don't recall.

22 Q. Okay.

23 A. Is that a male or a female?

24 Q. I don't know. All I have is a report saying he was
25 printed as a suspect with no identifications effected,

1 but I have no investigative report as to who Leslie
2 Raynor is. And when I said he, I'm not even sure I
3 know if he --

4 A. (Witness shakes head negatively.)

5 Q. Okay. How about Elisha Robinson, do you remember him?

6 A. Yeah, I know Elisha.

7 Q. Okay. And can you tell me why he was a suspect and why
8 he was eliminated as a suspect?

9 A. Elisha lives in the area behind the victims, or did at
10 the time, and it was a result of somebody dropping his
11 name.

12 Q. Okay. And why was he ruled out?

13 A. I don't recall.

14 Q. Okay. How about Jimmy Robinson, do you remember him?

15 A. No.

16 Q. Jimmy Smith, do you remember him?

17 A. No.

18 Q. All right. And he's listed on that handwritten list of
19 suspects in your file, and I don't have anything else
20 to refresh you with. So you don't recall him?

21 A. No.

22 Q. Joseph Smith, he's a member of the Smith family.

23 A. Yeah, I know Joseph Smith.

24 Q. And his prints were compared as a suspect. Do you know
25 why he was a suspect and why he was ruled out?

1 A. Somebody mentioned his name, and he was, you know,
2 would, would, going and coming from his residence would
3 come in close proximity to the Davis residence.

4 Q. Okay. And you don't recall any more about him or the
5 investigation of him?

6 A. No.

7 Q. And then Joshua Smith, a relative of his as well, do
8 you know --

9 A. No.

10 Q. I've got that prints were compared as a suspect, but no
11 handwritten or no other reports.

12 A. (Witness shakes head negatively.)

13 Q. No? Okay. Roscoe Smith?

14 A. Yeah, I know Roscoe Smith.

15 Q. Can you tell us --

16 A. Same thing with Joseph. He was in close proximity to
17 the victims, would come and go. He lived in an area
18 behind the victims, a little settlement back behind the
19 victims.

20 Q. And you don't recall why he was eliminated as a
21 suspect?

22 A. No.

23 Q. Samuel Smith, another relative?

24 A. (Witness shakes head negatively.)

25 Q. Okay. How about Charles Tyndall?

1 A. (Witness does not respond.)

2 Q. There's a handwritten, he's handwritten on a suspect
3 list early on in the investigation and his prints are
4 compared as a suspect, but I have no reports indicating
5 why. Do you know?

6 A. No.

7 Q. And his daughter, Margaret Marie Tyndall, also it shows
8 that she was printed as a suspect. Do you recall why?

9 A. No.

10 Q. So all the people that I just named, you know that, you
11 can say that they were all eliminated by the end of the
12 investigation as a suspect?

13 A. I would most likely say yes, that the majority of them
14 were some way, shape, or form. I'm not sure without
15 looking at, you know, some documentation or reports on
16 it.

17 Q. And I would show you it if I had any.

18 A. Right, and I understand.

19 Q. And I will show you reports in a minute for some --

20 A. A lot of the names that we came up that people told us
21 about, we pretty much knew from the get-go that they
22 were not suspects but, you know, we made an effort to
23 approach them and fingerprint them and --

24 Q. Let me ask you if there's a difference between this.
25 Can you recall, were they ruled out or was Sledge ruled

1 in?

2 A. No, and, and let me explain something about Mr. Sledge.
3 We, we received information early on about the hair
4 being a possible match to Mr. Sledge, one of the hair
5 samples. And later on when Mr. Poole got involved in
6 -- the investigation had gone on for some length of
7 time. And, you know, and during this time we were
8 running down all these leads on all these folks. And
9 Mr. Sledge had gone back to jail and been
10 re-incarcerated for the escape and stealing a car.
11 Agent Poole and myself, this was real early after he
12 got involved in it, we had a conversation and discussed
13 the case and what direction that we were going to go
14 with it. And we, we pretty much came to the conclusion
15 that we had to eliminate Mr. Sledge. So our whole
16 approach to the investigation was to do everything that
17 we could to eliminate Mr. Sledge, to get him off of the
18 table as a suspect. And we had not been able to do
19 that up to that point. And so that's pretty much the
20 approach that we took with the investigation from there
21 on out.

22 Q. So it was always, the investigation was always Joseph
23 Sledge?

24 A. Joseph Sledge was still on the radar; you know, I would
25 be remiss if I told you that he wasn't. But --

1 Q. Okay. You had mentioned earlier what the house might
2 have looked like when you stopped there with
3 Mr. Sledge.

4 A. Right.

5 Q. And I just wanted to show you a photograph. This was
6 an exhibit from the hearing.

7 MS. MONTGOMERY-BLINN: Commissioners, this is
8 on page 122 of your brief.

9 Q. And if I may approach, I'm just going to hand this to
10 you. This was an exhibit introduced at trial. If
11 you'll take a look at that and tell me, does that
12 refresh, is that what the house looked like after your
13 investigation or after your initial, right around the
14 time when you drove there with Mr. Sledge?

15 A. Most likely, yeah.

16 Q. Okay. All right. Thank you. Do you recall this case
17 having a lot of media attention at the time?

18 A. It did have quite a bit.

19 Q. And do you recall a reward being offered and then
20 doubled during your investigation?

21 A. I remember -- I don't recall the award, reward being
22 doubled, but I do remember the award, reward initially
23 being set.

24 Q. Okay. And do you recall that the victims' family, the
25 Davis family wrote letters to the SBI about the

1 investigation and what was happening and encouraging it
2 to move along; does that sound familiar?

3 A. I don't, I don't recall.

4 Q. Okay. Do you recall the SBI conducting an audit of
5 this case as an open case?

6 A. Huh-uh (no). No.

7 Q. Now, do you remember Donald Sutton?

8 A. I do.

9 Q. Okay. How many times did you interview Mr. Sutton, if
10 you recall?

11 A. He was probably interviewed two or three times, I know.

12 Q. Okay. If the file shows four reports, do you think
13 that would be accurate?

14 A. He was interviewed numerous times, yeah.

15 Q. And if I have four reports in the file, do you think
16 that would be all of the times? This is at the point
17 when Agent Poole was involved.

18 A. Yeah. Most likely that would be all.

19 Q. Do you recall what you said to Mr. Sutton during the
20 times that you interviewed him? Not what he said, but
21 what you said.

22 A. No. I can tell you what I didn't say.

23 Q. Okay. What didn't you say?

24 A. Anything was never mentioned about any reward.

25 Q. Okay. Do you know if Mr. Sutton had been reading the

1 newspaper articles about the case?

2 A. I -- (Witness shakes head negatively.)

3 Q. You don't know?

4 A. I don't know.

5 Q. Okay. You said you didn't say anything about the
6 reward. Did he ever ask about the reward?

7 A. No.

8 Q. Did he --

9 A. The first time -- this is Mr. Sutton. I think the
10 first time that he ever even mentioned the reward was
11 during the trial. And the defense attorney asked him
12 about the reward, and I think he made some comment, I
13 do remember that, what reward.

14 Q. Okay.

15 A. And now whether he knew about it or not, I can't say
16 absolutely sure. But the information that he gave to
17 Agent Poole and that he testified in the court was that
18 he did not know about it.

19 Q. Okay.

20 A. So I don't know.

21 Q. And he was in prison during the times you interviewed
22 him?

23 A. I'm pretty sure he was, yes.

24 Q. Did he ask for anything? Even if he didn't talk about
25 a reward, did he ask for anything else, time, favor,

1 help?

2 A. No; no.

3 Q. No, he never asked?

4 A. No.

5 Q. Did you ever offer?

6 A. No.

7 Q. Now, do you recall that he did get \$2,000 in reward
8 money after the conviction?

9 A. Probably, yes.

10 Q. Okay. What I'd like to do is hand you some of your
11 reports so you can look at them, or Agent Poole's
12 reports, and see if that helps you, and I'd like to ask
13 you some questions about them.

14 A. All right.

15 Q. If you'll just take a minute to look at that and tell
16 me if it looks familiar to you.

17 A. (Witness examines document.)

18 Q. And I'm only going to ask you about a part of it, so
19 just looking at it, the front, do you recognize it to
20 be an SBI report --

21 A. Yes, I do.

22 Q. -- in investigation of this case, the Sledge case?

23 A. Yeah.

24 Q. Okay. So on page 5 of this report --

25 MS. MONTGOMERY-BLINN: Commissioners, this is

1 summarized on page 56 of your brief if you want to
2 follow along.

3 Q. Detective Little, if you're on page 5, just let me know
4 when you're there.

5 A. I am.

6 Q. And I'm looking at, it says Donnie Lee Sutton was
7 interviewed. Just tell me if you want to read through
8 that, and then I'd like to ask you some questions about
9 it if I can.

10 A. (Witness examines document.) Okay.

11 Q. So if you'll look at the, I think it's the fourth
12 paragraph. Partway through it says that Mr. Sutton
13 said Sledge told him that authorities had found some
14 clothes with blood on them and were trying to say that
15 he had killed two women, that he didn't kill them.

16 Do you see that there?

17 A. (Witness examines document.) It doesn't say
18 authorities told him, it says Sledge told him that
19 authorities had found --

20 Q. Okay. Go ahead and if you would read it, that would be
21 great.

22 A. It says that after their recapture Sledge told him that
23 he had escaped and had gotten a ride on a truck on
24 Highway 87, that he had hidden his clothes and later
25 got up with some dude and who let him drive his car.

1 That Sledge told him that the authorities had found
2 some clothes with blood on them and they were trying to
3 say that he had killed two women, but he hadn't killed
4 them.

5 Q. Do you know, did you find clothes with blood on them,
6 other than the victims' clothing?

7 A. (No audible response.)

8 Q. You can't recall?

9 A. No.

10 Q. Or no, you didn't, or no, you can't recall?

11 A. Well, there was, there was some blood spots that were,
12 that were checked out on the pants and some other items
13 that, that was retrieved during the investigation, but
14 I don't recall what he's talking about here.

15 Q. Okay. Now, it said -- would you read the last
16 paragraph on page 5 for us, please?

17 A. Sutton stated that he would try to recall his
18 conversation with Sledge and would -- and should he be
19 able to remember any new information, he would relay
20 same to writer.

21 Q. And then if you'll read the agent's note at the end.

22 A. Sutton will be interviewed at a later date.

23 Q. So in this interview Sutton said Sledge said he didn't
24 do it, but he was going to try to recall more.

25 A. Uh-huh (yes).

1 Q. And the note says you would interview him at a later
2 date. Why did you, if you recall, think it would be
3 helpful to interview him again?

4 A. I don't know. That was Agent Poole that wrote that. I
5 can't answer that.

6 Q. So it was Agent Poole that thought he should be re-
7 interviewed and not you, or you just can't recall?

8 A. I don't recall.

9 Q. Okay. I'd like to hand you another report.

10 A. Okay.

11 Q. If you'll just do the same thing and take a look at
12 that, and tell me if you recognize it to be an SBI
13 report from the investigation of this case.

14 A. (Witness examines document.) Yes.

15 Q. Okay. And if you'll turn to page 3. At the bottom or
16 towards the bottom of page 3 appears to be an interview
17 of Donnie Lee Sutton.

18 A. Uh-huh (yes).

19 Q. And would you just go ahead and read that, that entire
20 part of the report? Just that interview.

21 A. Sutton, interviewed Sutton, an inmate at Sampson County
22 Prison Unit was interviewed on February 8, 1978 at
23 11:00 a.m. by writer and Detective Sergeant Phillip
24 Little of Bladen County Sheriff's Office. This
25 interview was conducted at Sampson County Prison Unit.

1 Q. If I can stop you for just one moment to tell the
2 Commissioners this is on page 58 of their briefs if
3 they want to follow along. And if you could just read
4 as loudly and clearly as possible. Thank you.

5 A. According to Sutton, he and Joseph Sledge have known
6 each other several years, that he talked with Sledge
7 after he was arrested in South Carolina. That his
8 conversation with Sledge took place at the Cumberland
9 County Jail. Sutton stated that Sledge told him that
10 the women, the victims in Bladen County in parentheses,
11 were supposed to die. And he, Sledge, was glad that
12 they were dead, that their deaths meant that there were
13 two more they, blacks in parentheses, would not have to
14 worry about. Sledge talked about hating white women.
15 Further, that Sledge claimed white women are she-devils
16 and should die. Sutton then went on to say that Sledge
17 said something about a lot of blood, but he, Sutton,
18 doesn't recall exactly what was said about this.

19 According to Sutton, he was heard -- he has
20 heard Sledge say that the white men were supposed to
21 rule the world for a certain period of time, and if the
22 white women were eliminated, the white man's rule would
23 be shortened.

24 Agent's Note: Sutton stated that since it had
25 been sometime since he had talked with Sledge, he would

1 need time to think and put their conversation together.
2 This interview was terminated.

3 Q. Did it concern you that what Mr. Sutton was saying now
4 was quite different than what he'd said in an interview
5 four months earlier?

6 A. It did.

7 Q. Okay. And tell us about that.

8 A. It always or should concern an investigator when
9 someone changes their story. You know, we're pretty
10 much obligated to at least tape the conversation and
11 record it, and then do whatever, you know, ends up
12 being done with it in court or during the
13 investigation.

14 Q. Okay. So you just characterized it as changes his
15 story. You feel that he did change his story?

16 A. Well, obviously, he changed his story. I know that
17 there is some, there's some hesitancy sometimes with,
18 with, we commonly refer to them, jailhouse snitches, to
19 not come forward to begin with because of being labeled
20 a snitch while they're serving time because they fear
21 for their well-being. But yes, to answer your
22 question, it always raises a flag when we have someone
23 to --

24 Q. And are you saying -- I want to make sure I'm
25 understanding it properly -- are you saying it's your

1 job to get it down, and the defense attorney and the
2 prosecutor's job to figure out at trial if they want to
3 use it or what they think of it?

4 A. Well, it's our duty and our responsibility to record it
5 as if, as we received it, yes.

6 Q. Okay. And then you just give that over and the
7 attorneys decide?

8 A. Right.

9 Q. And do you know if it was given to, if this report was
10 given to the defense and the prosecution?

11 A. I have no idea about-- you know, I don't know.

12 Q. All right. Now, the agent's note that you read said
13 that Sutton said it had been some time and he was going
14 to think about it and put the conversations together.
15 And that's what he said four months ago. Were you
16 worried that giving him more time was just giving him
17 more time to, as you said, change his story?

18 A. (Witness nods head affirmatively.)

19 Q. Okay. But you did give him more time?

20 A. Well, yeah. I mean, when we -- I'm not sure what
21 you're asking me.

22 Q. I guess what I'm trying to understand is, what you've
23 expressed is that you're concerned because he's a
24 snitch and he's changed his story and why is he
25 changing it. Why did you keep interviewing him?

1 A. There was some indication that, and there always is,
2 that either a witness or a suspect is giving you the
3 more information or withholding information from you
4 and, you know, you would, one would almost have to see
5 what he had to say, you know, and then try to find out
6 if there's any substance in the statement or not.

7 Q. Okay. So if you'll go on the same report that you've
8 got to page 5, it looks like you did interview him
9 again on February 10.

10 MS. MONTGOMERY-BLINN: This is on page 59 of
11 the brief, Commissioners.

12 Q. Which is a couple of days later. And if you'll just go
13 ahead and read us that report as well.

14 A. Sutton was re-interviewed on February 10 by writer,
15 Assistant Supervisor Gene Stewart, and Detective
16 Sergeant Little of the Bladen County Sheriff's Office.
17 This interview was conducted at the Sampson County
18 Prison Unit. Sutton again stated that he had known
19 Sledge since 1974 and that they had spent some time
20 together in jail. According to Sutton, since he has
21 known Sledge he's talked about knocking over whites,
22 she-devils, that Sledge thinks white men use white
23 women to get over on black men.

24 Sutton stated that when they were in
25 Cumberland County Jail together, Sledge said that the

1 authorities were trying to say that he killed two
2 women. That Sledge said that he wasn't guilty, but
3 after more conversation, Sledge said that they should
4 be dead. Sledge said something about a lot of blood,
5 seemed to be hung up on blood.

6 According to Sutton, he asked Sledge about
7 his clothes, and Sledge said that everything he had on
8 was thrown away and nobody could ever find it. Sutton
9 stated that Sledge told him that he had cut himself
10 going over a fence and Sutton thought he meant the
11 prison fence. As to Sledge's escape, Sutton stated
12 that Sledge told him that he had hidden after jumping
13 the fence and then walked to Elizabethtown where he
14 caught a ride with someone on Highway 87. That the
15 person who gave him a ride let him drive the car.
16 Sutton stated that Sledge would not tell him what he
17 was doing before he left Bladen County. That Sledge
18 told him that he was arrested in South Carolina and
19 that he was either going to Florida or Georgia.
20 According to Sutton, he asked Sledge why he was trying
21 to leave North Carolina. Sledge said because he was
22 afraid they were going to convict him of killing the
23 two women.

24 Sutton states that when he and Sledge were in
25 the penitentiary together Sledge had a blade, that at

1 one time he had a pocketknife as well as a blade that
2 he had made from a kitchen knife.

3 Agent's note, Sutton stated that he needed to
4 think about their conversation and would probably be
5 able to recall more of what he and Sledge talked about.
6 This interview was terminated, and Sutton will be
7 interviewed at a later date.

8 Q. Okay. At the very start it says that an SBI
9 supervisor, I believe, is there, Gene Stewart, and I
10 had noted that not in other -- is there a reason that
11 the SBI supervisor was there on this interview but not
12 others?

13 A. I don't recall.

14 Q. Okay. So the agent's note, again, said that Sutton
15 needed more time to think about the conversation and he
16 might be able to recall more, and then it says Sutton
17 will be re-interviewed at a later date. Was Sutton
18 indicating to you that he thought he hadn't told you
19 enough already?

20 A. (No audible response.)

21 Q. Why was he continuing to think about it, if you recall?

22 A. I have no idea. Now, sometimes when we re-interview
23 people we will go back to them when we look at what the
24 facts that they've told us, and then go back and
25 re-interview someone based on what they have told us

1 previously.

2 Q. But that, is that specific to this case or just in
3 general?

4 A. I'm not sure what -- I'm sorry?

5 Q. I'm sorry. Is that what you recall happening in this
6 case or just why you would do it in general?

7 A. Well, why we'd do it in general. I'm not sure why we
8 kept going back to Donnie Sutton.

9 Q. Okay. And were you worried at all that he was asking
10 for more time so he could keep gathering more case
11 facts?

12 A. Sure.

13 Q. So at that time you remember worrying about that?

14 A. Yeah. I would always worry about that, yes.

15 Q. Okay. All right. I'm going to hand you another
16 interview summary. If you'll just take a look at that
17 one.

18 A. (Witness examines document.)

19 MS. MONTGOMERY-BLINN: Commissioners, this
20 one is on page 60 of your brief. It's the February 15,
21 1978.

22 Q. Okay. Do you remember this interview?

23 A. Sutton was re-interviewed on February 15 by writer and
24 Detective Sergeant Phillip Little, Bladen County
25 Sheriff's Office. Sutton stated while in jail he and

1 Sledge talked about being arrested. Sledge said the
2 reason he was trying to leave the state after escape
3 was because they would pin murder on him. According to
4 Sutton, he asked Sledge about the murder and Sledge
5 said that he didn't intend to kill them, but was put in
6 a position where he had to do it. Further, that Sledge
7 said that he was glad the bitches were dead.

8 Sutton went on to say that Sledge talked
9 about all that blood. According to Sutton, he thought
10 Sledge was crazy. That he, Sledge, said something
11 about the women being cut up. Sutton stated that he
12 couldn't recall how or why Sledge said he knew they
13 were cut up, but he definitely said they were cut up.

14 Sutton stated that that there was no doubt in
15 his mind about Sledge having killed the women. That
16 he, Sledge, convinced him that he had killed two women.
17 Sledge told Sutton that his clothes would never be
18 found. Sutton thinks Sledge is too smart to wear
19 bloody clothes out of Elizabethtown.

20 Sutton also stated that Sledge told him he
21 caught a ride out of Elizabethtown to Fayetteville.
22 Further, that Sledge told him he got up with some dude
23 at a service station in Fayetteville and convinced him
24 to go to South Carolina, Georgia, or somewhere to make
25 some money. Sutton stated that he could not recall

1 anything else at this time, but may be able to remember
2 more about the conversation later.

3 And then there's a note at the bottom says,
4 Sledge talked to Donnie Lee Sutton on September, I
5 believe it may be 18th or 19th, on a Sunday at
6 Cumberland County Jail.

7 Q. Okay. So each time it says he might be able to
8 remember more, and he's still saying that.

9 A. Yeah. But he's basically telling the same thing.

10 Q. Well, the first time he said that he said he didn't do
11 it.

12 A. Right.

13 Q. And then he --

14 A. He did; the first time he did tell us that.

15 Q. So you feel like after the first time he's telling just
16 more of the same thing with more detail?

17 A. Well, his statements are more consistent in the last
18 three interviews.

19 Q. Okay. So it says in here that Sledge told Sutton that
20 his clothes would never be found, but you did find some
21 clothes, right?

22 A. We did find some clothes, yes.

23 Q. And you said, I'm sorry, I think I asked you, you said
24 you just couldn't recall where they were all found?

25 A. Right.

1 Q. Okay. And Sutton said that they were all covered in
2 blood, and you said the ones you found were not covered
3 in blood?

4 A. Right.

5 Q. Okay. Did you believe Donald Sutton?

6 A. Well, we were going to polygraph him. I think Sutton,
7 I think the polygraph was not done on Sutton because he
8 was sick the day that we took him to do the polygraph.
9 But --

10 Q. Did you try to reschedule it?

11 A. I don't recall.

12 Q. Do you recall that you did, the file that I have shows
13 that you did polygraph 11 people in this case?

14 A. Right.

15 Q. But not Donald Sutton?

16 A. I don't think we did, and I don't recall for sure.

17 Q. And not Herman Baker?

18 A. Yeah, we did Herman Baker.

19 Q. Okay. So the next time that Donald Sutton spoke is the
20 trial, does that sound accurate to you? There's no
21 more interviews?

22 A. I think so, yes.

23 Q. All right. Let's talk about Herman Baker now.

24 A. All right.

25 Q. Do you know how many times you interviewed Herman

1 Baker?

2 A. No, not exactly.

3 Q. If there's only one reported in the file, do you think
4 that's because you only interviewed him one time?

5 A. Yes.

6 Q. Okay. How did you get Herman Baker's name to begin
7 with?

8 A. Herman Baker, how Herman Baker's name came up, the
9 superintendent of the White Lake Department of
10 Corrections had contacted me and told me that he had an
11 inmate that was getting ready to be released and the
12 inmate said he had some information about the murder of
13 two women and that he needed to get it off his chest
14 before he was released.

15 Q. Okay. And had Mr. Sparkman helped you located other
16 people in this case who might have had information?

17 A. (Witness does not respond.)

18 Q. Did he help you locate Julian Broadway and Donald
19 Sutton?

20 A. I think so, yes.

21 Q. And Donald Sutton as well?

22 A. I don't recall, but most likely.

23 Q. Okay. Was that unusual for Captain Sparkman to help
24 you find witnesses?

25 A. Well, it was not unusual as far as if an inmate was to

1 go to him and say he had information, he would pass
2 that on. We didn't have Captain Sparkman out actually,
3 you know, scouting and looking for witnesses. If we
4 needed to find a particular inmate, then we most likely
5 would tap into Captain Sparkman to find out his
6 location because he had direct access to prison
7 records.

8 Q. Okay. Now, do you recall what you said to Herman Baker
9 during interviews with Mr. Baker?

10 A. I asked him, I do recall we asked him why, you know, he
11 wanted to talk to us and why he didn't, why he didn't
12 come forward earlier. And he said it was because of
13 the being in prison and -- but he told Agent Poole and
14 I that he was getting ready to be released and that
15 something that Sledge had told him was heavy on his
16 mind and that he, that he had called his uncle who was
17 a police officer in Philadelphia, I believe it was, and
18 that had told him about the information that he had.
19 And his uncle told him that he needed to go ahead and
20 contact the authorities and get, come clean on it. He
21 said, tell them what you know. And that's pretty much
22 how we came to speak with Mr. Baker.

23 Q. Okay. Do you know if he had been reading newspaper
24 articles or talking to people about the case before
25 you --

1 A. I have no idea.

2 Q. All right. Did he ask for anything in exchange for his
3 testimony?

4 A. No.

5 Q. Time? Reward money?

6 A. No. Well, he was getting out of prison already.

7 Q. Did he say he had any other charges that were pending
8 and asked for help with them?

9 A. No. He was getting ready to leave the state.

10 Q. And do you recall that he did get \$3,000 reward money
11 after the trial?

12 A. He did. And I know the circumstances of that.

13 Q. Okay. Go ahead.

14 A. After the trial was over with we were sitting in the
15 district attorney's office and I, I don't recall who it
16 was that brought it up, but someone made the statement
17 that Herman Baker should get the money because he had
18 the most accurate and most helpful statement.

19 Q. Is that why he got \$3,000 and Sutton got \$2,000?

20 A. Probably.

21 Q. So did you agree that Mr. Baker's statement was a
22 bigger part of the case than Mr. Sutton's?

23 A. I think Mr. Baker at the time, I understand that he may
24 be recanting it now, but at the time I think he was
25 sincere. He gave all indications of being sincere with

1 what he was doing.

2 Q. Does that mean Donald Sutton wasn't sincere?

3 A. Well, I'm not saying that, but I'm saying that
4 Mr. Baker coming forward unprompted, I think that --

5 Q. You only had to interview him once and you had to
6 interview Donald Sutton four times to get there, is
7 that what you mean?

8 A. No, that's not --

9 Q. Okay.

10 A. That's not what I'm saying.

11 Q. Okay.

12 A. I'm not really sure what I mean. I'm just specifically
13 talking about Mr. Baker.

14 Q. Okay. Well, I'm trying, I'm just, I'm trying to ask
15 how come they didn't split it down the middle? How
16 come it wasn't \$2,500 to each? Why was Mr. Baker
17 getting more than Mr. Sutton, if you know?

18 A. I have -- I do not know.

19 Q. Okay. Well, let's look at that interview. I'm going
20 to hand you the report. Just take a look at it first
21 and see if you recall it and what it is.

22 A. (Witness examines document.) It is a copy of an
23 interview that was done with Herman Baker.

24 Q. Okay.

25 MS. MONTGOMERY-BLINN: Commissioners, this is

1 on page 64 of your brief if you would like to look at
2 it.

3 Q. Let me just ask you a couple of questions about the
4 report. The report doesn't say, or at least I can't
5 see on there where he was interviewed, but you
6 testified that he was interviewed at a motel; do you
7 recall that?

8 A. I do.

9 Q. Can you tell us why was he taken to a motel?

10 A. For his safety.

11 Q. His safety?

12 A. Yes.

13 Q. Did you do that with any other witnesses in this case?

14 A. Some, some of the inmate witnesses, I know that we
15 interviewed at someplace on the Department of
16 Correction premises. A lot of them -- some of them,
17 you know, we may have taken them to another location.

18 Q. I recall seeing reports where you took many people to
19 the sheriff's office.

20 A. Right.

21 Q. But I didn't see any others for a motel. Would you
22 have not taken him to the sheriff's office for safety?
23 Was a motel safer?

24 A. Well, the motel was close by. The motel was at White
25 Lake.

1 Q. Okay.

2 A. The sheriff's office, you got jail inmates and other
3 inmates that are in and around that area, and I think
4 we discussed that and for his safety we decided to take
5 him to a neutral location.

6 Q. Okay.

7 A. And that's not uncommon for investigators to do that.

8 Q. And was Agent Poole also staying at that hotel during
9 the investigation?

10 A. I think he did, yes.

11 Q. Okay. So you knew that --

12 A. I'm pretty sure it was the same hotel, yeah.

13 Q. Okay. And it shows in this report, I believe, correct
14 me if I'm wrong, that Sparkman was on the interview,
15 too, at the motel room?

16 A. I believe Mr. Sparkman may have been there; yeah, he
17 was.

18 Q. Okay. And why would he have been there?

19 A. (Witness does not respond.)

20 Q. Was it just because he was being taken out of the
21 prison?

22 A. Because Mr. Baker was in his custody.

23 Q. Okay. So he wouldn't have been there if you were at
24 the sheriff's department necessarily, but because it
25 was a motel --

1 A. Yes.

2 Q. Okay.

3 A. The Department of Corrections still technically had
4 custody of him.

5 Q. Okay.

6 A. And one other thing, one of the reasons Captain
7 Sparkman was there is to keep other employees out of
8 the mix on this thing, if you will.

9 Q. Other prison employees?

10 A. Other prison employees just for the fear, you know,
11 somebody may make a statement or say something. So we
12 went to the top to start with and Captain Sparkman was
13 one that came with him.

14 Q. Okay. Now, this one is a little bit longer so I'm not
15 going to ask you to read the whole thing, but if you
16 need to take your time and read through it, because I
17 wanted to ask you about a broken jaw. And I didn't see
18 that listed anywhere in the report, but will you read
19 through and see if you see anything about a broken jaw
20 in the report?

21 A. (Witness examines document.)

22 Q. And you can read it, if you like.

23 A. (Witness continues to examine document.) All right.
24 Baker was interviewed on February 16, 1978 at 8:30 a.m.
25 by writer; Captain Sparkman, North Carolina Department

1 of Corrections; and Detective Phillip Little, Bladen
2 County Sheriff's Office. According to Baker, he's
3 known Sledge since 1969, that he was in the Air Force
4 and met Sledge in a poolroom in Fayetteville. That he
5 lost contact with Sledge, but met him again in 1975
6 while serving for forgery at the White Lake Prison
7 Camp. Baker went on to say that he was paroled in
8 January 1976, however, in April 1977 he was back in the
9 prison system after being convicted of breaking and
10 entering.

11 That in June 1977 he was at Moore County
12 Prison Camp and again met with Sledge. That either in
13 June or July Sledge was lifting weights and he, Baker,
14 was talking with him. While they were talking another
15 inmate came over and told Sledge that he was wanted in
16 the office. Sledge returned 10-15 minutes later and
17 said that he was wanted in court in Elizabethtown.
18 According to Baker he asked Sledge why, and Sledge said
19 he wondered if it was about the murders in
20 Elizabethtown. Baker went on to say that Sledge asked
21 him, if I tell you something, can you keep it to
22 yourself. That Sledge said that he escaped, when he
23 escaped he was running through the woods and looking
24 for a place to hide when he came up on an old house.
25 Sledge told Baker that he didn't think anyone was home

1 and went in. That after he got in the house a lady
2 came in the room screaming, what are you doing in the
3 house? He pushed her and hit her. Another lady was
4 coming in the room screaming, and one yelled, call the
5 police, or something to that effect.

6 According to Baker, Sledge said he started
7 stabbing one of them, and the other one was trying to
8 pull him off and he stabbed her. Sledge said he kept
9 stabbing them and stabbing them. Sledge says, damn um,
10 it seemed like I went crazy. Further, that Sledge said
11 that he ran out of the house through the back door and
12 towards the woods. That he ran into a cleared field
13 where there was an old building and buried the knife
14 behind the old building.

15 Baker stated that Sledge referred to the
16 women as she-devils and said that when he stabbed them
17 he didn't think blood was going to come out, he thought
18 fire would come out. Further, that while inside the
19 house one of the women hit him with something. Baker
20 went on to say that Sledge told him he sprinkled black
21 pepper around the back doorsteps when he left the house
22 to keep the she-devils' spirits from coming after him.
23 That while inside the house he had gone -- had one of
24 the women on the floor and thought the other lady was
25 going to a phone, so he jumped up and got the other

1 one.

2 According to Baker, Sledge kept saying he
3 stabbed them, he stabbed. Baker went on to say that
4 Sledge talked about, a lot about killing white women,
5 and on one occasion told Ralph Quick, Scatter-man,
6 a.k.a. Scatter-man, that he should kill the white girl
7 he was dating, that they were in prison at the time.
8 Baker stated the conversation with Sledge took place at
9 around 12:00 noon on Tuesday, that he knows it was
10 Tuesday because he had a class that night. That Sledge
11 went on to tell him that he stole a car after killing
12 the two women.

13 Q. Thank you. So I wanted to ask about in the report I
14 didn't see anything about a broken jaw, one of the
15 victims being hit and having a broken jaw. But at the
16 trial Herman Baker testified that Sledge said he hit
17 one of the women in the jaw. Do you recall if he said
18 that when you interviewed him?

19 A. I don't, do not recall that, and we did not know that
20 until the second autopsy.

21 Q. Right. Okay. So you didn't know that a victim had a
22 broken jaw until the second autopsy?

23 A. Right.

24 Q. And the second autopsy was about a month after the
25 murder, is that right?

1 A. I think that's about right, yeah.

2 Q. Okay. So you did know it by the time you interviewed
3 Herman Baker?

4 A. Yes.

5 Q. Okay. And you just don't recall whether it didn't make
6 it in the report or whether he didn't say it until
7 trial?

8 A. I don't recall him making a statement about that.

9 Q. Okay. Do you know then if the prosecutor interviewed
10 him, do you know if the prosecutor interviewed him
11 prior to trial?

12 A. I do not.

13 Q. Do you know how the prosecutor knew to ask him about
14 the broken jaw if he didn't say it?

15 A. (Witness shakes head negatively.)

16 Q. Okay. Now, I didn't have any documentation that you
17 polygraphed Herman Baker, but you said you recall that
18 you did polygraph Herman Baker?

19 A. Somewhere in the report, I have seen a report that
20 Herman Baker was polygraphed.

21 Q. Okay. When do you remember seeing that, recently or
22 back in the '70s?

23 A. It was back, sometime back.

24 Q. Okay. Do you recall the results of the polygraph?

25 A. It was he was being truthful.

1 Q. All right. I'm going to hand you another report. If
2 you'll just take a look at this report. I don't need
3 you to read it, just see if it refreshes you and if you
4 remember what this is.

5 A. (Witness examines document.) It's an interview with
6 Dr. Marvin Thompson, a pathologist.

7 Q. Okay. And what is the date of the interview?

8 A. Date of interview is November 2, '76.

9 Q. Okay. And was this the doctor that did the first
10 autopsy report?

11 A. Yes.

12 Q. Okay. And you just said that you didn't know about the
13 broken jaw until the second autopsy report?

14 A. (Witness nods head affirmatively.)

15 Q. Can you read -- I'm sorry. Okay. So the second
16 autopsy was after this one?

17 A. Yes.

18 Q. Does November 9 sound right for the second autopsy,
19 shortly after?

20 A. It was a few days later, yeah.

21 Q. Okay. If you'll read the line that says, it's right in
22 the middle, I did not X-ray the bodies of the two
23 victims. Can you read that, those two sentences right
24 there?

25 A. I did not X-ray the bodies of the two victims. I

1 cannot say whether or not Josephine Davis had a broken
2 jaw.

3 Q. So were you asking him about a broken jaw then?

4 A. I think the reason that that came up was there was some
5 bruising on her face, and I don't remember why that
6 came up but --

7 Q. Okay. So you were suspecting that maybe --

8 A. There was a pretty severe bruising and swelling on one
9 side of the face if -- that I recall.

10 Q. Okay. All right. Mr. Little, I'm going to hand you
11 another document. If you'll take a look at it, tell me
12 if you recognize it.

13 A. (Witness examines document.)

14 Q. And I don't need you to read it, just to tell me.

15 A. (Witness continues to examines document.) Yes, I
16 recognize it.

17 Q. What do you recognize it to be?

18 A. It was a letter that I received from Herman Baker in
19 October, I think it was, 1980.

20 Q. So well after the trial?

21 A. Yeah.

22 Q. And what is he asking for in the letter?

23 A. (Witness examines document.) I think he pretty much
24 was telling me that he was back in prison again and was
25 on a work release program or had been approved for

1 that, but was having problems because he had given
2 statements about Sledge, and was asking if I knew of
3 anyplace that he could get a job. And specifically he
4 mentioned a place, a manufacturing plant that was in
5 Elizabethtown at the time called Cape Crafts.

6 Q. Okay. So is he asking you to help him get moved for
7 work release?

8 A. That's what it appears, yeah.

9 Q. Had you told him that you would help him?

10 A. No.

11 Q. Did you help him?

12 A. No.

13 Q. Okay. And you just saved this and put it in the file?

14 A. I did.

15 Q. Okay. All right. Let's talk about the pepper can. Do
16 you remember the pepper can?

17 A. I do.

18 Q. Okay. Do you remember the first time you saw the
19 pepper can?

20 A. Yes.

21 Q. Can you tell us about that?

22 A. When I did a walk-through of the house.

23 Q. Is this the first time you came to the house, when you
24 were first called in?

25 A. I believe that's correct, yes.

1 Q. Okay. Please go ahead.

2 A. And as you go into the, from the living room portion --

3 Q. Do you need to use that photograph? I think it's --

4 A. Well, I, I think I can do it. When you leave out of
5 the living room and go into the kitchen, the kitchen
6 was fairly small and cluttered. There was a couple
7 wood stoves, there was a wood stove and I think maybe
8 an electric stove, but the victims used the wood stove
9 to do their cooking. If you immediately -- and it's
10 kind of an open doorway, if you will, that goes, an
11 open area that went in -- but it's a framed up area
12 that goes into the kitchen. And the kitchen was very
13 narrow, probably no more than six or eight feet wide,
14 runs along back side of the house. As you -- if you
15 make a left turn as soon as you enter the kitchen, then
16 there's another door, and then there's like a little
17 breezeway or hallway. And if you do an immediate
18 right, and the, then the hallway is very narrow,
19 probably no more than maybe four-by-four, make an
20 immediate right, you go out the back door and down the
21 steps. If you go straight across the hallway you go
22 into a storage room.

23 Q. And do you recall where exactly -- if you don't recall,
24 but if you do, where the pepper can was?

25 A. Yes, in that hallway as you were going --

1 Q. In the hallway?

2 A. Yeah. That's what I'm referring to it as, as a, as a
3 hall.

4 Q. The hallway?

5 A. Yeah.

6 Q. Okay. And what was done on the initial part of the
7 investigation the day that the bodies were discovered,
8 what, if anything, was done to the pepper can?

9 A. I don't recall. The pepper can was not significant at
10 that time.

11 Q. Okay. Do you remember if it was fingerprinted or
12 collected or anything?

13 A. At some point I did attempt to fingerprint it, yes.

14 Q. Okay. And if I don't have any report of that, you
15 recall that it was done, though?

16 A. It was.

17 Q. Okay. Do you remember, was it sitting all by itself or
18 was the pepper can with other items in the --

19 A. No, the pepper can was lying on the floor.

20 Q. Lying on the floor?

21 A. Yeah.

22 Q. And I can't locate any reports of the pepper can
23 initially. Is that -- I guess it could be because
24 they're missing, or was it something insignificant to
25 you at the time?

1 A. It was totally insignificant at the time.

2 Q. And when you first arrived did you do a careful search
3 of the crime scene?

4 A. Well, I did do as careful as I could, yes.

5 Q. Okay. And at that time did you notice any black pepper
6 scattered around anywhere in the back doorway, the
7 hall, anywhere in the house?

8 A. No. There's been, there's been some reports in some of
9 the media that there was an odor of black pepper, and I
10 tell you that, that is absolutely not true. You
11 couldn't smell black pepper.

12 Q. Okay. And if you had seen pepper scattered around,
13 would you have written that down or noted that?

14 A. I can't answer that.

15 Q. But you don't recall seeing any?

16 A. Yeah; yeah.

17 Q. And you don't recall smelling it or --

18 A. Because most of the disarray in the house was in that
19 living room portion and part of the bedroom. Other
20 than just slightly inside the kitchen doorway where
21 there was a bloody track or a partial, there was
22 nothing, other than some food on the table, there was
23 nothing that was out of place or was noteworthy to me
24 in the kitchen or around the back door at that time.

25 Q. Okay. Well, when was the next time you thought about

1 that black pepper can?

2 A. After our interview with Herman Baker.

3 Q. The one you just read?

4 A. Yes.

5 Q. All right. So what did you do then, did you go back?

6 A. Agent Poole and I returned to the house and recovered
7 it.

8 Q. And where was it when you returned?

9 A. I don't remember if it was on the floor. I'm sure it's
10 in my testimony, but just, I mean, I can't remember
11 right now where it was, if I had placed it on a table
12 that was sitting nearby or if it was still on the
13 floor.

14 Q. Okay. Do you remember if it was empty?

15 A. No, it had pepper in it.

16 Q. Do you remember if it was full or --

17 A. Well, it had, it had quite a bit of pepper in it.

18 Q. Okay. And then when you went back and collected it did
19 you look for pepper then on the floor?

20 A. No.

21 Q. Okay.

22 A. I mean, that would virtually, because of the condition
23 of the house and the floor, it would have been
24 virtually impossible to --

25 Q. All right. So do you still have that photograph up

1 there, this one (indicating)? I mean not photograph,
2 but the picture from the trial?

3 A. Like I say, yes, I do.

4 Q. And I'm just looking at this.

5 MS. MONTGOMERY-BLINN: Commissioners, this is
6 in your brief, page 115 of the brief. This is the
7 exhibit of the -- that Detective Little just testified
8 about.

9 Q. And Detective Little, when I'm looking at this and I
10 have read your testimony, in the kitchen there's an X
11 that you placed. Is that where the pepper can was
12 located?

13 A. It may have been, I'm not sure. I do remember in trial
14 I said where the pepper can was, but without referring,
15 you know, back to --

16 Q. Looking at that now, is that where you recall it being,
17 or you're saying you recall it being in this little
18 area marked hall?

19 A. It was -- I don't recall, but it was somewhere in that
20 general neighborhood.

21 Q. Okay. Somewhere in this area?

22 A. Yeah, right.

23 Q. Okay. Now, I think you've already described this other
24 part of that same picture, but is there anything that
25 you wanted to add about that, the map of the area

1 showing the victims' residence and the prison?

2 A. I'm sorry?

3 Q. I just, I wanted to make sure, did you have anything
4 you wanted to say about this part, the map of the
5 location? I think you had told us where Turnbull Creek
6 was, and I think this must be the victims' residence,
7 it says Davis Res.

8 A. Yes. It shows the two outside lines, the one to the
9 right looking at the photograph is US 701, and then
10 there's another solid line to the left that is NC 242,
11 which is the highway that actually goes by the victims'
12 residence, by the front of the victims' residence.
13 There is a solid line that intersects 242 and 701 just
14 up from the Davis, what's represented as the Davis
15 residence, and that's a road called, state road that's
16 Willard Tatum Road. The dirt trail, that's on the
17 North Carolina State Forest Service property, and on
18 the south side of Turnbull is, there's a broken line
19 and that's the dirt trail that I was referring to as
20 Hoover Bridge Road.

21 Q. Okay. And do you recall this little square down here
22 at the, in the bottom right corner, is that where the
23 car was stolen from?

24 A. It would be somewhere in that general area based on the
25 diagram of Elizabethtown, yes.

1 Q. Okay. All right. Is there anything that I haven't
2 asked you about that you think is important for the
3 Commissioners to know?

4 A. I think going back to, with all honesty, I think the
5 black, I mean the X is probably where the pepper can
6 was found.

7 Q. The X in the kitchen?

8 A. Right.

9 Q. Okay.

10 A. But it was right there at the door. It's not -- I
11 mean, it was right up against the doorjamb on the
12 floor.

13 Q. Okay.

14 A. And that's through the door going into that hallway.

15 Q. And then that goes outside, is that right?

16 A. That's right. You make a right turn and immediately
17 you're going down the steps.

18 Q. Okay. All right. I'm done asking you questions, but
19 the commissioners may have questions.

20 MS. MONTGOMERY-BLINN: Commissioners?

21 JUDGE SUMNER: Any questions? Yes, sir.

22

23 EXAMINATION BY MR. SMITH

24 Q. Was anything of value taken from the house that you
25 could tell there was a robbery?

1 A. There was a pocketbook, a lady's pocketbook, which
2 there was some information came up about that later.
3 There was some money that we had information that was
4 stolen, but we also received later on some information
5 from a witness in Fayetteville that supposedly saw
6 Mr. Sledge with, in possession of a lady's handbag.
7 And I don't recall that individual's name, but I do
8 know that that individual was polygraphed.

9 Q. I think you said that Mr. Sledge was tracked to Hoover
10 Bridge or near Hoover Bridge?

11 A. Yes, sir.

12 Q. And that the tracks were lost. How far -- I'm sorry?

13 A. The dog quit trailing at the Hoover Bridge and now --
14 and that was right there at Turnbull Creek. But
15 according to the trail, it appeared that the, that the
16 person, well, Mr. Sledge that they were trailing
17 crossed the creek there.

18 Q. Okay. Well, he moves across the water and the dog
19 couldn't pick up the scent after that?

20 A. Yes, sir. That's correct.

21 Q. How far would that be as the crow flies from the Davis
22 house?

23 A. Probably a mile, mile-and-a-half.

24 Q. And --

25 A. And that road, that road comes out about 300 yards from

1 the Davis residence.

2 Q. Okay. So you could follow Mr. Sledge's tracks to
3 within about a mile or little more of the house?

4 A. Yes, sir.

5 Q. Just one moment and I think I'll be through.

6 Did Mr. Sutton and Mr. Baker know each other?

7 A. Yeah, I don't know.

8 Q. Were there consistencies in their stories? For
9 example, the use of devils.

10 A. There was. Matter of fact, there was kind of broad
11 ranging consistency with the fact -- and we had several
12 inmates that told us this, and several acquaintances --
13 that Mr. Sledge was a devout Muslim and hated white
14 women. And it was pretty obvious of his hatred towards
15 white people.

16 Q. And you don't have any indication, you don't, that they
17 had ever talked together, that is Mr. Sutton and
18 Mr. Baker?

19 A. No, sir. The inmates that really gave us some of the
20 statements were in different prison units.

21 Q. Yes, sir.

22 A. They may have been in the same unit at some point in
23 time, but they were in different prison units.

24 Q. One last question. Were you able to tell how the
25 killer got into the house?

1 A. No, sir.

2 Q. So you don't know whether he knocked on the door and
3 they let him in or whether he broke in?

4 A. Well, according to one of the statements, he, he went
5 in the house thinking it was abandoned. And it could
6 be apparent to one that the house was abandoned just
7 simply the way it looked at the time. And according to
8 a statement that he made, I believe it was Mr. Baker,
9 that he thought the house was vacant and was surprised
10 when he got inside when the women woke up and started
11 screaming and fighting him.

12 Q. Do we have any way to know about what time it would
13 have been when the intruder came in?

14 A. No, sir.

15 Q. Okay. Thank you, Detective Little.

16 A. Yes, sir.

17 JUDGE SUMNER: Yes, sir.

18

19 EXAMINATION BY MR. HEARD

20 Q. I'm curious about Mr. Sledge's comments. I'm noting
21 the number of times he made comments about, well,
22 basically a bunch of black racist comments. Anyone
23 ever consider the fact that he was elaborating and
24 bragging to impress his fellow inmates or trying to
25 recruit them to the black Muslim cause by saying these

1 various things?

2 A. He, he, he, he, he may have. I'm not saying that that
3 was not the case. But it was pretty apparent that on
4 numerous occasions when he did talk to people that --
5 and that, that was, that was, if anything, that was the
6 most consistent thing everybody that we talked to told
7 us about Mr. Sledge. Even the ones that didn't have
8 any information about the murder that we spoke with
9 that were acquaintances conveyed that to us.

10 Q. Was there any other evidence from any other instance
11 where he had either, if not attacked, at least acted
12 hostilely toward white women, or was this the only
13 indication, only time you have an indication of that?

14 A. Yeah, I don't, I don't recall that there -- I think
15 there was a case where he had assaulted someone. I'm
16 not sure what the reason behind that was.

17 Q. Okay.

18 A. But he did have some assault records and convictions, I
19 think.

20 Q. But do you know what the race or the gender of those
21 people were?

22 A. I do not.

23 Q. Thank you.

24

25

EXAMINATION BY SHERIFF DUNCAN

1
2 Q. If I remember correctly, there's still some question as
3 to whether you took Mr. Sledge on the 10th or the 12th.
4 The polygraph we know was conducted on the 11th, but
5 there is -- was it ever able to show by report or
6 remember an absolute --

7 A. I'm not sure if that was a, that was a mistake or
8 transposed number or what that was, but you're right,
9 it was, I think the polygraph was done on the 11th.

10 Q. Detective, do you remember if any of the SBI agents
11 working the case would have taken the Defendant from
12 the jail and done a drive-through other than the one
13 that you did, whether it was the 10th or the 12th?

14 A. It's possible, yes, sir. At one time, initially we
15 were, for lack of a better work, were kind of wolf-
16 packing this thing. There was a lot of investigators
17 running down leads. They were reporting back to the
18 lead investigator, but there was some other things
19 being done. Yes, sir.

20 Q. Thank you.

EXAMINATION BY MS. SURGEON

21
22
23 Q. You indicated earlier in your testimony that you
24 thought that Joseph was being deceptive when he talked
25 about certain things when you were driving him around.

1 What are those things?

2 A. Well, one of them was his clothing and the route of
3 travel that he actually traveled. He really, to be
4 quite honest with you, he didn't talk a whole lot at
5 that time and was not very responsive to questions.
6 The most notable comment that he made during this whole
7 time was when we stopped in front of the house and, you
8 know, whether he knew that for sure or whether he
9 assumed that was the victims' residence, I don't know.
10 You know, I just conveyed to you what the statement
11 that he made.

12 (THEREUPON, A DISCUSSION WAS HAD OFF THE
13 RECORD WHICH WAS NOT REPORTED.)

14 Q. When you got Mr. Sledge to ride him around, you were
15 riding him around for what purpose?

16 A. Well, attempting to shed some light on his travel and
17 what his actions were.

18 Q. What had you communicated to him is the basis of this
19 travel?

20 A. That we were going to ask him if he would go with us
21 and kind of show us the route that he traveled when he
22 left the prison.

23 Q. So you had talked to him about the escape?

24 A. Yes.

25 Q. Had you had any conversation with him about the

1 murders?

2 A. I do not recall. I, I don't think so at that time.

3 Q. You indicated that there had been some threats before
4 you were traveling around with him; threats about what?

5 A. Well, whether those threats were credible or not, I
6 don't know, but, you know, we had received some
7 information that possibly --

8 Q. We being?

9 A. The authorities, the sheriff's office.

10 Q. Had received what?

11 A. That some of the family members were upset and may be
12 trying to, may try to do something, so we wanted to
13 make sure that didn't happen.

14 Q. When was the moment that you -- Joseph Sledge became a
15 suspect?

16 A. Well, he was definitely a person of interest just due
17 to the fact that he had escaped and had traveled in the
18 direction of the victims' residence. Now, it wasn't
19 till later, you know, after we got involved in the
20 murder investigation that we found out that an inmate
21 had escaped. And of course, you know, we wouldn't have
22 been doing our job if that hadn't of popped up on our
23 radar at that time, that he could be a person of
24 interest or a potential suspect. But most especially
25 when we started tracking him and we found out he had

1 been tracked to within, you know, a short distance from
2 the victims' residence and his direction of travel was
3 heading directly that way.

4 Q. Was there physical evidence that connected him to the
5 residence or to the crime?

6 A. No, not at that time; no.

7 Q. That's all I have, thank you.

8

9 EXAMINATION BY RETIRED SHERIFF PICKENS

10 Q. One question, Detective. You said that where the dog
11 lost the scent was about a mile walking from the Davis
12 residence. How far is it from the prison unit to the
13 Davis residence?

14 A. Well, as the crow flies, probably two, three miles
15 maybe, maybe three-and-a-half miles. There's a road --
16 matter of fact, our law enforcement range is back there
17 now, but at the time there was nothing back there.
18 There was a road that accessed across the swampy area
19 and a lot of prisoners that escaped from that unit
20 traveled that road because it's right behind the fence
21 at the prison. And it goes all the way across a wooded
22 area back there across a field and comes out on this
23 Williard Tatum Road, the paved road that he would had
24 to of crossed before he got to Turnbull Creek. And
25 then that's, that's where he picked up Hoover Bridge

1 Road and then traveled Hoover Bridge Road to Turnbull
2 Creek. Hoover Bridge Road then from the Turnbull Creek
3 to the victims' residence may be a mile-and-a-half, but
4 where it comes out on 242, the dirt road that goes all
5 the way through the wooded area there, comes out maybe
6 300 yards from the victims' residence. Matter of fact,
7 you can almost see the victims' residence where it
8 comes out to the paved road.

9 Q. Did the dog in fact track Mr. Sledge the way that you
10 say most prisoners left the prison? Was that the exact
11 same route that the dog tracked?

12 A. He did. A lot of inmates would go that route because
13 it was secluded and --

14 Q. Right. So that is the way that the dog tracked --

15 A. That's correct.

16 Q. -- Mr. Sledge when he escaped, but he lost him there at
17 Turnbull, at the creek?

18 A. That's right.

19 Q. And the thinking was possibly he went in the water and
20 the dog lost the scent?

21 A. Yes, ma'am.

22 Q. Okay. Thank you, sir.

23

24 EXAMINATION BY MR. VICKORY

25 Q. When you first got in touch with Mr. Sledge, where was

1 that, was that at the sheriff's office there or --

2 A. No, that was in, I believe it was Dillon, South
3 Carolina.

4 Q. Okay. So you --

5 A. It was in South Carolina.

6 Q. You went with him to South Carolina to pick him up?

7 A. Yes.

8 Q. When the authorities picked him up there was he there
9 very long before you all came down there or --

10 A. Not, not a lot. I'll try to tell you what I remember
11 about that. A BOLO or a be on the lookout for
12 Mr. Sledge had been transmitted on the media and at the
13 time -- primarily based on the car larceny. He had
14 gone to Fayetteville, Mr. Sledge. And a Fayetteville
15 police officer, G.D. White -- we knew, we knew what the
16 vehicle was that he had stolen in Elizabethtown.
17 Mr. G.D. White, who was a Fayetteville police officer
18 at the time, spotted the vehicle and gave chase.
19 Mr. Sledge jumped out and it's my understanding that
20 possibly Mr. White knew Sledge because of his having
21 been around the Fayetteville area and having been
22 arrested up there before.

23 But after that we received a call from a
24 State Trooper in, I think it was Dillon, South
25 Carolina, that he had run across an individual that met

1 the description of somebody that he had seen on the
2 news. But he was on the street at that time, he was
3 trying to get a ride to Savannah, Georgia. And the
4 South Carolina authorities went back and picked him up
5 and then we went down there. He, Mr. Sledge admitted
6 early on about the stealing of a car.

7 Q. Okay.

8 A. So, and he agreed to come back.

9 Q. So he didn't fight extradition or anything like that?

10 A. No, sir.

11 Q. Okay. So he was picked up on an auto theft and escape,
12 I take it, charges?

13 A. Yes.

14 Q. Did the subject of the murders ever come up when you
15 were bringing him back, I mean, if you recall? Do
16 you --

17 A. I don't think that was ever mentioned to him on the way
18 back.

19 Q. That's what I was wondering. I was just wondering when
20 during the course of the conversation did he ever
21 realize or did he realize there initially that there
22 had been murders, as far as you could tell? Was there
23 talk about the murder?

24 A. At some point in time and what I have in, you know, the
25 notes to look at, I don't recall when that point in

1 time was. But I'm, I'm pretty sure that we didn't talk
2 to him initially on the way back.

3 Q. Was there some, ever any kind of period of rapport
4 building between you and whoever else was with you, you
5 know, to loosen him up to talk freely, that kind of
6 thing, or was it all strictly business?

7 A. Well, initially you take a very non-adversarial
8 approach with someone that you're trying to get
9 information out of. And that's what we were wanting to
10 do was, or that's what my intent was is to maintain a
11 non-adversarial and establish a, establish a rapport
12 with him. And so we didn't, didn't really pounce on
13 him, if you will, initially about the murders. It was
14 mostly as a witness, you know, where did you go after
15 you escaped, and what have you.

16 Q. Do you recall if you all drove directly back to, say,
17 the prison and kind of started from that direction, or
18 did you go back to the sheriff's office and sit down --

19 A. Just from what I recall, I think at the time we didn't
20 want to, him to even know that we were looking at him
21 on the murders until we had recovered clothing and
22 retraced his route and stuff.

23 Q. So when you all -- you already had the information in
24 your mind, I guess, about the dog tracking, so you kind
25 of had an idea what the route was. Did he acknowledge

1 that was the route he took?

2 A. No. He claimed that, pretty much that he traveled
3 along 701, but we, we never did believe that.

4 Q. Which was kind of like the main route into the prison?

5 A. Yeah. That's the main highway, it's the US highway
6 that goes from Elizabethtown by the White Lake Prison.

7 Q. And did he escape during the daytime?

8 A. I'm pretty sure it was at nighttime or late evening.

9 Q. Okay.

10 A. It was after, I think it was after bed check, or maybe
11 right before.

12 Q. When you all wound up back in front of the, in front of
13 the crime scene, the victims' house, at that point do
14 you recall whether there had ever been any discussion
15 of this double homicide that had occurred at that time?

16 A. Not to my knowledge.

17 Q. So you all just kind of stopped there and --

18 A. Right.

19 Q. Were you and the other officer talking or was he
20 involved in the conversation at all or --

21 A. We, we pretty much, the way that happened, we pulled up
22 there and had some notes and was, I think, pulled out a
23 pad and was writing something down, and that was pretty
24 much a spontaneous statement that he made to us.

25 Q. So at that point you all hadn't referenced to what

1 color the people were that were killed or how many
2 there were that were killed?

3 A. No, sir.

4 Q. Or even if there had been a murder?

5 A. No, sir.

6 Q. Did the conversation ever come up as to why there was
7 crime scene tape out there or --

8 A. No, sir.

9 Q. Were you parked, from the direction of that photograph
10 were you parked outside the crime scene tape or was
11 there crime scene tape?

12 A. Our direction of travel, we were traveling 242 back, it
13 would be northeast of the, of Elizabethtown. And we
14 parked on the opposite side of the road on the oncoming
15 traffic lane side, and just pulled over to the shoulder
16 of the road there.

17 Q. Was there a police presence over there at the house
18 still?

19 A. There wasn't any police presence, but as I said
20 earlier, the crime scene or the keep out signs most
21 likely were there.

22 Q. So could you tell whether he was, like, looking over
23 there at that house and --

24 A. He did. He sat there for a minute. And that was one
25 of the things that I wanted to do was to see what his

1 reaction was going to be.

2 Q. Right.

3 A. And he sat there and didn't say anything for a, for a
4 few moments. And then he raised his hands up and
5 pointed over towards the house and then made that
6 comment.

7 Q. At that point had there -- I know you all hadn't talked
8 about the manner of killing or even if there had been a
9 killing, but do you recall if the media knew at that
10 point there was, it was a stabbing type murder?

11 A. I'm pretty sure they did, yes, sir.

12 Q. So that would have been out in the public domain at
13 that point?

14 A. Yes, sir.

15

16 FURTHER EXAMINATION BY RETIRED SHERIFF PICKENS

17 Q. Were you driving, Detective, when you made that stop,
18 were you driving the vehicle?

19 A. No, another officer, I think, was driving, and I was
20 sitting in the back --

21 Q. With --

22 A. -- with Mr. Sledge.

23 Q. Had you all discussed previously about, thinking about
24 stopping there to see what his reaction was?

25 A. We did.

1 Q. Was that your idea or someone else's?

2 A. I don't recall, but I know we did discuss that, yes.

3 Q. To see what his reaction might be?

4 A. Yes.

5

6 FURTHER EXAMINATION BY MR. VICKORY

7 Q. In the Baker interview -- I'm sorry.

8 JUDGE SUMNER: Go ahead.

9 Q. In the Baker interview there's reference to he said, I
10 believe he said he buried the knife in the woods behind
11 the house.

12 A. Uh-huh (yes).

13 Q. In that picture there's some kind of scattered trees
14 around, but it looks like way back in the distance
15 there's some woods. If you recall if that's what he --
16 did you think that's what they were talking about or
17 Mr. --

18 A. I don't know. There was some outbuildings in around
19 there and we did search that area to no avail.

20 Q. I was kind of wondering if anybody ever went with a
21 metal detector in that, behind the woods and just
22 walked that area to see if they hit on anything?

23 A. There was a fairly extensive search done back there.

24 Q. Okay.

25

1 FURTHER EXAMINATION BY SHERIFF DUNCAN

2 Q. Was that after the Baker interview, went back where he
3 gave that information to your --

4 A. We did go back there after we got that information,
5 yes, sir. And that was one of the reasons that we kept
6 revisiting things on this. We'd get some information,
7 then we'd go try to corroborate it or disprove it.

8 Q. Yes, sir.

9

10 EXAMINATION BY JUDGE SUMNER

11 Q. Were you ever able to verify the fact that there had
12 been a robbery in connection with this matter?

13 A. No. And we never, you know, robbery was, robbery or
14 actually sexual assault was never on the table as a
15 motive for what happened. And the, the two victims
16 were very indigent. I mean, one can look at the, how
17 they were living and tell that, that they lived a very
18 primitive or simple life.

19 Q. Or a sparse life.

20 A. Yeah, that's, that's correct.

21 Q. I understand, were there other incidents of escapes
22 from this prison about the same time as this?

23 A. I don't recall. You know, there was escapes from that
24 prison kind of on and off over the years, as long as I
25 remember, you know. It was a medium-security prison

1 and it was not, not hard for someone to leave there.

2

3

FURTHER EXAMINATION BY RETIRED SHERIFF PICKENS

4

Q. Was it the superintendent's policy or someone in charge
5 there at the unit, was it their policy to immediately
6 notify local law enforcement when there was an escape
7 or would they wait, say, hours before they did that?

8

A. I don't know what their policy was, per se. I do know
9 that normally after a short period of time. I don't
10 know that they would immediately do it. We didn't have
11 the technology and the media and the access to
12 communications, you know, then that we had later in my
13 career. I wish we had of. But I'm pretty sure that we
14 were involved in the -- or when I found out about his
15 escape, we were involved in the investigation when I
16 found out about that an inmate had escaped.

17

Q. So the homicide or the two homicides had already
18 occurred when you found out, and you found out from
19 someone there at the sheriff's office or from Captain
20 Sparkman?

21

A. Somebody from the Department of Corrections, and I
22 don't know if they notified us, per se, for to
23 establish that it was a suspect or was just conveying
24 information about an escapee to law enforcement.
25 Because that was, that was pretty common practice if

1 they had a runner, that they would notify law
2 enforcement.

3 Q. And they usually did that pretty quick afterward?

4 A. That's right.

5 Q. When the charges were brought against Mr. Sledge for
6 the escape and for the larceny of the motor vehicle,
7 the escape charges, I'm assuming, were made by the
8 Department of Corrections?

9 A. That's correct.

10 Q. Did the sheriff's office work the vehicle larceny or
11 was that done by the police department?

12 A. I think that was the Elizabethtown Police Department.

13 Q. Okay.

14 A. And it was not until probably almost a year later that
15 we really, that Mr. Sledge was charged with the murder.

16 Q. Right. So when you went, you originally went to Dillon
17 to return him back to North Carolina --

18 A. Yes, ma'am.

19 Q. -- and at that time he was being returned because of
20 his escape and the larceny?

21 A. That's correct.

22 Q. But you and the other people investigating this crime,
23 I guess, with the sheriff's office had a reasonable
24 suspicion that he may have been --

25 A. That's correct.

1 Q. -- is that correct?

2 A. That's correct. And we didn't, and the reason that we
3 didn't want to pounce on him to start with, you know,
4 if you're in law enforcement, to know a lot of times a
5 suspect or a person of interest will clam up if you do
6 that.

7 Q. Right.

8 A. So like I say, our contact with him at that time had
9 been very non-adversarial other than him being in
10 custody.

11 Q. So he was not surprised for people from the sheriff's
12 office to come retrieve him instead of someone from the
13 Department of Corrections?

14 A. Right.

15 Q. Thank you.

16

17 FURTHER EXAMINATION BY SHERIFF DUNCAN

18 Q. Detective Little, there was a picture, and I don't know
19 how to do this, there's a picture on 122 -- because I
20 don't think you have a copy of the brief -- but the day
21 that you rode with Mr. Sledge back to the house, he
22 made the unsolicited statement to you, would it be fair
23 to say that that is a representation of what he saw
24 that day?

25 MS. MONTGOMERY-BLINN: That is the one that's

1 right there, the picture of the house.

2 MR. VICKORY: He's got it?

3 A. Yes, sir.

4 Q. Okay.

5 A. I couldn't remember, but if that's what you've got
6 there, yeah, that's the way it was.

7 Q. We had mentioned crime scene tape because -- I just
8 want to -- so there was basically a rope or a cable
9 that the sign --

10 A. There was not any crime scene tape that said that.
11 Matter of fact, at that time I don't even know if the
12 department even had anything that said crime scene on
13 it, keep out. But there was a rope that had been put
14 up and a keep out sign.

15 Q. Back on the 11th do you remember when his polygraph
16 examination was done, were you present or did you
17 review the questions or the results after, close after
18 that examination?

19 A. I'm pretty sure I did, yes, sir.

20 Q. Do you remember what the nature of the questions were
21 or how specific they were?

22 A. No, not without -- I know that there's a list of
23 questions, but not without, you know, looking at the
24 report I couldn't --

25 Q. Yes, sir. And I know it's probably not, may not be

1 fair to ask you to give, but do you feel like when you
2 went back to the house with Mr. Sledge, that was before
3 or was that after that polygraph examination?

4 A. That would have been before.

5 Q. You were at the house before. So you feel like that
6 you were there on the 10th as opposed to the 12th?

7 A. Yes, sir.

8 Q. Thank you.

9

10 FURTHER EXAMINATION BY RETIRED SHERIFF PICKENS

11 Q. One last question. You talked about when you first
12 arrived at the crime scene and that you were not the
13 first one in. But after you started processing all the
14 information and the scene as best you could, when you
15 left you padlocked the house?

16 A. Yes, ma'am.

17 Q. Front and back?

18 A. That's correct.

19 Q. And did you have control of that crime scene all the
20 way up through '78?

21 A. I did.

22 Q. So the family, anybody that wanted in that residence
23 would have had to contact you?

24 A. That's correct.

25 Q. And was there ever an instant when you checked the

1 premises to make sure no one had gone in or out or --

2 A. Well, yeah, I mean, we checked the residence quite
3 frequently.

4 Q. Regularly.

5 A. But there for, for a number of days there was agents
6 and investigators in and out.

7 Q. Were you always there with them?

8 A. Well, I had to be initially, you know, if I was there
9 and I happened to leave. But I, you know, the best of
10 my memory, if somebody was there doing something, I was
11 there. I know we went back and did a Luminol at
12 nighttime and did some followup with that on the blood.

13 Q. Right.

14 A. And went back other times and looked at things, you
15 know. I mean, we were constantly going back to the
16 house over a period of time as we would get information
17 just to see, satisfy our mind, you know, what was going
18 on or what the layout of the house was.

19 Q. And you're pretty sure that during all those occasions
20 when there were trips made back to the residence over
21 the years that you were present the entire time that
22 other investigators or technicians were inside the
23 residence?

24 A. If I wasn't, then it should be documented somewhere. I
25 mean, if I gave an agent, a crime scene person access

1 to it, then there should have been an evidence control
2 handed over to that person.

3 Q. Right.

4 A. I don't know without going back and looking because
5 there was a ton of things that were done.

6 Q. About how many trips do you think over the years you
7 made?

8 A. I have no idea. Initially there were several, and
9 then, then, you know, it tapered off and we didn't feel
10 the need to go back for a right good while until --
11 matter of fact, it may have been several weeks or
12 months that we didn't go back until we got the
13 information about the pepper can, and then went back
14 and retrieved that. But Agent Poole and I went
15 immediately back and got the pepper can.

16 Q. And I don't remember whether you said or not, but I
17 believe you said the pepper can was fingerprinted?

18 A. It was. I don't recall at what point, but I do, I'm
19 certain that I, that I fingerprinted it.

20 Q. Was there any print that was identifiable?

21 A. No. I think there was a smudge on it.

22 Q. But no identifiable print for victims or suspect?

23 A. No; no.

24 Q. Thank you, sir.

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EXAMINATION BY MS. SANDS BELLE

Q. Detective, you made a comment, you know, when you pulled up to the house that it was kind of like a surprise to hear Sledge refer to, make his comment about what happened in the house. Would you think that perhaps that could have been either -- there's several things kind of pop into my head about that. One, was he listening to the media? And you made an inference about maybe another group of law enforcement had taken him by the house. So he could have learned about it from them or learned it about it from the media.

A. No, I'm sorry; I'm sorry. Another group of law enforcement did not take him by the house.

Q. Okay; okay. So that he could have learned about that perhaps through the media to make that kind of comment or because he was there?

A. Exactly. And that would be mere speculation. You know, the only thing I can do is tell you what he said. And why he said that or, that's up to interpretation.

SHERIFF DUNCAN: She may be talking about some clarification on a question I asked you, was there a possibility that the SBI or somebody else who was investigating could have checked him out and taken him out different than your trip that day.

A. I don't think so, but if they did, it should be

1 documented.

2 MS. MONTGOMERY-BLINN: Your Honor, if I can
3 just, I think I've got some information that might
4 clarify.

5
6 FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

7 Q. You had said, if I may, I'm going to hand you that, you
8 had said that there was media coverage before you drove
9 to the house. I'm just handing out what are a couple
10 of different articles. If you'll look at them and see
11 if you recall those being articles that came out prior
12 to the time that you took Mr. Sledge to the house, and
13 maybe that can help.

14 A. That's correct.

15 Q. I don't want you to go through reading all of them.

16 MS. MONTGOMERY-BLINN: If the Commissioners
17 want them, we can make copies and provide them.

18 Q. But if you would just do for me, read the headlines
19 for, beginning with the September 7 article.

20 A. Bladen Woman, Daughter Found Murdered In Home.

21 Q. And in the middle of the page of that first one does it
22 talk about Joseph Sledge?

23 A. (Witness examines document.)

24 MS. MONTGOMERY-BLINN: Can I approach?

25 JUDGE SUMNER: Yes.

1 MR. VICKORY: And what's the date of that,
2 Kendra?

3 MS. MONTGOMERY-BLINN: We're looking at an
4 article dated September 7, and it says --

5 A. It does.

6 Q. Okay. And right there, can you just read maybe that
7 paragraph right there? I know that --

8 A. An escapee from White Lake Prison Unit was being sought
9 late Monday night for questioning in connection with
10 the slayings, a spokesman for Allen said.

11 Q. That's fine. And does that article also, just skimming
12 through it, does it describe the throats being sliced,
13 fierce struggle, lots of blood?

14 A. It did.

15 Q. Okay. And then if you don't mind, if you'll just read
16 the headline -- so that was September 7, the day the
17 bodies are found, is that right?

18 A. Yes.

19 Q. Okay. If you'll read the headlines and the date on the
20 next article?

21 A. Man Sought In Murders In Bladen. Man Sought in Bladen
22 Murders.

23 Q. Does it say who the man is?

24 A. It does.

25 Q. Okay. And does it say Joseph Sledge?

1 A. It does.

2 Q. And again, that's before you ever drove to the house,
3 same day the bodies are found?

4 A. Yes.

5 Q. Okay. And does that also describe a bloody scene as
6 well?

7 A. Yes.

8 MR. SMITH: I'm sorry, I didn't understand
9 about Sledge's, the reference to Sledge. Is there a
10 reference to Sledge in those pieces?

11 MR. HEARD: By name in the -- I think it's on
12 the first --

13 Q. Is that right, that they, they do both name Joseph
14 Sledge?

15 A. They do, yes, sir.

16 MR. SMITH: I'm sorry?

17 A. Yes, sir.

18 JUDGE SUMNER: What is the date of the second
19 article?

20 A. The 7th.

21 Q. Okay. And then now the day after, September 8, is
22 there an article there as well?

23 A. Yes.

24 Q. And could you please just read the headline for that
25 one?

1 A. Escapee Search Continues.

2 Q. And then just skimming through that article, does it
3 again describe blood, throats cut, bodies slashed?

4 A. Yes.

5 Q. Okay. Thank you. And then the next one is --

6 A. And that was pretty common knowledge.

7 Q. Right. And I know you were trying to answer
8 Mr. Vickory's question and you had said this, I thought
9 it just might help to have them.

10 A. Yeah.

11 Q. And then the next one is September 9, is that right?

12 A. (Witness examines document.)

13 Q. What is the headline for that one?

14 A. Escapee Sought In Killings.

15 Q. And does that one actually have a photograph of the
16 house?

17 A. It does.

18 Q. And a photograph of Mr. Sledge?

19 A. Yes, it does.

20 Q. Okay. And that's the photograph of the house that you
21 were just looking at with the keep out --

22 A. It was; it is.

23 Q. And do you know if this was -- obviously this is quite
24 a bit of newsprint coverage. Was there also radio and
25 television coverage as well, if you recall?

1 A. I don't recall, but I'm sure there was.

2 Q. Okay. Thank you.

3 A. Yeah.

4

5 FURTHER EXAMINATION BY JUDGE SUMNER

6 Q. And about that time he was still in the Fayetteville
7 area, is that correct, reportedly?

8 A. I think so, yes, sir.

9

10 FURTHER EXAMINATION BY RETIRED SHERIFF PICKENS

11 Q. And those newspaper articles, were they from where,
12 Fayetteville?

13 A. Local.

14 MS. MONTGOMERY-BLINN: Are they Fayetteville
15 Observer?

16 A. (Witness examines document.) Dewey Bruce is the writer
17 of that one, I know that's Bladen Journal, which is a
18 local newspaper. It appears, just based on this, that
19 they were from the local newspaper, the Bladen Journal.

20 Q. So somewhere there in Bladen?

21 A. Yeah.

22 Q. But the Fayetteville papers and television stations
23 more than likely picked up on this because of the
24 seriousness of the homicide?

25 A. I'm sure, yeah; yeah.

1 SHERIFF DUNCAN: You were talking about the
2 photos and the one of the house, that one appears on
3 the September 9 as well, 8th, 9th.

4 A. Yeah, it was the same then as it was.

5 MS. MONTGOMERY-BLINN: Would you hold that
6 one up for us, too, so we can see?

7 A. This was September 9 newspaper. The sign was actually
8 put out there the day that we closed up the house on
9 the initial crime scene search.

10

11 FURTHER EXAMINATION BY MR. SMITH

12 Q. Is there a photograph of the house in the media
13 coverage?

14 A. In the Bladen Journal, yes, sir.

15 Q. Okay.

16 MR. SMITH: May I ask one additional
17 question?

18 JUDGE SUMNER: Yes, sir.

19 Q. How did you respond when he said a black man would not
20 have committed those murders?

21 A. I didn't, I didn't respond.

22 Q. Did either of you, either of the people who picked him
23 up make a response?

24 A. No, sir.

25 JUDGE SUMNER: Mr. Vickory has one final

1 question.

2 MR. VICKORY: Yeah, I've got another one to
3 ask him much more, but --

4

5 FURTHER EXAMINATION BY MR. VICKORY

6 Q. There is an awful lot of conversation about polygraph.
7 Who did your polygraph work back then?

8 A. The SBI. Most of the polygraphs was done by an agent
9 named Gary Webster.

10 Q. And these were real polygraphs, not voice stress or --

11 A. Yeah, they were real polygraphs. He was a certified
12 polygraph operator.

13 Q. Okay.

14 A. And he was based in the Fayetteville district.

15 Q. Got you.

16 JUDGE SUMNER: Ms. Surgeon has one final
17 question.

18

19 FURTHER EXAMINATION BY MS. SURGEON

20 Q. In the articles that you referenced, do the journalists
21 indicate with whom they spoke to determine that
22 Mr. Sledge was a suspect?

23 A. (Witness examines document.) It, well, yes, it does.
24 It says, Escapee Sought in Killings.

25 Q. Right.

1 A. Right.

2 Q. But where did they get that information that the
3 escapee was sought for the killings on September 7?

4 A. I think Sheriff John B. Adam, you know, released that
5 information.

6 Q. Okay. And that's who you were working for?

7 A. Yes.

8 Q. Okay. Thank you.

9 JUDGE SUMNER: Any final question?

10 SHERIFF DUNCAN: It would be, if we could
11 have a copy of those articles --

12 MS. MONTGOMERY-BLINN: We will provide all of
13 the newspaper articles to you to read tonight.

14 JUDGE SUMNER: Mr. Little, thank you, sir.

15 A. Thank you. I'm sorry, it's been so long that a lot of
16 this stuff I just --

17 JUDGE SUMNER: That's quite all right. Thank
18 you.

19 MS. MONTGOMERY-BLINN: Thank you very much.

20 (THEREUPON, A DISCUSSION WAS HAD OFF THE
21 RECORD WHICH WAS NOT REPORTED AND DETECTIVE LITTLE IS
22 DISMISSED.)

23 JUDGE SUMNER: Let's take about a ten-minute
24 break.

25 (THEREUPON, THE LUNCHEON RECESS WAS TAKEN

1 FROM 12:36 P.M. THROUGH 1:30 P.M.)

2 JUDGE SUMNER: We are back in session.

3 MS. MONTGOMERY-BLINN: All right. The
4 Commission is calling retired Special Agent Henry
5 Poole.

6
7 Retired Special Agent Henry Poole, having
8 first been duly sworn, testified as follows:

9
10 EXAMINATION BY MS. MONTGOMERY-BLINN

11 Q. All right. Mr. Poole, will you just state your name
12 for the record?

13 A. Henry Poole.

14 Q. And where do you live, what city do you live in?

15 A. Knightdale, North Carolina.

16 Q. Are you retired?

17 A. I am, yes, ma'am.

18 Q. Where are you retired from?

19 A. From the State Bureau of Investigation.

20 Q. How many years were you with the State Bureau of
21 Investigation?

22 A. From 1968 till 1993.

23 Q. And what was your position with the SBI?

24 A. Several.

25 Q. Okay. Go ahead.

1 A. I started out as a field agent in the Piedmont
2 district, and worked the bureau for Randolph Counties,
3 transferred to Goldsboro to the northeastern district,
4 then came to Raleigh and worked in the special
5 operations division, worked in, left there and worked
6 in narcotics special interest unit, and then I was
7 assigned to a homicide unit and worked that until I
8 retired.

9 Q. From 1976 to 1978 what was your role with the SBI then,
10 during the time --

11 A. I was with special operations division.

12 Q. Okay. And were you assigned to work on or to
13 investigate the homicide of Josephine and Aileen Davis?

14 A. Yes, ma'am.

15 Q. Now, I know you and I talked about this before, but
16 it's been a very long time and I don't want you to
17 stretch your memory beyond capacity. I understand that
18 there are going to be things you don't remember or
19 things that you just don't know. So I'm going to ask
20 you questions. If you don't know the answer, please
21 don't try to think about it or speculate on it, just
22 tell us if you do not know, okay?

23 A. Yes, ma'am.

24 Q. Okay. All right. In the past three years who all have
25 you talked with about this case, the homicide of

1 Josephine and Aileen Davis?

2 A. Phillip Little. When this came out in the paper a
3 while back a reporter called me and I declined to say a
4 lot to her. And I talked to your investigator that
5 came out.

6 Q. All right.

7 A. I talked to Chad Barefoot, one of our agents. And
8 that's all I can remember right now.

9 Q. All right. So you mentioned a reporter. Have you read
10 the recent media coverage about this case?

11 A. I read what was in the paper today.

12 Q. Today? Oh, let's not talk about today. Anything else?
13 Have you read any other coverage in the past couple
14 years?

15 A. Oh, yes, ma'am. When they -- when an article first
16 came out, and then every time I saw something with
17 Mr. Sledge's name or whatever, I read it, yes, ma'am.

18 Q. Okay. Great. Now, when did you get assigned to
19 investigate that case?

20 A. It was about a year after it happened.

21 Q. Okay.

22 A. And as I recall, that's 1977.

23 Q. And do you know what had already been done on the
24 investigation by the time you became a part of it?

25 A. No, ma'am, I can't recall now.

1 Q. Was it fresh? I mean, had -- do you recall if things
2 had been done or had -- were you picking it up almost
3 fresh or had a lot been done already?

4 A. No, ma'am, there had been things done. The crime scene
5 work had been done and that type of thing, but I don't
6 recall much investigative activity that I remember,
7 which doesn't mean it wasn't done, but I just don't
8 remember.

9 Q. Okay. And who was in charge of the investigation, you
10 or Mr. Little?

11 A. I like to think we worked together and nobody was
12 particularly in charge, it was a team effort more than
13 it was.

14 Q. All right. How did you document the investigation?

15 A. I took notes and dictated reports from my notes.

16 Q. Did you write up everything that you did?

17 A. Yes, ma'am, as close as I could I wrote up everything I
18 did.

19 Q. Do you recall in this case there being suspects other
20 than Joseph Sledge?

21 A. Yes, ma'am, but I don't recall who right now. But yes,
22 ma'am, we had other people we tried to eliminate from
23 this case.

24 Q. Were you able to eliminate them?

25 A. Yes, ma'am. To my knowledge, yes, ma'am.

1 Q. If I go through a list of the names of people that are
2 listed as suspects somewhere in the sheriff's reports
3 or your reports, will you be able to remember to tell
4 me why they were eliminated?

5 A. Probably not, no, ma'am.

6 Q. Okay. Not worth a try?

7 A. I don't think so, ma'am. I'm sorry.

8 Q. Okay.

9 A. That's 35 years ago.

10 Q. Fair enough. So you said that those other suspects
11 though were ruled out. How was Joseph Sledge ruled in?

12 A. We interviewed -- when we first started this
13 investigation, when I first started I met with
14 Mr. Little and the sheriff and we discussed it. And
15 Mr. Sledge had been developed as a primary suspect in
16 this case, and our first thought was let's try to
17 eliminate him. And so we knew he had been on escape
18 and recaptured, and we decided to try to talk to the
19 inmates he had been incarcerated with after he was
20 recaptured, perhaps determine if he had talked to them
21 about anything he did. And during the course of these
22 interviews we talked to three people who told us that
23 Mr. Sledge said that he had killed these ladies.

24 Q. Who were the three people?

25 A. Mr. Sutton; Baker, I believe -- something wants me to

1 say Barber, but Baker, I believe; and I can see his --
2 his nickname was Gypsy, I think his last name was
3 Broadwell. I'm not certain about that.

4 Q. Broadway, Julian Broadway?

5 A. Probably, yes, ma'am.

6 Q. Tell me about Julian Broadway, if you recall.

7 A. I recall talking to him. I don't recall exactly what
8 he told me.

9 Q. Okay.

10 A. The biggest thing I can think about with him is he wore
11 a red bandana on his head.

12 Q. Okay.

13 A. He told us that he was in somewhere and Sledge
14 approached him and made some comment to him about
15 killing these two ladies. And I don't want to say too
16 -- if I had a report, I could tell you more precisely.
17 But he did tell us that Mr. Sledge talked to him about
18 this homicide.

19 Q. Do you remember if Julian Broadway testified at trial?

20 A. He did not.

21 Q. Do you know why?

22 A. No, ma'am, I don't.

23 Q. Okay. You said Donald Sutton. What do you remember
24 about Donald Sutton?

25 A. He testified.

1 Q. Okay.

2 A. Again, I remember him telling us that Mr. Sledge told
3 him that he was responsible for these two ladies'
4 deaths. As I recall, he talked about she-devils. But
5 other than that, without looking at a report, I'd be
6 afraid to try to tell you.

7 Q. All right. Do you remember without looking at reports
8 yet how many times you interviewed Donald Sutton?

9 A. No, ma'am, but I'm sure it's probably more than once,
10 but I don't, I don't recall.

11 Q. And do you remember without looking at reports yet what
12 you or Detective Little said to Donald Sutton when you
13 went into the interviews?

14 A. No, ma'am, not exactly, but I -- no, ma'am, not
15 exactly. No, ma'am.

16 Q. Okay. Do you know if Donald Sutton had been reading
17 the newspaper or --

18 A. I have no idea.

19 Q. Okay. Do you recall if Donald Sutton wanted anything
20 in exchange for the information?

21 A. He did not ask us for anything.

22 Q. He didn't ask for a reward?

23 A. No, ma'am.

24 Q. Or time?

25 A. No, ma'am.

1 Q. And do you recall him getting a reward?

2 A. Yes, ma'am, I think after this was over with, he did.

3 Q. Okay. I'm just going to hand you a document. Will you
4 just take a look at it and see if you know what this
5 document is?

6 A. (Witness examines document.)

7 MS. MONTGOMERY-BLINN: Commissioners, this is
8 a report that is summarized on page 56 of your brief.

9 A. Yes, ma'am, this is some interviews I did during this
10 investigation.

11 Q. Are you the one that wrote this report?

12 A. Yes, ma'am.

13 Q. Or you didn't type it up, but you dictated it?

14 A. No, ma'am, we dictated. I dictated my reports from my
15 case file notes and our stenographer pool types them
16 and that's it.

17 Q. Okay. All right. If you will look on page 5 of your
18 report, about halfway through the page I see an
19 interview of Donald Sutton.

20 A. Yes, ma'am.

21 Q. All right. On that report it says -- I don't want to
22 read it for you. Will you read the part, the fourth
23 paragraph, would you read the fourth paragraph for us,
24 please?

25 A. That after their recapture?

1 Q. Uh-huh (yes). Please.

2 A. That after their recapture Sledge told him that he had
3 escaped and had gotten a ride on a truck on Highway 87.
4 That he had hidden his clothes and had later got up
5 with some dude who let him drive his car. That Sledge
6 told him that the authorities had found some clothes
7 with blood on them and were trying to say that he
8 killed two women, but that he did not kill them.

9 Q. Now, do you remember this independently or only what
10 you're just reading?

11 A. Only what I just read.

12 Q. Okay. So you don't remember this being said to you?

13 A. No, just what I -- if I wrote it down, he said it to
14 me, but I don't remember him saying it.

15 Q. No independent recollection, okay. Would you read the
16 very bottom paragraph on that page then?

17 A. Sutton stated that he would try to recall his
18 conversation with Sledge and should he be able to
19 remember any new information, he would relay same to
20 writer.

21 Q. And are you the writer?

22 A. Yes, ma'am.

23 Q. And then would you just read the agent's note on page,
24 the next page?

25 A. (Witness examines document.) Sutton will be

1 interviewed at a later date.

2 Q. So in this interview it appears to say that Sutton is
3 saying Sledge said he didn't do it, but he's going to
4 try to remember more and will be interviewed again.
5 Why did you think it would be helpful to interview him
6 again?

7 A. He said he could get more information or had more
8 information. I want to hear what he has to say.

9 Q. Even if it's more that Sledge didn't do it?

10 A. Ma'am?

11 Q. Even if it would be more of what that one sentence
12 already says, that Sledge says he didn't do it?

13 A. I want to hear everything this man had to say about
14 this case irrespective of whether it's good or bad. If
15 he had something to say about it, I wanted to hear it.

16 Q. Okay. All right. If you'll turn -- well, is there
17 anything else about this report, just looking at it,
18 that triggers any memories or anything?

19 A. No, ma'am.

20 Q. Okay. All right. Let me hand you another report then.
21 If you'll just take a look at this and tell me what you
22 recognize or if you recognize it, what you recognize it
23 to be.

24 A. (Witness examines document.) This, interviews I did
25 during this investigation.

1 Q. Okay. And if you'll turn to page 3, is there, are
2 there notes there from the interview, another interview
3 with Donald Sutton?

4 A. Yes, ma'am.

5 Q. And what is the date of that interview?

6 A. February 8, 1978 at 11:00 a.m.

7 Q. Okay.

8 MS. MONTGOMERY-BLINN: Commissioners, this is
9 on page 58 of your brief.

10 Q. All right. Will you just review that and see if it
11 refreshes your recollection? You can either read it
12 out loud or review it quietly, if you like.

13 A. (Witness examines document.) I'll read it out loud
14 just so I --

15 Q. Okay, sure.

16 A. According to Sutton, he and Joseph Sledge have known
17 each other for several years. That he talked with
18 Sledge after he was arrested in South Carolina. That
19 his conversation with Sledge took place at the
20 Cumberland County Jail. Sutton stated that Sledge told
21 him that the women, parentheses, victims in Bladen
22 County, close parentheses, were supposed to die and he,
23 Sledge, was glad they were dead. That their deaths
24 meant that there were two more, two more they, blacks,
25 would not have to worry about. That Sledge talked

1 about hating white women. Further, that Sledge claims
2 the white women are she-devils and should die.

3 Sutton went on to say that Sledge said
4 something about a lot of blood, but he, Sutton, doesn't
5 recall exactly what was said about that. According to
6 Sutton, he has heard Sledge say that the white men were
7 supposed to rule the world for a certain period of
8 time, and if the white women were eliminated, the white
9 men's rule would be shortened.

10 And I have an agent's note there, it's stated
11 that since it had been some time since he had talked
12 with Sledge, he would need time to think and put their
13 conversation, conversation together. This interview
14 was terminated.

15 Q. Okay. Now do you have any independent recollection?

16 A. No, ma'am.

17 Q. Okay. Do you recall or does it now concern you that
18 the information in this interview is quite different
19 from the information, in contradiction to the
20 information four months earlier?

21 A. I just write them down like they tell me and whatever
22 -- you know, I -- not particularly a concern, that I
23 can think of, I had at the time. It -- when we
24 interview, we just write it down and submit it, and
25 that's about all I can say to you.

1 Q. Okay. Looking at your agent's note there it said,
2 Sutton stated that since it had been some time, he
3 would think about it. So that was -- this is already
4 four months later from the first interview. So he
5 wanted more time, do you recall? You gave him more?

6 A. Apparently so. And again, if he's got something he
7 wants to say, I'm going to write it down.

8 Q. Okay. Were you worried that giving him more time was
9 just giving him more time to find out facts about the
10 case?

11 A. No, ma'am. No, ma'am. If I had, it wasn't enough to
12 not interview him again.

13 Q. If you'll look on the same report and just turn to
14 page 5.

15 A. (Witness complies.)

16 Q. Is there another interview with Donald Sutton on
17 page 5?

18 A. Yes, ma'am.

19 Q. Okay. And would you like to read that report out loud
20 or to yourself?

21 A. Yes, I -- yes, ma'am.

22 Q. Okay, go ahead. Thank you.

23 A. Sutton was re-interviewed on February 10, 1978 at
24 10:15 a.m. by writer and Assistant Supervisor Gene
25 Stewart and Detective Sergeant Little of the Bladen

1 County Sheriff's Department. This interview was
2 conducted at the Sampson County Prison Unit.

3 Sutton again stated that he had known Joseph
4 Sledge since 1974 and that they had spent some time
5 together in jail. According to Sutton, since he has
6 known Sledge, he, Sledge, has talked about knocking
7 over whites, white she-devils. That Sledge thinks
8 white men use white women to get over on the black men.
9 Sutton stated that when they were in the Cumberland
10 County Jail together Sledge said that the authorities
11 were trying to say that he killed two women. That
12 Sledge said he wasn't guilty. But after more
13 conversation, Sledge said they should be dead. That
14 Sledge said something about a lot of blood and seemed
15 to be hung up on blood. According to Sutton, he asked
16 Sledge about his clothes, and Sledge said that
17 everything he had on was thrown away and nobody could
18 ever find it.

19 Sutton stated that Sledge told him that he
20 had cut himself going over a fence. Sutton thought he
21 meant prison fence. As to Sledge's escape, Sutton
22 stated that Sledge told him that he had hidden after
23 jumping the fence and then walked to Elizabethtown
24 where he caught a ride with someone on Highway 87.
25 That the person who gave him a ride let him drive the

1 car. Sutton stated that Sledge will not tell him what
2 he was doing before he left Bladen County. That Sledge
3 told him that he was arrested in South Carolina and
4 that he was going either to Florida or Georgia.
5 According to Sutton, he asked Sledge why he was trying
6 to leave North Carolina, and Sledge said because he was
7 afraid they were going to convict him for killing the
8 two women.

9 Sutton stated that when he and Sledge were in
10 the penitentiary together Sledge had a blade. That at
11 one time he had a pocketknife as well as a blade that
12 he had made from a kitchen knife. Sutton stated that
13 he needed to think about their conversation and would
14 probably be able to recall more of what he and Sledge
15 talked about. This interview was terminated.

16 Q. And it says Sutton will be re-interviewed?

17 A. Yes, and Sutton will be interviewed at a later date,
18 yes, ma'am.

19 Q. Thank you. Okay. Why was there an SBI supervisor
20 there this time, do you know?

21 A. This was his territory.

22 Q. Okay.

23 A. We were in his territory. My -- normally, when an
24 agent goes into another agent's territory, they contact
25 that agent and, you know, ask if they would make

1 themselves available to them since they are in the
2 district they work in and it's their territory.

3 Q. So that's Assistant Supervisor Gene Stewart?

4 A. Yes, ma'am.

5 Q. But he wasn't on other interviews?

6 A. No, ma'am. We were in his town, we were in his, where
7 he worked.

8 Q. Okay. But even other interviews at Sampson County
9 Prison with Sutton, he wasn't on those as well?

10 A. I don't know.

11 Q. Okay. So the agent's note is again saying that he
12 needs to think some more and will be re-interviewed.

13 Did Sutton indicate why he thought he hadn't told you
14 enough already?

15 A. Ma'am, dealing with inmates sometimes it's a different
16 world. And I, again, we write down whatever they tell
17 us, and if they want to tell us something, we're going
18 to write it down and tell it just like we wrote it. I
19 can't embellish or it would change it. What he says is
20 what I'm going to tell you.

21 Q. And do you have any independent recollection of it
22 right now, of the interview?

23 A. No, ma'am.

24 Q. Just reading the report?

25 A. Uh-huh (yes).

1 Q. All right, I've got another report. (Ms. Montgomery-
2 Blinn hands document to retired Special Agent Poole.)
3 Okay, will you take a look at this report, please?

4 MS. MONTGOMERY-BLINN: Commissioners, this is
5 page 60 of the brief.

6 Q. Would you like to read this one as well out loud or
7 would you rather just read it to yourself?

8 A. No, ma'am, I'll --

9 Q. Okay, go ahead. Thank you.

10 A. Sutton was re-interviewed on February 15, 1978 by
11 writer and Detective Sergeant Phillip Little of Bladen
12 County Sheriff's Department, or Sheriff's Office.
13 Sutton stated that while in jail he and Sledge talked
14 about being arrested. That Sledge said the reason he
15 was trying to leave the state after his escape was
16 because they would pin a murder on him. According to
17 Sutton, he asked Sledge about the murder, and Sledge
18 said that he didn't intend to kill them but was put in
19 a position where he had to do it. Further, that Sledge
20 said he was glad the bitches were dead, and that's a
21 quotation.

22 Sutton went on to say that Sledge talked
23 about all that blood, that's also in quotation.
24 According to Sutton, he thought Sledge was crazy. That
25 he, Sledge, said something about the women being cut

1 up. Sutton stated he couldn't recall how or why Sledge
2 said he knew they were cut up, but he definitely said
3 they were cut up. Sutton stated that there was no
4 doubt in his mind about Sledge having killed the women,
5 that he, Sledge, convinced him that he had killed the
6 two women.

7 Sledge told Sutton that his clothes would
8 never be found. Note, Sutton thinks Sledge is too
9 smart to wear bloody clothes out of Elizabethtown.
10 Sutton also stated that Sledge told him he caught a
11 ride out of Elizabethtown to Fayetteville. Further,
12 that Sledge told him that he got up with some dude at a
13 service station in Fayetteville and convinced him to go
14 to South Carolina, Georgia, or somewhere to make some
15 money. Sutton stated he could not recall anything else
16 at this time, but may be able to remember more of their
17 conversation later. And that's -- yes, ma'am.

18 Q. Do you have any independent recollection?

19 A. No, ma'am.

20 Q. Okay. So he's still trying to remember more, according
21 to this report?

22 A. Apparently so, yes, ma'am.

23 Q. Now, it says in there that Sledge told Sutton that his
24 clothes would never be found. Do you recall finding
25 some of Sledge's clothes?

1 A. I did not. That was done prior to my involvement in
2 this case.

3 Q. Okay. Do you recall that being a part of this case,
4 that some clothing was found?

5 A. Yes, ma'am, but I wasn't there and I don't know other
6 than what I was told.

7 Q. Okay. Do you recall whether you gave Donald Sutton a
8 polygraph?

9 A. As I recall, we did, but without looking at some
10 documentation I'd hate to --

11 Q. If you had polygraphed him, would you have documented
12 it?

13 A. We'd have asked him was he willing to take a polygraph,
14 and if he said yes, we'd have given it, if he said no,
15 we would not have.

16 Q. Okay. And if he said yes or no, either way would there
17 be something in the SBI report, would you have written
18 something --

19 A. Yes, ma'am. Yes, ma'am, we would have indicated that
20 he was afforded a polygraph exam.

21 Q. So if there's no documentation in the report, does that
22 mean there was no polygraph or it's missing?

23 A. I don't know. It -- I don't recall; I just don't
24 recall. We asked a lot of -- most of these witnesses
25 like this we asked to take a polygraph. That's a

1 standard operating procedure. And I don't remember if
2 we asked him to, if he took it or not, or if there was
3 some reason he couldn't. Maybe if we did, sometimes a
4 polygraph operator will determine this person has got a
5 bad cold or something and just doesn't give one.

6 Q. And would you have written that up?

7 A. Yes, ma'am, definitely.

8 Q. Okay. All right. Let's talk about Herman Baker. Do
9 you remember, you said you did remember Herman Baker or
10 someone named Baker?

11 A. Yes, ma'am.

12 Q. Do you remember how many times you interviewed him?

13 A. No, ma'am.

14 Q. Do you remember how you got his name, how you first
15 learned about Herman Baker?

16 A. No, ma'am.

17 Q. And do you remember what you said to Herman Baker
18 during his interviews?

19 A. No, ma'am.

20 Q. Do you recall whether or not he asked for anything in
21 exchange for information?

22 A. He did not.

23 Q. And do you recall him getting --

24 A. I don't recall him asking for anything.

25 Q. Do you recall him getting a reward?

1 A. He testified in this case and, as I recall, both of the
2 gentlemen who testified in this case was given monetary
3 after the trial was over with and finished.

4 Q. Do you recall that Herman Baker got \$3,000 and Donald
5 Sutton got \$2,000?

6 A. I do not recall how much -- who got what amount.

7 Q. Okay. Will you just take a look at that report, tell
8 me if you recognize it?

9 A. (Witness examines document.) Yes, ma'am. It's an
10 interview with Herman Lee Baker.

11 Q. Okay.

12 MS. MONTGOMERY-BLINN: Commissioners, this is
13 on page 64 of your brief.

14 Q. Would you like to read this one?

15 A. Ma'am?

16 Q. Would you like to read it?

17 A. Yes, ma'am.

18 Q. Okay.

19 A. I will.

20 Q. Thank you. Go ahead.

21 A. Baker was interviewed on February 16, 1978 at 8:30 a.m.
22 by writer, Captain Sparkman, North Carolina Department
23 of Corrections, and Detective Sergeant Phillip Little,
24 Bladen County Sheriff's Office.

25 According to Baker, he has known Joseph

1 Sledge since 1969. That he was in the Air Force and
2 met Sledge at a poolroom in Fayetteville. That he lost
3 contact with Sledge, but met him again in 1975 while
4 serving time for forgery at the White Lake Prison Camp.
5 Baker went on to say that he was paroled in January
6 1976, however, in April 1977 he was back in the prison
7 system after being convicted of breaking and entering.
8 That in June of 1977 he was at the Moore County Prison
9 Camp and again met with Sledge. That either in June or
10 July Sledge was lifting weights and he, Baker, was
11 talking with him. While they were talking another
12 inmate came over and told Sledge he was wanted in the
13 office. That Sledge returned 10 or 15 minutes later
14 and said that he was wanted in court in Elizabethtown.

15 According to Baker, he asked Sledge why, and
16 Sledge said he wondered if it was about the murders in
17 Elizabethtown. Baker went on to say that Sledge asked
18 him, if I tell you something, can you keep it to
19 yourself? That Sledge said when he escaped he was
20 running through the woods and looking for a place to
21 hide when he came upon an old house. Sledge told Baker
22 that he didn't think anyone was home and went in.
23 That after he got in the house a lady came in the room
24 screaming, what are you doing in the house? He pushed
25 her and hit her. Another lady was coming in the room

1 screaming and one yelled, call the police, or something
2 to that effect.

3 According to Baker, Sledge said he started
4 stabbing one of them, and the other one was trying to
5 pull him off and he stabbed her. Sledge said that he
6 kept stabbing them and stabbing them. Sledge says,
7 damn um, it seemed like I went crazy, and that was a
8 quote. Further, that Sledge said he ran out of the
9 house through the back door and through the woods.
10 That he ran into a cleared field where there was an old
11 building and buried the knife behind the old building.

12 Baker stated that Sledge referred to the
13 women as devils and said that when he stabbed them he
14 didn't think blood was going to come out, but thought
15 fire would come out. Further, that while inside the
16 house one of the women hit him with something. Baker
17 went on to say that Sledge told him he sprinkled black
18 pepper around the back doorsteps when he left the house
19 to keep the devils' spirits from coming after him.
20 That while inside the house he had one of the women on
21 the floor and thought the other lady was going to a
22 phone, so he jumped up and got the other one.
23 According to Baker, Sledge kept saying he stabbed, he
24 stabbed.

25 Baker went on to say that Sledge talked a lot

1 about killing white women. That on one occasion he
2 told Ralph Quick, black male, also known as Scatter-
3 man, he should kill the white girl he was dating. That
4 they were in prison at this time.

5 Baker stated that the conversation with
6 Sledge took place at around 12 o'clock noon on a
7 Tuesday. That he knows it was Tuesday because he had a
8 class that night. That Sledge went on to tell him that
9 he stole a car after killing the two women.

10 Q. Do you have any independent recollection of that --

11 A. No, ma'am.

12 Q. Okay. The report doesn't say where Mr. Baker was
13 interviewed, but your testimony at the trial was that
14 it was at a motel. Do you recall that?

15 A. Yes, ma'am.

16 Q. Okay. Why did you interview him in a motel?

17 A. Probably -- I don't want to speculate, but it was to
18 get him away from the prison environment to talk to
19 him. Again, this was a long time ago and I just can't
20 recall.

21 Q. Okay.

22 A. So I --

23 Q. This report doesn't say anything about a broken jaw,
24 but Mr. Baker did testify that Sledge said there was a
25 broken, that one of the victim's jaws was broken. Do

1 you recall --

2 A. He, he said he, Sledge hit one of the ladies.

3 Q. Uh-huh (yes).

4 A. And the victims' bodies had been exhumed, I think for
5 fingerprint evidence that they were looking for. And
6 the first autopsy did not do an X-ray, I don't think,
7 and the second autopsy showed that one of the lady's
8 jaw was broken. I know prior to, you know, this --
9 Mr. Little and I talked about that some, and I thought
10 that the exhumation took place after I got involved
11 with the case, but Mr. Little convinced me that I was
12 in error, that it happened prior to that. So that's
13 what I recall from this.

14 Q. Okay. So if Mr. Baker -- if you didn't write down
15 during this interview with Herman Baker that he said
16 that a victim, that a victim was hit in the jaw, is
17 that because he didn't say it?

18 A. If he said that, I'd have written it down.

19 Q. You would have written it down?

20 A. Yes, ma'am.

21 Q. Okay. Thank you. Do you recall whether you
22 polygraphed Herman Baker?

23 A. Without seeing a document about it, I, I don't want to
24 say. I don't remember. I'm sure we asked him and I
25 feel like we probably did, but I don't -- I want to

1 tell you what I know.

2 Q. If you had tried, would you have documented it?

3 A. Yes, ma'am.

4 Q. Okay. Do you remember the pepper can in this case?

5 A. Yes, ma'am.

6 Q. Did you go back with Phillip Little to collect it after
7 this Herman Baker interview?

8 A. As I recall, yes, ma'am.

9 Q. What do you recall about that?

10 A. After, after I talked to -- and I'm going to have to
11 refer to Mr. Little again. Prior to that, and I may
12 have, when I talked to these ladies here, and I --
13 talking about the pepper can, I'm -- was -- independent
14 recollection again and I -- we went back to get it, and
15 I was thinking perhaps it was under the steps in the
16 back. But talking to Mr. Little, he recovered the can,
17 and Mr. Little told me that the can came from just
18 inside the back door, inside the back door. But I,
19 again, I don't remember it other than what Mr. Little
20 told me.

21 Q. Okay. If you had gone with Mr. Little and collected
22 the pepper can, would you have written up a report
23 about it?

24 A. I'm sure I would have; probably would have.

25 Q. If there's no report about the pepper can being

1 collected, does that mean you didn't go?

2 A. No, ma'am. That just means that I don't -- didn't
3 remember or didn't collect it. I can't, I can't, I
4 can't -- even if I didn't go, I would have written it
5 down if he told me anything. And again, I'm talking a
6 long time ago and I just don't remember, ma'am. I, I
7 just don't remember.

8 Q. All right.

9 A. I think I sometimes go and do something and I really
10 didn't, and I just don't remember.

11 Q. Do you remember anything else about the pepper can
12 other than what you just said?

13 A. No, ma'am.

14 Q. Do you remember if it had pepper still in it?

15 A. No, ma'am.

16 Q. Okay. Do you recall whether the house was secured, the
17 victims' house, during your investigation?

18 A. Was it --

19 Q. Whether people could have come in and out of the
20 victims' house during the investigation or was it
21 secured?

22 A. Well, when I was there it was not secured. Prior to my
23 being there, I, I don't know the crime scene. I didn't
24 do the crime scene and I don't know of what the crime
25 scene consists, you know, in that respect.

1 Q. Okay. When you became involved how was it secured?

2 A. They just walked in.

3 Q. You could just walk in?

4 A. I don't remember. I don't think there -- I don't think
5 crime scene tape was around it or anything like that; I
6 just don't recall that.

7 Q. Okay. Do you recall anything else that I haven't asked
8 you about about your investigation?

9 A. No, ma'am.

10 Q. Okay. I'm done with questions for now, but the
11 Commissioners may have questions for you.

12 MS. SURGEON: I do.

13

14 EXAMINATION BY MS. SURGEON

15 Q. In 1976, that's what you said, you were with special
16 operations?

17 A. Yes, ma'am.

18 Q. What does that mean you would do?

19 A. It's, a special operations division is we work special
20 cases. They were assigned out of headquarters and it
21 was like an intelligence unit. And whatever type of
22 special investigation came up, we would normally take a
23 look at it.

24 Q. So in your role with this case did you have any
25 responsibility as to reviewing or trying to ascertain

1 information about physical evidence or forensics
2 examinations?

3 A. Well, yes, ma'am, but I gleaned that through talking to
4 the agents who had been there earlier or that I did not
5 have, I was not there for the initial crime scene
6 investigation and I'm not, I can't testify as to how
7 they did that or what they did with the crime scene
8 investigation.

9 Q. What information did you have at the time you were
10 assigned to the case as to the physical evidence that
11 had been collected and examined?

12 A. There was, there was some hair found on one of the
13 victim's bodies, and there was some latent prints that
14 had not been identified, I mean palm prints, I think,
15 at the crime scene.

16 Q. What information did you have as to any eyewitness or
17 any physical evidence that connected Mr. Sledge to this
18 crime?

19 A. We didn't have any eyewitness resident people, but we
20 sent the hair sample to -- I say we sent it, it was
21 sent to the FBI. And at that time all they could tell
22 us was it's microscopically consistent or
23 microscopically similar to the suspect's hair. And
24 that made us perhaps lean even more toward Mr. Sledge
25 at that time, according to technology we had at that

1 time.

2 Q. Is that all?

3 A. Yes, ma'am. As I can recall, that's all.

4 Q. How did you get connected to Mr. Sutton?

5 A. Ma'am?

6 Q. How did you get connected to Mr. Donald Sutton?

7 A. As I recall, the prison superintendent let us know he
8 wanted to talk to us. But I'm -- unless I see a
9 document that says that, I'm, I'm just speculating. I
10 do not want to speculate, but that's my recollection.

11 Q. Over the course of time that you interviewed Mr. Sutton
12 four times --

13 A. I think that's what - seeing these reports, yes, ma'am.

14 Q. -- was he still housed with Mr. Sledge?

15 A. I don't recall.

16 Q. But he was going to recall additional conversations?

17 A. Yes, ma'am. And that's where they were together, but I
18 don't know if he was housed with him the entire time or
19 what their situation was, ma'am.

20 Q. Okay. You don't know exactly how long he was housed
21 with Mr. Sledge and --

22 A. No, ma'am.

23 Q. -- whether he was still housed with him over this
24 course of time that he was still recalling information
25 and you were continuing to interview him?

1 A. No, I don't know how they made contact, ma'am.

2 Q. Thank you.

3 A. Yes.

4 JUDGE SUMNER: Yes, sir.

5

6 EXAMINATION BY MR. HEARD

7 Q. I'm curious to know if at any time, given the differing
8 information that Mr. Sutton gave you, did you ever have
9 any concern that he might not be telling the entire
10 truth?

11 A. You always have those concerns with witnesses like
12 this, sir. It seemed that, you know, some of the
13 things they said, and he was so adamant about that,
14 that we couldn't just discount it and say no. And
15 again, I don't know about the polygraph with him. I
16 just don't remember it, but I'm sure we asked him to
17 take a polygraph. But I do not remember, you know,
18 what the outcome of that request was right now without
19 a document.

20 Q. But was it common practice at the time to assume that
21 an interviewee's memory of distant conversations would
22 result in more and useful information? Was that --

23 A. Was it a common practice, sir?

24 Q. Was it a common practice to assume if you gave them
25 time and they thought about it and came back, they --

1 A. If somebody told me to give them more time and let them
2 think, yes, sir, I would do it. I don't know if
3 whether it's common practice, but if they talked to me
4 and said I want you to get back with me later, I
5 certainly afforded them the chance to talk to me again.

6 Q. But was the experience normally that such circumstances
7 resulted in more useful information?

8 A. I really couldn't answer that, sir.

9 Q. Okay. Sutton also made an interesting comment. At one
10 point he said he thought Sledge was crazy. Did anyone
11 ever give consideration to any mental problems with
12 regard to Mr. Sledge at all, that some of the
13 statements that he had made or he was purported to have
14 made may have been a result of some other problems?

15 A. Not that I recall. I don't, I don't remember. I just
16 don't remember, sir.

17 Q. Okay.

18 MR. HEARD: Thank you, Your Honor.

19 JUDGE SUMNER: Yes, ma'am.

20

21 EXAMINATION BY RETIRED SHERIFF PICKENS

22 Q. I'd like to ask you a general question. We talked a
23 lot about different people being polygraphed, and I
24 know that you don't have any memory or recollection of
25 exactly what happened with the witnesses. But as a

1 special agent with the State Bureau of Investigation
2 I'm sure you have a general idea of what was done when
3 polygraphs were administered. If a polygraph would
4 have been administered at this time back in the '70s,
5 the late '70s, the specialist that was administering
6 the polygraph, they would have formulated a set of
7 questions to ask the person that they were going to
8 administer the test with, is that correct?

9 A. Yes, ma'am.

10 Q. And normally, how did they formulate that? Did they
11 talk with, say, you or an investigator to formulate
12 their questions?

13 A. Yes, ma'am. They would talk to us about the interview
14 and what this individual has said and that what we're
15 trying to determine what he's telling the truth about
16 or not telling the truth about, and the polygrapher
17 would put those questions together.

18 Q. And those questions would have been in writing, the
19 polygrapher would have written those down?

20 A. Yes, sir, probably so, and the polygrapher would have
21 those; he would.

22 Q. Would that, would those questions and the results of
23 the exam have become a permanent part of the SBI's
24 investigative case?

25 A. Yes, ma'am, in our Raleigh office it would, a permanent

1 file. Like every report I dictated went to our
2 permanent case file in Raleigh, and -- but I -- yes,
3 ma'am. To answer your question, polygraph exams would
4 have gone there.

5 Q. And the person that administered those examinations
6 was, in fact, an SBI agent?

7 A. Yes, ma'am.

8 Q. And those old case files like that, are they still in
9 existence, to the best of your knowledge, or --

10 A. Ma'am, I don't know. I understand there was some
11 problems finding the case file on this case, and I have
12 no response to that. I have no idea how to respond to
13 that of why.

14 Q. Thank you.

15

16 FURTHER EXAMINATION BY MS. SURGEON

17 Q. In your experience working with the SBI and doing
18 interviews, did you interview other inmates on cases,
19 not necessarily this one, but as part of your
20 investigation?

21 A. Oh, yes, ma'am. Yes, ma'am.

22 Q. And would inmates generally request favors or some
23 concessions for their testimony?

24 A. Many, many times, ma'am. They're looking for an easy
25 out or some type of special favor, yes, ma'am.

1 Q. Is it the pattern then for the SBI or law enforcement
2 not to make promises prior to the statements or
3 testimony being given?

4 A. No, ma'am, we do not make promises prior to a statement
5 or any time. The only person that makes promises is
6 the district attorney. We don't do that.

7 Q. And of course this would be explained to an inmate?

8 A. Ma'am?

9 Q. This would be explained to an inmate?

10 A. I don't recall even mentioning a reward or anything.
11 And if they ask me about one, I would tell them I
12 wasn't authorized to okay that or respond to that, it
13 was out of my -- I was there to get information, I
14 don't give out rewards.

15 Q. But the two inmates that testified in this case --

16 A. Yes, ma'am.

17 Q. -- were both given rewards --

18 A. Yes, ma'am, and I --

19 Q. -- after their testimony?

20 A. That decision was made after the trial and after they
21 had testified in this case, yes, ma'am; after the trial
22 was over with.

23 Q. That's the practice with the SBI?

24 A. Yes, ma'am. I think that -- yes, ma'am.

25 Q. Okay. Thank you.

1 JUDGE SUMNER: Yes, sir.

2

3

EXAMINATION BY MR. VICKORY

4 Q. Agent Poole, the policy back in the '70s, I guess -- it
5 seemed like in the '80s when I came along the northeast
6 district, I believe, had a policy with your notes that
7 you would keep your notes and do your investigation,
8 and then when you dictated the notes onto what we
9 called blue paper or the, what we're reading here,
10 would you all destroy your notes just as a matter of
11 routine; wasn't that the policy back in those days?

12 A. I don't know there was a policy to destroy them. I
13 dictated directly from my notes. I have no idea where
14 my case file is on this. It happened over 35 years ago
15 and I was, been transferred around in the Bureau and
16 moved so many times, I have no idea. But I always
17 dictated my blue paper, and our blue paper is this
18 here, our reports (indicating).

19 Q. Right.

20 A. And I dictated directly from my notes, my handwritten
21 notes.

22 Q. And would you, when you turned in your or when you
23 turned, I guess, the blue paper was disseminated to the
24 DA's office. We don't -- we didn't - we don't get
25 those notes or we didn't get those notes back in --

1 A. No, we didn't give them. We kept them for ourself.

2 And many times when you testify, you take a copy of an
3 interview with you to form your notes.

4 Q. Right. So the central file, or wherever the files were
5 kept in Raleigh didn't have the notes, either, back in
6 those days?

7 A. No, sir, not unless an agent chose to put an interview
8 or something in there on his own volition; no, sir.

9 Q. Right. All that's kind of changed now, by the way, I'm
10 sure you've probably heard. But I think everything
11 comes --

12 A. It has, a lot different now than it was when I was
13 there, sir.

14 Q. Yeah. As far as the polygraphs go, I was trying to
15 remember, I don't ever remember getting the results of
16 the polygraph test. I might have reference to a
17 polygraph test, but they typically, they weren't there
18 in the case files we were given. Was that your
19 recollection or do you say you think maybe --

20 A. I don't know. I would, I would think they would be --
21 and again, I don't want to speak, you know, beyond my
22 knowledge, but I would think that they would be, the
23 results of those tests would be submitted to the case
24 file. And but I, I just really don't -- we would
25 always be told by the polygrapher what the results of

1 the test were and, as a rule, would incorporate it in
2 our report.

3 Q. And typically go back and question the suspect or
4 subject of the examination, I guess, about the
5 inconsistencies in those areas, typically, is that what
6 you would do, or would the polygrapher do most of that?

7 A. The polygrapher would. If while he's talking he would,
8 he would see the, where the chart was reading and he
9 would, would normally respond to that initially.

10 Q. I guess, you know, we're having more references to
11 polygraphs than I can ever remember in a case later on.
12 I think now we don't, you know, we obviously have never
13 been able to use the results of the test in court under
14 the Rules of Evidence anyway, but typically what we as
15 DAs were looking for were the, whether they changed
16 their stories or what they told, whether it was
17 consistent with other evidence that we knew to be, that
18 we were confident in. And, you know, the scores just
19 didn't mean that much to me back in those days, that's
20 why I was wondering if it was different in the '70s
21 with regard to the actual scoring themselves. I
22 mean --

23 A. As I said, I don't --

24 Q. Okay.

25 JUDGE SUMNER: Thank you, Mr. Poole; thank

1 you.

2 A. Yes, sir.

3 MS. MONTGOMERY-BLINN: Thank you.

4 A. Yes, ma'am. Thank you.

5 MS. MONTGOMERY-BLINN: And I'll ask that
6 Mr. Poole be released from sequestration and subpoena.

7 JUDGE SUMNER: Certainly.

8 (THEREUPON, A DISCUSSION WAS HAD OFF THE
9 RECORD WHICH WAS NOT REPORTED AS MR. POOLE EXITS THE
10 CONFERENCE ROOM.)

11 MS. MONTGOMERY-BLINN: Commissioners, you had
12 a lot of questions about things from the file and, you
13 know, we do have as much as we can so we'll try to put
14 that together from the questions, we were jotting down
15 the things that you asked, and try to give you what at
16 least is in the file that we are aware of, or isn't in
17 the file, from some of the questions you were asking.

18 But we're going to turn the investigation or
19 the presentation to Herman Baker. So as you recall,
20 Herman Baker testified at trial that Sledge made
21 admissions to him about the murder while they were in
22 prison together, and the law enforcement report of
23 Baker in that interview is on page 64 and 65 of your
24 brief, and you just heard that read as well. The
25 testimony that Herman Baker gave at the first trial

1 begins on page 105 of your brief, and the testimony he
2 gave at the second trial is on page 203 of your brief.

3 Before the case was referred to the
4 Commission it was investigated by the nonprofit North
5 Carolina Center on Actual Innocence and their executive
6 director, Christine Mumma. Ms. Mumma represents Joseph
7 Sledge and she referred this case to the Commission.
8 Also, Mr. Baker was interviewed by Ms. Mumma and SBI
9 Agent Barefoot. So what I'm going to do now is call
10 Ms. Mumma to testify about her interviews, then SBI
11 Agent Barefoot to testify, and then I'll recall
12 Ms. Mumma to testify again about an interview that
13 happened after that. Then Sharon Stellato from the
14 Commission staff will testify about her interviews, and
15 then we'll have Mr. Baker come in and testify.

16 So I'd just like to say that this is a non-
17 adversarial hearing, Ms. Mumma does represent
18 Mr. Sledge, but I'm calling her only as a fact witness,
19 not as his attorney. I will keep my questions just to
20 her investigation and ask that the commissioners also
21 limit their questions to the facts from her
22 investigation and steer away from any opinions or
23 conclusions.

24 All right, Ms. Mumma.
25

1 Christine Mumma, having first been duly
2 sworn, testified as follows:

3

4 EXAMINATION BY MS. MONTGOMERY-BLINN

5 Q. All right. For the record, what is your name?

6 A. Christine Mumma.

7 Q. And where are you employed?

8 A. I'm at the North Carolina Center on Actual Innocence,
9 I'm the director there.

10 Q. And do you represent Joseph Sledge?

11 A. I do.

12 Q. And have you interviewed Herman Baker?

13 A. I have.

14 Q. Okay. Ms. Mumma, I'm going to hand you a document. If
15 you'll take a look at it and tell me if you recognize
16 it, and if you do, what it is?

17 A. (Witness examines document.) I do recognize it. It's
18 an email from someone typed in the office. I called
19 the office from the road and just talked over the
20 phone, and they typed into an email as I was talking to
21 them.

22 Q. And what is the date of this?

23 A. The date is September 15, 2011.

24 Q. And is this, what you called in, is this the first time
25 you ever spoke with Herman Baker?

1 A. It is.

2 Q. Okay. Would you please read us what was typed up?

3 A. Herman Baker does live at 429 Gillespie. He was not at
4 home. I found him hanging out at a local barber shop
5 down the street. At first he didn't remember who
6 Joseph Sledge was. I reminded him that he testified at
7 the murder trial in 1978. He said, oh, yeah, the one
8 where he killed those women and spread the black
9 pepper. He said that they were at White Lake when
10 Joseph told him about what had happened. He said that
11 Donald Sutton was with them when Joseph gave them the
12 facts.

13 I showed him Joseph's letter where he says
14 that he's sure that Herman will tell the truth given
15 the opportunity. I asked Herman if he had been put
16 under pressure to testify. I explained that I could
17 get him protection if he had been put under pressure.
18 He was familiar with the Center and said he believed
19 that we could get him protection, but that the truth is
20 the truth.

21 Q. And do you recall this interview with Mr. Baker
22 independently?

23 A. I do.

24 Q. Was the part about them being at White Lake together
25 when Sledge confessed, do you recall if that was

1 consistent with what Herman Baker had said during the
2 testimony at the original trial?

3 A. It was not.

4 Q. And the part about him being present with Donald Sutton
5 when Mr. Sledge confessed, was that consistent with
6 what Herman Baker had testified to at trial?

7 A. It was not.

8 Q. And in this email it says you showed him a letter. Can
9 you tell us what letter you showed him?

10 A. I actually went back to show him the letter. I spoke
11 with him first at the barber shop in the parking lot,
12 and was driving down the street and realized I had a
13 letter from Joseph in my pile. And I opened the letter
14 and it happened to say -- it was a letter from Joseph
15 to me, and it said, I think Mr. Baker will tell the
16 truth if he's given the opportunity. And I took it
17 back to show Herman that Joseph believed that he would
18 tell the truth.

19 Q. And did you read it to him, or did he read it?

20 A. I handed it to him.

21 Q. And did he read it?

22 A. He did.

23 Q. The email says that you asked if he had been put under
24 pressure to testify. Did he answer that question?

25 A. No.

1 Q. Did he just refuse or did he say no or what did he say?

2 A. Mr. Baker was, seemed to be embarrassed. There was a
3 large group of people in the back of the barber shop.
4 Later I learned that it was actually a Narcotics
5 Anonymous meeting and they must have been on break.
6 And so I think he was embarrassed that a woman he
7 didn't know was coming up asking people if he was there
8 and who he was, and so he was trying to walk away from
9 me as I was talking to him.

10 Q. So he just didn't answer that one, one way or another?

11 A. We didn't, really did not talk very much at all.

12 Q. Okay. And the email says you explained that you could
13 get him protection. Why did you say that?

14 A. Because a lot of times if we're talking to people who
15 have testified at trial, they're very afraid of being
16 charged with perjury if they change their statement.
17 Or in Herman's case, I guess I didn't know this at the
18 time, but he's particularly nervous about being labeled
19 a snitch. But at this point it was protection from a
20 perjury charge.

21 Q. Protection. And what kind of protection did you mean?

22 A. An attorney, help understanding. You know, I deal with
23 a lot of innocence cases, not just in North Carolina
24 but nationally, and when there's a recantation there's
25 typically not a follow-up charge of perjury. So I

1 wanted him to know that what we were after is the truth
2 and what the justice system is after is the truth and
3 not necessarily a perjury charge.

4 Q. And at this time during this conversation were you
5 already counsel for Joseph Sledge?

6 A. I was.

7 Q. And how did the interview end?

8 A. Oh, just really him walking away from me. There was
9 not much conversation at all.

10 Q. And did you talk to him again after this interview?

11 A. I did.

12 Q. Okay. All right. Will you take a look at this and
13 tell me if you recognize it and what it is?

14 A. (Witness examines document.) I do recognize it. It is
15 the notes of the interview I had with Herman Baker with
16 Staff Attorney Cheryl Sullivan on March 18 of 2013.

17 Q. Okay. You referred to this as notes. Is there another
18 memo or is this --

19 A. This is all that, it would have been typed up.

20 Q. Okay.

21 A. We, I think we actually went home from the interview
22 and Cheryl actually typed it from her memory when she
23 got home. There were, so there were no handwritten
24 notes.

25 Q. And it wasn't recorded?

1 A. It was not.

2 Q. Okay.

3 A. We did not intend on finding Mr. Baker that day.

4 Q. All right. And it says in here that you had attempted
5 to locate him earlier. Were you able -- is this the
6 next time you located him?

7 A. This is the next time I located him. Several weeks
8 prior -- can I give a little more background, is that
9 okay?

10 Q. Yes.

11 A. In 2011 when we interviewed, when I interviewed
12 Mr. Baker, we always look to physical evidence in case
13 first. In 2011 we had pretty much exhausted our
14 options with the physical evidence, and so we turned to
15 the informant testimony. So that's why we interviewed
16 -- tried to find him in 2011, and we tried to find
17 Mr. Sutton as well. So we did not attempt to interview
18 him again after that because some physical evidence was
19 actually uncovered, and so we moved on to the, back to
20 the physical evidence at that point in 2012.

21 This interview occurred, we tried to find
22 him, Mr. Baker again after meeting with the district
23 attorney in February of 2013 when it became clear that
24 the informant testimony was going to be important to
25 the DA's office. So we looked for him in February. We

1 went to Fayetteville on March 6, I believe, and asked
2 around, and I left business cards. And then we came on
3 March 18, the date of this memo, we met with the
4 district attorney's office and the SBI at the SBI, and
5 ended up looking for Mr. Baker after that meeting.

6 Q. Okay. Now, looking at this memo, do you have
7 independent recollection of this meeting?

8 A. I do.

9 Q. Where did you locate Mr. Baker?

10 A. Walking down the street.

11 Q. Okay. How did you approach him?

12 A. We had heard through stopping at different places
13 asking about Mr. Baker someone said he wore a very
14 distinctive brown Louis Vuitton hat. So we saw, Cheryl
15 saw someone walking down the street wearing a brown hat
16 and advised me to turn the car around. And we drove up
17 the street and he, he was on my side of the street, the
18 right side of the street. And I got -- I opened my car
19 door and said, hi, Herman, do you remember me? And he
20 said he did and asked me how I was.

21 Q. And just to clarify, you've mentioned Cheryl a couple
22 times. Is that someone who works with you?

23 A. Cheryl is the staff attorney at the center.

24 Q. Okay. Now, could you read the part where it says,
25 starting with it says he was walking up the street,

1 right here. So it's in the third paragraph, basically
2 the second sentence. It says, he was walking up the
3 street. Will you read all the way down through there
4 until it ends with pepper can?

5 A. He was walking up the street to his VA appointment.
6 Chris asked if he remembered her. He said, yeah, how
7 you been? She said she was still working on Joseph's
8 case and that we had some physical evidence that we now
9 know does not match Joseph. He interrupted Chris and
10 immediately said, they fed me everything. They told me
11 some shit about a pepper can. He said he was in the
12 hole for a marijuana possession. In parentheses it
13 says, unclear if this was a new charge or was marijuana
14 inside the prison. He said they told him about the
15 reward. He was never taken to a motel. He was moved
16 by prison personnel from the prison to the county jail
17 to be interviewed. He said there was only one
18 interview of him, and interview is in quotes. He said
19 one person spoke to him first, and then their captain
20 or something, again in quotes, came in. We asked
21 whether he was offered help with his sentence. He said
22 he was not offered help with his sentence, just offered
23 the reward.

24 Q. Okay. The first part that you read when he said they
25 fed me everything, was that spontaneous?

1 A. It was spontaneous.

2 Q. Okay. So you had not asked a question at that point?

3 A. I had not. I was just in the initial hello, how are
4 you.

5 Q. Okay. The rest of it, it's all, as you read it, it's
6 all written together in one paragraph, but the rest of
7 it, is that part of, after the pepper can part, is the
8 rest of it in response to questions that you were
9 asking him?

10 A. Yes. I asked him a few questions. I asked him, I also
11 asked him, and I'm not sure if it's in the memo, if he
12 would talk to the SBI and if he would give a DNA
13 sample. And he said that he would, and I immediately
14 called the SBI.

15 Q. Okay. Before we get there, I've got a couple more
16 questions. It says in there that Baker said he never
17 knew Sutton. Was this something you asked him?

18 A. Yes.

19 Q. And this is different than what he had told you two
20 years earlier?

21 A. Yes.

22 Q. And different than the testimony?

23 A. Yes.

24 Q. Okay. And then he said he would give it, he said he
25 would give a DNA sample?

1 A. Correct.

2 Q. Why were you asking for a DNA sample?

3 A. Because we knew that the hairs that were collected from
4 the victim's body did not come from Joseph Sledge and
5 that they were African-American hairs based on the
6 forensics report. And I had, I had -- my position has
7 always been that Herman Baker either committed the
8 murders himself, knew who committed them, or was fed
9 the information that he testified to at trial.

10 Q. And he did say he would give a DNA sample?

11 A. Correct.

12 Q. Did he indicate to you that he was drinking alcohol?

13 A. He did. I offered him a ride to the VA and he patted
14 his pocket where I could see a bag, and said that he
15 wanted to finish his drink while he was walking.

16 Q. Did he appear intoxicated to you?

17 A. He did not appear intoxicated when I spoke to him.

18 Q. At the end of the memo it says that he was pounding
19 beers. Is that --

20 A. He had beer in the bag in his pocket. And when we
21 followed him, Cheryl and I in my car as he was walking
22 to the VA, and he stopped at the Quick Shop and he had
23 a beer at the Quick Shop as well.

24 Q. So after the interview you stayed there in your car as
25 he continued to walk. How long was that for?

1 A. After the -- while we were on the side of the road
2 Cheryl continued to talk to him while I called,
3 contacted the SBI and told them where they could find
4 him, because they had said they had a hard time
5 locating him. And then he started to walk to the VA
6 and I followed him in my car. I think it took, from
7 the time of my call till the SBI got there was 45 to 50
8 minutes.

9 Q. And during that time you saw him stop in a shop and buy
10 more alcohol?

11 A. Yes, I saw -- actually, we went into the shop after him
12 worried that he was going to disappear on us, and I
13 wanted him to have an opportunity to talk to the SBI.

14 Q. So that's why you followed him?

15 A. Yes.

16 Q. Okay. When the SBI arrived, you said 45 to 50 minutes
17 later, who arrived from the SBI?

18 A. Agent Barefoot, and I don't know the other gentleman
19 who was in the car. I actually called them back and
20 asked where they were and directed them down the street
21 to where Herman was walking.

22 Q. Okay. And then what did you do once the SBI arrived?

23 A. I parked my car. The SBI got out of, the agents got
24 out of their car and walked towards Herman, and then
25 walked towards the VA Hospital with him, turned around

1 and came back to the car. My car was parked next to
2 the SBI agents' car, and when they came back I decided
3 I should leave the parking lot because they had Herman
4 with them, so I pulled into a parking lot a few
5 buildings down.

6 Q. Were you with them during the time that they spoke with
7 Mr. Baker?

8 A. No, they were in their car.

9 Q. Could you see it from your car the entire time?

10 A. I could see them, but when they came back to the car I
11 pulled out of the parking lot to pull away from their
12 conversation.

13 Q. Did you talk with anybody from the SBI after they spoke
14 with Mr. Baker?

15 A. I did.

16 Q. Okay. And did they indicate whether or not they had
17 interviewed Mr. Baker?

18 A. They did. They actually pulled up to my car in the
19 other parking lot with their car and Agent Barefoot
20 came out and came to the window of my car and said that
21 he had talked to Mr. Baker, that Mr. Baker had said
22 that Sledge never talked to him about the murders, that
23 they felt he was too intoxicated to interview at the
24 time, but they were able to obtain a DNA sample.

25 Q. Okay. And did you help Mr. Baker find an attorney?

1 A. I did.

2 Q. Can you describe that process and why you did that?

3 A. Sure. When the SBI, when Agent Barefoot came up to my
4 car to talk to me, it was a Monday that we talked to
5 Mr. Baker, and Agent Barefoot told me that they weren't
6 going to have an opportunity to talk to Mr. Baker until
7 Friday. I had concerns that Mr. Baker would possibly
8 leave town or be difficult to find again, and I
9 informed Agent Barefoot that I felt it was necessary to
10 interview Mr. Baker more formally before Friday. And
11 Agent Barefoot said that was fine, but I, that I should
12 record it. Cheryl Sullivan and I went back to find
13 Herman Baker the next morning. That night we typed up
14 an affidavit based on our memory of the things he had
15 said on the street.

16 Q. All right. And if you'll hold off for me for just a
17 second.

18 A. Okay.

19 Q. I was asking about the attorney, but what I intend to
20 do is call Agent Barefoot and then recall you for the
21 next day.

22 A. Well, I want to explain the context of why --

23 Q. Okay, fine.

24 A. I kind of have to explain.

25 Q. Go ahead.

1 A. When I went to meet with him the next morning he was
2 talking about being afraid, he was talking about
3 suicide, he was talking about leaving town, he was
4 talking about being labeled a snitch in town. He was
5 very nervous and upset. And he cried during the
6 interview and I felt it was important for him to have
7 someone to help him through this process. So that is,
8 that is what -- it motivated me to find counsel for
9 him. After I interviewed Mr. Baker I went back to the
10 Quick Stop where we had received information on the
11 18th and what Mr. Baker, where he, where he hung out.
12 And I asked his friend there who Herman would trust,
13 what attorneys he would trust. I got some
14 recommendations. I ran those recommendations by other
15 people, other attorneys, and eventually I was referred
16 to Mr. Billy Richardson.

17 Q. Okay. And does Mr. Richardson, as far as you know,
18 represent Mr. Baker?

19 A. He does.

20 Q. And do you know if he's doing that pro bono?

21 A. I don't know.

22 Q. Is that what you asked him to do?

23 A. I don't think we talked about -- Herman had told me he
24 had money to hire an attorney. I don't think
25 Mr. Richardson and I talked about whether it would be

1 pro bono. I left that to him.

2 Q. Okay. Who got Mr. Richardson and Mr. Baker in contact?
3 Did you tell Mr. Baker to call him or did you tell
4 Mr. Richardson, call Mr. Baker?

5 A. When I left Mr. Baker, he asked me to help him get an
6 attorney, and so I put the attorney in touch with
7 Mr. Baker.

8 Q. Okay. But did you give Billy Richardson's number to
9 Mr. Baker or vice versa?

10 A. James -- yes, I gave Billy Richardson James' number, is
11 where Herman was staying.

12 Q. Okay. Did you talk with the attorney, Billy
13 Richardson, about the case?

14 A. Generally, yes.

15 Q. And you told him about your theories about the case?

16 A. I did.

17 Q. And your investigation?

18 A. I did.

19 Q. Why did you do that?

20 A. To put context to Herman Baker's statement so he would
21 understand Herman Baker's fears. And, you know, not
22 just fears from a legal perspective, but Herman was
23 very nervous about being in the neighborhood and people
24 knowing that he had been a snitch at trial.

25 Q. Let's go ahead and talk about that March 18 interview

1 then. So this is the next day, is that right? The day
2 after you talked to Billy Richardson -- I'm sorry,
3 talked to Herman Baker, called the SBI. Now we're on
4 the next day.

5 A. The 19th.

6 Q. The 19th. How did you locate Mr. Baker on the 19th?

7 A. Mr. Baker had given us an address. We went to that
8 address and it was the wrong address. So we started
9 knocking on some doors in that vicinity and hit on an
10 apartment where he was staying.

11 Q. Okay. And you said that the SBI had asked if you did
12 it, to record it. Was it recorded?

13 A. It was.

14 Q. And you said, I think you were starting to say that you
15 had prepared an affidavit and brought that with you?

16 A. That's correct.

17 Q. Okay. And the document I've just handed you, what do
18 you recognize that to be?

19 A. It's the affidavit that was typed before we met with
20 Mr. Baker.

21 Q. So you typed this after the first interview, brought it
22 with you on the second interview?

23 A. Correct.

24 Q. And did Mr. Baker look at it and sign it?

25 A. He did.

1 Q. Okay.

2 A. He read it, asked for some changes, and signed it.

3 Q. Okay.

4 MS. MONTGOMERY-BLINN: I'm going to pass
5 this around to the commissioners now.

6 (Affidavit of Herman Baker is distributed.)

7 Q. Okay. It looks like that's gone around now. When you
8 typed this before you came, before any changes, what
9 did you base the information in here on?

10 A. From -- I mean, the beginning of it is pretty standard
11 affidavit language, and the rest of it was based on
12 what he had said on the street.

13 Q. Okay. Number 9, could you read us sentence number 9 or
14 item number 9?

15 A. I do not have any personal knowledge of any information
16 relating to the murders of the two women in Bladen
17 County. Law enforcement fed me all the details of the
18 crime to which I testified.

19 Q. Now, that wasn't in the documentation of the earlier
20 interview. Was that something that you had assumed and
21 planned to change if needed?

22 A. Well, he said, they fed me everything.

23 Q. Okay, but law enforcement?

24 A. The -- actually, when we talked to Mr. Barefoot at the
25 car, Agent Barefoot, he said it was that Sparkman, he

1 mentioned the name Sparkman had given Baker the
2 information.

3 Q. The prison warden?

4 A. Yes.

5 Q. Okay. And so you considered that law enforcement?

6 A. Yes.

7 Q. All right. And then would you read number 10 as well?

8 A. Law enforcement told me about the pepper can at the
9 crime scene.

10 Q. Okay. And whose handwriting is that there?

11 A. That is my handwriting on his request.

12 Q. Okay. So Mr. Baker had you add, and prison guards?

13 A. Correct.

14 Q. And would you read number 11?

15 A. Originally written as, law enforcement told me about
16 the victim's broken jaw. Again, he requested that I
17 add, and prison guards.

18 Q. Okay. And number 12?

19 A. Law enforcement told me about the reward money in this
20 case.

21 Q. And was that from an interview?

22 A. That was from the statement on the street. He said, he
23 said that they didn't -- they only told him about the
24 reward. He said he was not offered help with this
25 sentence, just offered the reward.

1 Q. Okay. And will you read number 13?

2 A. Originally written as, I was not offered any help with
3 my prison sentence. I was only promised reward money.

4 Q. Okay.

5 A. He had me correct that. And again, that was written
6 based on what he had said on the street on the day
7 before. He had me correct that to say, they told me
8 they would let me out of prison early, and I was
9 promised reward money.

10 Q. So that's different than what he said the day before,
11 but it's corrected on the affidavit to what he was
12 saying at the time?

13 A. Correct.

14 Q. Okay. All right. Now, what time was this interview
15 at, do you recall?

16 A. It was the morning.

17 Q. And why was that?

18 A. We just went in the morning. Actually, I wanted to try
19 and catch him before he was drinking.

20 Q. And do you think you did?

21 A. I did.

22 Q. Did you wake him up?

23 A. He was still in his pajamas, and I asked him if he had
24 had anything to drink and he said he did not.

25 Q. And did he appear intoxicated to you?

1 A. He did not.

2 Q. Okay. And you said that that interview was recorded
3 and transcribed?

4 A. It was.

5 Q. Do you recognize that?

6 A. I do.

7 Q. And what do you recognize it to be?

8 A. The transcription of the recorded interview with Herman
9 Baker on March 19.

10 MS. MONTGOMERY-BLINN: All right. We're
11 just going to get that passed around to all the
12 commissioners and then we'll talk about it. I'd just
13 like to give the commissioners a little bit of time to
14 read through this.

15 (Transcription of March 19, 2013 interview
16 with Herman Baker is distributed.)

17 (THEREUPON, THE PROCEEDINGS WENT OFF THE
18 RECORD FROM 2:48 P.M. THROUGH 3:08 P.M.)

19 BY MS. MONTGOMERY-BLINN

20 Q. I have just a couple questions about the, for the
21 things you were talking about here in the transcript,
22 and then I'll see if the commissioners have any
23 questions.

24 When you gave Mr. Baker the affidavit that he
25 then corrected, did he read it himself?

1 A. He did.

2 Q. So you did not read it to him?

3 A. No. He put his glasses on and read it himself.

4 Q. And in here you reference a newspaper article, that
5 you're handing a newspaper article to his friend. What
6 was that newspaper article?

7 A. The Fayetteville Observer wrote a story.

8 Q. Was a recent article that had just come out or --

9 A. A recent one.

10 Q. And was it about the Joseph Sledge case?

11 A. It was.

12 Q. And did that article reference Baker?

13 A. I believe it did, yes.

14 Q. Was there a section in it entitled, The Snitch Has
15 Emerged, if you recall?

16 A. I wouldn't think so because that wouldn't have been an
17 article before we talked to him.

18 Q. Okay. I'm handing you an article. Will you tell me,
19 is that the article?

20 A. (Witness examines document.) Yes.

21 Q. And this article is on March 16?

22 A. Yes.

23 Q. And your interview was March 19?

24 A. Correct.

25 Q. Okay. And is this the one that you were handing during

1 the interview?

2 A. (Witness examines document.) Yes.

3 Q. Okay.

4 A. But this is not titled, Snitch Has Emerged, right?

5 Q. Is there a section of it on the third page, and I know
6 that this is a print-off from the Website entitled, The
7 Snitch Has Emerged, toward the bottom of the third
8 page?

9 A. It says, The Snitch Has Emerged?

10 Q. Uh-huh (yes).

11 A. Not -- they haven't emerged, they emerge as part of the
12 trial process?

13 Q. Right.

14 A. Right; right.

15 Q. Is that a part of the article?

16 A. Correct.

17 Q. Okay. And then does it name Herman Baker?

18 A. It does.

19 Q. Okay. Since then have you spoken with Herman Baker?

20 A. I don't believe I have talked to Herman, only to Billy.

21 Q. To his attorney?

22 A. Yes.

23 MS. MONTGOMERY-BLINN: All right.

24 Commissioners, do you have questions?

25 A. I may have talked to him the next morning to tell him

1 that Billy would be contacting him, but that was it.

2 Q. Okay. Thank you.

3 MS. MONTGOMERY-BLINN: Other Commissioner
4 questions?

5 JUDGE SUMNER: Yes, sir.

6

7 EXAMINATION BY MR. HEARD

8 Q. I'm trying to understand, and perhaps the exchange you
9 just had helps to explain a little bit, why was he more
10 believable at this time than he was earlier at the
11 trial?

12 A. Why would it be more believable this time than at the
13 trial?

14 Q. Yes.

15 A. Well, if what he's saying is that he was motivated at
16 the trial by the reward, which we know he was paid, and
17 by early release, which we know he received, then that
18 would be consistent with what he's saying now. And I'm
19 certainly biased because I believe in Mr. Sledge's
20 innocence so I don't believe there was any black pepper
21 at the crime scene, and so I'm too biased, really, to
22 answer that question.

23

24 EXAMINATION BY JUDGE SUMNER

25 Q. Did Mr. Baker ever indicate to you why they sought him

1 out as the person to feed the situation to; did he ever
2 indicate that?

3 A. Because he was in solitary and they knew he wanted to
4 get out, is what he told me; that Sparkman came to him
5 and said, we're looking for somebody and if you'll do
6 this for us, then we'll help you. And they basically
7 framed it as we know Joseph Sledge is guilty, we just
8 need help proving it. So he believed he was basically
9 framing a guilty person.

10

11

FURTHER EXAMINATION BY MR. HEARD

12

Q. What was their motivation, I mean, other than they
13 obviously wanted to clear the case, but was there any
14 other indication of motivation on their part?

14

15

A. I think the motivation, my personal opinion is that the
16 motivation was to clear the case. There was a lot of
17 public pressure, there was a lot of -- there was an
18 election coming up for Sheriff Allen, there was a lot
19 of media coverage on the unsolved murders in the area,
20 there was a lot of media coverage on the escapees from
21 the prison, there was a lot of pressure from the
22 family. This was, you know, listed as one of the cases
23 that law enforcement couldn't solve, so there was
24 pressure to solve it. They had the hair evidence, but
25 I believe they didn't think that was enough and they

25

1 needed the informant testimony to shore it up.

2 Q. Thank you.

3

4

EXAMINATION BY SHERIFF DUNCAN

5 Q. At any time did Mr. Baker say that any of the law
6 enforcement talked with him, or was it all DOC
7 personnel, prison guards, the warden?

8 A. Mr. Baker said that Mr. Poole, Agent Poole and -- or
9 Detective Poole and Agent -- I'm sorry, Agent Poole and
10 Detective Little came to Pennsylvania. There was a
11 mistrial the first trial, and they came to Pennsylvania
12 to pick him up and drove him back to North Carolina and
13 talked to him about the case during the drive, and that
14 they also left a note on his door in Pennsylvania,
15 someone did, with details about reminding him what he
16 needed to testify to.

17

18

FURTHER EXAMINATION BY MR. HEARD

19 Q. He didn't have that note, by the way, did he, still?

20 A. No. We asked Mr. Baker for it and he said he did not
21 keep that note. Mr. Baker was living with his uncle in
22 Pennsylvania, who was a law enforcement officer.
23 Mr. Baker told me that his uncle was actually telling
24 him to come forward with the truth and tell people that
25 Mr. Sledge had never said anything to him. So his

1 uncle was actually encouraging him to come forward to
2 tell the truth.

3 Q. Did anybody else ever see that note?

4 A. Not that I know of. And he had a cousin who read it to
5 him, but the cousin is deceased.

6

7 FURTHER EXAMINATION BY JUDGE SUMNER

8 Q. Is the uncle still living?

9 A. I don't know, sir.

10 MS. MONTGOMERY-BLINN: And Mr. Baker is
11 going to testify.

12 A. I believe he's deceased because we looked down all the
13 avenues we could to try and verify that note, and so
14 I'm sure he's deceased or we would have tried to
15 interview him. The -- may I add something?

16 Q. Go ahead.

17 A. The reason for following up with Mr. Baker again in
18 2013 was because, again, because the importance of the
19 DNA evidence, the hair evidence was being questioned
20 relative to the informant testimony at trial. I
21 believe the physical evidence is very important,
22 obviously. The affidavit -- in post-conviction
23 innocence work I'm very well-aware that you can get
24 someone to say something on a recording or in an
25 affidavit, and what really matters is what they're

1 willing to testify to. And so these were, these were
2 efforts to try and get cooperation in pursuing this
3 case through the district attorney's office to provide
4 additional evidence of innocence for Mr. Sledge. But I
5 know that what's important is what a witness is willing
6 to testify to, so I would be the first to say that what
7 Mr. Baker has to say today is what's important.

8
9 FURTHER EXAMINATION BY SHERIFF DUNCAN

10 Q. I just want to clarify, and I know we don't need to get
11 into other details, I think that was a clarification
12 earlier, but I do believe that you referenced that you
13 think Mr. Baker is responsible for the murders. Did I
14 hear you say that?

15 A. No, sir. What I said was the options, based on my
16 belief that Joseph Sledge is innocent, the options for
17 Mr. Baker's testimony are he committed the murders, he
18 knew the person who committed the murders, or he was
19 fed the information. I believed that the possibility
20 that he committed the murders was stronger than the
21 fact that he was fed information. I never wanted to
22 believe that. So we know now that he did not commit
23 the murders, but that was -- his being fed information
24 was not my first choice.

25 Q. Okay. I just wanted to clarify.

1 MS. MONTGOMERY-BLINN: Okay.

2 JUDGE SUMNER: Thank you, ma'am.

3 (Ms. Mumma steps down from the witness
4 stand.)

5 MS. MONTGOMERY-BLINN: All right. Special
6 Agent Barefoot.

7
8 Special Agent Chad Barefoot, having first
9 been duly sworn, testified as follows:

10

11 EXAMINATION BY MS. MONTGOMERY-BLINN

12 Q. Please state your name.

13 A. My name is Chadrick Barefoot

14 Q. And where do you work?

15 A. I work with the North Carolina State Bureau of
16 Investigation.

17 Q. How long have you worked with the SBI?

18 A. Since 2005.

19 Q. And what is your position?

20 A. My position, currently I am a criminal specialist
21 assigned to our computer crimes unit. Prior to that I
22 was a field agent assigned to our southeastern
23 district.

24 Q. And how are you involved in the investigation of the
25 Joseph Sledge case?

1 A. In late February of 2013 I was tasked with assisting in
2 the investigation of this case at request of District
3 Attorney Jon David. The SBI was specifically asked to
4 look into several facts involving this case. It wasn't
5 necessarily to reopen the entire investigation, but we
6 were requested to attempt to locate any files or
7 documents that still existed in this case either in
8 possession of the SBI or the Bladen County Sheriff's
9 Office, to locate any additional evidence or evidence
10 from the original investigation that was no longer
11 available or that could be located, to interview
12 several witnesses including the original investigators
13 and the original prosecuting district attorney, and
14 also any other information that needed to be developed
15 through the investigation.

16 I was informed that actually Ms. Mumma had
17 contacted District Attorney Jon David's office and
18 that's kind of how the original request took place.
19 And the SBI was requested by the district attorney's
20 office to assist in the investigation based on
21 information that Ms. Mumma had developed.

22 Q. And was that before the Commission became involved in
23 the case?

24 A. Yes.

25 Q. Have you had contact with Herman Baker?

1 A. Yes, I have.

2 Q. Agent Barefoot, if you'll just take a look at what I'm
3 handing you, and tell me if you recognize it and what
4 it is.

5 A. (Witness examines document.) I do. This is a report
6 that I typed involving my interaction with Mr. Herman
7 Lee Baker, Jr., on Monday, March 18, 2013. It includes
8 my handwritten notes and also my documentation of the
9 collection of cheek swabs from Mr. Baker also that took
10 place on March 18, 2013.

11 Q. And is there any other documentation about this
12 interview?

13 A. This is --

14 Q. Was it recorded?

15 A. This interview was not recorded.

16 Q. And did you hear Ms. Mumma testify just a few minutes
17 ago?

18 A. Yes, I did.

19 Q. Okay. So this is March 18, in between her, the
20 interviews that she testified about, is that right?

21 A. Yes.

22 Q. Sorry, go ahead.

23 A. And if I could just provide a little bit of background
24 on that?

25 Q. Sure.

1 A. I was originally given this case in late February.
2 Earlier this morning, on March 18 of 2013, we actually
3 had a meeting at our district office in Fayetteville.
4 Present at the meeting was myself, my special agent in
5 charge of my district, Ms. Mumma, and I believe one of
6 her staff members, and also District Attorney Jon
7 David, and Investigator Scott Pait. Basically, that
8 meeting was to come together to address what new
9 information had come to light in this investigation.
10 Being that I had only been assigned this case for less
11 than a month and I had a lot of catching up to do,
12 Mr. David had been involved for a short period of time,
13 and Ms. Mumma, who had been working on the case for
14 several years, we came together that morning in order
15 to basically meet together, share information, and
16 formulate how to move forward with this investigation.

17 One of the primary objectives in that meeting
18 or information that was brought up was that these
19 informants who had originally testified in the trials
20 of Joseph Sledge, there was a discussion as whether or
21 not they could have actually been the perpetrator
22 because at this time and prior to this we were informed
23 the hairs collected from the crime scene, that
24 mitochondrial DNA analysis had shown that Joseph Sledge
25 was not the contributor of those hairs. So one of our

1 primary concerns was how did these informants who
2 testified to specific knowledge of the crime scene at
3 trial, how did they know this information and were one
4 of them possibly involved in the murder. So at that
5 time one of our primary focuses was, or what was
6 discussed in that meeting was try to get DNA standards
7 from specifically Mr. Sutton and Mr. Baker.

8 In reviewing the file I was aware, and in
9 doing some preliminary investigation, that of the
10 informants who were interviewed during the initial
11 investigation, there were three who gave information
12 that reasonably implicated Mr. Sledge in the homicides,
13 being Mr. Baker, Mr. Sutton, and Mr. Broadway. And of
14 those three, the only person who was still alive was,
15 in fact, Mr. Baker. So it was stressed during that
16 meeting it was very important that Mr. Baker, one, be
17 located; two, be interviewed; and three, that a DNA
18 standard be collected from him.

19 So that was earlier this morning on March 18,
20 2013. At that time I had no idea where Mr. Baker
21 lived. Ms. Mumma represented that she had not been
22 able to locate him. And so we were kind of, at that
23 point, just formulating, okay, this is a person we
24 really need to find, and once we find him, you know,
25 this is how we need to approach him.

1 Q. Had you been trying to locate Herman Baker prior to
2 this day?

3 A. Yes. By running basically intelligence reports and
4 also by, you know, just trying to, you know, just
5 running general address information. One thing that's
6 difficult in looking at a case file that's so old is
7 that, you know, address -- people move all the time. A
8 lot of times, looking at the file, at first I didn't
9 even have Mr. Baker's date of birth, and originally I
10 didn't even have his original interview. We only found
11 that later. So trying to find someone, you know, takes
12 time when you don't know where to start.

13 Q. Why did you interview him then on that same day,
14 March 18?

15 A. I believe it was around 2:30 that day my special agent
16 in charge, Janie Sutton, actually received a call from
17 Ms. Mumma. During that conversation Ms. Mumma
18 basically stated, you know, I found Mr. Baker, you all
19 need to come out here. And so I -- Special Agent in
20 Charge Sutton gave me that information, so I
21 immediately called Ms. Mumma and she told me, look, we
22 found Mr. Baker. And I said, okay, well, where is he
23 at? And she said, well, he's walking away from me now.
24 And at that point she stressed that, you know, you all
25 need to get out here and try to find him, and so I did.

1 The delay that I believe Ms. Mumma said was
2 around 45 minutes to 50 minutes from the time she
3 contacted us till we got there, one was travel time
4 from our district office to where he was, and two was I
5 had limited information on where he was. At that time
6 I was not aware that Ms. Mumma was actually still
7 following him. She had just given me a physical
8 description, told me what road he was walking down, and
9 that he was going to the VA Hospital. And that's okay,
10 but it's kind of hard to find people in Fayetteville
11 when all you know is a road and he's walking that way.
12 So that was the delay. And I actually got up with
13 another subject who was not Mr. Baker, and so it took
14 some time. But we did eventually find Mr. Baker, he
15 was actually walking down the sidewalk beside Ramsey
16 Street within view of the Veterans Hospital.

17 Q. All right. How did you approach Mr. Baker?

18 A. Basically, once we were moving down the road and we had
19 identified the person fitting the physical and clothing
20 description of Mr. Baker, I was actually, it was myself
21 and my assistant special agent in charge, John
22 Crawford, who was driving his vehicle, we pulled into a
23 parking lot and we just got out, walked across Ramsey
24 Street, and approached Mr. Baker on foot.

25 Q. And what did Mr. Baker say to you?

1 A. Basically, at first I just approached Mr. Baker and
2 identified myself, let him know who I was, that I was
3 an agent with the SBI. And I asked -- and I just, I
4 mean, at that point, you know, starting that interview
5 kind of cold was a little difficult. But basically I
6 approached Mr. Baker and let him know who I was and why
7 I wanted to talk to him, and I wanted to talk to him
8 about the double murder that happened in Bladen County
9 in the 1970s for which Joseph Sledge had been
10 convicted.

11 Q. Okay. And what did he say?

12 A. I also asked at that point, you know, if he had spoken
13 with an attorney earlier that day about this matter.
14 And I actually did recognize Ms. Mumma's vehicle, that
15 she was still in the area. I believe she was in a turn
16 lane or right there within view of where Mr. Baker was.
17 And so we continued, I continued to walk with Mr. Baker
18 and I asked him if he remembered testifying in the
19 trial of Sledge. He said he did remember testifying
20 and that he had been told to come forward by a prison
21 supervisor named Sparkman. He advised that Sparkman
22 had told him about a reward in the case. And I asked
23 Baker if he had ever actually talked to Joseph Sledge,
24 you know, because at first when I approach him and I'm
25 talking to him, you know, that's primary, you know, how

1 did you get this information? Have you, in fact, ever
2 talked to Joseph Sledge? And he said, yes. He said, I
3 talked to Sledge while we were incarcerated together.
4 And so I then asked him what, if anything, he and
5 Sledge had talked about. And that's when Baker told me
6 that he remembered Sledge talking to him about white
7 devils and black pepper.

8 So at that point I asked Mr. Baker if Sledge
9 had ever confessed to him that he had committed the
10 murder of the two women in Bladen County, and Baker
11 said Sledge never told him that he had killed the women
12 in Bladen County. He said Baker talked to him about
13 some things, but did not make a confession to him.

14 Q. Okay. What else do you remember from that interview?

15 A. Specifically, and if I can describe this interview in a
16 little bit greater detail? I located Mr. Baker at
17 approximately 3:25 p.m. My interaction with him
18 concluded at approximately 3:35 p.m., so it's a matter
19 of ten minutes, and I'll explain why in a minute. But
20 basically, this interaction is taking place as
21 Mr. Baker is walking down the sidewalk to the VA
22 Hospital, and I'm just walking with him. And he's,
23 he's fine with that. He's very cooperative with me,
24 he's talking to me. But one thing, again, that had
25 been stressed in the meeting earlier was whether or not

1 Mr. Baker would provide a DNA sample so that we could
2 possibly eliminate him as the contributor of the hairs
3 found at the crime scene.

4 So after speaking with him just briefly
5 about, one, did you know Joseph Sledge, do you remember
6 testifying in the trial, and also, you know, what, if
7 anything, do you remember Joseph Sledge telling you, I
8 then asked him about the DNA sample. And we continued
9 to walk through the wooded areas toward the VA Hospital
10 and I explained to him that I had been asked to obtain
11 DNA samples from several individuals who had been
12 witnesses in this case. And I explained that those
13 samples would be compared to evidence collected from
14 the crime scene, and I asked him if he would be willing
15 to provide a sample.

16 And during this time Mr. Baker is still
17 cooperative, but he asked where we were going to get
18 the sample done at. And basically, at that point I
19 believe Mr. Baker thought that we were going to have to
20 actually draw his blood and actually have to go to some
21 type of medical facility to get that done. And so I
22 explained to him that a blood sample was not needed and
23 that collection of the standard could be done quickly
24 by rubbing cotton swabs on the insides of a person's
25 cheek. And so I explained to him, you know, how we

1 collect a DNA sample using cheek swabs. And I
2 explained that the swabs to take the sample were
3 actually in Assistant Special Agent in Charge
4 Crawford's vehicle, which we could still see from where
5 we were walking. We hadn't really covered very much
6 ground.

7 And once Mr. Baker realized that his blood
8 did not need to be drawn, he didn't even say anything,
9 he just turned, he did a complete 180 and started
10 walking toward ASAC Crawford's vehicle. And he said he
11 was willing to provide a sample because he had nothing
12 to hide. And while walking to the vehicle he actually
13 told me that he had worked at the VA Hospital in the
14 janitorial section for around ten years and he had seen
15 people give cheek swabs before and understood what they
16 were used for. So he established not only, you know --
17 I had established the procedure of how to collect the
18 swabs, but he also told me, okay, yeah, I know what
19 that is, I've worked at a hospital before.

20 We actually walked back to ASAC Crawford's
21 patrol vehicle. I sat in the front driver's seat,
22 Mr. Baker sat in the front passenger's seat right
23 beside me, and ASAC Crawford sat in the back. And
24 while seated in the vehicle I just collected general
25 demographic information from Mr. Baker. He verified

1 that his name was Herman Lee Baker, Jr., that his date
2 of birth was May 24, 1950. He told me he was currently
3 homeless, but lived with a deacon of his church named
4 James at 213 Lawrence Avenue in Fayetteville, North
5 Carolina. He provided me with a telephone number to
6 the residence where he was staying, and also I verified
7 his identity because he had a military identification
8 card on him, you know, and I just, I took the extra
9 step to make sure, okay, this person I'm taking this
10 time with and collecting these DNA swabs from is, in
11 fact, Mr. Baker, and it was.

12 Q. And did he sign a consent form as well?

13 A. Yes, he did.

14 Q. Okay.

15 A. He signed a written consent form authorizing the
16 collection of those cheek swabs, and at approximately
17 3:35 p.m. I had him utilize two sterile cotton swabs to
18 swab the inside of both his left and right cheek. He
19 then placed those swabs into a clean envelope and I
20 collected those cheek swabs as an item of evidence.

21 Q. Okay. Did Mr. Baker appear intoxicated to you?

22 A. When I first approached Mr. Baker immediately I noticed
23 an odor of an alcoholic beverage. I am familiar with
24 that odor being in law enforcement almost ten years,
25 and I did ask Mr. Baker if he had been drinking that

1 day and he said he had drank about a pint of wine. And
2 I also noticed that he had what appeared to be a wine
3 bottle in his, I believe, right front pocket of his
4 coat, and he said, yes, I do have another bottle of
5 wine with me.

6 Q. Did you feel that he was still able to answer those few
7 questions and provide a DNA swab?

8 A. Yes. And the reason that is this, and the one reason I
9 took the time to go over, okay, I wanted to make sure
10 he could give me his full name, his date of birth, his
11 address, his phone number. He knew where he was. He
12 took the added -- you know, he added information to my
13 conversation being that he knew what DNA swabs were,
14 that he had worked at a hospital before. I felt
15 confident in that he knew why we were collecting the
16 DNA swabs and I felt confident in his ability to
17 provide consent to collect those swabs because he knew
18 how the procedure was going to be handled, also he knew
19 what was going to be done with those swabs. He
20 understood that they were going to be submitted to a
21 lab to be compared to evidence collected from the crime
22 scene from the homicide of Josephine and Aileen Davis.

23 Q. And did you indicate to him that you would like to talk
24 with him again at a later date?

25 A. Yes.

1 Q. All right. And what did you plan with that?

2 A. There's three main reasons why I didn't interview
3 Mr. Baker at that time. I felt confident in his
4 ability to provide consent to provide those cheek
5 swabs, which is a matter of a procedure that takes ten
6 seconds. Conducting this interview, which at this
7 point in this investigation I felt like was one of the
8 most critical interviews to this case, here I had a
9 witness who testified to very specific facts of the
10 crime scene from the 1970s and he is the only living
11 witness that could be interviewed in this matter. I
12 felt like this interview was very critical. So one, I
13 could not determine his level of intoxication. He had
14 told me he had drunk a pint of wine, but I was unable
15 to determine whether or not he was being truthful.
16 Two, I was not in an environment to conduct that type
17 of interview. We're walking down the sidewalk, there's
18 cars buzzing by, there's lots of distractions. It
19 would just be very difficult to ask somebody to recall
20 events from 35 years ago in that environment. And two
21 -- or, and three, Mr. Baker told me, one, he's on the
22 way to the VA Hospital and was speaking to him -- I
23 mean, somebody's on the way to the hospital, is this
24 routine or what's going on? And he's told me he's got
25 chronic pancreatitis and he's in terrible pain. So I

1 did not want to hinder his ability to seek help for
2 that condition.

3 And in my interaction with him I asked him,
4 you know, is it an emergency, you know? Do I need to
5 put you in the car now and drive you up there? And he
6 said, no, but I do need to get to my appointment
7 because they'll work with me to some extent, but if I'm
8 too late, they will cancel my appointment. So that's
9 the reason why I decided not to do a full in-depth
10 interview that I knew could take hours at that point.

11 And actually, I asked Mr. Baker at this time,
12 because again, he's being cooperative with me -- and
13 typically, the way we handle these types of interviews,
14 I'm not going to say, you need to be at my office
15 tomorrow morning at 8 o'clock, you know. This man is
16 taking his time to talk to me even though he's in pain.
17 I can tell he's uncomfortable, you know. Again, he's
18 been approached by two SBI agents out of the blue. So
19 I asked him, when is a good time to talk to you? You
20 know, it's real important that we conduct an interview,
21 but I want to do it on your terms. And that's why he
22 told me, well, let's do it Friday. And the reason I'd
23 rather do it Friday is the deacon that I live with, he
24 usually goes out of town on Fridays and the weekends,
25 so we'll have the house to ourselves, so I would like

1 to schedule the interview for Friday. So that's what I
2 did.

3 Q. Okay. And then what did you do, was that the end of
4 your discussion with Mr. Baker that day?

5 A. Since Mr. Baker was already seated in the car with me
6 -- Ramsey Street is very busy in that area, it's four
7 lanes with a turn lane -- I asked him if he wanted me
8 to take him to the VA Hospital. He said that's fine.
9 So I just pulled over and I dropped him off there at
10 the front of the VA Hospital where he there went in.
11 And that was the end of my interaction with him that
12 day.

13 Q. Okay. And then did you talk with Chris Mumma after
14 that?

15 A. Yes, I did.

16 Q. All right. And did you tell her that you were going to
17 do another interview on Friday?

18 A. Yes, I did.

19 Q. Okay. And did you interview Mr. Baker again?

20 A. No.

21 Q. All right. What happened?

22 A. Throughout that week I continued my investigation, but
23 again, the interview with Mr. Baker was not supposed to
24 take place till Friday. So on that morning as I'm
25 getting ready, which would be Friday, March 22 of 2013,

1 at approximately 10:16 a.m. I called Mr. Baker at the
2 phone number he left me and I attempted to make contact
3 with him to verify that he would still be able to meet
4 me for that interview that day. I did not reach
5 Mr. Baker, but I did speak with a female subject at
6 that number. She told me Mr. Baker was not home, but I
7 provided her with my contact information and asked her
8 to have Mr. Baker give me a call.

9 At approximately 10:45 a.m. that same morning
10 I was contacted by my special agent in charge, which is
11 Janie Sutton, and she informed me that she had received
12 a call from an attorney named Billy Richardson.
13 Richardson told her that he understood that the NC SBI
14 needed help with the interview that day. And at that
15 time SAC Sutton, she comes to me and she says, Chad,
16 you know, why is this attorney calling me? You know,
17 have you requested -- have you spoken with an attorney
18 if you do need assistance with an interview? And I
19 told her no. And she clarified that the interview that
20 Mr. Richardson had contacted her about was an interview
21 I had scheduled with Herman Lee Baker, Jr., and
22 Mr. Richardson informed Special Agent in Charge Sutton
23 that he, in fact, represented Mr. Baker.

24 Q. Okay. And did he indicate whether or not he would let
25 his client speak with you?

1 A. At that point in speaking with Mr. Richardson who was
2 -- he was telling us he was speaking on behalf of
3 Mr. Baker. I took it upon myself to contact Mr. Baker
4 myself, or make another attempt. Anytime we get
5 contacted by an attorney in this situation, I wanted to
6 make sure that this person, in fact, represented
7 Mr. Baker. I didn't know Mr. Richardson at the time, I
8 had never interacted with him. I didn't even know if
9 he was actually a practicing attorney, you know. This
10 is somebody who has called us at the SBI office. So I
11 wanted to make sure through Mr. Baker that this person
12 is, in fact, representing him. So I actually tried to
13 contact Mr. Baker again and I was able to actually
14 speak to Mr. Baker over the phone.

15 Something I thought was unusual about this
16 case is in speaking with Mr. Baker, he did, in fact,
17 tell me, yeah, when I tried to talk to him about the
18 interview and I said, Mr. Baker, you know, are we still
19 going to have this interview today? He said, well,
20 yeah, hadn't you spoke to my attorney? And at that
21 point I had not spoken to Mr. Richardson, Ms. Sutton
22 had. And so I said, Mr. Baker, no, I've not spoken to
23 your attorney. You know, can you give me some
24 additional information? You know, who is this
25 attorney? And he told me that it was Attorney

1 Richardson. And I asked Mr. Baker, I said, okay, well,
2 what's Mr. Richardson's first name? Mr. Baker said he
3 did not know. So I asked Mr. Baker if he knew whether
4 Mr. Richardson was an attorney from Fayetteville or
5 not. He told me he did not know where Mr. Richardson
6 was from. And so at that point I asked Mr. Baker if he
7 had any contact information from Richardson so that I
8 could contact him. And he said he had Richardson's
9 phone number somewhere, but he could not find it and
10 would look the phone number up in a phone book.

11 And so I was curious, you know, I asked
12 Mr. Baker, I said, okay, how did you get up with
13 Mr. Richardson to represent you in this case since you
14 don't know who he is, you don't know where he practices
15 law? You know, I'm trying to figure out what's going
16 on. I'm trying to figure out what happened from Monday
17 when he was very cooperative with me and said, okay,
18 you know, why don't you come by my house Friday when
19 Deacon James isn't there to now when he's saying you
20 need to talk to my attorney. And I was really trying
21 to convey to him that Mr. Baker, we're not looking to
22 you as the only suspect in this case, we're
23 interviewing lots of witnesses in this case that
24 testified at this trial and you're not the only person.
25 I wanted to try to ensure that he was not being focused

1 on in this investigation. And all he could tell me, he
2 said, well, a friend got me in -- him, a friend got him
3 in contact with Richardson.

4 Q. Okay.

5 A. And to answer your earlier question, I did, did make
6 contact with Mr. Richardson, but he would not allow his
7 client to be interviewed without a promise against,
8 some type of guarantee that he would not be charged or
9 prosecuted for perjury. I informed Mr. Richardson
10 that's not a guarantee I could make because I didn't
11 even know what Mr. Baker was going to tell me since I'd
12 not interviewed him, and that's something that the
13 district attorney's office would have to make a
14 decision on. And that was kind of my, the end of my
15 interaction with both Mr. Richardson and Mr. Baker.

16 Q. So after Mr. Baker told you that he had an attorney,
17 did you ask him any questions about the case?

18 A. No.

19 Q. And when Mr. Richardson, the attorney, told you that he
20 wanted a guarantee about perjury, did you know that
21 Mr. Baker had already signed an affidavit?

22 A. No, I did not.

23 Q. Have you had any other contact with Mr. Baker or his
24 attorney?

25 A. No.

1 MS. MONTGOMERY-BLINN: Commissioner
2 questions?

3

4 EXAMINATION BY SHERIFF DUNCAN

5 Q. What was that date on Friday that you had scheduled the
6 interview?

7 A. It would have been on March 22 of 2013.

8 Q. Okay.

9 A. And that was the same week of my initial interaction
10 with him when I walked down the side of the road with
11 him on March 18. It would have been that same week.

12 Q. Did you talk with Ms. Mumma about your plans to
13 interview him later?

14 A. Yes.

15 Q. And did you tell her what the date was that you had
16 planned on interviewing him?

17 A. Yes. And she did voice to me that she felt like that
18 was too long a time frame, and that she felt like she
19 might have to interview him sooner than that. And I
20 have no way to restrict her, you know, her decisions as
21 far as what she's going to do. So at that time I just
22 told her, you know, this is when my interview is
23 scheduled, you know. I can't tell you don't go
24 interview him. I mean, that's not something I have the
25 ability to do. I don't have authority to do that.

1 Q. So somewhere in the conversation you became aware that
2 she had talked with him on the 19th?

3 A. Yes. Later on I was provided documentation of his
4 affidavit that he had provided. Also, she mentioned
5 briefly during my telephone conversation on the 18th
6 what he had represented to her. She did tell me that
7 supposedly he had said that, you know, law enforcement
8 fed me all this information and that I was promised
9 reward money. And during my interview with him I did
10 not bring that up in that, again, it was a very brief
11 interaction with him. I just asked very general
12 questions. And he did tell me that -- he never
13 mentioned law enforcement, and I think there may be
14 some semantical -- the description of whether or not
15 DOC is law enforcement, that may be one of the issues
16 in this case. But he only mentioned Sparkman
17 specifically, and he said Sparkman told me about the
18 reward money. But when I questioned him further and
19 said, did Joseph Sledge tell you anything? He said,
20 yeah, I remember him talking to me about white devils
21 and black pepper, but he did not actually tell me he
22 killed those women.

23 Q. I imagine there is a report that reflects your
24 interview with him?

25 A. Yes, sir.

1 MS. MONTGOMERY-BLINN: We can hand that out,
2 if you'd like.

3 MR. SMITH: May I ask one question?

4 JUDGE SUMNER: Sure.

5

6 EXAMINATION BY MR. SMITH

7 Q. Did he talk to you about the trip back from
8 Pennsylvania?

9 A. No, sir.

10 Q. Did you know that at some point he was in Pennsylvania
11 and was brought back to North Carolina by --

12 A. Yes, sir.

13 Q. -- Agent Poole, I believe, and other people?

14 A. At this point in the investigation I had been provided
15 with the SBI case file that we had been able to locate
16 up to that point. I believe we had also found the
17 initial transcript of the trial at that point. So I
18 had a large amount of documents as far as the case file
19 and I was aware that he was, in fact, brought back.

20 Q. Is it your understanding, based on everything you know,
21 that the only people who fed him information were
22 Department of Corrections people, or do you believe it
23 was SBI agents and sheriffs, deputy sheriffs?

24 A. The only person who Mr. Baker mentioned to me in my
25 brief interaction with him was Sparkman. And he

1 actually gave me that name. He at no point mentioned
2 any other the investigators, the SBI, or any other,
3 anybody else involved in this case. I would have liked
4 to have done a much more detailed interview with him,
5 but I'm limited to the access to him I had on that day.

6 Q. Do you know whether Mr. Sparkman is still living?

7 A. He is deceased.

8 Q. Thank you, sir.

9 JUDGE SUMNER: Yes, sir, Mr. Vickory.

10

11 EXAMINATION BY MR. VICKORY

12 Q. Do you know if, anything about this uncle of Herman
13 Baker's, is he alive or dead; do you have any idea?

14 A. I do not, and I was never able to get that information
15 from Mr. Baker. I do not know who that uncle is.

16 There is some representation in the case file and what
17 was brought up in testimony earlier today that he had
18 an uncle who was a law enforcement officer in
19 Philadelphia. I've never been able to get that
20 information.

21 Q. Have you ever verified that they were actually in
22 prison together? I mean, is that -- I'm not sure if
23 that's a disputed issue or not, but it seems to be.

24 A. Some of the DOC records, in looking at what I had
25 access to at the time, there were periods of time when

1 their days of incarceration appear to overlap. But
2 specifically as far as what institutions they were at
3 at the time, I was unable to obtain that information.
4 One thing I'd also bring out is my investigation was
5 kind of halted before I was able to complete all those
6 investigative activities and was turned over to the
7 Innocence Commission. So at the point that they took
8 over the investigation, all my documentation and
9 everything I had done in my investigation was provided
10 to them, and since that point I've kind of been on
11 standby.

12 Q. So I take it you were doing an investigation on behalf
13 of the DA's office?

14 A. Yes. Based on the specific request from the district
15 attorney, I had -- I was asked to conduct this type of
16 interviews, you know, locate these witnesses, attempt
17 to obtain DNA standards from these people, see if you
18 can locate any additional evidence that may be stored
19 in any other Bladen County facilities or other
20 facilities. And so we had a very specific set of
21 guidelines that we had been requested to take on in
22 this case.

23 Q. So that's an investigation pursuant to a Motion for
24 Appropriate Relief, I take it, is that what you're
25 talking about or --

1 A. It was prior to the Motion for Appropriate Relief, but
2 that's where it was moving toward.

3 Q. I got you.

4 A. It was basically we were asked to help the district
5 attorney's office gather this information so they could
6 make an informed decision on how to move forward with
7 Ms. Mumma.

8 Q. And there's been a whole lot of discussion back from
9 the '70s about polygraphs in this case. Has anybody
10 ever tried to polygraph Herman Baker?

11 A. I do not --

12 Q. Lately? I mean recently?

13 A. The SBI has not. And again, from that, from that date
14 in March 22 of 2013, I have not been allowed to have
15 access to him. As soon as he brought up the issue of,
16 you know, I've got an attorney, the attorney brought up
17 you've got to grant my client immunity or he's not
18 talking to you, my hands became tied in the case. I've
19 not been able to have any additional contact with him
20 to offer him a polygraph or undertake any other
21 investigative activity as far as Mr. Baker is
22 concerned.

23 Q. So your entire, the entire world of your communication
24 with Mr. Baker took place while he's walking down a
25 street in Fayetteville on his way to the VA to get some

1 pain medication for his current chronic pancreatitis,
2 is that --

3 A. That's correct.

4 Q. And I take it this was also the same, within the same
5 time frame that Ms. Mumma had approached him on the
6 street and asked him questions. And I guess the only
7 way he got away from her was when she was told what she
8 wanted to hear, is that what seems to be?

9 A. Well, I can tell you that the interaction between
10 Ms. Mumma and Mr. Baker occurred. I don't know when it
11 occurred. I know we left the meeting that morning
12 around lunchtime, I received a phone call around 2:30.
13 So again, from that time I don't know what
14 conversations happened. I know Ms. Mumma spoke to
15 Mr. Baker, Ms. Mumma told me where Mr. Baker was. I
16 was able to find Mr. Baker and I spoke to him. And at
17 that point he was being, he was being very cooperative
18 with me. I didn't see any reason why I needed to press
19 him that day and I needed to, you know, say, no, you're
20 not going to the hospital, you know, I don't care
21 you've been drinking. I felt the best action to take
22 was go ahead and establish a time frame to set up a
23 more formal interview and go ahead and let this man get
24 to the hospital where he was trying to go.

25 Q. But it was all during the course of the same walk to

1 the hospital, I guess is what I'm getting at.

2 Ms. Mumma's conversation as well as your conversation,
3 it was one process that he was going on the way to the
4 VA Hospital?

5 A. I would assume so in that Ms. Mumma said, well, you
6 know, this is where he's at, he's walking away from me
7 now.

8 Q. When Ms. Mumma asked you about your conversation with
9 him, that was also that day, I take it, at the --

10 A. Yes, immediately -- Ms. Mumma had pulled over. Again,
11 I mean, it's kind of hard to describe. This, this is
12 just kind of fluid and in motion. This is not the way
13 we would typically do this interview under the best
14 case scenario.

15 Q. I understand.

16 A. But Ms. Mumma was parked in a parking lot. I mean,
17 after my interaction with Mr. Baker, the collection of
18 the cheek swabs, and taking him to the hospital, I
19 didn't just want to leave. I mean, we were sharing
20 information at that point and that's why I parked
21 beside Ms. Mumma and talked to her, told him what
22 limited information Mr. Baker had provided me, and that
23 an interview had been scheduled with him on Friday.

24 Q. Did you tell Ms. Mumma that Baker told you that Sledge
25 did not confess to him?

1 A. Yes.

2 Q. Did you indicate to her that he did acknowledge knowing
3 who Mr. Sledge was and having a conversation with
4 Sledge in prison?

5 A. Yes.

6 Q. Did you mention that part about the devils and the
7 pepper to Ms. Mumma --

8 A. I believe so.

9 Q. -- to Ms. Mumma?

10 A. Yes.

11 Q. Okay. Thank you.

12 JUDGE SUMNER: Any other questions?

13 (No response.)

14 JUDGE SUMNER: Thank you, sir.

15 (Agent Barefoot is dismissed from the witness
16 stand.)

17 JUDGE SUMNER: In the interest of
18 commissioner health, we'll take about a ten-minute
19 break.

20 (THEREUPON, A SHORT RECESS WAS TAKEN FROM
21 3:51 P.M. THROUGH 4:07 P.M.)

22 JUDGE SUMNER: And just for the information
23 of the Commissioners, I do have kind of a forecast of
24 what the testimony of the day will be. So we are
25 somewhat behind, so I'm going to exercise the privilege

1 of the Chair and make you stay past 5:00, all right? I
2 just wanted to let you to know that.

3 MS. MONTGOMERY-BLINN: All right. The
4 Commission calls Associate Director Sharon Stellato.

5
6 Sharon Stellato, having first been duly
7 sworn, testified as follows:

8
9 EXAMINATION BY MS. MONTGOMERY-BLINN

10 Q. Where are you employed?

11 A. The North Carolina Innocence Inquiry Commission.

12 Q. And what is your name?

13 A. Sharon Stellato.

14 Q. And what is your position with the Commission?

15 A. Associate director.

16 Q. And what is your role in the Joseph Sledge
17 investigation?

18 A. Co-lead investigator.

19 Q. All right. I'd like to ask you just a couple of quick
20 clarifying questions about things that have come up
21 today.

22 A. Okay.

23 Q. Have you reviewed the report, the law enforcement
24 report as we have it from the Bladen County Sheriff's
25 Office and the State Bureau of Investigation?

1 A. I have.

2 Q. Okay. And are there polygraph reports contained in
3 that file?

4 A. There are.

5 Q. And how did you obtain polygraph reports in this case?

6 A. We obtained them from the State Bureau of Investigation
7 file, also the Bladen County Sheriff's file had copies
8 of them as well.

9 Q. And were they in a separate file at the State Bureau of
10 Investigation or were they mixed in with the
11 investigative reports?

12 A. They were mixed in, and then they also, the State
13 Bureau of Investigation also checked a different
14 location to confirm that there were no polygraph
15 reports on file in another location which is sometimes
16 where they're kept.

17 Q. Okay. And from the time that Agent Poole became
18 involved in the investigation, are all the polygraph
19 reports that you saw documented as well in the
20 investigative reports?

21 A. They are.

22 Q. And if a polygraph was attempted but not administered
23 for various reasons, is that also documented in the
24 investigation reports?

25 A. It is documented.

1 Q. And that is consistent with Agent Poole's testimony
2 that you heard today, that it would be documented?

3 A. That is consistent, yes.

4 Q. Okay. How many completed polygraph reports are
5 contained in the file?

6 A. There are 11 polygraph reports in the total
7 investigation.

8 Q. Okay. And are there any polygraph reports or notes or
9 documentation indicating that Donald Sutton was given a
10 polygraph?

11 A. No.

12 Q. And are there any reports, notes, documentation that
13 Herman Baker was given or attempted to be given a
14 polygraph?

15 A. No. And I should say that we actually have more
16 polygraph reports, the report itself, than we do have
17 investigation reports. So we're not missing polygraph
18 reports, we're missing investigation reports of
19 interviews and things of that nature and not the
20 polygraph reports.

21 Q. Okay.

22 A. A lot of times an investigation report will refer to a
23 polygraph report having been attempted or they're
24 talking about giving one or maybe they did give one,
25 and then you'll find a polygraph report elsewhere.

1 That's not the case. We have more polygraph reports
2 than investigative reports.

3 Q. Okay. Now, there were, there was another question as
4 well about the dog search. Is there documentation
5 about the dogs searching for Joseph Sledge?

6 A. Somewhat. There is an SBI report. Captain Sparkman,
7 the warden at the time of White Lake, was interviewed
8 on October 19, 1977 by Bladen County Detective Phillip
9 Little. He was interviewed about the escape. It
10 states that when Sledge escaped, dogs were brought in
11 from McCain, according to Captain Sparkman, but he
12 doesn't recall what the dogs did as he was not present,
13 that Lieutenant Ransom Hayes of the prison department
14 was in charge of that search. You heard him testify
15 about that. As he told you, Ransom Hayes has now
16 passed away. There are no other reports related to the
17 dogs, what location they actually tracked, where they
18 left off, you know, where they ran.

19 Mr. Little testified that the dogs stopped at
20 Hoover Bridge, which is about, as he testified, a
21 mile-and-a-half from the Davis home. Either direction
22 that the dogs would have tracked, whether -- either
23 direction, Sledge has always told officers that he
24 walked along 701. So whether he walked that way or the
25 dogs tracked him another way, both of those directions

1 lead toward Elizabethtown; they're parallel to each
2 other. In other words, he was still near the victims'
3 home. So if you look at the map, the diagram -- can
4 you tell them what page it's on? I'm sorry.

5 Q. It's on page 115.

6 A. Okay. Lindsey, I need it.

7 (Ms. Lindsey Guice Smith hands document to
8 Ms. Stellato.)

9 Q. Is this the diagram from page 115 of the brief used at
10 trial?

11 A. It is; it is. You'll see 701 on the right, which is
12 the route that Sledge is telling you. And then on the
13 inside there you'll see 242. If you go back toward the
14 prison, that's going to be where the dogs were
15 tracking, but they're still parallel in the direction
16 of the victims' home.

17 Q. Is there any question -- we're going to get to your
18 interviews of Mr. Sledge later, but is there any
19 question that he walked very close to the victims'
20 home?

21 A. No, there's no question that he was very, very close to
22 the victims' house.

23 Q. According to him, according to --

24 A. According to him.

25 Q. According to everybody, he walked --

1 A. Correct. He puts himself closer to the victims' home
2 than where the dogs actually would have, where
3 Mr. Little was testifying to where the dogs would have
4 actually lost a track.

5 Q. And you said, I think you said that Ransom Hayes has
6 passed away?

7 A. He did pass away. There's no reports about an
8 interview where the dogs, if they interviewed him about
9 where the dogs would have lost the scent. There are
10 interviews with Mr. Sledge where he states that he had
11 not -- he states that when he escaped from prison he
12 actually stayed at the prison camp for some time. Even
13 though he states that he escaped after lunchtime, that
14 he did not actually leave the grounds of the prison
15 until much, much later because he knew that they were
16 going to release the dogs to search for him. He states
17 that he knew that the dogs were going to be trying to
18 track him so that he wasn't -- that he was still at the
19 prison when the dogs went out.

20 Q. Now, we've heard, has Captain Sparkman passed away?

21 A. He passed away in 2008.

22 Q. Now, is there any documentation anywhere that you've
23 located or seen about how many other people had escaped
24 from White Lake Prison around the time of the murders?

25 A. That year after the murders security became a very big

1 issue at White Lake because of the double homicide.
2 And Captain Sparkman was quoted in the newspaper
3 between -- in June, July, and August that year there
4 were 11 escapes from White Lake Prison, and in four
5 there were -- I'm sorry, in September there were four,
6 so a total of 15 escapes in that four-month period.

7 Q. Okay. All right. Let's talk about Herman Baker. Did
8 you interview Herman Baker?

9 A. I'm sorry, can I just follow up on one more question
10 that I think Mr. Vickory asked, I was just looking over
11 them, regarding the handwritten notes of the SBI
12 agents? There are no notes that we can locate. We've
13 checked with legal, we've interviewed all the agents
14 that we've been able to, and we have not been able to
15 recover any of those notes. As you said, they used to
16 keep them with them, that's not policy any longer. The
17 SBI legal counsel has checked with who they can, and we
18 do have an entire case file, but there are no
19 handwritten notes.

20 Q. How about Herman Baker, did you interview him?

21 A. Yes, we did.

22 Q. And when did you first interview him?

23 A. On July 23, 2013.

24 Q. Okay. And did he have an attorney?

25 A. Yes, he did.

1 Q. Who is that?

2 A. Billy Richardson.

3 Q. And where was the interview?

4 A. At Mr. Richardson's office in Fayetteville.

5 Q. And who was present for the interview?

6 A. Myself, Lindsey Smith; Mr. Baker; Mr. Richardson; his
7 private investigator, his name is Chuck Mims; and a law
8 student that worked for Mr. Richardson.

9 Q. Did you ask Mr. Baker if he was under the influence of
10 any substance during the interview?

11 A. Yes. He stated that he had a prescription he was
12 taking at the time, Vicodin, and that he had not had
13 anything to drink on that day.

14 Q. Did Mr. Baker say how he knew Joseph Sledge?

15 A. He stated that they were associates, that they had been
16 at the same work camp, which he later stated was White
17 Lake.

18 Q. I'm sorry, if I didn't ask it, was the interview
19 recorded and transcribed?

20 A. It was.

21 Q. And do you have the transcription of the interview up
22 there to refresh your recollection?

23 A. I do.

24 Q. All right. Now, what Mr. Baker said to you about
25 knowing Mr. Sledge from work camp in White Lake, was

1 that consistent with his prior statements?

2 A. No. In a --

3 Q. What had he said before?

4 A. In the police interview and at trial it was Moore
5 Correctional. They were at Moore Correctional at the
6 same time, according to DPS records, for a three-month
7 period in 1977. Both Sledge and Baker had been
8 incarcerated a lot at the same time, but the only time
9 that they have overlapped is at Moore Correctional for
10 a three-month period in 1977.

11 Q. Okay. And that's consistent with the trial testimony?

12 A. That is consistent with the trial testimony.

13 Q. And you confirmed that by pulling the DPS records?

14 A. By court order, yes.

15 Q. Okay. All right. What did you ask Mr. Baker during
16 this interview?

17 A. We asked when he first learned that Sledge had been
18 charged with the murder. He stated that he learned
19 that through a prison guard. And I asked him what the
20 guard told him. I'll read his response. He stated,
21 what he wanted me to do, because I know I just, I just
22 got busted from bringing in marijuana and cocaine and I
23 was in the hole a while. And one day a guard came to
24 me and he said, since you know Joe Sledge, we want you
25 to do something for us. Testify against him about

1 spreading black pepper and some broken glass on the
2 floor of the place to keep the she-devils away or
3 something like that.

4 Q. When he said broken glass, was this the first time
5 you'd heard him mention or heard the prior interviews
6 of him mentioning broken glass?

7 A. It was the first time.

8 Q. Did he say what he was going to get in exchange for
9 doing this?

10 A. He stated that the guards told him that they would drop
11 his charges if he would testify against Sledge.

12 Q. Did he describe who the guards were?

13 A. He was unable to name them. He stated that he believed
14 they were white.

15 Q. Did you ask him what it was that the guards told him to
16 tell?

17 A. I did.

18 Q. Can you read that?

19 A. I can. He stated, just what I said about putting black
20 pepper down in the house and spread broken glass around
21 the place.

22 I then asked him, spread broken glass? And
23 he stated, yeah, broken. Yeah, there was some broken
24 glass or something.

25 Q. And you said this was the first time you've heard glass

1 mentioned. Was it in the law enforcement reports or
2 the trial testimony?

3 A. No.

4 Q. What did you ask next?

5 A. I asked him what he told -- what the guards told him
6 that they would do for him. He stated that the guards
7 told him they would help him get out earlier and that
8 they took him to the jailhouse to interview him.

9 Q. Is that consistent with the prior reports of his prior
10 interviews?

11 A. The law enforcement reports does not say where they
12 took him to be interviewed. The trial testimony says
13 that the officers took him to a hotel. His affidavit
14 and interview with Chris Mumma states that they took
15 him to a jail.

16 Q. Okay. What did Herman Baker say next?

17 A. He stated that the prison guards came to get him, that
18 they told him what to say, and took him to the warden
19 he named as Sparkman. And he stated that they did not
20 tell him about a reward at the time.

21 Q. At that time?

22 A. (Witness nods head affirmatively.)

23 Q. What else did he say?

24 A. He stated after that that he was released. He went to
25 Philadelphia to stay with his sister. That two

1 officers came up and got him, that they transported him
2 back to North Carolina for the trial. He could not
3 recall their names but they came to his house looking
4 for him and left him a note on the door.

5 Q. And what did he say that that note said?

6 A. Don't forget to remember to testify about the black
7 pepper and the broken glass around the house.

8 Q. Okay. And did you ask him about, during this interview
9 did you ask him if that note still exists?

10 A. We did.

11 Q. And what did he say about that note?

12 A. He stated that he had thrown it away.

13 Q. And who else had read it?

14 A. His sister, at different times he stated that his
15 sister, his cousin, and his uncle, all of whom are
16 deceased.

17 Q. Okay. What did you ask him after he talked about the
18 note?

19 A. I asked him if he ever knew Sledge to call any white
20 women by names. He stated he did not. I said --

21 Q. Can you read on page 14 starting at line 21?

22 A. Sure. Did you ever know him to call white women by
23 names? Him, no.

24 Me, so where did you get she-devils from?

25 His response, from him, from the guards.

1 Me, the guards told you to say that Sledge
2 called the women she-devils? His response, yes.

3 Q. Did you ask him about testifying at trial, do you
4 remember?

5 A. Yeah, I asked -- I did. I asked him if he remembered
6 testifying. He vaguely remembered that, but he only
7 remembered one trial. He testified at two trials, but
8 he did not remember that there were two trials.

9 Q. Okay. Did he remember talking to Joseph Sledge in
10 prison?

11 A. I asked him, yes, I asked him if he remembered talking
12 to him at a weight pile, because law enforcement
13 reports stated that the confession happened at a weight
14 pile. He did remember talking to Sledge at a weight
15 pile, but he couldn't remember what conversations
16 they'd had. So he did remember talking to Sledge in
17 prison, but he couldn't remember that, you know, the
18 confession.

19 Q. Okay. What did you ask him next? I'm on page 17.

20 A. Let me clarify that. He -- it's not that he couldn't
21 remember the confession, he stated Sledge did not
22 confess.

23 I'm sorry, can you repeat that?

24 Q. I'm on page 17, looking at line 17. What did you ask
25 him next? If you'll just read that or tell us what you

1 asked and then read his answer.

2 A. I asked him why he testified against Sledge. He
3 stated, I just told you that I didn't know it then, I
4 thought it was the truth, the way they were putting it
5 to me. Then I find out about a year ago that it
6 wasn't; about six months ago.

7 And I asked, so you thought what the guards
8 were telling you was true? And he said yes.

9 Q. Okay. Did you ask him if Sledge ever did confess?

10 A. I did. I asked him if Sledge ever confessed. He said
11 that Sledge never said he did do it or that he didn't
12 do it. And I clarified that he never talked with him
13 about the murders.

14 Q. Did you ask about the reward?

15 A. He said it was not for a reward, that he testified in
16 order to get out of prison sooner.

17 Q. And what else did you ask him?

18 A. I asked him who the first person to contact him about
19 the case had been. He stated that it was Chris Mumma.
20 He said he didn't want to have anything to do with it,
21 but that she had found him and told him that she needed
22 to talk to him before the SBI came. I asked him why he
23 had changed his statements between his interviews with
24 her, and he stated it was because she showed him a
25 letter where Sledge had written and said please help

1 me. He also stated that he didn't change his
2 statements, but he told the truth.

3 Q. So that what he told her in the final interviews was
4 the truth?

5 A. Correct.

6 Q. And did you ask about when the SBI interviewed him?

7 A. Uh-huh (yes).

8 Q. And what did he say?

9 A. He stated that the SBI came later, but that they didn't
10 ask him anything. They took a DNA swab. That he had
11 been drinking and had a bottle of wine in his pocket at
12 that time.

13 Q. Okay. What did you ask next?

14 A. I asked him if at any time any of the people he had
15 spoken to had promised him anything or coerced him to
16 change his story. He said they had not. He then said
17 that his friends had called him a snitch because they
18 had found out in a newspaper article they had read
19 about him.

20 Q. Okay. And what did you ask him next?

21 A. I asked him after all the years that he, since he had
22 testified at trial if he had ever told anyone his
23 testimony wasn't true. And he said no, he never had.
24 I asked him if that bothered him. He stated, not
25 really because I didn't know it wasn't true. If I

1 would have known, yes, it would have bothered me bad.

2 Q. Did you read him or did you show him the affidavit that
3 has been passed around here already that Ms. Mumma
4 brought him?

5 A. Yes, I read it to him line by line. He confirmed the
6 statements in the affidavit as true until I got to the
7 line about the broken jaw.

8 Q. Okay. So the affidavit says broken jaw?

9 A. Correct.

10 Q. All right. And will you read what he said was you were
11 reading -- will you read from the transcript what he
12 said?

13 A. Sure. I read the line from the affidavit that states,
14 law enforcement and prison guards told me about the
15 victim's jaw, and then asked, do you remember that?
16 His response, yeah, I thought it said broken jar, but
17 it must have said jaw.

18 I say, so you thought when we were talking
19 earlier about broken glass, you thought it was a broken
20 jar? Yes.

21 I say, okay. Do you remember your testimony?
22 I mean, do you remember? You really don't, do you? He
23 states, no.

24 I say, okay, the affidavit, it states, they
25 told me they would let me out of prison early, I was

1 promised reward money; is that correct? He answers,
2 uh-huh (yes).

3 I state, you really don't know whether
4 Mr. Sledge killed the victims, right? He answers, no,
5 I don't; I really don't.

6 I say, would it be accurate to say you didn't
7 mind testifying against him because you thought he did
8 kill the victims? He answers, hmm.

9 I say, would it be true, would it be true for
10 you to say that? Do you understand my question? If
11 you don't, I'll repeat it a different way. He answers
12 no.

13 I say, okay, would it be true for you to say
14 that you testified against Mr. Sledge because you
15 believed he was the murderer? He answers yes.

16 I say, that would be true? He answers yes.

17 And I say, and you never thought he didn't do
18 it? He answers no.

19 And I say, until when? He answers, until I
20 started seeing that lady.

21 I ask, until Chris Mumma? And he answers
22 yes.

23 Q. Okay. So before in the interview Mr. Baker had been
24 talking about broken glass?

25 A. Correct.

1 Q. And was there broken glass at the crime scene?

2 A. No.

3 Q. So when Mr. Baker expressed that he believed the
4 affidavit read broken jar as opposed to broken jaw, can
5 you tell us what, what he explained or how you
6 understood that to be?

7 A. He assumed that he must have testified about broken
8 glass, and now he realized when I was reading him the
9 affidavit that the broken jaw of the victim was
10 actually, that when I was reading it to him, that the
11 broken jar was actually the broken jaw of the victim.
12 So he stopped at that point talking about broken glass
13 and a broken, broken jar because he realized --

14 Q. So he didn't say broken glass again after that
15 correction?

16 A. No.

17 Q. Okay. All right. Now, what happened in the interview
18 next?

19 A. At this point his attorney, Mr. Richardson, interjected
20 and said that Mr. Baker had been really influenced by
21 the DNA in the case. He said that both of them had
22 been told about the DNA evidence by Ms. Mumma. And I
23 asked Mr. Baker if that was correct.

24 Q. And he said yes?

25 A. He did. He stated that it had a, it had a really -- it

1 had affected him. I asked him if when he had heard
2 about the DNA, that influenced him. And he stated,
3 yes, threw me off real bad. It made me think real
4 hard.

5 Q. Okay. And what else did Mr. Richardson say at this
6 point, the attorney?

7 A. He started talking about his belief in Mr. Baker's
8 recantation.

9 Q. Did he say whether he'd given Mr. Baker a polygraph?

10 A. He stated that he had one of the best examiners in the
11 world examine him and that he's of the -- when I say
12 he, the examiner, is of the strong opinion that he's
13 being truthful.

14 Q. Okay. And did the Commission later attempt to confirm
15 whether or not he was talking about a polygraph exam?

16 A. Yes, we did.

17 Q. And what did Mr. Richardson say?

18 A. He stated that he had had a polygraph examiner
19 scheduled and at least meet with him, but because of
20 either illness or medication that Mr. Baker was taking,
21 he didn't believe that the exam was completed all of
22 the way, that the polygraph examiner had since passed
23 away. We're still not clear on if the polygraph did
24 happen, but he was unable to find a report and he did
25 not provide us notes as of yet. I believe he was going

1 to email them, but we haven't received them.

2 Q. Okay. And is it your understanding now that the
3 polygraph was either halted or didn't happen because of
4 medication?

5 A. I believe so.

6 Q. Okay.

7 MR. SMITH: So there is no polygraph, is
8 that correct?

9 A. Well, I mean, we can't, to be honest with you,
10 Mr. Smith, we can't really confirm that, but it sounds
11 like from what Mr. Richardson is saying that the
12 polygraph was either halted or not completed all the
13 way, the way that we understand it. But we haven't
14 been able to get any documentation confirming that, but
15 I believe so.

16 Q. And has Mr. Richardson indicated that he just, he's
17 having trouble remembering and he can't find any notes?

18 A. Correct.

19 Q. Okay. All right. Did Mr. Baker talk about Donald
20 Sutton?

21 A. Yes, he did.

22 Q. Okay. And did he say that he had known -- that whether
23 or not he knew Donald Sutton?

24 A. He stated that he knew him from prison camp.

25 Q. Okay. And what did he say about Sutton?

1 A. He stated that he knew that Donald Sutton had testified
2 against Joseph Sledge because Chris Mumma had told him
3 that, but that he, when he was at the trial he didn't
4 see Donald Sutton there.

5 Q. Okay. And is that consistent with other interviews
6 with Mr. Baker?

7 A. Mr. Baker has said various things about Donald Sutton
8 and whether or not he knew him.

9 Q. Okay.

10 A. It is not consistent.

11 Q. And what came up next in the interview?

12 A. We asked him about a man named William Danner who goes
13 by the nickname of Gator.

14 Q. And why did you ask him about this?

15 A. Sledge had been incarcerated in prison with William
16 Danner in 1997 and Sledge had obtained an affidavit
17 from William Danner and we wanted to talk to him about
18 that. That affidavit references Herman Baker.

19 Q. Okay. And do you recognize this to be that affidavit?

20 A. I do.

21 Q. And this was obtained way before the Commission was
22 ever a part of the investigation?

23 A. It was. It was obtained by Mr. Sledge.

24 MS. MONTGOMERY-BLINN: And I'm going to
25 pass this around.

1 (The Affidavit of Wallace R. Danner is
2 distributed.)

3 Q. Okay. And did you ask Mr. Baker if he remembered
4 William Danner?

5 A. I did.

6 Q. What did he say?

7 A. He did remember him. He remembered talking to him.
8 They used to hang out together prior to prison.

9 Q. Did you ask Mr. Baker about any of the things in this
10 affidavit?

11 A. We did. He did remember talking to him, but Baker
12 stated that he never, contrary to the affidavit, that
13 Baker stated he never believed that he was a suspect in
14 the case, the murder case.

15 Q. Okay. And what else did you ask Mr. Baker?

16 A. I asked him if he remembered Sledge being Muslim, and
17 he confirmed that he did remember that, that he
18 recalled Sledge wearing a hat and that he had a beard.

19 Q. All right. And what did you ask him next?

20 A. Mr. Baker stated that he was telling the truth and that
21 no one had tried to get him to change his testimony.
22 He stated that Chris Mumma had told him to tell the
23 truth and that she had showed him a letter, that that
24 letter had made him cry, that the letter had said
25 Sledge was innocent. And Mr. Baker stated he was

1 willing to be put under oath.

2 Q. And how did the interview end?

3 A. I asked him if he had any questions for me, and his
4 response was, help him get free, he deserves it, he
5 didn't do it.

6 Q. All right. Did you interview Mr. Baker a second time?

7 A. I did.

8 Q. And when was that?

9 A. September 23, 2013.

10 Q. And was that also at his attorney, Billy Richardson's
11 office?

12 A. It was.

13 Q. Okay. And what happened in your investigation that
14 made you want to go back and interview Herman Baker a
15 second time?

16 A. The Bladen County law enforcement file, which had been
17 missing, was located. And in that file was the Herman
18 Baker interview, the only interview which had not been
19 located. And so after reviewing that we determined
20 that we needed to interview Mr. Baker again.

21 Q. Okay. And who was present for that interview?

22 A. Myself; a Commission intern; Billy Richardson; his
23 private investigator, Chuck Mims; and Mr. Baker.

24 Q. And was that interview recorded and transcribed?

25 A. It was.

1 Q. And are you looking at the transcription of that to
2 refresh your recollection?

3 A. I am.

4 Q. Okay. And how was Mr. Baker during this interview, how
5 was his state?

6 A. He was extremely agitated. He was cursing. His
7 girlfriend had recently passed away, his health was
8 poor, and he was angry. He stated that he was sick of
9 this shit.

10 Q. Did you offer to reschedule the interview?

11 A. We did. We offered to reschedule. His attorney stated
12 that he wanted to go forward.

13 Q. Okay. And did you obtain a DNA swab at this time?

14 A. We did. We needed an additional DNA swab to send to a
15 second private lab for testing.

16 Q. Okay. And was his attorney present during that?

17 A. He was.

18 Q. Okay. And did Mr. Baker continue to consent to doing
19 this interview?

20 A. He did. Throughout the interview at various times he
21 would, Mr. Baker would indicate that he wanted to leave
22 the interview. We never tried to stop that from
23 happening, but his attorney did, did stop Mr. Baker
24 from leaving. At one point Mr. Baker and
25 Mr. Richardson left the room, they had a conversation,

1 and they returned, they came back and continued with
2 the interview.

3 Q. Okay. And what did you ask Mr. Baker in this
4 interview?

5 A. I asked him if he had conversations with Sledge.

6 Q. Okay. And will you read his response?

7 A. Sure. He stated, yes. I asked, but he never confessed
8 to a murder? He replied, a murder, no, he didn't.

9 And I asked, okay, he never denied a murder?
10 And he replied no. He stated, he didn't have no reason
11 to deny it or to confess to it. Why would he tell, you
12 know, tell it to me, come tell me that?

13 I asked, so did he ever talk to you about a
14 murder? He replied, he just, all he ever said,
15 mentioned something about putting black pepper for she-
16 devils. I guess that's one of his beliefs or
17 something. Whatever, I don't know. That's all.

18 And then I asked, so he told you that he put
19 down black pepper? And he says, uh-huh (yes). And he
20 states, that's what -- he didn't say he put it down, he
21 said they put down black pepper for she-devil -- kill
22 -- keep the she-devil out. I don't know. That's
23 vaguely all I can remember. I remember the black
24 pepper specifically.

25 And I asked, do you know that that came from

1 Mr. Sledge? And he says, Mr. Sledge's mouth. I
2 remember that.

3 Q. All right. What else did Mr. Baker say?

4 A. He stated that he told his uncle, who was a police
5 officer, about testifying, and his uncle told him to
6 come forward. He showed his uncle a piece of paper
7 that the officers had left at his home and what they
8 wanted him to say in court.

9 Q. Okay. And then what did he say?

10 A. That he was in the hole for drugs and the prison guards
11 came to him, that they offered him a deal, that it was
12 five for ten year -- five to ten years for a possession
13 charge, and they told him what they wanted him to do
14 and what they wanted him to say. He said it was a
15 prison guard and that they took him to Sparkman's
16 office, and that Sparkman also provided him with
17 information.

18 Q. And was he ever in this interview able to name or
19 describe the guards?

20 A. He could never describe them other than to say that
21 they were white.

22 Q. Okay. And what did he say next?

23 A. He said after that he spent a couple more weeks in
24 jail, and then the people from the SBI came and they
25 interviewed him at a jailhouse, not a motel. That he

1 and two agents, and that it was him and two agents and
2 that Sparkman was not there for the interview.

3 Q. Okay. And was that consistent with the report that you
4 had just located and were asking him about?

5 A. No. The report says that Sparkman was there. It does
6 not say where the interview took place, but the
7 testimony at trial says it was at a motel.

8 Q. All right. And what else did you ask him?

9 A. I asked him if he remembered telling police that Sledge
10 had referred to women and devils and thought fire would
11 come out of them, and he said, yeah, that's just what I
12 told you.

13 Q. Okay. What did you ask him next?

14 A. I asked him about a statement that we had located, the
15 Baker statement. It references an inmate named Ralph
16 Quick. Baker said that he overheard Sledge telling
17 Ralph Quick that Ralph Quick should kill the white
18 girlfriend he was dating.

19 Q. And when you say that part that you just said, that's
20 from the original law enforcement interview that you
21 had just located --

22 A. Of Herman Baker.

23 Q. -- not what Baker said in your interview just now?

24 A. Correct.

25 Q. Okay. And did you ask him about that?

1 A. We did.

2 Q. What did he say?

3 A. And he stated that he doesn't remember that, that he
4 doesn't know Ralph Quick or anyone by the nickname
5 Scatterman.

6 Q. Okay. Go ahead.

7 A. We asked him about the reward. He stated he didn't
8 know anything about the reward until the two law
9 enforcement officers came up to Philadelphia, and that
10 he was going, told him that he was going to split the
11 reward with Donald Sutton.

12 Q. Is that consistent with what he said the first time you
13 interviewed him?

14 A. No.

15 Q. Okay. What did you talk to him about next?

16 A. So I asked him about the deal he was talking about,
17 facing five or ten years and testifying against Sledge,
18 if he felt that was a good deal. And he said he
19 thought it was a really good deal because he only had
20 four to five months left in prison, and that nothing
21 ever came of the drug charges he was facing, that he
22 made parole and got to go back to Philadelphia.

23 Q. Okay. And did he say where this had happened?

24 A. He stated it was in White Lake Prison.

25 Q. Okay. All right. If you'll look on page 23, read your

1 question and then his response in the middle of that
2 page. And this is, we're back at White Lake now, what
3 he's saying happened at White Lake Prison.

4 A. I asked him what Sledge told him. He stated, nothing.
5 He just told me, was talking about she-devils and how
6 to bring the fire out of them and all that stuff,
7 stupid stuff. I don't know if he was high on marijuana
8 or what; I don't know.

9 And I say, and did you believe at that moment
10 when he told you that information that he had committed
11 the murders? His reply, I didn't pay no attention to
12 it.

13 I say, you didn't pay any attention to it?
14 He says, no.

15 I say, until when? Baker says, until the
16 prison guard came to me.

17 And I say, and then you told them the
18 information that Sledge had told you? And he says,
19 yes.

20 Q. Okay. And what did you ask him next then?

21 A. I asked him if he understood that the statements he was
22 giving to me differed. He replies, it's just, it's so
23 long ago, I don't know. I don't know.

24 And I say, and that's fine, I'm not trying to
25 -- he says, I don't know. I don't know.

1 And I say, I'm not trying to make you say
2 something that's not true or something that you don't
3 know. What I'm trying to figure out is -- and he says,
4 I done told you all I knew, you know, that's the best I
5 can do. I can't do no better.

6 Q. All right. And then did you go through -- did you ask
7 him anything again about that affidavit that he had
8 signed earlier?

9 A. I did.

10 Q. And what did he say?

11 A. I asked him, I say, do you remember Ms. Mumma gave you
12 an affidavit to sign, and I don't expect you to read
13 it, I'm just showing it to you to see if it looks
14 familiar to you. Does it look familiar? He replies,
15 yes, it was early in the morning, I guess I was half
16 asleep.

17 And I say, sure. Did you read this at that
18 time? And he says, no, I couldn't.

19 And I say, you couldn't read it? Is that
20 because you didn't have your glasses? And he replies
21 yes.

22 And I ask, okay, did she read it to you? And
23 he replies no.

24 And I say, okay. Do you know what this
25 affidavit says? And he replies, huh-uh (no).

1 And I say, why did you sign it? And he says,
2 because she told me that if I didn't sign it, the SBI
3 agents were going to be on my case.

4 Q. Did you ask him about the broken jaw, broken jar,
5 broken glass anymore?

6 A. I ask, did anybody ever tell you anything about broken
7 glass? And he responds, yes, a broken jar.

8 And I say, and who was it -- a jar? And he
9 says, yes.

10 And I say, and who was it? And he says, I
11 think it was one of the SBI agents.

12 And I say, okay. And do you recall what they
13 told you? And he says, it was just something about a
14 broken jar was found when the black pepper was spread
15 on the floor, or something like that.

16 And I say, okay, what about one of the
17 victim's having a broken jaw? And he says yes.

18 And I say, did somebody tell you that? And
19 he says, yes. I don't remember who had it, but you
20 know what I'm saying, a broken jaw and a broken jar.

21 And I say, okay. And then I ask, so
22 Mr. Baker, this affidavit that you signed by Chris
23 Mumma with Chris Mumma, do you stand by it? And he
24 says, I don't know.

25 And I ask, you don't know? And he says no.

1 Q. All right. Then what happened?

2 A. Mr. Baker became agitated and he left the room. His --

3 Q. Did he come back? Oh, go ahead.

4 A. His attorney followed him. He did come back in the
5 room and at that time his attorney stated that he would
6 like to ask some questions. And Mr. Richardson, and
7 Mr. Richardson explained what he felt that Mr. Baker
8 meant. At that time Mr. Richardson then read Mr. Baker
9 the affidavit. Baker stated that he had not read it
10 when Chris Mumma gave it to him, but that the affidavit
11 was true with a few corrections.

12 Q. Okay. And that was Mr. Richardson reading it out line
13 by line then?

14 A. He read it out loud line by line to him and then
15 Mr. Baker made a few corrections.

16 Q. Okay. What were the corrections?

17 A. He corrected that he did not know about the reward
18 until after he testified. He corrected that he had
19 never read the affidavit before he signed it. And he
20 corrected that he was not given a copy of it.

21 Q. Okay. Did you ask any other questions?

22 A. After Mr. Richardson was done I stated, I want you to
23 just listen to my question really close. When I read
24 this affidavit and I heard Mr. Richardson read it back
25 to you and he said, Joseph Sledge never told me he

1 murdered anyone, Baker said, right, never, never,
2 never, never. I said, did Joseph Sledge tell you about
3 black pepper? Mr. Baker, he -- no -- talked, he was
4 just talked about it once, once, one time. That's the
5 truth now.

6 And I say, okay, and he talked about it in
7 relation to the murders? Baker, no, not in relation to
8 the murders, just talked about it.

9 And then I ask, and he talked about she-
10 devils or white devils? And Baker says, yes.

11 And I ask, and did he talk about those in
12 relation to the murders? And Baker says, one time.
13 No, not in relation to the murders.

14 And I ask, and did he tell you -- excuse me
15 -- and did he ever tell you what we were talking about
16 a little bit ago that he believed fire would come out
17 when he cut women? And Baker says, I don't remember
18 that.

19 And I ask, you don't remember that? And he
20 says no.

21 Q. Okay. All right.

22 MS. MONTGOMERY-BLINN: Commissioners, do
23 you have any questions for Ms. Stellato?

24 MS. SURGEON: I do.

25 JUDGE SUMNER: Ladies first.

1 MR. HEARD: Please.

2

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EXAMINATION BY MS. SURGEON

4 Q. You indicated that Mr. Baker corrected that he did not
5 know about the reward. What was the correction?

6 A. It was the correction to the affidavit that we passed
7 out. He stated -- can you hand me up the affidavit,
8 please?

9 MS. MONTGOMERY-BLINN: Uh-huh (yes).

10 A. Just one moment. (Ms. Stellato is given a copy of the
11 affidavit.) Okay. I'm going to read you
12 Mr. Richardson and Mr. Baker's portion of that, okay,
13 so that it's clear. Mr. Richardson is reading him the
14 affidavit and he's reading him number 7 of the
15 affidavit that has been handed out. Mr. Richardson,
16 although Joseph Sledge did not admit to committing any
17 such crimes, I testified he did because of promises of
18 financial reward made to me by law enforcement
19 officers. Mr. Baker responds, no, huh-uh, no, because
20 I didn't know nothing about no reward at that time.

21 Mr. Richardson, you were scared of them?

22 Mr. Baker, uh-huh; yes.

23 Mr. Richardson, okay, and you just wanted to
24 get along? Mr. Baker, yes.

25 Mr. Richardson, but you also thought you'd

1 get favorable treatment? Mr. Baker, yes.

2 Mr. Richardson, okay, so that's not correct?

3 Huh-uh (no); no.

4 Mr. Richardson, okay. What is correct is you
5 were afraid and you were hoping to get favorable
6 treatment? Yes.

7 Q. So looking on item 13 on the affidavit --

8 A. Yes, ma'am.

9 Q. -- did Mr. Baker say anything about that?

10 A. Mr. Richardson, okay, number 13, they told me they
11 would let me out of prison early, I was promised reward
12 money, and I was promised reward money. Mr. Baker, Uh-
13 huh; yes.

14 Q. Thank you.

15 JUDGE SUMNER: Mr. Heard.

16

17 EXAMINATION BY MR. HEARD

18 Q. Given the amount of time you had a chance to spend with
19 him and ask him various questions, I'm curious -- this
20 would be an opinion on your part, obviously, as opposed
21 to a solid fact -- how reliable do you consider him to
22 be given the issues which would be the drugs, alcohol,
23 memory, and health, as well as changing attitude?

24 A. Because I work for a neutral fact-finding agency, I
25 don't give my opinion.

1 MS. MONTGOMERY-BLINN: Mr. Heard, you're
2 going to get to spend some time with him in just a
3 second.

4 Q. All right. Let me ask a question of just fact. I
5 don't know if that should be asked to you or to Judge
6 here.

7 JUDGE SUMNER: We'll overrule it if it's out
8 of line.

9 MR. HEARD: Actually, that gives me two
10 questions. One is in regard to the ability of prison
11 officials to influence or change the length of prison
12 stays. I'm wondering, can they -- do they offer
13 something that they can't offer, they don't have the
14 ability to deal with?

15 JUDGE SUMNER: I wouldn't think they had,
16 they'd have the authority to do that.

17 MR. HEARD: They would or would not?

18 JUDGE SUMNER: Would not.

19 MR. HEARD: I didn't think so.

20 JUDGE SUMNER: Okay.

21 MR. HEARD: And the other was with regard to
22 something which is the number of times the defense
23 attorney was, had objections and was overruled and
24 never spoke to what the objections were and why that
25 was the case. And I'm wondering, did that have

1 something to do with the complexity here?

2 JUDGE SUMNER: Come in my office, we'll spend
3 about an afternoon discussing that.

4 MR. HEARD: Okay.

5 JUDGE SUMNER: Do you have anything else?

6 MR. HEARD: No, that's fine. Thank you.

7 JUDGE SUMNER: Mr. Smith.

8

9

EXAMINATION BY MR. SMITH

10 Q. I just want to ask you a question about the note, the
11 note that was in Pennsylvania. And was it placed on
12 the door, is that what you're to understand?

13 A. That is what Mr. Baker has stated in his interviews,
14 uh-huh (yes), that it was placed on the door by the law
15 enforcement officers who came to transfer him back to
16 North Carolina. Now, we do know, not from Mr. Baker
17 who couldn't recall that, but we do know that that was
18 Henry Poole and Phillip Little who did the transport.
19 As I stated, at various times in the two interviews we
20 know that Mr. Baker stayed with his sister, we do know
21 that, and his cousin, his sister, or his uncle have
22 read the letter, but all three, or according to
23 Mr. Baker all three of them are deceased.

24 Q. No one else has seen the note, I take it, other than
25 Mr. Baker?

1 A. Or the three people that are deceased.

2 Q. Yes.

3 A. Yes, sir.

4 Q. Do we know that they saw it?

5 A. No, sir.

6 Q. No?

7 A. No, sir.

8 Q. So there really -- the only evidence in existence that
9 there ever was a note comes from Mr. Baker?

10 A. Uh-huh (yes). Yes, sir.

11 Q. Do you know whether Deputy Little and Agent Poole ever
12 said they left a note on his door?

13 A. We did ask them. I believe we did not ask Mr. Poole
14 because we didn't know about it at that time.

15 Q. Okay.

16 A. They have not confirmed that they ever left a note.

17 Q. So if that is true and we don't have any evidence that
18 they on the way back from Pennsylvania talked any to
19 Mr. Baker about the facts that they would need him to
20 testify to, then the only people who have talked to him
21 about what to say on the witness stand would be the
22 prison guards, isn't that true?

23 A. Correct. The information that -- I mean, the original
24 information that Herman Baker gives is in the report,
25 the interview.

1 Q. Yes.

2 A. And then Mr. Poole and Mr. Baker deny providing any
3 information, of course, on the way back and there is no
4 notes, so --

5 Q. Do we have any insight that you gained anywhere as to
6 why Mr. Sparkman, the prison guards would have wanted
7 one of their prisoners to have committed this murder?

8 A. We do not have any insight into that.

9 Q. Do we have any insight as to what motive the prison
10 guards and Mr. Sparkman would have had to offer a deal
11 to one of the inmates at their prison if he would tell
12 a lie about an escapee from their prison?

13 A. We do not have any insight into that, either. The only
14 thing that I can say related to your questions of both
15 Mr. Little and Mr. Poole regarding a reward or a
16 promise of the reward, the reward was public knowledge.
17 The reward comes from the governor. I mean, the reward
18 information was out there.

19 Q. Right; yeah.

20 A. But as they testified to, they don't have
21 authorization.

22 Q. Right. Okay, thank you.

23 JUDGE SUMNER: Yes, sir.

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EXAMINATION BY MR. VICKORY

Q. Just to clear my mind, the note we're talking about was something that was left on the door between the first trial and the second trial, is that right?

A. Well, no, because Mr. Baker only remembers one trial, so no, sir.

Q. But did Mr. Poole testify that he, the only time he went up there and picked him up was before the second trial?

A. Correct.

Q. So if they took him his transcript of his testimony in the first trial, from the first trial, that wouldn't be particularly unusual for a re-trial, would it?

A. (Witness does not respond.)

Q. I mean, your experience of -- don't witnesses generally get to review their testimony?

A. Correct. But Mr. Baker only remembers the first trial.

Q. Right.

A. So they don't recall leaving anything so, you know, it's hard. I mean, you'll just have to draw your own opinions about that, and it seems like you may be.

MS. SURGEON: I have a question.

JUDGE SUMNER: Yes, ma'am.

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FURTHER EXAMINATION BY MS. SURGEON

Q. Mr. Baker recalled testifying at one trial?

A. Yes, ma'am.

Q. Did he testify at both trials?

A. Yes, ma'am; yes, ma'am.

Q. Okay. And he only remembers -- well, are you able to determine which one he is remembering?

A. Well, he's remembering the second trial. He was in jail during the first trial, so he's remembering the second trial.

Q. Thank you.

EXAMINATION BY RETIRED SHERIFF PICKENS

Q. Sharon, did you say that Baker actually did get out of prison earlier than anticipated? I want to get clear on that. And was there, to follow that question, was there a pending charge against him that did not go to court?

A. So that's hard to say. And the reason that's hard to say is the age of the records.

Q. Right.

A. While we do have all of the DPS records and they do go back that far and we can confirm Baker and Sledge being incarcerated at that time, we cannot confirm -- I will say this, there's no record of a pending drug charge at

1 all. However, if he wasn't charged with it, that would
2 not be unusual. And as far as whether or not he got
3 out early, we also can't confirm that because the
4 records are so old that you can't -- how they did it
5 back then, all you know is what they were sentenced to.
6 Whether or not they got -- I mean, you can't say.
7 According to Baker, he got out early in this interview,
8 however, according to Mr. Little and some other
9 interviews, he was leaving prison anyway and that that
10 is why he came forward. So we can't tell and we can't,
11 I couldn't say for sure.

12 Q. That's what I was afraid of. And back during that time
13 period there were all sorts of ways for inmates to get
14 early release.

15 A. Exactly, early release. And actually, a warden could
16 do it on their own discretion. It wasn't --

17 Q. Right. Absolutely.

18 A. There wasn't paperwork followed in the same way that it
19 is today.

20 Q. That's exactly right.

21 A. So we can't say.

22 Q. It's a whole different ball game.

23

24 FURTHER EXAMINATION BY MR. VICKORY

25 Q. So they didn't have to go through parole in the '70s?

1 A. I mean, they did, but not, not in the way that we know
2 it today. The records -- first of all, all of those
3 records are destroyed because they only had to keep
4 them, by statute, for ten years. So even though we
5 have their incarceration records, we do not have the
6 parole and probation. We don't -- they're gone for
7 Baker and Sutton. So we don't have those records, all
8 we have are their incarceration records.

9 MR. HEARD: But apparently they did have the
10 flexibility to influence --

11 JUDGE SUMNER: It does appear that
12 Mr. Sparkman had his own set of regulations in terms
13 of, literally, the keys to the jail. But that's not
14 for you to comment on.

15 A. I won't, Judge Sumner.

16
17 EXAMINATION BY MS. SANDS BELLE

18 Q. Did someone say earlier that there was some speculation
19 about political, political ambitions for somebody that
20 was running for --

21 MR. HEARD: The sheriff was running for re-
22 election.

23 Q. -- something, and they need to clear this case up
24 because it had been pending too long?

25 A. I believe Chris Mumma testified to that. I mean,

1 Sheriff Allen ran and remained sheriff, I believe.

2 RETIRED SHERIFF PICKENS: The election would
3 have been in '78.

4 A. Right.

5

6 FURTHER EXAMINATION BY MR. VICKORY

7 Q. Is there anything about this case that makes that any
8 more different than any of the other sheriffs in North
9 Carolina that have ever run for --

10 A. There were actually other unsolved murders at the time
11 in that, in Bladen County. I know there were four,
12 there may have been five now. I don't want to say on
13 the record so, you know, there was unsolved murders.

14 Q. All right.

15 MS. MONTGOMERY-BLINN: Are we ready for
16 Mr. Baker?

17 JUDGE SUMNER: Any one have any questions?

18 (No response.)

19 JUDGE SUMNER: Thank you, ma'am.

20 (Ms. Stellato is dismissed from the witness
21 stand.)

22

23 Herman Lee Baker, having first been duly
24 sworn, testified as follows:

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EXAMINATION BY MS. MONTGOMERY-BLINN

Q. Okay. Good afternoon, Mr. Baker.

A. Hi.

Q. I know you've been here all day so I appreciate you giving us your time. Can you tell us for the record what is your name?

A. Herman Baker.

Q. And what town do you live in, Mr. Baker?

A. Fayetteville, North Carolina.

Q. Okay. Are you all right, Mr. Baker?

A. Just hurting.

Q. You're having some pain right now?

A. Yeah.

Q. Are you able to do the testimony?

A. Yeah; yeah.

Q. Okay. If you need to stop, you tell me.

A. Okay.

Q. And your attorney is back there, he'll stop me as well.

MS. MONTGOMERY-BLINN: Mr. Richardson, will you stop me if needed if he's in too much pain?

MR. RICHARDSON: (Nods head affirmatively.)

Q. All right. Mr. Baker, I'm going to ask you some questions and you must tell us the truth. If you do not remember, please don't try to tell us what you think, what you think we might want to hear, what you

1 think is most likely, okay?

2 A. All right.

3 Q. And I know these are questions that you've been asked
4 before.

5 A. Uh-huh (yes).

6 Q. All right. How do you know Joseph Sledge?

7 A. I knew him from the streets and then, and in prison.

8 Q. From the streets and in prison?

9 A. Yes; uh-huh (yes).

10 Q. Do you remember what prison you were in together?

11 A. White Lake.

12 Q. White Lake?

13 A. Yes.

14 Q. And you knew him from before prison, too?

15 A. Yeah.

16 Q. When you were in prison with Mr. Sledge, do you
17 remember roughly when that was, the 1970s?

18 A. No.

19 Q. A long time ago?

20 A. Yes.

21 Q. Did you talk with Mr. Sledge while you were in prison?

22 A. Yeah, some.

23 Q. What did you talk to him about?

24 A. Just general talk, conversation.

25 Q. General talk and conversation?

- 1 A. Yeah.
- 2 Q. Did you ever hear him confess to any murders?
- 3 A. No, I didn't.
- 4 Q. No?
- 5 A. No.
- 6 Q. Did he ever confess to attacking anybody?
- 7 A. Huh? No.
- 8 Q. Attacking, no?
- 9 A. Huh-uh (no).
- 10 Q. Did he ever say anything to you about she-devils or
- 11 white devils?
- 12 A. No.
- 13 Q. He didn't use those words?
- 14 A. Huh-uh (no). Uh-huh (yes).
- 15 Q. No, he did not?
- 16 A. No.
- 17 Q. Did he ever talk with you about black pepper and using
- 18 black pepper?
- 19 A. No.
- 20 Q. He did not?
- 21 A. Huh-uh (no).
- 22 Q. What about as just part of his religion?
- 23 A. What?
- 24 Q. Did he ever say anything about black pepper being a
- 25 part of his religion?

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A. No.

Q. Do you personally know whether or not Mr. Sledge is guilty?

A. Personally, no; no.

Q. Do you know either way?

A. No.

Q. Did you testify at Mr. Sledge's trial in 1978?

A. Yes.

Q. And do you remember testifying?

A. Yes.

Q. Do you remember testifying at one trial or two trials?

A. Oh, I think it was one.

Q. One?

A. (No audible response.)

Q. Do you remember what you testified about?

A. What I, what, what, what I was told to tell about a murder -- I mean about escape and a murder or some --

Q. Escape and a murder, is that what you said?

A. About a murder, I don't know about escape.

Q. Okay.

A. I'm a little nervous.

Q. Okay. Take a deep breath. It's all right.

A. All right.

Q. Okay. Let's try it again. You said you testified about a murder?

- 1 A. Uh-huh (yes).
- 2 Q. What did you say about the murder?
- 3 A. What I was told to say.
- 4 Q. What you were told to say?
- 5 A. Yes.
- 6 Q. Who told you to say it?
- 7 A. One of the guards, then the warden at the prison camp.
- 8 Q. Do you remember who the guard was?
- 9 A. No, I sure don't.
- 10 Q. Do you remember what the guard looked like?
- 11 A. I only know he's a white guy.
- 12 Q. Okay. Only that he was white?
- 13 A. Yes.
- 14 Q. And you said you told what -- you testified what he
- 15 told you to say?
- 16 A. Yes.
- 17 Q. What did he tell you to say?
- 18 A. To say Joe Sledge was -- or talked to me about doing a
- 19 murder, doing a murder.
- 20 Q. Joe Sledge talked to you about doing the murder?
- 21 A. Yeah. That he --
- 22 Q. Go ahead.
- 23 A. I'm twisted up.
- 24 Q. It's okay. Take a second.
- 25 A. Yeah.

1 Q. Take a second and take a drink of water, okay?

2 A. They said he told him about doing, doing a murder, and
3 that's about it, that what he wanted me to say that Joe
4 Sledge told me to say, that I heard Joe Sledge say
5 something about he committed, did a murder. But --

6 Q. He told you to say that you heard Joe Sledge say that
7 he admitted he did a murder?

8 A. Uh-huh (yes).

9 Q. But you didn't hear that?

10 A. No. Heard it from the guard.

11 Q. And is that what you said at trial?

12 A. Yes.

13 Q. Why did you do that?

14 A. Because I was in the hole for possession of marijuana
15 and heroin, and they came and talked to me, took me to
16 the warden's office and talked to me. And they told me
17 they'd give me a deal if I say, you know, say that Joe
18 Sledge told it, told me that.

19 Q. You said you were in the hole for marijuana and heroin?

20 A. Yes.

21 Q. And they came to you and took you to the warden's
22 office?

23 A. They said --

24 Q. They said they would give you a deal?

25 A. Yes.

1 Q. Okay. Did they --

2 A. Drop the charges on it.

3 Q. They would drop the charges?

4 A. Uh-huh (yes).

5 Q. Is that on the marijuana and the heroin?

6 A. Yes.

7 Q. Okay. They took you to the warden's office. Do you
8 remember the warden?

9 A. Sparkman.

10 Q. But it was the guard that told you what to say?

11 A. No, both of them did; the guard told me and the warden.

12 Q. Okay. And did you get anything in exchange for your
13 testimony?

14 A. Well, right, right, not right then. As we went to
15 trial there's took, took me out of the prison camp, put
16 me in the downtown jail in Whiteville, I think. As I
17 went to trial they let me go. I talked to some
18 detectives about the case and told them, and they told
19 me about the black pepper and stuff, what else they
20 want to say about Joe Sledge.

21 Q. Okay.

22 A. Then I went to Pennsylvania, they took me. And about,
23 about a couple months later they came and left a note
24 on the door with everything written on it. The next
25 day they came, picked me up, brought me back down here

1 for trial. And they were telling me what to say on the
2 way back. I stayed in a motel and they came to the
3 motel and told me exactly what to say again.

4 Q. Okay. Now this time who is they? Who is it that --

5 A. Two detectives, I don't remember their names.

6 Q. Do you remember what they looked like?

7 A. White.

8 Q. Okay. Two white detectives?

9 A. Yes. Been so long.

10 Q. That's okay. Now, I'm going to repeat back a couple of
11 the things you just said because I want to make sure I
12 understood them.

13 A. Oh.

14 Q. And just tell me if I got it right. They took you out
15 of prison?

16 A. Uh-huh (yes).

17 Q. And you testified, is that what you said?

18 A. Yeah, they took me to the jail, put me in jail.

19 Q. Put you in jail and you testified?

20 A. Right.

21 Q. And then they let you go?

22 A. No, they let me go before the trial.

23 Q. Before the trial?

24 A. Uh-huh (yes). Then they came up there and got me.

25 Then they told me there going to be -- for doing that

1 they're going to give me a \$3,000 reward.

2 Q. They told you that before the trial?

3 A. Yes.

4 Q. And did you get the \$3,000 reward?

5 A. Yes.

6 Q. And you had also said earlier that they would drop the
7 charges for the marijuana and heroin. Did they drop
8 the --

9 A. Yeah, they did, they did that. Yes, ma'am, move me to
10 the jail house.

11 Q. Okay. And I think that you said that the detectives,
12 when they were driving you, talked to you about black
13 pepper, is that --

14 A. Yes.

15 Q. Did you say that?

16 A. Uh-huh (yes).

17 Q. Can you tell me what you mean by that?

18 A. They say that something about the black pepper, put
19 down to keep the devils away, something -- that's --

20 Q. And this was before the trial?

21 A. Yes.

22 Q. Tell me about the note or what they left on your door.

23 A. Just to repeat the same thing, you know, what to say
24 about the -- how to say it, what Joe said doing the
25 murder, all that.

1 Q. Do you remember if it was typed or handwritten?

2 A. Handwritten on a yellow, yellow legal pad.

3 Q. Handwritten on a yellow legal pad?

4 A. Uh-huh (yes).

5 Q. Did you read the note?

6 A. Some of it. And they picked me up the next morning.

7 Q. And did you still have the note when they picked you
8 up?

9 A. No.

10 Q. What did you do with the note?

11 A. Threw it away.

12 Q. Did anybody else read the note?

13 A. No.

14 Q. And who were you living with in Pennsylvania?

15 A. My sister.

16 Q. And is she still living?

17 A. No, she deceased.

18 Q. And did you have an uncle there as well?

19 A. Yes.

20 Q. Is he still living?

21 A. No, he deceased.

22 Q. What did you think about your testimony at the time?

23 A. I was scared. Don't know what to think. I was scared.
24 I know what, what would happen to me and what, you
25 know, what they may do to me. I just scared, just like

1 this.

2 Q. Okay. What do you think about your testimony now?

3 A. I wish I'd never did it.

4 Q. Why not?

5 A. Because it was wrong. If I knew better then, I
6 wouldn't of did it. White Lake was a bad place to be.

7 Q. Can you tell us -- name the people for me that you have
8 told that you have changed your testimony, the people
9 that you have told that Joseph Sledge never confessed;
10 who have you told that to?

11 A. Just the lawyer.

12 Q. Your lawyer.

13 A. And -- (indecipherable.)

14 Q. Okay. Is that Mr. Richardson in the back?

15 A. Yes.

16 Q. Okay. And how about these two ladies next to me, have
17 you ever --

18 A. I think I remember.

19 Q. You talked to them?

20 A. Yes.

21 Q. Do you remember telling it to Chris Mumma in the purple
22 shirt?

23 A. Who?

24 Q. Christine Mumma in the purple shirt.

25 A. Oh, yes.

1 Q. And do you remember telling it to an SBI agent as well,
2 the man that just stood up back there?

3 A. SBI agent, I don't remember.

4 Q. Okay. Have you talked to any of your friends about it?

5 A. No.

6 Q. You haven't?

7 A. Huh-uh (no). Nobody but my uncle, but he deceased.

8 Q. You talked with your uncle about it?

9 A. Yeah.

10 Q. Was that back in the '70s or recently?

11 A. '70s.

12 Q. Okay. So you haven't talked to your uncle or a family
13 member about it in the last couple of years?

14 A. No.

15 Q. And did you say you had or had not talked to your
16 friends about it in the last couple of years?

17 A. Haven't.

18 Q. Now, were some of your friends there when Chris Mumma
19 came and talked to you --

20 A. Oh, yeah, they were there.

21 Q. -- at the deacon's house?

22 A. Yeah, two of them.

23 Q. They were there?

24 A. That's right, uh-huh (yes).

25 Q. So have you told them about it?

1 A. They heard it from that day when I would talk to her.

2 Q. Okay. Did your friends make you feel badly?

3 A. No.

4 Q. They didn't?

5 A. They told me to do the right thing.

6 Q. Okay. Did you take a polygraph test last year at your
7 attorney's office?

8 A. Yes.

9 Q. Okay. Tell me about that.

10 A. Well, they said it wouldn't work because I take a lot
11 of medicine, depression medicine, PTSD medicine, that
12 it too much medicine in my system.

13 Q. Okay. So you never finished it?

14 A. No.

15 Q. Mr. Baker, why are you testifying here today?

16 A. I feel like it's just right.

17 Q. You feel like it's right?

18 A. Yes, get it over with.

19 Q. Is there anything else that I have not asked you that
20 you think is important for the Commission to know?

21 A. Nothing I can think of.

22 Q. Okay. The commissioners may have questions for you
23 now.

24 A. Yeah.

25 MS. MONTGOMERY-BLINN: Commissioners.

1 JUDGE SUMNER: Any questions?

2 (No response.)

3 MS. MONTGOMERY-BLINN: All right.

4 MR. VICKORY: Well, let me ask.

5

6 EXAMINATION BY MR. VICKORY

7 Q. Have you ever had a competency evaluation, sir?

8 A. A what?

9 Q. Evaluated by a doctor?

10 A. For what?

11 Q. A mental illness doctor?

12 A. Depression, uh-huh (yes).

13 Q. In prison?

14 A. Uh-huh (yes), PTSD.

15 Q. Okay. What was that from?

16 A. No, not in prison.

17 Q. Oh, when was that?

18 A. That's in the VA Hospital back in '78, '79. No, the
19 '80s, the end of '80s.

20 MS. MONTGOMERY-BLINN: Did you say
21 depression?

22 A. Yes.

23 MS. MONTGOMERY-BLINN: Is that what you said,
24 not prison, depression?

25 A. PTSD.

1 Q. PTSD from what, sir? Do you mind me asking?

2 A. During service time, military.

3 Q. What branch of service were you in?

4 A. Air Force.

5 Q. And where did you serve?

6 A. About everywhere, Texas, New Orleans, McGuire in
7 Jersey.

8 Q. What was your rank?

9 A. When I got out?

10 Q. Yes.

11 A. Airman, first class.

12 Q. How long were you in?

13 A. Four years.

14 Q. Did you ever go overseas?

15 A. No, sir.

16 Q. This trip you took back from Pennsylvania, how many
17 trips did the SBI or law enforcement officers, I guess,
18 bring you back?

19 A. One; one.

20 Q. One time?

21 A. Yes.

22 Q. And that was before the trial?

23 A. Yes.

24 Q. Are they the ones that left this note for you?

25 A. Yes, they did.

1 Q. And they're the ones that talked to you about the note?

2 A. Yes.

3 Q. Do you see them in here today?

4 A. No.

5 Q. Would you recognize them if you saw them again?

6 A. No.

7 Q. You don't think you would?

8 A. No.

9 Q. Well, you rode back from Pennsylvania with them, right?

10 A. Yeah.

11 Q. And you sat through a trial with them?

12 A. Yes.

13 Q. But you don't think you'd recognize them?

14 A. I just don't think so.

15 Q. Okay.

16 A. No.

17 JUDGE SUMNER: Any other questions?

18 MR. SMITH: One more.

19 JUDGE SUMNER: Yes, sir.

20

21 EXAMINATION BY MR. SMITH

22 Q. The people who rode back from Pennsylvania with you,
23 the two officers, did they describe for you in detail
24 what they wanted you to say?

25 A. Did they describe for me in detail?

1 Q. Did they say, did they tell you the words they wanted
2 you to speak at the trial?

3 A. Yes. Don't, and -- that don't forget to mention the
4 black pepper and all like that there.

5 Q. So they reminded you don't forget to say this and don't
6 forget to say that?

7 A. Uh-huh (yes). Yes.

8 Q. Did both of them do that?

9 A. I can't remember all that there.

10 Q. And did the things they said to you, the words they
11 wanted you to speak, were they the same words that
12 appeared on the note that was on the door?

13 A. I can't remember, but I think so.

14 Q. It was pretty much the same thing?

15 A. The same, yes.

16 Q. And did you, did you think when they were doing that,
17 that that was wrong?

18 A. Yes. I didn't think about that then, to be honest.
19 All right. I just saw them --

20 Q. But now you know that what they did was wrong?

21 A. Yeah.

22 Q. Did they say to you they wanted you to tell a lie?

23 A. No, they didn't say that.

24 Q. Do you think they --

25 A. Not to my knowledge. Huh?

1 Q. Do you think they knew that what they were telling you
2 to do, it wasn't the truth?

3 A. I can't say, sir.

4 Q. Okay. Thank you.

5 A. Uh-huh (yes).

6 JUDGE SUMNER: Yes, ma'am.

7

8 EXAMINATION BY MS. SURGEON

9 Q. Mr. Baker, when you testified at the trial did you know
10 for yourself that Mr. Sledge had not said to you that
11 he committed the murders?

12 A. Did I know for my -- to my -- yes.

13 Q. You knew that?

14 A. Yes.

15 Q. Why did you testify that he told you that he did --

16 A. Because I was told to.

17 Q. Do you have any idea why you were the one chosen?

18 A. I suppose -- I don't know. I was in the hole in a
19 bind. They seen me talking to him around the camp.
20 That's about it. That's the only reason I know.

21

22 EXAMINATION BY SHERIFF DUNCAN

23 Q. Mr. Baker, so it was the prison guards that told you to
24 testify --

25 A. Uh-huh (yes), in the beginning.

1 Q. -- in the beginning --

2 A. Uh-huh (yes).

3 Q. -- that you had heard that confession?

4 A. Yes.

5 Q. Was any part of that -- in the trip coming back from
6 Pennsylvania with the law enforcement officers, what
7 exactly did they ask you to do that day? And I know
8 you've kind of said, but was it different? Was it just
9 about the facts or was it about hearing the confession?

10 A. Whole thing dealing with the black pepper and what they
11 told me.

12 Q. To your recollection, was there any other law
13 enforcement officers other than the guards and the
14 warden that talked to you initially?

15 A. No. Initially before the trial?

16 Q. Yes, sir.

17 A. No. I can't remember. I don't think so.

18

19 EXAMINATION BY JUDGE SUMNER

20 Q. Mr. Baker, you're saying that the law enforcement
21 officers and the warden told you about the she-devil
22 stuff, too?

23 A. No.

24 Q. Did they tell you about that?

25 A. They said that, uh-huh. Huh-uh (no).

1 Q. So that's true?

2 A. Huh?

3 Q. So you're saying Joseph Sledge made those statements
4 about white women being she-devils, is that what you're
5 saying?

6 A. No. Huh-uh (no). I said guard -- the police said it.

7 Q. The police told you that?

8 A. Yes.

9 Q. Did they tell you about a conversation that supposedly
10 you heard him, Joseph Sledge, have with another inmate
11 about him killing his girlfriend because she was a she-
12 devil?

13 A. Huh-uh (no).

14 Q. Huh-uh (no), that you didn't hear that?

15 A. No, I didn't hear that.

16 Q. Did you make that up yourself then or did they tell you
17 that also?

18 A. Did I kill his girlfriend?

19 Q. Another inmate. You testified at the trial, if I
20 recall, that you overheard Joseph Sledge tell another
21 inmate he needed to kill his girlfriend because she was
22 a she-devil.

23 A. I don't remember.

24 Q. You don't remember that?

25 A. No.

1 Q. Okay.

2

3

FURTHER EXAMINATION BY MR. VICKORY

4 Q. I'd like to ask one more thing. Are you on any
5 medication today, sir?

6 A. Yes.

7 Q. Do you mind telling us what it is?

8 A. It's some Vicodin, blood pressure, and Haldol.

9 Q. Is that Haldol?

10 A. Yes.

11 Q. Thank you.

12 JUDGE SUMNER: Any other questions?

13 (No response.)

14 JUDGE SUMNER: Mr. Baker, thank you, sir.

15 MS. MONTGOMERY-BLINN: Thank you. You're
16 released from your subpoena.

17 (Mr. Herman Baker is excused from the witness
18 stand.)

19 (THEREUPON, A DISCUSSION WAS HAD OFF THE
20 RECORD WHICH WAS NOT REPORTED.)

21 MS. MONTGOMERY-BLINN: All right. We're
22 going to turn the focus of the investigation now to
23 talk about, or the focus of the hearing to talk about
24 the other field investigation that the Commission staff
25 did. And I'm going to recall Ms. Stellato. And while

1 she's coming up I'm just going to pass around, Sheriff
2 Duncan had asked for a copy of that SBI report that
3 Agent Barefoot was looking at, so we made copies of
4 that and I'll pass that around.

5 (Copies of SBI report are distributed.)

6

7 Sharon Stellato, having first been reminded
8 that she was still under oath, testified as follows:

9

10 EXAMINATION BY MS. MONTGOMERY-BLINN

11 Q. Ms. Stellato, you're still under oath. You heard some
12 testimony about an inmate named Ralph Quick, also known
13 as Scatterman, who is in the law enforcement statement
14 that Mr. Baker had overheard Mr. Sledge saying should
15 kill his white girlfriend. Were you able to interview
16 him?

17 A. We were by telephone on November 19.

18 Q. Okay. And what did he say?

19 A. He stated that he did recall being incarcerated with
20 Joseph Sledge, that he recalled being friends with him.
21 He did not, however, recall that he was dating or
22 involved with any white female at that time. And he
23 did not remember Sledge ever telling him that he should
24 kill his girlfriend or any white female.

25 Q. Okay. Let's talk about the original law enforcement

1 investigation. Were you able to interview or did you
2 attempt to interview law enforcement officers that had
3 worked on this case?

4 A. Yes, we did.

5 Q. Okay. And when you were interviewing them, what were
6 the things that you were asking specifically about?

7 A. We were asking them about their investigation and also
8 asking them to locate reports, missing evidence, any
9 notes that they may have in their possession.

10 Ultimately we were able to locate reports as well as
11 some physical evidence. Much of the physical items of
12 physical evidence are still missing.

13 Q. Okay.

14 A. And some, I should say some reports may still be
15 missing as well.

16 Q. And did you interview retired Detective Phillip Little
17 who testified here?

18 A. Yes, we did. We interviewed him twice on August 14 of
19 2013 and September 18.

20 Q. And did you provide him with his file to review during
21 one of those interviews?

22 A. Yes, we did.

23 Q. Okay. And how about Agent Poole who testified, retired
24 Agent Poole, were you able to interview him as well?

25 A. We interviewed him on July 25, 2013.

1 Q. Okay. And both Agent Poole and Detective Little have
2 testified that other people had spoken with them or
3 some other people had spoken with them before. Did you
4 have those reports or memos from other agencies to
5 review prior to you --

6 A. We did.

7 Q. All right. How about Agent Marshall Evans, were you
8 able to interview him or had he been interviewed?

9 A. Marshal Evans is a former SBI agent. He had -- Agent
10 Chad Barefoot had interviewed his sister prior to the
11 Commission receiving the case. On April 22 of 2014 we
12 had reviewed that memo as well as interviewed Agent
13 Barefoot. Marshall Evans is in poor health and so
14 Agent Barefoot had spoken with his sister. Marshall
15 Evans had remembered the case, but he did not have any
16 file or notes. Later on in our investigation some of
17 the evidence logs indicated that Marshall Evans was the
18 last person in the chain of custody on some physical
19 evidence that's still missing in the case, so
20 Commission staff attorney, Catherine Matoian, spoke
21 with Marshall Evans by phone on November 25, 2014. He
22 remembered the case, but he does not know what happened
23 to the evidence, and we've never been able to locate
24 it.

25 Q. And just one quick clarifying question. Just a minute

1 ago you said Agent Barefoot had interviewed him prior
2 to the Commission receiving the case, and you said
3 April 22, 2014. Is that 2013?

4 A. That is 2013, yes.

5 Q. Okay. How about Earl Storms and were you able to
6 interview him?

7 A. Earl Storms was a deputy with the Bladen County
8 Sheriff's Department at the time, he later became
9 sheriff, and we were able to interview him. He
10 actually went to the scene with Phillip Little and did
11 some investigation on the case.

12 Q. And had he been interviewed by other people prior to
13 -- post conviction, but prior to your interview?

14 A. He had. He'd been interviewed by the Center on Actual
15 Innocence prior to us becoming involved on March 13,
16 2013. At that time he indicated that he had remembered
17 the case, but did not remember any statements that
18 Sledge made in front of the victim's home or at trial,
19 and that he did not have any files related to the case.

20 Q. Okay. And when did you interview him?

21 A. July 22, 2013. We asked him about files and evidence
22 and he did not have either one.

23 Q. Okay. And Special Agent Chad Barefoot who testified
24 today, were you able to interview him as well?

25 A. We did. He'd been assigned to investigate the case

1 post conviction. Later on the DA's office, I believe,
2 had him hold off on his investigation. He provided his
3 entire file, we also obtained supplemental discovery.
4 We interviewed him about his searches for evidence and
5 locations that he'd been to, both law enforcement and
6 the clerk's office. And he also accompanied us on one
7 interview before his investigation was put on hold.

8 Q. All right. Now, how about the lawyers from the trial,
9 were you able to interview the lawyers in this case, or
10 were they interviewed?

11 A. Lee Greer, who was the assistant district attorney at
12 the first trial and then also involved in the second
13 trial, he passed away in 1986. Lester Chalmers, who
14 was the assistant attorney general for both trials,
15 passed away in 1998. Former Governor Mike Easley was
16 the assistant district attorney at the second trial.
17 He was interviewed by both the Center on Actual
18 Innocence and the SBI prior to the Commission's
19 investigation.

20 Q. And did they have memos or documentation of their
21 interviews?

22 A. They both had memos in their files that we obtained.

23 Q. And have you been able to review their memos of that
24 interview?

25 A. Yes, we have.

1 Q. Okay. And what do they show?

2 A. The Center's interview, which took place on February 6,
3 2013, stated that it was his first murder trial, that
4 he did not know that Baker and Sutton were paid a
5 reward for their testimony, but he remembered the
6 bodies being exhumed and he thought that it was because
7 Baker had said that the victim's jaw was broken. This
8 memo also stated that Easley recalled Greer not feeling
9 there was enough evidence to try the case, and Easley
10 wasn't sure there was enough evidence either.

11 Q. Okay. And how about the SBI interview, when was that?

12 A. The SBI interview was dated March 7, 2013. In that
13 memo Easley stated he was not consulted during the
14 initial investigation, he was only brought in before
15 the trial to try the case. He believed that the
16 testimony of the inmates against Sledge was the most
17 critical part of the prosecution. He did not have any
18 files, photographs, or documents pertaining to the
19 prosecution in his own possession. He felt it would be
20 important to determine whether the hair evidence
21 belonged to one of the inmates who testified against
22 Sledge at trial.

23 Q. All right. And what about the attorney that
24 represented Mr. Sledge at trial, Reuben Moore?

25 A. He is still alive. He had been interviewed prior to

1 the Commission's investigation. The Center on Actual
2 Innocence had interviewed him on February 4, 2013. He
3 stated that in his representation Sledge had denied
4 guilt the entire time. They also, the Center on Actual
5 Innocence also provided him with the MAR that they
6 filed on March 28, 2013. He had memories, according to
7 their interviews and their documentation, he had
8 memories that were not accurate based on the trial
9 transcripts. He also recalled it was his first solo
10 murder trial. On October 24, 2013 he signed an
11 affidavit for the Center on Actual Innocence.

12 Q. All right. And have you reviewed that affidavit?

13 A. Yes, I have.

14 Q. Okay.

15 MS. MONTGOMERY-BLINN: While that's being
16 pulled, commissioners, I'm just going to let you know,
17 you asked about the media coverage. So we do have it
18 ready if you still do want it as a handout for tonight.
19 And I'll let you just decide if that's what you want,
20 we got it. It's being brought in, we don't have all of
21 them here yet.

22 Q. Do you recognize that?

23 A. I do.

24 Q. And do you recognize it to be that affidavit provided
25 by Reuben Moore?

1 A. It's the affidavit that the Center on Actual Innocence
2 obtained from Mr. Moore.

3 Q. Okay.

4 MS. MONTGOMERY-BLINN: I'm going to send that
5 around, let the commissioners take a look at it.

6 (Reuben Moore's Affidavit is distributed.)

7 Q. Okay. Did you interview Mr. Moore?

8 A. Yes, on October 29, 2014.

9 Q. All right. And did Mr. Moore say whether or not his
10 client had ever admitted guilt?

11 A. He indicated that Mr. Sledge never admitted guilt or
12 stated that he knew who was involved in the crime. He
13 also confirmed that he did not have a file due to time
14 and also a fire that had occurred at his office.

15 Q. Okay. All right. Now, I'd like to talk about all of
16 the different files that you reviewed as a part of your
17 investigation. Can you list for us all the different
18 agency files that you obtained and reviewed from the
19 Commission's investigation?

20 A. Okay. The North Carolina Center on Actual Innocence
21 file; the State Bureau of Investigation crime lab
22 files, that includes original lab testing from the
23 1970s as well as the 2008 North Carolina Center on
24 Actual Innocence testing; the State Bureau of
25 Investigation investigative file, there again, the

1 original investigative file and post conviction
2 investigation; the Columbus County clerk file; the
3 Bladen County Sheriff's Department file; the LabCorp
4 testing file.

5 Q. Is that a private DNA lab?

6 A. Yes. The North Carolina Supreme Court file; the
7 district attorney's file, that is the current district
8 attorney's file, not the original district attorney's
9 file which has never been located.

10 Q. Not the trial file?

11 A. Correct.

12 Q. Okay.

13 A. The attorney general's file. Again, that is also the
14 current file. There is a trial transcript in the
15 attorney general's file which is from the original part
16 of the file, but not all of it. The Department of
17 Public Safety records, those are prison records for
18 Baker, Sutton, and Joseph Sledge; Prisoner Legal
19 Services file for Sledge; all supplemental discovery
20 from the State Bureau of Investigation, the Center on
21 Actual Innocence and the district attorney's office;
22 Cellmark Forensic Testing file; Mitotyping testing
23 file.

24 Q. And is that another DNA lab?

25 A. It is.

1 Q. Okay.

2 A. And the trial transcripts from both the first and
3 second trial.

4 Q. Okay.

5 MS. MONTGOMERY-BLINN: Now, before we move
6 into testimony about civilian witness interviews, do
7 you have any questions at this point, Commissioners,
8 for Ms. Stellato?

9 (No response.)

10 MS. MONTGOMERY-BLINN: Okay. I'm going to
11 ask that Ms. Stellato step down and I'm going to call
12 Ms. Smith.

13
14 Lindsey Guice Smith, having first been duly
15 sworn, testified as follows:

16
17 EXAMINATION BY MS. MONTGOMERY-BLINN

18 Q. What is your full name?

19 A. Lindsey Guice Smith.

20 Q. And where are you employed?

21 A. The North Carolina Innocence Inquiry Commission.

22 Q. And what is your position with the Commission?

23 A. Associate counsel.

24 Q. And what is your role in this case?

25 A. I am the co-lead investigator on the case.

1 Q. And as part of your investigation did you interview
2 civilian witnesses?

3 A. We did.

4 Q. Okay. Let's start with Donald Sutton, and we're going
5 to send around his record.

6 (Donald Sutton's record is distributed.)

7 Q. And just remind the commissioners very briefly, who is
8 Mr. Sutton?

9 A. Sure. Mr. Sutton was one of the informants who
10 testified at both of Mr. Sledge's trials.

11 Q. Okay.

12 A. He also received a reward of \$2,000 for that testimony.

13 Q. And were you able to interview him?

14 A. We were not. He actually passed away in 1991.

15 Q. Okay. And how about any family member contacts?

16 A. We actually were able to review the North Carolina
17 Center on Actual Innocence file as it relates to family
18 members of Mr. Sutton. They had contacted a half-
19 sister of Mr. Sutton who lives in California, and she
20 had replied to them stating she did not wish to talk
21 about the case. They had also tried contacting a half-
22 brother that lives in Washington, DC on two occasions
23 and had not received any response back.

24 Q. All right. And tell us about any other, if you looked
25 for other living relatives, why you did.

1 A. Sure. We were looking to see if Mr. Sutton had any
2 living maternal relatives and were unable to locate
3 any. It appears that he's the only child of his mother
4 and father, and that all of his other siblings were
5 half-siblings through his father, so they wouldn't be
6 maternally related.

7 Q. And why was it that you were looking for maternally
8 related siblings?

9 A. Because we had mitochondrial DNA from hairs found on
10 the victim's body and we wanted to try to compare that
11 to his DNA.

12 Q. Okay. So that could not be done?

13 A. That could not be done.

14 Q. All right.

15 MS. MONTGOMERY-BLINN: And commissioners,
16 just for the record, I had forgotten to pass around the
17 criminal record for Herman Baker, and I'm just going to
18 send that around now so that you will have it.

19 (Herman Baker's criminal record is
20 distributed.)

21 Q. All right. Who is William Thomas Haire?

22 A. William Thomas Haire is also known as Tommy Haire. He
23 was an initial suspect during the original
24 investigation. That's on page 47 of your brief, he's
25 described there.

1 Q. And do you know if during the investigation law
2 enforcement obtained his fingerprints?

3 Q. They did obtain his fingerprints. They were compared
4 and there were no matches.

5 Q. Okay. Were you able to interview him?

6 A. No. We learned that he had recently passed away.

7 Q. Did you do any interviews related to him?

8 A. We did. There was a individual by the name of Chris
9 Vann. He had actually contacted a member of the Bladen
10 County Sheriff's Office sometime last year stating that
11 he had read a newspaper article in 2013, earlier in the
12 year, about Joseph Sledge's innocence and said that he
13 knew something about the case. The Bladen County
14 Sheriff's Office passed that information along to the
15 State Bureau of Investigation who, in turn, passed it
16 along to us, and we were able to interview him.

17 Q. Okay. When did you interview him?

18 A. That interview occurred on September 18, 2013.

19 Q. And who was present for that interview?

20 A. It was myself, Ms. Stellato, and Scott Pait, who is an
21 investigator with the Bladen County District Attorney's
22 office.

23 Q. Was that interview recorded?

24 A. It was recorded.

25 Q. And transcribed?

1 A. Yes.

2 Q. And are you using that transcript to refresh your
3 recollection?

4 A. I am.

5 Q. Okay. And what did he say?

6 A. He indicated to us that he had read a recent newspaper
7 article about the case, and that caused him to recall a
8 conversation he had had when he was 18 years old with
9 Tommy Haire's wife, Connie Todd Haire.

10 Q. Is Connie Todd Haire still living?

11 A. She is not.

12 Q. Okay. And what did he say about that conversation?

13 A. He said that they were at a party, he believed that
14 that party was the day after the murders, and that
15 Connie had come up to him with fear in her eyes and
16 told him that Tommy Haire came home on the night of the
17 murders and he had blood on his clothes and an axe or a
18 knife or something in his hand. Connie, he said that
19 Connie told him that she buried the clothes and
20 whatever that item was in their back yard.

21 Q. And did she say anything else? Or did he say that she
22 said anything else?

23 A. He said Connie said, quote, he come home with blood all
24 over him, said he killed two old women, and took Social
25 Security check.

1 Q. Okay. And what else did he say?

2 A. We asked him if he recalled where they lived at the
3 time, and he did not recall that and was not able to
4 provide any information about that.

5 Q. And by where they lived, you mean where Connie Todd
6 Haire lived and would have buried whatever it was?

7 A. Correct.

8 Q. And did he say he ever spoke to Connie Haire or Tommy
9 about it again?

10 A. He said that he never spoke with Connie about it again
11 and that he never talked to Tommy about it.

12 Q. Okay. And did he say whether he said anything about
13 this originally to law enforcement?

14 A. He said he did not. He said a few days after the
15 murders he recalled seeing the news that stated they
16 caught two people who had broken out of prison and did
17 the murders, and so he never thought anything else
18 about it, he thought they had gotten them.

19 Q. Okay. So the person that he says had, according to
20 Connie Haire, had come home bloody who had passed away,
21 were you able to do anything else to investigate that
22 man, William Thomas Haire?

23 A. Yes. Even though he had passed away, we were able to
24 obtain his blood standard from the Office of the Chief
25 Medical Examiner and have that sent to a private lab

1 for DNA testing.

2 Q. And did you have that DNA compared to the DNA at the
3 crime scene?

4 A. We did.

5 Q. And what were the results, very briefly? The experts
6 will be here tomorrow.

7 A. Yes. Briefly, he is excluded as the contributor of the
8 mitochondrial DNA on the hairs from the victim's body.
9 There were no matches to other DNA found at the crime
10 scene, but there were some comparisons that could not
11 be determined, and the experts will talk more in-depth
12 about what that means tomorrow.

13 Q. Okay. Great. All right. How about a man named Danny
14 Haire?

15 A. Yes, Daniel Slater Haire, III, also goes by Danny
16 Haire, he was a suspect also in the original
17 investigation. William Thomas Haire, who I just
18 testified about, told investigators that he suspected
19 his cousin, Danny Haire, in the murders.

20 MS. MONTGOMERY-BLINN: Commissioners, if
21 you'll remember, the interview is on page 47 and 48 of
22 your brief, if you need to look it back up.

23 Q. Okay. And did law enforcement ever obtain Daniel
24 Slater Haire, III's fingerprints to compare to the
25 crime scene?

1 A. They did obtain them. They were compared and there
2 were no matches.

3 Q. Okay. And did you interview Daniel Slater Haire?

4 A. We did. We interviewed him on October 14 of this year.

5 Q. And who was present for that interview?

6 A. It was myself, Ms. Stellato, and Mr. Haire.

7 Q. And was it recorded and transcribed?

8 A. It was.

9 Q. And do you have that transcript to refresh yourself?

10 A. I do.

11 Q. All right. And what did Daniel Slater Haire say?

12 A. He indicated that he did know the victims by sight, but
13 that he had never been in their home. He denied any
14 involvement at all in the murder. He stated he did not
15 remember being interviewed by law enforcement during
16 the original investigation, however, we read to him the
17 law enforcement summary of the interview conducted with
18 him by law enforcement. And after hearing that he said
19 he did recall it and that what he recalled about the
20 weekend was that he was in the mountains for labor day.

21 Q. Okay. Did he say anything else?

22 A. He provided a lot of information about other people in
23 town and some rumors about the murders, and he
24 indicated that a lot of people thought Larry Haire, who
25 is the brother of William Thomas Haire, may have been

1 involved in the murders.

2 Q. Were you ever able to locate Larry Haire?

3 A. We were not, but it's important to note that his DNA,
4 because he's brothers with Tommy Haire, would be the
5 same as William Thomas Haire.

6 Q. For the mitochondrial DNA?

7 A. Both for mitochondrial and the Y-STR DNA as well.

8 Q. Okay. And again, that was compared already?

9 A. It was.

10 Q. William Thomas Haire's was?

11 A. Yes.

12 Q. How about Daniel Slater Haire then, did he provide a
13 DNA swab to you?

14 A. He did. He voluntarily agreed to provide a DNA
15 standard, and we were able to submit that to a private
16 lab for testing.

17 Q. Okay. And what were the results, very briefly?

18 A. He was excluded as the contributor of the hairs that
19 were found on the victim's body. There were also no
20 matches to other DNA found at the crime scene, however,
21 again, some DNA comparisons could not be determined,
22 and that's something the expert will explain tomorrow.

23 Q. Okay.

24 MS. MONTGOMERY-BLINN: Before we move on, are
25 there any commission questions at this point?

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EXAMINATION BY MR. VICKORY

Q. That was that Larry Haire you were just talking about?

A. That was Danny Haire.

Q. Okay. And you say Danny and Larry had the same -- are they identical twins?

A. No. Larry and Tommy Haire were brothers. The DNA testing that we conducted in this case was mitochondrial DNA and Y-STR, no STR.

Q. Right. Okay.

A. STR is --

Q. I got you, okay.

A. Okay.

Q. Mitochondrial --

A. Mitochondrial is maternal line and Y-STR is paternal line, therefore, brothers who have the same mother and father would have the same maternal and paternal DNA.

Q. Right.

FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

Q. Okay. Let's move on to Johnny Ray Benton. Remind us who Johnny Ray Benton is.

MS. MONTGOMERY-BLINN: And this is on page 43 in the brief, commissioners, if you're trying to follow along.

A. Johnny Ray Benton was another suspect during the

1 original law enforcement investigation. He -- several
2 people that were interviewed during that investigation
3 named him as someone who may have been involved in the
4 murders or who may have witnessed them occurring. He
5 was interviewed by law enforcement and when he was
6 interviewed, indicated that he had seen Elisha Robinson
7 leaving the victims' home on the night of the crime.
8 He later recanted that statement.

9 Q. All right. And do you know whether or not in the
10 original investigation his fingerprints were ever
11 obtained or compared?

12 A. They were obtained and compared and there were no
13 matches. I'm sorry, let me restate that. They were
14 not -- we don't have any reports that indicate that his
15 fingerprints were obtained or compared to the latents
16 at the crime scene.

17 Q. All right. Were you able to interview Johnny Ray
18 Benton?

19 A. We were.

20 Q. When was that?

21 A. October 14, 2014.

22 Q. And who was present for the interview?

23 A. Myself and Ms. Stellato and, of course, Mr. Benton.

24 Q. And it was recorded and transcribed?

25 A. It was.

1 Q. Okay. And what did Mr. Benton say?

2 A. He recalls the murders and he recalled being a suspect
3 at the time. He indicated that he was in jail when
4 Detective Little came and took him to the crime scene,
5 and that he told him when they got there to get out and
6 run. He said he thought that he would have been shot
7 if he ran and that he had sense enough not to run, so
8 that he, so he didn't. He further denied any
9 involvement in the murders. We read him some of the
10 details of the police reports of his interviews, and he
11 indicated that the information in the reports just was
12 not true.

13 Q. Okay. And so he said the stuff was not true. Did he
14 indicate the part about running past the house, seeing
15 Elisha Robinson, did he say it was not true or he just
16 didn't remember it?

17 A. He specifically stated that he never ran past the
18 victims' home on the night of the crime, and that he
19 never saw Elisha Robinson at the house, the victims'
20 house. He also denied ever telling any of that to law
21 enforcement.

22 Q. Okay. All right. Did he recall taking a polygraph?

23 A. He did recall taking a polygraph and he recalled that
24 he passed that polygraph.

25 Q. Did he remember the questions?

1 A. He could not recall any of the questions.

2 Q. Okay. What else did he say?

3 A. He stated that he did not know who committed the crime.
4 He always thought that it was someone in the victims'
5 family and that the motive was over property.

6 Q. Did he provide a DNA sample?

7 A. He did, he voluntarily provided a DNA sample.

8 Q. And what were the brief results of that?

9 A. He was excluded from all of the DNA obtained at the
10 crime scene, this includes the hairs on the victim's
11 body as well as other DNA.

12 Q. Okay.

13 MS. MONTGOMERY-BLINN: Before we move on to
14 the next interview, any questions about the Johnny Ray
15 Benton interview?

16 MR. HEARD: Just one question.

17

18 EXAMINATION BY MR. HEARD

19 Q. You made note of and it's also included here about the
20 polygraph with a score of six. I saw some note about a
21 score of up to 11. How good, how reliable is a score
22 of six? Does that mean anything?

23 A. I couldn't speak to that; I don't know.

24 Q. Okay.

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EXAMINATION BY SHERIFF DUNCAN

Q. Just real quick, you had mentioned Mr. Vann that you went and interviewed that --

A. Yes.

Q. Is that the same, the person he heard the unsolicited information from, Connie Todd Haire, is that who he got that from?

A. That's correct.

Q. And that is the same -- she was interviewed by law enforcement in '77 as well as her husband that we just discussed?

A. That is correct.

Q. Okay.

FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

Q. All right. So Elisha Robinson, remind us who that is.

A. During the original law enforcement investigation Elisha Robinson was considered a suspect. This is the individual who Johnny Ray Benton had told law enforcement he saw leaving the victims' house on the night of the murder. Johnny Ray Benton had also indicated to law enforcement that he was later threatened by Elisha Robinson to keep quiet.

MS. MONTGOMERY-BLINN: Commissioners, this is on page 45 of your brief if you're wanting to look back

1 at the original report.

2 Q. All right. Do you know if Elisha Robinson's
3 fingerprints were compared with anything at the crime
4 scene?

5 A. They were not compared. They were -- it was requested
6 that they be compared, but we have no indication that
7 they were ever compared.

8 Q. All right. Were you able to interview or was
9 Commission staff able to interview Elisha Robinson?

10 A. Yes. Commission staff was able to travel to Maryland
11 where Mr. Robinson lives, and then on up to Delaware
12 where he works and interview him at his work in
13 Delaware.

14 Q. And who from the Commission staff did that interview?

15 A. It was Staff Attorney Catherine Matoian and
16 Investigator Ed Brooks.

17 Q. And was that interview recorded and transcribed?

18 A. It was.

19 Q. And have you reviewed that transcription and spoken
20 with Ms. Matoian and Mr. Brooks?

21 A. I have.

22 Q. Okay. And what did Elisha Robinson say?

23 A. He indicated that he knew the victims' house was near
24 his church, but that he had never been inside the
25 victims' home. He also believed that the victims'

1 family had killed them, and he had just heard that from
2 rumors in the community. He also indicated that he
3 heard one of the victims was sexually assaulted with a
4 broom.

5 Q. And he didn't know, just heard this from the community?

6 A. That's correct.

7 Q. Okay. What else did he say?

8 A. He said that on the night of the murders he recalled
9 seeing a man come out of the woods with straw on his
10 feet to hide footprints. He later said that he -- he
11 said he later saw Sledge on the, his picture on the
12 news and recognized him.

13 Q. Okay. And the man that he saw coming out of the woods,
14 did he say that man was going into the victims' house
15 or in any way tied to the murder as far as he knew?

16 A. As far as he knew, no.

17 Q. Okay. And what else did he say?

18 A. He stated that he felt Sledge was railroaded, and that
19 he had gone and watched one of the trials.

20 Q. Did he describe what he saw at the trial?

21 A. He did describe some of the facts, but they were
22 inaccurate.

23 Q. Inaccurate according to the trial transcript?

24 A. Correct.

25 Q. Did he recall being a suspect?

1 A. He did recall being a suspect, he also recalled being
2 polygraphed.

3 Q. Okay. And did he recall Johnny Ray Benton having,
4 whether he knew whether Johnny Ray Benton had told
5 police that Elisha Robinson had been coming out of the
6 house that night?

7 A. He said he didn't know who Johnny Ray Benton was and he
8 did not remember Benton saying that he was involved in
9 the murders.

10 Q. Did Elisha Robinson provide a voluntary DNA sample?

11 A. He did.

12 Q. And were you able to have that DNA compared to the DNA
13 from the crime scene?

14 A. We were.

15 Q. And briefly, what were the results?

16 A. He is excluded as a contributor of the hairs found on
17 the victim's body, and there were no matches to other
18 DNA at the crime scene, but again, some comparisons
19 could not be determined.

20 Q. Okay.

21 MS. MONTGOMERY-BLINN: Commissioner questions
22 about Elisha Robinson before we move on?

23 MS. SURGEON: I have a question.

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EXAMINATION BY MS. SURGEON

Q. You indicated that he said that he saw a man leaving the victims' home with straw on their feet?

A. No. He saw a man coming through the woods.

Q. Uh-huh (yes).

A. It's unclear exactly what that was.

Q. Okay. Did he indicate whether or not he knew who that person was?

A. He just said that he later saw Sledge on, Sledge's picture on the TV and recognized him then.

Q. Recognized him from being the person that he saw or just recognized him from the community?

A. If you'll give me a moment, I'm going to look at the interview and transcript just because I wasn't present and I don't want to misstate. (Ms. Smith examines document.)

Okay. So this is a quote from Mr. Robinson. He says, yes, and they were saying you did it. I'm like, I'm, I'm -- indecipherable -- because the guy was not even in the area where the crime happened. He came -- he escaped from prison, first of all. He came through the neighborhood, right, you know, walking. He, he had straw on his feet where he couldn't track his footprints or something. And the guy was saying, no, I didn't do it, no, I didn't do it.

1 And they were saying, yes, you did. And I'm like, the
2 guy said he didn't do it and he wasn't even in the area
3 according to the reports and stuff, right? But he was.
4 I guess he came through. They wanted to pin it on
5 somebody and they pinned it on him.

6 And Ms. Matoian said, so when you're saying
7 these things about Mr. Sledge, that about the straw on
8 his feet and that he wasn't in the area, where are you
9 getting that information from? Mr. Robinson, I -- he
10 came, where we used to live, he came through the woods.

11 Ms. Matoian, uh-huh (yes). Mr. Robinson, and
12 I saw this guy and he was on the news shortly after he
13 had -- I saw him myself with the straw on his feet
14 walking through that area going -- Ms. Matoian, and
15 then you saw on the news later that he was an escaped
16 convict? Mr. Robinson, yeah.

17 Ms. Matoian, but you didn't know who he was
18 when he was walking through? Mr. Robinson, no, I
19 didn't. I didn't know him. I saw him coming through
20 with straw on his feet, and after I heard the news he
21 was an escaped convict.

22 MS. MONTGOMERY-BLINN: Anybody else have a
23 question?

24 RETIRED SHERIFF PICKENS: It's still not
25 clear.

1 MR. HEARD: Clear as the straw, right?

2 RETIRED SHERIFF PICKENS: There you go.

3

4 FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

5 Q. All right. How about the Smith family, tell us who is
6 the Smith family?

7 A. Sure. The Smith family is a family that lived behind
8 the victims' home. They lived off of a dirt road that
9 ran alongside the Hales' house. And the Hales were
10 members of the victims' family that lived next door to
11 the victims' home. Four of the Smith brothers and one
12 nephew were considered suspects by law enforcement
13 during the original investigation.

14 MS. MONTGOMERY-BLINN: Commissioners, this is
15 described on page 51 or beginning on page 51 of your
16 brief, if you need to look back at it.

17 Q. Do you know if the fingerprints of the brothers in the
18 Smith family were compared to the crime scene?

19 A. Yes. All of the four brothers' prints were compared to
20 the latent prints from the crime scene and there were
21 no matches. And the nephew who was also considered a
22 suspect, his prints, as far as we can tell, were never
23 compared.

24 Q. Were you able to locate any members of the Smith
25 family?

1 A. Three of the four Smith brothers are deceased, and so
2 we were not able to talk to those three. We were able
3 to locate a sister of the Smith brothers, Marie Andrus.
4 She had already been interviewed by the North Carolina
5 Center on Actual Innocence and declined to voluntarily
6 speak with the Commission.

7 Q. Did you depose her?

8 A. We did. We were -- we subpoenaed her and conducted a
9 deposition of her.

10 Q. And what did you learn?

11 A. We learned that she did have a living brother, one of
12 the four who was a suspect, Samuel Smith. The
13 information that she gave us about him was simply that
14 he was still living in Elizabethtown, North Carolina.

15 Q. And did you learn whether or not the brothers all
16 shared the same mother and father?

17 A. According to Ms. Andrus, all of her siblings shared the
18 same mother and father.

19 Q. Okay. And were you, was the Commission able to obtain
20 a Nontestimonial Identification Order for Samuel
21 Smith's DNA?

22 A. We were.

23 Q. And tell us about how his DNA, about that maternal and
24 fraternal line.

25 A. Sure. Because Mr. Smith, Samuel Smith shares a mother

1 and father with all of his siblings, their maternal and
2 paternal DNA is the same for all four of the Smith
3 brothers. Also, the maternal DNA for the nephew is the
4 same, but the paternal DNA is not.

5 Q. Okay. All right. And you said you did obtain his DNA
6 then?

7 A. We did. We obtained it pursuant to the NTIO on
8 October 8, 2014.

9 Q. Okay. And before I have you go into that, tell us
10 about, you just mentioned again that nephew, Jimmy
11 Smith. Tell us quickly about him and how he was a part
12 of your investigation.

13 A. Sure. If I may back up, I did want to say we were not
14 able to interview Samuel Smith during that process just
15 because the NTIO doesn't allow for that. We did leave
16 a card for him, though, and asked him to contact us if
17 he had anything to share with us, and he did not ever
18 do that.

19 Q. And have you sent the DNA reports to him?

20 A. We did.

21 Q. Okay. Go ahead.

22 A. The Smith nephew was Jimmy Smith. He actually attended
23 the deposition of Marie Andrus with her, and we were
24 able to speak with him briefly after that deposition.
25 We again contacted him on November 19 of this year on

1 the telephone and just to confirm some information from
2 him.

3 Q. Okay. And what did you confirm from him?

4 A. We confirmed that he did live with the Smith family
5 during that time, during the time of the murder. He
6 denied any involvement in the murders.

7 Q. Okay. And did you obtain a separate DNA sample from
8 him?

9 A. We did not.

10 Q. Okay. So his DNA would be the same mitochondrial DNA?

11 A. That's correct.

12 Q. Okay. And so that's the maternal line?

13 A. That's correct.

14 Q. And that would be the same, the mitochondrial DNA is
15 the testing you did from the hairs at the crime scene?

16 A. That's correct.

17 Q. Okay. And was the DNA sample you obtained compared to
18 the DNA from the crime scene?

19 A. It was.

20 Q. Okay. And tell us about the results, briefly, on that.

21 A. Yes. All of the individuals in the Smith maternal line
22 are excluded as contributors of the hairs found on the
23 victim's body. This includes all four Smith brothers
24 and the nephew, Jimmy Smith.

25 Q. Okay. And what about the other DNA, the Y-STR?

1 A. There were no matches to the other DNA from the crime
2 scene, but again, some DNA comparisons could not be
3 determined. This only, of course, includes the four
4 Smith brothers, it does not include Jimmy Smith, the
5 nephew.

6 Q. And did you attempt to locate anybody else that had
7 ties to the Smith family during the time of the
8 original crime?

9 A. We did. We tried to interview a man by the name of
10 Willie McLaughlin.

11 Q. And who is that?

12 A. He was an individual during the original law
13 enforcement investigation who indicated that he was
14 with Joseph Smith on the night of the crimes, that he
15 drove Joseph Smith to his home. And we wanted to speak
16 with him because we knew that he was someone who had
17 been in the vicinity of the victims' home on the night
18 of the crime.

19 Q. Do you know if his fingerprints were compared to the
20 latent lifts from the crime scene during the original
21 investigation?

22 A. They were compared and there were no matches.

23 Q. Okay. And were you able to interview him?

24 A. We were able to locate him, and a Commission staff
25 member did leave a card at his home. He later called

1 but refused to answer questions or meet with the
2 Commission staff and indicated this had nothing to do
3 with him. We made another phone call and left a
4 message, but he never returned our calls.

5 Q. Okay.

6 MS. MONTGOMERY-BLINN: Any questions,
7 commissioners, before we move on?

8

9 FURTHER EXAMINATION BY MR. HEARD

10 Q. Is Joseph McLaughlin the same as Willie Clarence
11 McLaughlin, or is that a different person entirely?

12 A. I'm sorry, if I said Joseph, I meant to say Willie
13 McLaughlin.

14 Q. Okay. All right.

15 A. And it is the same Willie Clarence McLaughlin.

16 Q. Okay, good.

17 MS. MONTGOMERY-BLINN: Any other questions?

18 (No response.)

19

20 FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

21 Q. All right. Now, were you able to speak with the
22 victims' family?

23 A. We were.

24 Q. Okay. And first, if you'll just tell us briefly who
25 Billy Ray Hales is?

1 A. Sure. Billy Ray Hales is the grandson of Josephine
2 Davis and the nephew of Aileen Davis.

3 MS. MONTGOMERY-BLINN: Commissioners, his
4 interview from law enforcement is on page 50 of the
5 brief.

6 Q. Was he considered a suspect during the law enforcement
7 investigation?

8 A. He was considered a suspect during the original law
9 enforcement investigation.

10 Q. And were his prints compared?

11 A. They were compared to the latent prints from the crime
12 scene with no identifications.

13 Q. Okay. And were you able to speak with Mr. Hales?

14 A. We were.

15 Q. And when you met with him, was that with the family as
16 a group?

17 A. It was. We met with the victims' family as a group on
18 several occasions, we also spoke with Mr. Hales by
19 telephone.

20 Q. Okay. And did he recall being questioned by police?

21 A. He did recall that. He said that he was questioned by
22 police for about two hours. He also recalled being
23 fingerprinted. He stated that he did feel like a
24 suspect back then, but he did not understand or know
25 why he was a suspect.

1 Q. Okay. And what did his family say about that?

2 A. His family indicated to us that they had never thought
3 that Billy Ray had anything to do with the crime.

4 Q. Okay. Please tell us briefly about the conversations
5 with the victims' family and who was present for those
6 conversations.

7 A. Sure. There were approximately 12 grandchildren of
8 Josephine and nieces or nephews of Aileen Davis and
9 their spouses, who we met with on various occasions,
10 various ones on the different occasions that we met
11 with.

12 Q. And did the family designate one person as our point of
13 contact?

14 A. Yes. The family designated Ms. Catherine Brown as the
15 point of contact.

16 Q. Did the family give you permission to go back to the
17 crime scene, to the victims' house?

18 A. They did. They allowed us to go back on three separate
19 occasions and take photographs as well.

20 Q. What was the purpose of your meetings with the family?

21 A. The purpose primarily was just to let them know about
22 the Commission, explain the Commission process, our
23 hearing procedures, but we also were able to ask them
24 about the crime as well.

25 Q. Okay. And had they been spoken to already by anybody

1 post conviction?

2 A. Yes. They indicated, several of them indicated they
3 had been approached by Chris Mumma of the Center on
4 Actual Innocence as well as the media.

5 Q. And have they maintained contact with the district
6 attorney's office?

7 A. They had.

8 Q. Okay. And had they also spoken with Detective Phillip
9 Little?

10 A. Yes, they indicated that they had spoken with Detective
11 Little both before our investigation and then during it
12 as well.

13 Q. Okay. And what did the family say to you about the
14 case or about the crime?

15 A. One of the things that they stated was that their aunt,
16 Aileen, had been raped, and they didn't understand why
17 Mr. Sledge had never been charged with that. They also
18 told us that the victims had lived together all of
19 Aileen's life, and that Josephine's husband had passed
20 away in 1967 or 1968, and that it was just Josephine
21 and Aileen living together at that time of the murders.
22 They indicated that the victims had a friendly
23 reputation in the community, that they were kind, and
24 that no one would ever have any reason to hurt them.

25 Q. Did they describe what the home was like, whether you

1 could see the home from the road at the time?

2 A. They did. They said that it could be seen from the
3 main road, Highway 242.

4 Q. Okay. And what else did they -- what did they say
5 about Sledge?

6 A. Specifically they said that they didn't think that
7 anyone from town or anyone in the family could have
8 been involved. They stated that no one in the family
9 had any doubt about Sledge's guilt.

10 Q. Did you ask them about people that lived around the
11 victim's home?

12 A. We did. They indicated that there was a community of
13 African-Americans who lived behind the victims' family,
14 that the victims were very friendly with them, and
15 often donated to a black church near their home.

16 Q. Okay. Did they indicate whether or not anybody might
17 have been in the victims' house?

18 A. Specifically they indicated that they didn't believe
19 that African-Americans would have ever been in the
20 victims' home.

21 Q. All right. And I know we're going to do DNA tomorrow,
22 but why specifically were you asking or were they
23 saying about African-Americans being in the victims'
24 home?

25 A. We were asking because what we learned from the DNA

1 testing on the hairs found on the victim's body, that
2 they were of African or African-American lineage. And
3 so we wanted to establish whether or not the hairs
4 could have been there just from someone who had been in
5 the home.

6 Q. Okay. All right. What did they say about the security
7 of the home or whether the home was secure during the
8 investigation?

9 A. They indicated that it was not secure. This is
10 contrary to what Detective Little testified to earlier
11 today. They indicated that the home was broken into
12 several times, both after the murders, but -- after the
13 murders but before the trial it was broken into several
14 times and was not secure because several people came
15 and looked at it.

16 Q. Okay. All right. And then did you ask them anything
17 about the victims' clothing?

18 A. We did. One of the family members indicated that she
19 believed that the victims were wearing the same dresses
20 that they had been wearing the day before when she last
21 saw them when their bodies were found.

22 Q. Okay.

23 A. They also told us that it was not uncommon for the
24 victims to wear the same clothing for multiple days,
25 and that they would not change at bedtime. They also

1 indicated that they often would not wear any underwear.

2 Q. So you said that they let you come to the house and
3 look at the house?

4 A. Yes, we did that on three separate occasions.

5 Q. Okay. Tell us what does the house look like today?

6 A. It is still there, it's still standing. Parts of it
7 have fallen down over time, and the inside is filled
8 with debris just strewn about.

9 Q. And did you take photographs?

10 A. We did.

11 Q. And would the photographs help illustrate your
12 testimony?

13 A. They would.

14 Q. All right. Would you like to do the clicker or do you
15 want me to?

16 A. It doesn't matter. Go ahead.

17 Q. Okay. All right. Now, the photographs of the inside
18 of the house, would those be helpful?

19 A. They're not particularly helpful simply because many of
20 the areas are boarded up, the wall is fallen in, and
21 just the condition of the contents of the home.

22 Q. Okay. Now, tell me about this photograph.

23 A. This is taken from outside of the home. We're standing
24 several feet away from the home, but not all the way
25 back at the road.

1 Q. Okay. And is this the front of the house?

2 A. It is the front of the house.

3 Q. Okay. I guess it does say that.

4 Okay. Tell me about this photograph.

5 A. This is the back of the house. The side, if you look
6 to the left of kind of the green, there is the back
7 door. That area, that would be the door that during
8 the original trial the State's theory was that Sledge
9 had spread pepper around that back door.

10 Q. Okay. Tell me about this picture.

11 A. This is a picture of the side of the house. That
12 window there in the center is the window that had
13 tennis shoe prints underneath. It's also, the room
14 directly inside of that window is the room where the
15 original investigators did Luminol and noted footprints
16 leading kind of to or from the body to that window in
17 blood, or the Luminol illuminated those footprints.

18 Q. Okay. The white part underneath that window, is that
19 covering the window or just more siding underneath?

20 A. No, it's just covering siding. The window is actually
21 just that small window up top. It's approximately
22 seven feet off the ground.

23 Q. Okay. And what is this?

24 A. This is the road that runs directly in front of the
25 victims' home. It's Highway 242.

1 Q. Okay. And from here what can you see, aside from just
2 that highway? Are you standing, whoever took this
3 photo, are they standing literally right in front of
4 the victims' house?

5 A. Yeah. If I may, I'll stand up and try to point,
6 because I know that won't work on the --

7 Q. It's not working very well.

8 A. It won't shine on the --

9 Q. Go ahead.

10 A. So yes, this is standing right in front of the victims'
11 home, but looking down Highway 242. Near these two
12 trees here is the dirt road that leads to the victims'
13 family home, the Hales' home. It's also the dirt road
14 that leads back to the Smith family homes. And then if
15 you can see, in the far distance is a car, not the one
16 closer up, but the far distance there's a car. That's
17 actually close to Highway 701 where it intersects. And
18 so you can see that from the victims' home.

19 Q. Okay. And that Highway 701, is that the one that we've
20 heard already a little bit that Mr. Sledge says he
21 walked down from White Lake?

22 A. That is correct.

23 Q. All right. Now, what could you see, going in the
24 inside of the house, is there anything that you saw
25 that can help the commissioners or that was helpful to

1 you?

2 A. It just really helped us understand the layout and size
3 of the home. That was the most important thing for us
4 to be able to see.

5 Q. Okay. And was there anything that you saw in the
6 inside of the home that you made note of?

7 A. We made note of several spice cans strewn throughout the
8 kitchen floor. They were on the floor, we can't say
9 when they were put on the floor, if they were there at
10 the time of the crime or not, but what we can say is
11 that some of them still, you could still see the dates
12 on some of them, and they were from 1975.

13 Q. And you can't say whether or not they were with the
14 pepper can or where the pepper can was?

15 A. No, absolutely not.

16 MS. MONTGOMERY-BLINN: Commissioner
17 questions?

18 (No response.)

19 JUDGE SUMNER: None.

20 MS. MONTGOMERY-BLINN: All right. Shall we
21 take the evening --

22 MS. SURGEON: I have a question.

23

24 FURTHER EXAMINATION BY MS. SURGEON

25 Q. You said those spice cans were on the floor?

1 A. Yes, ma'am. They, they were just kind of throughout
2 the kitchen area. It's a small kitchen, but there were
3 several of them throughout the kitchen on the floor.

4 Q. But was the --

5 MS. MONTGOMERY-BLINN: No, I just want to --
6 you're going to clarify that, okay, go ahead.

7 Q. Yeah. Was the testimony from Detective Phillips that
8 -- not Poole, Little, yes, Phillip Little, that the
9 pepper can was the only item that caused him to think
10 that there was anything in disarray?

11 A. Sure. I think that it needs to be clarified that the
12 entire home in its current state is covered with debris
13 across the floor, all over the home. There is no,
14 almost no area of the floor that's not covered with
15 something. So this certainly is probably not how the
16 crime scene looked in 1976.

17
18 FURTHER EXAMINATION BY MR. VICKORY

19 Q. Did you ever make a determination of whether anybody in
20 that victims' family was formerly, or if at any time
21 worked at the prison, or whether they worked in law,
22 local law enforcement in any capacity?

23 A. No, we did not make, make that.

24 MS. MONTGOMERY-BLINN: Are there any other
25 questions?

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(No response.)

MS. MONTGOMERY-BLINN: I'll ask that
Ms. Smith step down. If you would like to break for
evening recess?

JUDGE SUMNER: If you insist, we will stop.

MS. MONTGOMERY-BLINN: But I have records to
hand out to you before you leave.

(Newspaper Articles regarding the Murder is
handed out.)

(THEREUPON, THE EVENING RECESS WAS TAKEN AT
6:21 P.M.)

STATE OF NORTH CAROLINA)
) C E R T I F I C A T E
COUNTY OF CABARRUS)

I, Ira Anderson, do hereby certify that the foregoing hearing was taken and transcribed by me; and the foregoing 323 pages constitute a true and accurate transcript of the said hearing.

I do further certify that the parties were present as stated in the caption.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of said action.

This the 11th day of February 2015.

Ira Anderson
Electronic Signature
Ira Anderson
Notary Public No. 19973380004