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NORTH CAROLINA GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

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STATE OF NORTH CAROLINA)
)
versus) From Forsyth
) 86 CRS 018809
MERRITT WILLIAMS,) 86 CRS 031738
)
Defendant.)

* * * * *

TRANSCRIPT OF HEARING, Volume 3 of 4
Thursday, June 6, 2019

* * * * *

June 4, 2019, Setting of the
North Carolina Innocence Inquiry Commission
The Honorable Thomas H. Lock, Judge Presiding

Commissioners Attending:
John Boswell, Commissioner
Luther Johnson Britt, III, Commissioner
Robin Colbert, Commissioner
Seth Edwards, Commissioner
Kevin Frye, Commissioner
Rick Glazier, Commissioner
Dr. Frank Perry, Commissioner
Ashley Welch, Commissioner (Alternate)

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APPEARANCES:

Lindsey Guice Smith, Director
Beth Tanner, Assistant Director
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1 THURSDAY, JUNE 6, 2019 (9:00 a.m.)

2 JUDGE LOCK: All right. It's 9:00 o'clock.
3 Everyone's in place. We will come back to order.

4 Before we begin, I do want to take just a
5 moment -- and while we will spare her the pain of listening
6 to us sing, I would like to wish our court reporter,
7 Ms. Tori Pittman, happy birthday.

8 Thank you for your service.

9 THE STENOGRAPHER: Thank you.

10 JUDGE LOCK: All right.

11 Ms. Guice Smith.

12 MS. SMITH: Good morning, Commissioners.

13 (Chorus of "good mornings.")

14 MS. SMITH: I want to remind you, if you
15 haven't had an opportunity yet to review Handout Number 82,
16 that is the statement of the district attorney's office.
17 You should do that before tomorrow.

18 We will recall Staff Attorney Brian Ziegler.

19 (Brian Ziegler recalled.)

20 JUDGE LOCK: He remains under oath.

21 BY MS. SMITH: (9:01 a.m.)

22 Q. Mr. Ziegler, did the Commission do anything to
23 follow up with witnesses who were reported to have been at
24 Ezelle Clowers' drink house on the night of Arthur Wilson's
25 death?

1 A. Yes. We searched for the people who had spoken
2 with police during the 1986 investigation of the case. Most
3 of them are now deceased. However, we were able to speak
4 with Mattie Mae Little, who was formerly Mattie Mae Davis,
5 Patricia Dunlap formerly Patricia Williams, Arnora Harris
6 formerly Elnora Peoples, and Mary Carroll formerly Mary
7 Byrd, as well as John Clowers Junior.

8 We also identified and interviewed two other
9 individuals related to the drink house: Robert Flowers and
10 Carolyn Ann Wilson. Both claim to have been there that
11 night.

12 In one of his April 11, 1986, interviews, Merritt
13 Williams named Mr. Willie Little as being present at the
14 drink house that night. There are no records in the police
15 file of Mr. Little having been interviewed during the
16 original investigation but he is now deceased so we could
17 not speak with him.

18 **MS. SMITH:** Commissioners, Handout 44 is an
19 updated version of Appendix C from your brief. You may
20 recall this is a chart of statements by those who were
21 witnesses identified as being at the drink house on the
22 night of Arthur Wilson's death.

23 This chart has been updated to include
24 information gathered either in new documentation the
25 Commission received since your brief was provided or through

1 interviews or depositions with commission staff.

2 You may wish to refer to it as Mr. Ziegler
3 testifies about these witnesses. You can review it more
4 fully at the next break if you wish to. All of the updates
5 to that chart are in green so it will be very clear what's
6 new that you haven't seen before.

7 Handout 45 is the map of the area around the
8 crime scene. You may find it helpful to refer to that
9 throughout the testimony. And if you have any questions
10 about that, you will be able to ask Mr. Ziegler about that.

11 Commissioners, we have already testified
12 about the files we received after we sent out your brief,
13 which included transcripts from the defense portion of Sammy
14 Mitchell's second trial in the Wilson case and most of
15 Darryl Hunt's first trial in the Wilson case.

16 Prior to the hearing, you were provided
17 Handout 46, which is the testimony of Mattie Mae Davis,
18 Patricia Williams, and Barbara Bason, as well as Handout 47,
19 the testimony of James Ford. Because Mr. Ford's testimony
20 was lengthy, we also provided a summary of his testimony as
21 part of that Handout 47.

22 You do not need to look at those again now as
23 you should have already reviewed them prior to the hearing.

24 Q. Mr. Ziegler, can you remind the Commission who
25 Mattie Mae Little is?

1 A. Sure.

2 She used to be Mattie Mae Davis and she dated
3 Mr. Williams at the time of this crime. She said that she
4 was a witness to the crime from 6 to 8 feet away.

5 **MS. SMITH:** Commissioners, you were
6 previously provided Ms. Little's criminal record as Handout
7 23.

8 Q. Did the Commission speak with Ms. Little?

9 A. We did.

10 We first interviewed her on March 8, 2019. She
11 cut that interview short and we deposed her on April 15,
12 2019.

13 **MS. SMITH:** Commissioners, Ms. Little is
14 elderly. She had recently had her leg amputated.
15 Occasionally, she would mix up names during those interviews
16 and deposition. For example, she continually referred to
17 Arthur Wilson as Merritt Drayton. We did try to correct her
18 where we could during that.

19 Handout 48 are selected portions of
20 transcripts from that 3/28/2019 interview. These portions
21 are substantive questions and answers related to the case.
22 We have excluded portions where the content is not
23 substantive to the case.

24 And Handout 49 is selected portions of the
25 transcript of the 4/15/2019 deposition of Mattie Mae Little.

1 These portions of the deposition give additional insight
2 into her relationship with Merritt Williams, her
3 recollection of the events of the night of Arthur Wilson's
4 death, as well as portions of her discussion of individuals
5 from the drink house and interactions with police.

6 If any Commissioner wants either of those
7 transcripts in their entirety after reviewing the excerpts,
8 let me know and we will certainly provide those -- make them
9 available to all commissioners to review over the break.

10 **MR. BOSWELL:** Who is 49?

11 **MS. SMITH:** 48 and 49 are both Mattie Mae
12 Little. The first one, 48, is from an interview with her in
13 March. The second one, 49, is from her deposition in April.

14 So if you'll take some time to review those,
15 those will be in the third notebook that you have.

16 (Commissioners review, 9:09 to 9:27 a.m.)

17 **JUDGE LOCK:** Is everyone ready to proceed?

18 A few more moments? Okay?

19 **MR. GLAZIER:** Thank you.

20 (Commissioners review, 9:28 to 9:33 a.m.)

21 **JUDGE LOCK:** Ready to proceed?

22 All right.

23 **MS. SMITH:** Commissioners, do you have any
24 questions for Mr. Ziegler about the Commission's interview
25 or deposition of Ms. Davis -- Ms. Little?

1 **MR. BOSWELL:** In reading this, it looked like
2 she was really confused. She was testifying to things that
3 happened that night that there's no evidence that happened
4 that night and conflicted with what her previous testimony
5 was.

6 What was your impression of her ability to
7 actually recollect what was going on?

8 **THE WITNESS:** Well, I don't know that I can
9 give an impression of her abilities. But you're correct.
10 She did say some things that were different and that are not
11 documented.

12 **MR. BOSWELL:** But you were interviewing her;
13 right?

14 **THE WITNESS:** Correct.

15 **MR. BOSWELL:** Did she seem confused about
16 things? Or did she -- you were there with her. You would
17 have an impression of whether she was confused or not.

18 **THE WITNESS:** Right.

19 I can say that she had, within weeks,
20 returned from the hospital from her leg amputation. At one
21 point, we took a break in the deposition for her to either
22 put on or take off her prosthetic leg. Clearly, she had
23 other things going on in her life.

24 **MR. BRITT:** Mr. Ziegler, in her interview,
25 she talks about a park that she and Mr. Williams were going

1 to go to have their drinks.

2 **THE WITNESS:** Yes, sir.

3 **MR. BRITT:** And it's 13th Street?

4 **THE WITNESS:** The park is on the intersection
5 of Claremont and 17th Street. It's on the south side of
6 17th Street. So you would have to cross 17th to get to the
7 park. It's at the bottom. There's some talk about a hill.
8 That's the bottom of the hill.

9 **MR. BRITT:** Do we have an aerial photograph
10 of this area?

11 **THE WITNESS:** There are some aerial
12 photographs, I know, in the brief. And we can get that page
13 number momentarily.

14 **MR. BRITT:** Okay.

15 **MR. ZIEGLER:** I'm not sure if the aerial
16 photographs are zoomed out far enough to show down to that
17 park.

18 **JUDGE LOCK:** Commissioner Glazier.

19 **MR. GLAZIER:** A comment and then a question,
20 if I may. And I'll try to speak louder.

21 On a number of specific pieces of
22 information, she's actually consistent with prior years-ago
23 testimony and then, as well, some things she is
24 inconsistent. It seemed to go a little in and out during
25 the interview. And obviously we don't have the full

1 transcript, we only have parts.

2 But is it -- since this is my first hearing,
3 is it the Commission's determination that you will not
4 assess credibility for us?

5 Is that why you're not directly answering
6 Mr. Boswell's question?

7 **THE WITNESS:** That's correct. I think
8 credibility is for you-all to determine.

9 **MR. GLAZIER:** I just wanted to make sure.

10 **MS. SMITH:** Commissioners, we do have that
11 deposition video if you want to play all or a portion of
12 that so that you have an opportunity to do that. We
13 certainly can queue that up if that's something that you
14 would like to look at.

15 **MR. GLAZIER:** I would like to reserve the
16 right to think whether that's necessary, but I don't know
17 whether we will need it.

18 **MS. SMITH:** That is completely fine. There
19 will be an opportunity at the very end of the hearing for
20 you-all to let us know if there's any materials we have not
21 provided to you that you want to see or to read. And we
22 just have to do that before we close our case. It has to be
23 done before deliberations, but we certainly can revisit that
24 at that time if there is that or any other materials you-all
25 want to look at.

1 **MR. BRITT:** I would think that would be
2 helpful to view part -- not the entire video, but part of
3 the video.

4 **MS. SMITH:** Okay. I think in the past what
5 we have done -- I believe the chair and another commissioner
6 kind of got together and let the staff know which portion of
7 that transcript you wanted. I can provide the whole
8 transcript, but we picked the portions where she was talking
9 about the case.

10 **MR. BRITT:** I think those would be the
11 appropriate ones to view. Like I said, I don't want to see
12 the entire thing, but where she's talking about what
13 happened that night ...

14 **MS. SMITH:** We'll use the transcript, then,
15 to queue those up and we'll look at that later on, if that
16 is okay with everyone.

17 **MR. BRITT:** Thank you.

18 **MS. SMITH:** Any other questions for
19 Mr. Ziegler before we move on?

20 **MR. BOSWELL:** It seems to me -- is this the
21 first time that she talked about being at a park with
22 Mr. Williams? I don't remember that in any previous trial
23 testimony or anything else.

24 **THE WITNESS:** I don't recall whether it's the
25 first time or not. We can double-check. I know in the past

1 she had mentioned leaving with Mr. Williams and walking down
2 the street, and I can't recall whether she specified a park
3 or not.

4 **MR. BOSWELL:** Is where Mr. Wilson's body was
5 found -- is that between the drink house and the park?

6 **THE WITNESS:** Yes.

7 **MR. BOSWELL:** Okay.

8 **THE WITNESS:** The drink house is north of
9 18th Street. Mr. Wilson's body was found towards the middle
10 of the 1700 block. And the park is just south of 17th
11 Street.

12 **MR. BOSWELL:** Okay. That helps. Thank you.

13 **THE WITNESS:** If you want to look at the map,
14 I think it was Handout 45, to see those locations.

15 **MS. SMITH:** That's correct, Handout 45. It's
16 the last handout in your second notebook.

17 We are going to get the aerial photo on the
18 screen. It's going to be just a few moments.

19 Q. In the meantime, Mr. Ziegler, let me turn your
20 attention to Patricia Dunlap.

21 Who is that?

22 A. Patricia Dunlap used to be Patricia Williams. She
23 is one of the witnesses from the drink house who said that
24 she had seen the crime in progress.

25 **MS. SMITH:** Commissioners, Handout 50 in your

1 hearing handout notebooks is the criminal record of Patricia
2 Williams. If you want to take a moment to look at that.

3 Q. Did the commissioners speak -- commission staff
4 speak with Ms. Dunlap?

5 A. We did.

6 We interviewed her on April 22, 2019. She
7 remembered the case. She did not want to be interviewed but
8 once we served her with a subpoena for this hearing, she
9 agreed to talk to us.

10 **MS. SMITH:** Commissioners, Handout 51 is the
11 transcript from Ms. Dunlap's 4/2/2019 interview with
12 commission staff. If you will take some time to read that,
13 you will notice in the interview reference -- the interview
14 references Exhibit 115. It is a statement from Ms. Dunlap
15 that can be found on page 169 to 170 of your brief if you
16 need to refer back to that.

17 As an aside, Ms. Dunlap is on phone standby
18 and will be available to testify if commissioners wish to
19 hear from her.

20 **MR. BRITT:** Did you say 155?

21 **MS. SMITH:** 169 to 170 of the brief.

22 (Commissioners review, 9:42 to 9:55 a.m.)

23 **MS. SMITH:** Commissioners, do you have any
24 questions for Mr. Ziegler about commission staff's interview
25 with Ms. Dunlap?

1 **DR. PERRY:** She was clear, in your opinion,
2 or so it seems, in contrasting the two crimes of Smith -- in
3 her own mind, she was clear about Merritt and --

4 **THE WITNESS:** I can't speak to her own mind.

5 **DR. PERRY:** It seemed -- do you believe it
6 seemed to flow that there was clarity on those two crimes?

7 **THE WITNESS:** I know when I asked her if she
8 thought that Merritt Williams Drayton was guilty, she
9 clarified that she was talking about Mary Smith when she
10 said yes.

11 **DR. PERRY:** And she was clear on not knowing
12 about Arthur?

13 **THE WITNESS:** When she said yes, I know she
14 was talking about Mary Smith.

15 **DR. PERRY:** And you -- thank you.

16 **JUDGE LOCK:** Commissioner Glazier.

17 **MR. GLAZIER:** Thank you, Mr. Chair.

18 My understanding -- or my reading of it is
19 that she was consistent with the attack on Mr. Wilson being
20 done by Mr. Mitchell with some involvement at the end of it
21 by Mr. Hunt. She didn't see Hunt with him, but did see
22 Mitchell with him. And she didn't see Drayton anywhere in
23 that scenario.

24 Would that be accurate?

25 **THE WITNESS:** That's what she told us. Yes.

1 **MR. GLAZIER:** Thank you.

2 **JUDGE LOCK:** Ms. Colbert?

3 **MS. COLBERT:** In our brief, law enforcement
4 actually took pictures of where people were standing.

5 Do you remember that? Where Ms. Williams
6 would have been standing, you know, feet away from where the
7 incident happened and where certain people were standing.

8 Do you recall that being in the brief?

9 **THE WITNESS:** They took pictures from where
10 both Patricia Williams said that she was standing and
11 Barbara Bason.

12 **MS. COLBERT:** Yeah. Do you know what page
13 that was in the brief?

14 **MS. SMITH:** We will find it for you.

15 And as an aside, Ms. Colbert, we do have a
16 reconstruction expert.

17 **MS. COLBERT:** That's going to do the Wilson?

18 **MS. SMITH:** Who -- right. And he went out
19 and took photographs with commission staff as well from
20 those vantage points. So those will be coming up a little
21 bit later on today but we will find that page in the brief.

22 **MR. BOSWELL:** Are Patricia Dunlap and
23 Patricia Williams the same person?

24 **THE WITNESS:** Yes, sir.

25 **MR. BOSWELL:** Thanks.

1 **JUDGE LOCK:** Obviously I had to read this
2 fairly quickly, but I am correct in assuming that she only
3 describes two assailants in her statement to you, but in her
4 statement to law enforcement shortly after the crime, or at
5 least during the investigation, while she identifies
6 Mitchell and Hunt, she does describe the presence of a third
7 person on the scene, a third wheel?

8 **THE WITNESS:** That's correct.

9 **JUDGE LOCK:** Thank you.

10 **DR. PERRY:** But never commented further on
11 that third person?

12 **THE WITNESS:** Only to say that she didn't
13 know who it was.

14 **MR. GLAZIER:** So that leads to a follow-up.
15 Again, I think the records may clarify this, when she
16 identifies at the trial way back when a third person, she
17 doesn't identify -- or says she doesn't know that was; is
18 that correct?

19 **THE WITNESS:** That's correct.

20 **MR. GLAZIER:** The follow-up is she very much
21 knew who Drayton was at the time -- knew who he was?

22 **THE WITNESS:** I know that she told us she did
23 not really recall who he was. Her previous statements on
24 that are in the brief.

25 **MR. BOSWELL:** I think 177 and 176, 175, 174.

1 I was just reading the statements.

2 **MR. GLAZIER:** I don't want to take up time
3 but if you could just check on any statement she made about
4 knowing he was --

5 **THE WITNESS:** Sure. We'll do to that.

6 **MR. GLAZIER:** -- versus not knowing who he
7 was at the time, that would be helpful.

8 **THE WITNESS:** We'll do that.

9 **DR. PERRY:** But it's your recollection that
10 she's never claimed knowing who he was? There's nothing in
11 the record on that?

12 (Reporter clarification.)

13 **DR. PERRY:** There's no claim or nothing in
14 the record that she has ever at any point during any
15 interview claimed knowledge of that third person and
16 recanted?

17 **THE WITNESS:** I'm sorry. Ask your question
18 again, please.

19 **DR. PERRY:** She has never claimed having
20 knowledge of the third person?

21 **THE WITNESS:** She -- at the time, she said
22 that there was a third person but she could not identify who
23 that was.

24 Are you asking if she ever identified that
25 person and then later took it back?

1 **DR. PERRY:** That's correct.

2 **THE WITNESS:** That has not happened.

3 **DR. PERRY:** Thank you.

4 **MS. SMITH:** Commissioners, does anyone want
5 to hear from Patricia Dunlap? I don't have any additional
6 questions for her but she is available via telephone. She
7 has been pretty routinely homeless. She recently did find
8 housing but does not have access to the internet so we would
9 only have her via phone unless we sent staff to
10 Winston-Salem to take her to the library to put her on the
11 screen, which we're happy to do in the morning or late this
12 afternoon potentially.

13 **JUDGE LOCK:** Was her interview by Mr. Ziegler
14 videotaped?

15 **THE WITNESS:** It was not. We have audio.

16 **MS. SMITH:** Commissioners, as a matter of
17 practice, the Commission audio records interviews. We video
18 record depositions in lieu of having a court reporter
19 present for financial efficiency.

20 **DR. PERRY:** How old is she?

21 **THE WITNESS:** I would say around 60, plus or
22 minus. We can absolutely get her birth date. That's
23 something we can be precise on.

24 **MR. BRITT:** I thought there was a statement
25 by her early in her interview that said she was 63.

1 **MR. BOSWELL:** She did.

2 **THE WITNESS:** I'm looking.

3 **MR. BOSWELL:** I don't need to talk to her.

4 **JUDGE LOCK:** All right. Negative?

5 Any other questions about Ms. Dunlap?

6 **THE WITNESS:** Ms. Dunlap was born in 1956, if
7 this helps.

8 **JUDGE LOCK:** Then she's 62 or 63.

9 **MS. SMITH:** May we release her from her
10 subpoena to be on phone standby?

11 **JUDGE LOCK:** Objection from anyone?

12 (No response.)

13 **JUDGE LOCK:** You may.

14 **MS. SMITH:** Commissioners, there was a
15 question from Mr. Boswell about if Mattie Mae Davis had ever
16 said prior to the Commission's interview or deposition that
17 she went to the park with Merritt Williams.

18 On page 234 and 236 of your brief is the
19 probable cause hearing testimony of Mattie Mae Davis. And
20 on page 511 to 512 is her testimony at Sammy Mitchell's
21 second trial. She mentions in those going down towards the
22 park. She doesn't say that they went in the park.

23 Also, we have the aerial maps now that
24 Mr. Britt asked about.

25 Q. Mr. Ziegler, if you will describe this close-up

1 map and then, followed by that, we have a zoomed-out map.

2 A. Sure.

3 MS. SMITH: This one is in your brief on
4 page 151.

5 A. So this picture, the north is at the bottom end
6 and south is at the top. The drink house is obviously
7 labeled here. And here is 18th Street, which is kind at the
8 crest of a hill and it goes downhill through the 1700 block.
9 And the park would be just across the intersection of 17th
10 Street heading south.

11 DR. PERRY: While you have that picture,
12 point out where the body was found.

13 THE WITNESS: He was found somewhere towards
14 the middle of the 1700 block.

15 MS. WELCH: There --

16 THE WITNESS: 90 feet from the corner.

17 MS. WELCH: From 18th Street?

18 THE WITNESS: From 18th Street.

19 (Reporter clarification.)

20 THE WITNESS: He was found in the middle of
21 the 1700 block, 90 feet south from the 18th Street
22 intersection.

23 MR. BRITT: Can you back up to the
24 photographs.

25 We don't have any idea how the drink house

1 was positioned; we just know the general location?

2 **THE WITNESS:** It was facing Claremont Avenue.

3 Beyond that, I can't ...

4 **MR. BRITT:** And just to the left of where
5 "drink house" appears on there, is that a streetlight?

6 **THE WITNESS:** This right here?

7 **MR. BRITT:** Yes.

8 **THE WITNESS:** That appears to be a
9 streetlight.

10 **MR. BRITT:** Are there any others along that
11 street?

12 **THE WITNESS:** There is another one. I
13 believe it's obscured by this label here.

14 Q. Do you know when these photos were taken?

15 A. These photos were taken in 1986.

16 Q. So they weren't taken at the time of the crime?

17 A. The crime occurred in 1983.

18 **MR. BRITT:** I understand they were taken more
19 recent to the crime than if you would have taken them two
20 weeks ago.

21 **THE WITNESS:** Correct.

22 **MR. BRITT:** And, again, where was
23 Mr. Wilson's body located?

24 **THE WITNESS:** He was found 90 feet south of
25 the 18th Street intersection on the 1700 block.

1 **MR. BRITT:** So going towards the top of the
2 photograph?

3 **THE WITNESS:** Towards the top of the
4 photograph, which is downhill towards 17th Street.

5 (Discussion off the record.)

6 **MR. GLAZIER:** While this is up, just curious,
7 where did Mitchell and where did Hunt live?

8 **THE WITNESS:** The places they lived are not
9 on this photograph.

10 **MR. GLAZIER:** Well, directionally. I
11 understand that.

12 **THE WITNESS:** Right.

13 **MR. GLAZIER:** Would it be to the north or the
14 south?

15 **THE WITNESS:** That is something that we would
16 have to double-check on but we can do that.

17 **MR. GLAZIER:** I would like to know that.

18 **THE WITNESS:** Sure. I know that there was
19 some indication that Darryl Hunt had stayed at Lawrence
20 Myers' house, which is not in this neighborhood. I can say
21 that much.

22 **MR. GLAZIER:** Thank you.

23 **MR. BRITT:** Well, let me just ask to follow
24 up on Mr. Glazier's question.

25 Do we have an aerial photograph of

1 Winston-Salem that would show -- as I understand it, this is
2 in East Winston-Salem -- that would show, like, the
3 relationship to Patterson Avenue, Liberty Street?

4 **THE WITNESS:** We don't have an aerial
5 photograph but we can definitely pull a map of today showing
6 those locations.

7 **MR. BRITT:** Okay. I believe I read in here
8 somewhere that Mr. Mitchell lived in the Patterson Avenue
9 area.

10 **THE WITNESS:** That's correct. He had an
11 address on Patterson Avenue.

12 **MR. GLAZIER:** That is a comment which I think
13 would be south of where this took place. Well, you'll find
14 out.

15 **MS. SMITH:** We will definitely put together a
16 map and bring that back to you a little later today.

17 We will also include Merritt Williams'
18 address on there as well.

19 **JUDGE LOCK:** Okay.

20 Q. All right. Mr. Ziegler, can you orient everyone
21 with this photograph.

22 A. Right.

23 So this is another aerial photograph from 1986.
24 And, again, north is kind of here. This is the 19th Street
25 and Claremont intersection. The trees block the

1 intersection with 18th Street, but this is 18th Street right
2 here.

3 The drink house would have been in this empty lot.
4 And heading south down the hill to 17th Street you can see
5 right there, and this sort of open area here is the park.

6 **SHERIFF FRYE:** So judging from this
7 photograph, if you see that little gray car, whatever, just
8 past --

9 **THE WITNESS:** Talking about this right here
10 in the middle?

11 **SHERIFF FRYE:** Yes. Just a little past that
12 would be where the body was located; correct?

13 **THE WITNESS:** Yeah. Somewhere --

14 **MR. BRITT:** And that's beyond the crest of
15 the hill.

16 **THE WITNESS:** The hill crests kind of very
17 close to the intersection with 18th Street. So this car
18 looks like it's fairly close to that intersection and it's
19 facing down the hill.

20 **MR. BRITT:** Correct.

21 **MS. SMITH:** Any other questions?

22 **MS. COLBERT:** Can you pull up the area where
23 they said that Williams was standing -- do you have that?
24 Can that be shown here?

25 **THE WITNESS:** Are you talking about Patricia

1 Williams?

2 **MS. COLBERT:** Uh-huh.

3 **THE WITNESS:** She said that she was in front
4 of the drink house. She described a wall which appears to
5 no longer be there. And even the drink house by 1986 had
6 been razed. So the house was somewhere here and she was out
7 front in this area somewhere.

8 So this was the map that was Handout 45.

9 Now we are oriented with north going up. The
10 drink house is this red marker. And what's New Hope Lane on
11 the map was called 18th Street at the time. The park is
12 labeled here just south of 17th Street. And Mr. Wilson was
13 90 feet south of the intersection in this block.

14 Q. Mr. Ziegler, in addition to Ms. Little and
15 Ms. Dunlap, were there any other witnesses from the drink
16 house that claimed to have seen the crime in progress?

17 A. Yes.

18 Barbara Bason said that she saw the crime occur.

19 **MS. SMITH:** Commissioners, Handout 52 in your
20 hearing handout notebooks is the criminal record of Barbara
21 Bason, if you would like to take a look at that.

22 Q. Was the Commission able to speak with Ms. Bason?

23 A. No. She has been deceased since 2002.

24 We did speak with John Clowers Junior who was at
25 the drink house that night and was in a long-term

1 relationship with Ms. Bason.

2 **MS. SMITH:** Commissioners, Handout 53 in your
3 hearing handout notebook is the criminal record of John
4 Clowers Junior if you want to take a moment to look at them.

5 Q. Can you tell us about the interviews with
6 Mr. Clowers.

7 A. Sure.

8 We spoke with him on April 4, 2019. The content
9 of that is included in the chart of statements from the
10 drink house witnesses, which is Handout 44.

11 He told us that Ms. Bason was lying about having
12 seen the crime because she left the drink house with him
13 that night to go to an apartment where they stayed together
14 for the rest of the night.

15 Q. Was that different than what he said in the past?

16 A. It is.

17 He testified in Sammy Mitchell's second trial that
18 he left the drink house by himself and that Ms. Bason was
19 still there when he left.

20 Q. And after receiving the transcript of that second
21 trial, did the Commission follow up with Mr. Clowers about
22 that discrepancy?

23 A. We did.

24 We spoke with him again on May 20 and asked him
25 about that difference. He went back and forth several times

1 about whether he left the drink house by himself or whether
2 he and Ms. Bason left together. And ultimately, he said he
3 can't remember.

4 In the interview, Mr. Clowers said that he and
5 Barbara Bason were both drunk that night and he does not
6 believe that she saw the crime but he doesn't know why she
7 would say that she did.

8 When we asked him if she ever talked to him about
9 what she would tell the police, his answer was, "Yeah. She
10 just told me that -- that she saw it, that she weren't there
11 but she seen it."

12 Mr. Clowers stated that he did not see any
13 flashing lights or hear sirens that night and he did not
14 hear anyone screaming about the crime. He said that he had
15 never heard anyone else claim to have seen it. But when we
16 specifically asked him about Mattie Mae and Patricia
17 Williams, he said that he had heard them claim to have seen
18 the crime. Then he went back and forth about whether he'd
19 ever heard that or not and he said that he heard them say
20 they called the police.

21 **MS. SMITH:** Commissioners, do you have any
22 questions about that?

23 **MR. BOSWELL:** Was that interview recorded?

24 **THE WITNESS:** It was.

25 **MS. COLBERT:** What is Clowers' relationship

1 with -- is that the same Ezelle -- are they related?

2 **THE WITNESS:** John Clowers was the nephew of
3 Ezelle Clowers.

4 Q. Who else was at the drink house on September 7,
5 1983, that has been interviewed by the Commission?

6 A. We talked to Arnora Harris, who at the time of the
7 crime was going by Elnora Peoples, on May 3. This interview
8 is included in the chart of statements from the drink house
9 witness as well.

10 Ms. Harris said that she did not know Merritt
11 Williams Drayton. She remembered Darryl Hunt and Sammy
12 Mitchell. She knew Mitchell to be violent but she never saw
13 him with any sticks or weapons.

14 Ms. Harris said that she had never heard Barbara
15 Bason, Patricia Williams, or Mattie Mae Davis say that they
16 saw the crime occur but she did not think that they would
17 "tell stories."

18 **MS. SMITH:** Commissioners, Handout 54 in your
19 hearing handout notebooks is the criminal record of Arnora
20 Harris if you want to take a look at that.

21 Q. Did the Commission speak with anyone else?

22 A. We did.

23 We spoke with Mary Carroll, who used to be Mary
24 Byrd on April 4. Ms. Carroll remembered the incident but
25 not many details.

1 When we showed her her past statements, she
2 remembered some parts of it but not others. She did recall
3 a woman coming into the drink house and saying that the
4 victim had been killed. Ms. Carroll referred to Mattie Mae
5 as her cousin and said that she had never heard Mattie Mae
6 say that she saw the crime and thought that she would have
7 told her if she did see it.

8 We asked Ms. Carroll if Merritt Williams was
9 hanging out with Sammy Mitchell and Darryl Hunt and she said
10 yes, they were all at the drink house. But it is not clear
11 whether she had ever seen them anywhere together outside of
12 the drink house.

13 **MS. SMITH:** Commissioners, Handout 55 in the
14 hearing handout notebooks is the criminal record of Mary
15 Carroll, if you want to take just a moment to review it.

16 Q. Mr. Ziegler, you mentioned that the Commission
17 identified two other individuals who claimed to have been at
18 the drink house on the night of the crime.

19 Can you tell us about that?

20 A. Yes.

21 Robert Flowers was interviewed in 1990 as part of
22 the reinvestigation of the Deborah Sykes case. During that
23 interview -- this was an interview by police.

24 During that interview, he said that he was at the
25 drink house the night of the crime and saw the victim

1 flashing money and buying drinks, although when Sammy
2 Mitchell asked for a drink, the victim told him he had no
3 money.

4 We spoke with Mr. Flowers on May 14, 2019. And
5 during this interview, he said he was at the drink house
6 that night and from where he was sitting he could see both
7 the front and back doors. He saw the victim leave out the
8 front door, followed by Melvin, who he identified as Mattie
9 Mae Davis' boyfriend. He said he then saw Sammy Mitchell
10 leave out the back door after picking up an ax handle from
11 the corner.

12 Mr. Flowers stated that Darryl Hunt was not there
13 that night and anyone who said he was was "fabricating."
14 And Flowers believed that Hunt was in prison on the Sykes
15 case at the time Arthur Wilson was killed.

16 Q. Do we know who Melvin is?

17 A. No. There has been no other mention of Melvin by
18 any witness.

19 Q. And do you know if Merritt Williams has ever gone
20 by the name Melvin?

21 A. Not to my knowledge.

22 **MS. SMITH:** Commissioners, Handout 56 in your
23 hearing handout notebooks is the criminal record of Robert
24 Flowers if you want to take a moment to look at that.

25 **MS. COLBERT:** You talked to him on the phone

1 or you talked to him in person?

2 **THE WITNESS:** Robert Flowers was over the
3 phone.

4 **MR. BRITT:** Was Mr. Flowers saying the ax
5 handle was leaning against the wall?

6 **THE WITNESS:** He said that Sammy Mitchell
7 picked it up from the corner.

8 (Reporter clarification.)

9 Q. Mr. Ziegler, was Darryl Hunt in prison on the
10 Sykes case at the time that Mr. Wilson was killed?

11 A. No. The Sykes case had not yet occurred.

12 Q. Who is Carolyn Ann Wilson?

13 A. Ms. Wilson dated Sammy Mitchell around the time of
14 the crime. And we spoke with her on May 7, 2019. She
15 stated that she did not know Merritt Williams Drayton but
16 that the name Drayton sounded familiar. And she said that
17 on the night of the crime she went to the drink house to get
18 Sammy Mitchell and Darryl Hunt and that they were going to
19 walk her home, which was on Dunleith Avenue, a few blocks
20 away.

21 She stated that on the corner of 19th Street and
22 Dunleith, Mitchell and Hunt jumped on a man, hitting and
23 kicking him. They did not use a weapon. But she got scared
24 and ran home and she was drunk when this happened.

25 Ms. Wilson first stated that she was sure the man

1 she was talking about was Arthur Wilson. But when we told
2 her that Mr. Wilson was found in a different location, she
3 said that she must be talking about a different man,
4 although she could not recall his name or what he looked
5 like.

6 **MS. SMITH:** Commissioners, Handout 57 in your
7 hearing handout notebooks is the criminal record of Carolyn
8 Ann Wilson. Please take a moment to review it.

9 **MR. BRITT:** Will you repeat what you said
10 with regard to Ms. Wilson from the time she said she went to
11 the drink house to meet Sammy Mitchell and Mr. Hunt until
12 the time she said she ran away?

13 **THE WITNESS:** Yes.

14 She said that Mitchell and Hunt were going to
15 walk her home. And while they were walking down 19th
16 Street, at the corner of Dunleith Avenue, Sammy Mitchell and
17 Darryl jumped on a man.

18 **MR. BRITT:** You said Dunleith?

19 **THE WITNESS:** Yes, sir. Dunleith, which is
20 two blocks east of Claremont Avenue.

21 **MR. GLAZIER:** And I think you've also said
22 that she said they jumped on a man and she saw them hit and
23 kick him, she got scared and ran home.

24 **THE WITNESS:** That's correct.

25 **MR. GLAZIER:** All right.

1 Q. Did the Commission do anything to follow up on any
2 of the other witnesses from the drink house?

3 A. We did.

4 We asked Detective Weavil about a transcript of an
5 interview with Paul Landingham that was taken on April 15,
6 1986. Mr. Landingham was interviewed twice in short
7 succession that day. And at the end of the second
8 interview, he indicates that it was only after the Sykes
9 case that anyone said Sammy Mitchell and Darryl Hunt were
10 involved in this crime.

11 Q. Did you speak with Mr. Landingham about that
12 transcript?

13 A. No. He is deceased so we couldn't ask him about
14 it. We did follow up with Detective Weavil but he didn't
15 have anything additional to add beyond what was in the
16 transcript of that interview.

17 **MS. SMITH:** Commissioners, do you have any
18 additional questions for Mr. Ziegler about any of this
19 material?

20 **MR. BOSWELL:** Where is that transcript with
21 Landingham? Is it in our materials?

22 **THE WITNESS:** I don't believe it is but we
23 can definitely provide it to you.

24 Q. Mr. Ziegler, did the Commission have a chance to
25 speak with anyone who was not at the drink house that night

1 but who claimed to have seen the crime in progress?

2 A. We did.

3 We interviewed Mary Howell Coble and James Ford,
4 as I testified yesterday. Linda Walser and Ronald McGee
5 were both deceased at the time of our investigation although
6 Mr. McGee spoke with Phoebe Zerwick in 2004 for her article
7 about the case.

8 Q. Who is Mary Coble?

9 A. Mary Coble -- she was Mary Howell at the time of
10 that article -- was interviewed by Phoebe Zerwick in 2004
11 about this case.

12 **MS. SMITH:** Commissioners, Handout 58 in your
13 hearing handout notebooks is the criminal record of Mary
14 Coble if you want to flip to that.

15 Commissioners, the portion of the Phoebe
16 Zerwick article pertaining to Mary Howell Coble is found on
17 page 1530 of your briefs. Please go ahead and flip to that
18 and review it.

19 **JUDGE LOCK:** Did you say 1530?

20 **MS. SMITH:** 1530.

21 **MR. BOSWELL:** Is Mary Coble and Mary Howell
22 the same person?

23 **MS. SMITH:** Yes, sir.

24 (Commissioners review, 10:26 to 10:28 a.m.)

25 Q. Did commission staff interview Ms. Coble?

1 A. We did. On April 4, 2019.

2 Q. And did Ms. Coble provide any significant new
3 detail that she did not provide Ms. Zerwick?

4 A. No.

5 Q. Can you briefly tell commissioners what Ms. Coble
6 remembered about the night of the crime.

7 A. When we asked what she remembered, the first thing
8 that she said was, "We were threatened by police."

9 Ms. Coble stated that she and her cousin, Debra
10 Clark, who is now deceased, were driving north on Claremont
11 to get home to her house on 17th Street when they saw two
12 people with dark skin beating up the victim. She thought
13 they were in their late teens or 20s and she said that it
14 looked like they were pounding him with their fists.

15 Ms. Coble said she turned left down 17th Street,
16 parked her car, then walked back to where the victim was
17 laying in the street. She said he was in front of the big
18 brick church that's on the east side of Claremont Avenue and
19 that when she reached the corner, the suspects had run off,
20 police were there, and that people had come down the street
21 from the liquor house.

22 Ms. Coble recalled that police were telling people
23 to step back. She saw Mattie Mae Davis and Barbara Bason
24 out there and heard them telling police that Mitchell and
25 Hunt did the crime.

1 Ms. Coble stated that they were drunk and loud and
2 that she told police she, this being Ms. Coble, said, "We
3 saw them fighting but it wasn't Sammy and Darryl." And that
4 the officers said they needed to go home. She later said
5 that the police told her to "Shut up and go home."

6 Ms. Coble said this was directed at her
7 specifically and added, "I know they had it out for Sammy
8 and Darryl."

9 Q. Did Ms. Coble provide any further information
10 about Hunt and Mitchell?

11 A. She did. She said that they would push Mattie Mae
12 and Barbara Bason around and snatch their liquor. Ms. Coble
13 speculated that Mattie May and Barbara also thought they
14 would get money from CrimeStoppers if they named Hunt and
15 Mitchell.

16 She said that she knew Hunt and Mitchell to be
17 bullies and bothered people. She knew Mitchell to carry a
18 knife but had never seen him with a stick. And she stated
19 that Merritt Williams would talk to Hunt and Mitchell at the
20 liquor house but she never saw him run around with them. It
21 was just the two of them that would bother people.

22 Q. Was Ms. Coble able to identify the two people that
23 she saw?

24 A. She said that she did not recognize them but she
25 did not get a good look at their faces. She knew Mitchell,

1 Hunt, and Williams, and she said that she was sure it was
2 not Mitchell or Hunt but she was not sure if it was
3 Williams.

4 Q. And did you ask Ms. Coble about being interviewed
5 by Phoebe Zerwick, the journalist?

6 A. We did.

7 She remembered talking to a reporter with her
8 cousin, Debra Clark. She did not know why she was quoted in
9 the article but her cousin was not. And she disputed a few
10 facts in the article.

11 Q. What did she dispute?

12 A. She said that the article said she pulled her car
13 up to the victim and then went to a pay phone to call police
14 but that did not happen. And she said that she did not
15 drive to the victim's girlfriend's house to let her know
16 about the attack.

17 Q. When did Ms. Coble come forward?

18 A. The first time documented is when she spoke with
19 Phoebe Zerwick in 2004. She said that she did not come
20 forward after she heard that charges were brought against
21 Williams, Mitchell, and Hunt because the police had told her
22 to go home and shut up and she said that she ran an illegal
23 card house and she did not want police to show up there.

24 (Reporter clarification.)

25 **MS. SMITH:** Questions for Mr. Ziegler about

1 this information?

2 **MR. GLAZIER:** One question.

3 Am I correct that she said to you that she
4 felt that Bason and Mattie were claiming it was Hunt and
5 Mitchell because they could get some money from
6 CrimeStoppers for identifying the killers?

7 **THE WITNESS:** She said she thought that, yes.

8 **MR. GLAZIER:** And she said she thought that
9 even though she heard them saying it was Hunt and Mitchell
10 at the scene within seconds or a minute of the incident and
11 that -- is that correct?

12 **THE WITNESS:** That's what she told us, yes.

13 **MR. GLAZIER:** So one would have to assume
14 that these drunk folks, in racing down there, determined
15 with great intent they could get money from CrimeStoppers
16 and say, on the spur of the moment, it was Mitchell and Hunt
17 so that they could later get money from CrimeStoppers
18 putting those together?

19 **THE WITNESS:** I can only tell you what
20 Ms. Coble told us.

21 **MR. GLAZIER:** Thank you.

22 **JUDGE LOCK:** I want to make sure I heard you
23 correctly.

24 She said to the reporter and said to you that
25 she was sure neither of the assailants was Mitchell or Hunt,

1 but that she could not say whether or not one of the
2 assailants was Williams; is that correct?

3 **THE WITNESS:** That's correct.

4 **JUDGE LOCK:** But she knew Williams.

5 **THE WITNESS:** She did know Williams, yes.

6 **MR. BRITT:** At the time, did Mr. Williams fit
7 the description of being a dark-skinned male?

8 **THE WITNESS:** We can point you to the
9 descriptions and Mr. Williams' description.

10 **MR. BOSWELL:** Will we see Mr. Williams?

11 **THE WITNESS:** He will be here tomorrow, yes.

12 **MR. BOSWELL:** Is there any record from the
13 police on the night of the crime that anybody said it was
14 Hunt or Mitchell?

15 **THE WITNESS:** I'm sorry. You're asking if
16 there's any record from the police that those names came up
17 that night?

18 **MR. BOSWELL:** Yeah.

19 **THE WITNESS:** No. There's no record of that.

20 **MR. BOSWELL:** I didn't think so. But she
21 says in this article "Someone was hollering it was Darryl
22 and Sammy and I told the police it wasn't Darryl and Sammy."

23 But the police don't have any record of
24 anybody saying it was or anybody saying it wasn't.

25 **THE WITNESS:** That's correct.

1 **MR. BOSWELL:** Okay.

2 **MR. GLAZIER:** I know, again, it's in the
3 material somewhere so you just might point me out to it --
4 what was the weather conditions that evening? Do you know?

5 **THE WITNESS:** I could not tell you what the
6 weather was. I'm sure that we can look that information up.

7 **MR. GLAZIER:** I would like to know the
8 weather conditions particularly as it relates to cloud cover
9 or light issues.

10 **THE WITNESS:** We will pull what's available.

11 **MR. BRITT:** Do we have a copy of the incident
12 report?

13 **MS. SMITH:** The incident report --

14 **THE WITNESS:** The incident report is in your
15 brief.

16 **MS. SMITH:** Let me find the page.

17 Commissioners, I am going to have staff pass
18 around Handout 85. That is the transcript of Paul
19 Landingham that was referenced a few moments ago in an
20 interview he had with the Winston-Salem Police Department.

21 If you want to take a minute to review it
22 once you get it while we look these other things up.

23 **MR. BRITT:** On page 33 of the brief, there
24 are photographs.

25 **MS. SMITH:** Yes.

1 **MR. BRITT:** Is the photograph -- is that the
2 liquor house?

3 **MS. SMITH:** No. That is --

4 **MS. TANNER:** The photographs on page 33 of
5 the brief is where Mary Smith --

6 **MR. BRITT:** So it did not take place at
7 Ezelle's liquor house?

8 **MS. TANNER:** What? Mary Smith's death?

9 **MR. BRITT:** Yes.

10 **MS. TANNER:** No, it did not. It took place
11 where Mattie Mae Davis and Mr. Williams were living.

12 **MR. BRITT:** Okay.

13 **MS. SMITH:** To that point, page 40 in the
14 brief is where the initial reports in the Wilson case begin.

15 **JUDGE LOCK:** Ms. Smith, is this a good time
16 for the morning recess perhaps?

17 **MS. SMITH:** It would be a great time for the
18 morning recess.

19 **JUDGE LOCK:** All right. We'll be in recess,
20 then, for 15 minutes.

21 (Recess taken, 10:39 to 11:02 a.m.)

22 **JUDGE LOCK:** All right. We will come back to
23 order.

24 Yes, ma'am.

25 **MS. SMITH:** Thank you.

1 Q. Mr. Ziegler, before the break, the commissioners
2 had asked about the weather the night of the Arthur Wilson
3 crime.

4 Can you please tell them what you've been able to
5 locate.

6 A. Sure.

7 So at Darryl Hunt's first trial, which was in
8 1987, there was testimony about the weather that night that
9 indicated the moon was out. The weather report they had was
10 entered into evidence. And we have not been able to locate
11 anything that was entered into evidence, but we did pull
12 from the old Farmer's Almanac the information that we could
13 find about the weather that night.

14 The minimum temperature was 52 degrees. The
15 maximum was 84.9 degrees. There was no precipitation and
16 visibility was 11.7 miles.

17 **MR. GLAZIER:** Thank you.

18 Q. Okay. And, Mr. Ziegler, also before the break
19 there were some questions surrounding what Patricia Williams
20 Dunlap knew or said about Merritt Williams.

21 Can you give the commissioners a summary of what
22 you have been able to locate.

23 A. Sure.

24 So from various sources in the past when
25 Ms. Williams Dunlap mentioned Merritt Williams, there is a

1 police report which is on page 166 of your brief. She
2 indicated that she saw three people. She did not know the
3 third man and did not know what the third person was doing
4 to the victim.

5 In the statement she gave to police on 4/16/86 at
6 6:38 p.m., this is on 178 of the brief, she said that she
7 saw Sammy Mitchell and Darryl Hunt assault the victim and
8 she cannot place the third person "if she wanted to."

9 In her statement to police on that same date,
10 4/16/86, at 8:58 a.m., she said she could not place the
11 third man if she wanted to identify him. That is on 171 of
12 your brief.

13 She gave a written statement to police the day
14 prior to that, on April 15, 1986, in which she said she saw
15 three men jump on the man. Mitchell hit him with a stick,
16 Darryl Hunt kicked him, and she says nothing about the third
17 man or what he did.

18 She testified at the probable cause hearing on --
19 this was on 5/5/86 and is found on page 264 to 268 of your
20 brief. And her testimony indicates that it was Sammy and
21 Darryl that she saw. She does not identify the third man.
22 On cross-examination, she says she did not see a third man.
23 That is on page 276 of your brief if you want to look at it.

24 But later she says that she earlier said she did
25 see a third man run away towards 18th Street and that third

1 man was not Darryl or Sammy. That is on page 279 of your
2 brief.

3 Ms. Williams Dunlap testified in 1986 in Sammy
4 Mitchell's second trial, we have the transcript, and she
5 doesn't say anything about the third person that has not
6 been said in those past statements.

7 She testified at Darryl Hunt's first trial, which
8 we have the transcripts for. That's Handout 46, and it's
9 starting on page 59. She says she could not make out the
10 third person and she did not know who Merritt Drayton was.

11 And she's mentioned in Phoebe Zerwick's 2004
12 article that starts page 1527 of your brief. In the
13 article, it says she only identifies Mitchell and Hunt but
14 we have no indication that Ms. Zerwick actually interviewed
15 Ms. Williams. She may have just reviewed the publicly
16 available documents.

17 **DR. PERRY:** Thank you.

18 **MS. SMITH:** Okay. Any additional questions
19 about that?

20 (No response.)

21 **MS. SMITH:** There was also a question about
22 where Mr. Hunt, Mr. Mitchell, and Mr. Williams lived, and we
23 are still working on pulling together that map. Most of the
24 information that was available in the file was related to
25 1986, after they came -- after they became suspects.

1 However, we have been able to pull some court
2 records of areas -- places that they were living around the
3 time in 1983 based on arrests and what they reported to
4 officials as their addresses. So we will get that
5 information on a map but I just give you that caveat that we
6 don't necessarily know exactly where they were living on the
7 night of the crime.

8 **MR. GLAZIER:** Thank you.

9 Q. All right. Mr. Ziegler, I want to turn your
10 attention now to individuals who were identified as
11 alternate suspects by law enforcement.

12 Can you remind the commissioners who those were.

13 A. Yes.

14 In the months after the crime, there were a number
15 of calls to CrimeStoppers which named specific individuals.

16 The first caller said that "Samuel Mitchell,
17 Richie Davis, and a black male named Darryl beat the subject
18 to death." And there were other subsequent calls that
19 indicated a Richard Wright, Chuck Simmons, and Wade Brady as
20 being involved.

21 **DR. PERRY:** Sorry. Are these still drink
22 house witnesses?

23 **MS. SMITH:** They're not. I'm going to change
24 it but before I do that, I actually need to go back because
25 I missed a couple. Sorry. We will come back to the

1 alternate suspects.

2 Q. Did the Commission ever become aware of any other
3 people who claimed to have knowledge of these defendants
4 committing the crime?

5 A. We did.

6 There is a report in the police file about a
7 July 7, 1986, interview with a man named Walther Willis. He
8 stated that he saw Mitchell and Hunt beat a man to death
9 near Claremont but he indicated that the crime occurred at
10 19th Street and Cleveland Avenue. So detectives concluded
11 that he did not actually see what he claimed to have seen.

12 Q. Did commission staff interview Mr. Willis?

13 A. He is deceased.

14 **MR. GLAZIER:** Is there any report that there
15 was anyone told --

16 (Reporter clarification.)

17 **MR. GLAZIER:** Is there any report that you
18 found of a man who at the same time was beaten or killed or
19 otherwise injured at 19th and Cleveland?

20 **THE WITNESS:** Not to my knowledge.

21 **MR. GLAZIER:** Thank you.

22 Q. Was there anyone else who claims to have knowledge
23 of these defendants committing the crime?

24 A. Yes.

25 In 2004, shortly after Ms. Zerwick's article was

1 published, a name named Wilbert Allen called the
2 Winston-Salem police about the case. He said that he was an
3 informant in the 1980s and that Sammy Mitchell, Darryl Hunt,
4 Merritt Williams, and James Ford were all involved. He said
5 that he had been in jail with them and heard them talk about
6 it and that jail records would confirm his story.

7 In that call, he also said that Sammy Mitchell,
8 Darryl Hunt, and Merritt Drayton were staying at the
9 Lighthouse Mission near the location of the Deborah Sykes
10 murder.

11 Q. Did the Commission follow up with Mr. Allen?

12 A. No. He is deceased.

13 And as we have previously testified, the jail
14 records have been destroyed.

15 **MS. SMITH:** Commissioners, you may also
16 recall from your brief a discussion about Ruth Johnson who
17 alleged in a letter that she said she saw Sammy "beat that
18 man." That can be found on page 1565 of your brief.

19 Q. Was the Commission able to locate Ms. Johnson?

20 A. No. The police could not locate her in 1986 and
21 we could not locate her either.

22 **MS. SMITH:** Are there any other questions for
23 Mr. Ziegler related to these interviews?

24 (No response.)

25 Q. Now, let's go back to the alternate suspects,

1 Mr. Ziegler. You have already mentioned who they are.

2 Did police follow up on the suspects?

3 A. In 1983, Detective Wilkins showed the photos to
4 Linda Walser and Ronald McGee, who did not make any
5 indications. And then in 1986, after James Ford had
6 identified photos of Richard Wright, Chuck Simmons, and
7 Chuck's brother Donald Simmons out of a lineup, Wright and
8 the Simmons brothers were all interviewed and they denied
9 any involvement.

10 From the file, there was no apparent follow-up on
11 Wade Brady.

12 Q. Did the Commission interview Richard Wright?

13 A. We did. On April 17, 2019.

14 **MS. SMITH:** Commissioners, Handout 63 in your
15 hearing handout notebooks is the criminal record of Richard
16 Wright. If you'll take just a moment to look at that.

17 **MR. BOSWELL:** Remind me who Richard Wright
18 is.

19 **THE WITNESS:** He is an alternate suspect that
20 was named in a CrimeStoppers call and also was identified in
21 a lineup by James Ford.

22 Q. What did Mr. Wright tell commission staff?

23 A. He had very little recollection of the case. He
24 did not remember having his picture taken for the
25 nontestimonial identification order and he did not recall

1 hearing about anyone being killed on Claremont Avenue. He
2 did state that he used to play basketball at the courts on
3 19th Street.

4 Q. And why were you asking him about playing
5 basketball?

6 A. James Ford, who identified Mr. Wright as a
7 suspect, told police that he recognized the suspect from
8 seeing them play basketball on 19th Street.

9 Q. Did Mr. Wright say anything else?

10 A. He considered Chuck Simmons, who is now deceased,
11 to be like a brother to him. He knew Chuck and Chuck's
12 brother, Donald Simmons. He also knew Wade Brady, who he
13 said dated their sister.

14 He never heard them talk about this crime and he
15 never heard anything about a watch being pawned.

16 Q. Why were you asking about a watch?

17 A. The CrimeStoppers report that names Wright and
18 Brady mentions a watch, and James Ford also said that the
19 suspects took the victim's watch.

20 Q. Is there anything else that Mr. Wright could
21 remember?

22 A. He had a vague recollection of going to court when
23 James Ford "came from prison trying to say that we did
24 something and tried to get time off or something off his
25 sentence."

1 Mr. Wright said that he did not know Merritt
2 Williams. He had heard of Sammy Mitchell and Darryl Hunt.
3 And he thought that he had heard they were involved in a
4 murder on Claremont.

5 Q. Did the Commission interview Chuck Simmons?

6 A. No. He's deceased.

7 **MS. SMITH:** Commissioners, Handout 64 in your
8 hearing handout notebooks is the criminal record of Chuck
9 Simmons.

10 Q. Who is Donald Simmons?

11 A. Donald Simmons is Chuck Simmons' brother. He was
12 identified as a suspect by James Ford along with Chuck and
13 Richard Wright.

14 **MS. SMITH:** Commissioners, Handout 65 in your
15 hearing handout notebooks is the criminal record of Donald
16 Simmons, if you want to take a moment to look at that.

17 Q. Did the Commission speak with Donald Simmons?

18 A. We did. On April 24, 2019.

19 He did not know Merritt Williams but he had heard
20 of Darryl Hunt and Sammy Mitchell. He told us that he once
21 fought Sammy Mitchell but he can't remember why.

22 The Arthur Wilson case did not sound familiar to
23 Donald Simmons and he did not recall talking to police about
24 it. He said that he was in and out of jail a lot when he
25 was young so he talked to police about a lot of things.

1 We asked Mr. Simmons if he had heard his name
2 being put in a murder case. This seemed to jog his memory a
3 little bit and he described being taken to court to sit in
4 the front row with his brother and with Richard Wright,
5 although he did not know why and he did not know anyone had
6 ever ID'd him out of a photo lineup.

7 Mr. Simmons said that he recalled talking to
8 police at his mother's house about a robbery a few years
9 before he was taken to court but he didn't know anything
10 about this case and police seemed to believe him. That was
11 his assessment.

12 Mr. Simmons also knew Wade Brady but did not
13 remember him ever having a watch to sell. He never heard
14 Brady, Wright, or his brother talk about this crime. And he
15 never heard anyone else talk about them being involved.

16 He also used to play basketball on 19th Street and
17 said that a lot of people would play there.

18 Q. Did Mr. Simmons know why someone would name him as
19 being involved in this crime?

20 A. No. He said that he was a wild teenager. He said
21 that he didn't have any friends but he was a ladies' man and
22 he may have slept with someone's girlfriend.

23 Q. Did he remember anything else?

24 A. He did not.

25 Q. Did the Commission interview Wade Brady?

1 A. Yes.

2 We spoke with Mr. Brady on April 19th of this
3 year. He did not recall this crime at all. He stated that
4 police never talked with him about it. He did not know
5 Richard Wright or the Simmons brothers and he has never
6 heard anything about who killed Arthur Wilson and did not
7 know why someone would suggest that he was involved.

8 MS. SMITH: Commissioners, Handout 66 is the
9 criminal record of Wade Brady if you want to take a moment
10 to review that.

11 Q. What about Richie Davis?

12 A. There didn't appear to be any follow-up by police
13 on the CrimeStoppers tip that named Richie Davis.

14 There is Richard Lee Davis who is now deceased
15 that was interviewed on September 23, 1990, as part of the
16 reinvestigation into the Deborah Sykes case. At that time,
17 he said he was friends with Darryl Hunt and Sammy Mitchell
18 and he did not think they killed Arthur Wilson. He said he
19 couldn't say anything about the Sykes case.

20 Mr. Davis said he would get high and drunk with
21 Mitchell and Hunt and that he would try to get Darryl Hunt
22 away from Sammy Mitchell but that Mitchell was Hunt's idol.
23 He stated that they used to talk about jumping on people but
24 Mitchell was a good guy if you didn't show fear.

25 Q. Did the Commission's investigation find any

1 follow-up related to Mr. Davis?

2 A. No. By the time that statement was taken in the
3 Sykes case, the trials in the Wilson case were all over.

4 There are a few witnesses that told us they
5 thought Mr. Davis was related to Ezelle Clowers, and Ezelle
6 Clowers Junior confirmed that Davis was the son of Edith
7 Davis, who had dated Ezelle Clowers Senior. And he also
8 said that Davis was deceased.

9 MS. SMITH: Commissioners, any questions so
10 far on those alternate suspects?

11 (No response.)

12 Q. Were there any other alternate suspects?

13 A. In her April 29, 1986, statement to Officer
14 Pegram, which was her first statement in the file, Barbara
15 Bason indicated that she saw Sammy and Darryl hit the victim
16 with something that looked like a brick and she said that
17 two days later she was threatened with guns by Sammy
18 Mitchell, Darryl Hunt, and a black male named Bernard.

19 The police file contained printouts of criminal
20 records for many people. There was one person included
21 whose name was Ronald Bernard Watson. Commission staff
22 spoke with Mr. Watson who stated that he knew Mitchell and
23 Hunt but did not know the name Merritt Williams Drayton and
24 did not know Barbara Bason. He did not remember this crime
25 and stated he thought he was in prison at the time, and that

1 appears to be corroborated by DPS records which indicated he
2 had 90 days in custody on a split probation starting on
3 August 29, 1980.

4 Q. Was there anyone else?

5 A. In Phoebe Zerwick's 2004 article, she writes about
6 Ronald McGee seeing the suspect that he saw on the night of
7 the crime around town in the years following.

8 McGee told Zerwick that he would hang out with
9 this person near Greenway Avenue. The article does not name
10 that person but typed notes from Ms. Zerwick that we
11 obtained through the Wake Forest Law Library indicate that
12 McGee told Zerwick he knew this person as Jeff.

13 Q. Did the Commission follow up on Jeff?

14 A. We did.

15 We identified three individuals named Jeff that
16 might be the person McGee was referring to.

17 Q. And who are those Jeffs?

18 A. We did a keyword search through the Sykes
19 Committee documents that returned a Jeff Johnson, who was
20 included in the photo lineups in that investigation.

21 Commission staff interviewed him on May 19, 2019.
22 He indicated that he knew Ronald McGee and he recalled this
23 crime. He stated that the night after the crime, an
24 individual named Kenneth Pinkney told him that Pinkney was
25 present when Randy Weeks killed the victim in a strong-arm

1 robbery. Pinkney and Weeks are both deceased, but Jeff
2 Johnson stated that his cousin Richard Johnson had also
3 heard Pinkney talk about the crime.

4 Richard Johnson denied having any knowledge.

5 MS. SMITH: Commissioners, Handout 67 in your
6 hearing handout notebooks is the criminal record of Jeff
7 Johnson and Handout 68 is the criminal record of Richard
8 Johnson if you want to take a moment to review those.

9 Also, Handout 69 is the criminal record of
10 Kenneth Pinkney and Handout 70 is the Criminal record of
11 Randy Weeks, if you will also take a moment to review them.

12 Q. Can you tell us who another Jeff is.

13 A. Sure.

14 We did a Lexis public records search for the name
15 Jeff with an address on Greenway Avenue where McGee said
16 that he knew Jeff from, and that returned an individual
17 named Jeff Holloway.

18 Holloway lives in West Virginia but we spoke to
19 him by phone on May 23, 2019. Mr. Holloway said that he did
20 not know Arthur Wilson, Merritt Williams, or Ronald McGee.
21 He stated that he did live on Greenway Avenue in the 1990s
22 but that he did not ever go to drink houses because he does
23 not drink.

24 MS. SMITH: Commissioners, Handout 71 is the
25 criminal record of Jeff Holloway.

1 Q. And who was the third Jeff?

2 A. The third Jeff was found through a keyword search
3 of the Sykes Committee documents which returned a Jeff
4 Turner.

5 Jeff Turner was in the Sykes documents in a
6 CrimeStoppers tip. He was listed as a possible suspect in
7 that case and described as a heavy black male in his early
8 20s. We were not able to locate Mr. Turner.

9 MS. SMITH: Commissioners, Handout 72 in your
10 hearing handout notebooks is the criminal record of Jeff
11 Turner.

12 Q. Did the Commission become aware of any other
13 possible suspects?

14 A. Yes.

15 When we received Volume 5 of the trial transcripts
16 for Sammy Mitchell's second trial recently, there was
17 testimony from a witness named Doris Clark, also called
18 Doris C. Smith.

19 Ms. Clark testified that she saw Mattie Mae Davis
20 and her nephew, Howard Little, on July 6. And according to
21 Ms. Clark, Mattie Mae and Little had nowhere to stay. She
22 had been staying -- and that Little, this Howard Little, had
23 been staying at the drink house.

24 Clark said Mattie Mae asked her sister and Doris'
25 sister to take Little to Hartsville, South Carolina, because

1 he got into some trouble and she did not want him to be
2 picked up by police related to the Wilson case.

3 Ms. Clark further testified that her sister did in
4 fact take Mr. Little to South Carolina and that Doris had
5 not seen him since. She stated that Little appeared to be
6 about 16 years old. No one talked to her into coming
7 forward or paid her, although she was present for the
8 entirety of Sammy Mitchell's first trial and she did not
9 come forward then.

10 Q. Was there any other information related to Howard
11 Little in the police file?

12 A. Not in the Wilson case file.

13 The Bryson file contained a report of a
14 December 18, 1986, interview with Howard Little. That
15 report indicated that he was located in Winston-Salem and he
16 had a -- but did not have a permanent address at that time.
17 It stated that Little denied "involvement with Merritt
18 Drayton in the homicide of Arthur Wilson."

19 Howard Little told the detectives that he stayed
20 with his cousin Jane Hamm in Hartsfield, South Carolina,
21 from June through September of 1986. Detective Hicks noted
22 in her report that Little appeared to be truthful although
23 it was apparent that was, in her words, "mentally retarded."

24 Q. Did the Commission follow up on the information
25 related to Doris Clark and Howard Little?

1 A. Doris Clark and Jane Hamm are both deceased. We
2 weren't able to find any information about Mr. Little that
3 was more current than 2001.

4 Since Howard Little was a relative of Mattie Mae
5 Little, we did reach out to her on May 29, 2019, and Mattie
6 Mae Little confirmed that she did in fact have a nephew
7 named Howard Little but that he lived in either Lenoir or
8 Sampson. She did not know how to get in touch with him and
9 she did not know a Doris Clark.

10 Q. Was the Commission able to locate Howard Little
11 with that information?

12 A. We were not.

13 **MS. SMITH:** Commissioners, any questions?

14 (No response.)

15 **MS. SMITH:** All right. Commissioners, we now
16 have the map ready.

17 Q. All right. Here is the map that staff was able to
18 put together.

19 Mr. Ziegler, if you can walk the commissioners
20 through this map.

21 A. Sure. So this was a zoomed-out map from what we
22 were looking at before. This red mark is where Ezelle
23 Clowers' drink house was. The previous map was focused just
24 on this area.

25 Here in the upper right corner, the green dot

1 where it says Hunt's address, that is the address of
2 Lawrence Myers' drink house where Hunt said he stayed the
3 night of the murder.

4 This yellow dot down towards the bottom was the
5 address that Mr. Hunt gave when he was arrested for an
6 offense that occurred on 11/3/1983. And this address down
7 here is what he provided at that time, and that address is
8 1116 East 19th Street.

9 The black dot here is another address that
10 Mr. Hunt provided when he was arrested for an offense that
11 occurred on 11/15/1983 although he was served on 12/2/83 so
12 that's when he gave this address. And that address is 4344
13 Ogburn Avenue.

14 This purple dot indicates Liberty Street, which is
15 a little hard to see, but more or less runs parallel with 52
16 here. Mattie Mae had indicated to police that she and
17 Merritt Williams lived on Liberty Street at the time of the
18 crime. She did not give a house number. So this dot is
19 likely not the specific spot but just indicating that it's
20 Liberty Street -- excuse me -- she told the Commission that
21 she was living on Liberty Street at the time of the crime.

22 And Sammy Mitchell is indicated by this blue dot
23 on the bottom with an address on Patterson Avenue. That is
24 760 Patterson. And that was an address that he gave when he
25 was arrested on September 9, 1983, which is just a few weeks

1 before the crime, Sammy Mitchell was living here.

2 **MS. SMITH:** Commissioners, do you have of any
3 questions about that?

4 (No response.)

5 Q. Mr. Ziegler, I am going to turn your attention to
6 other witnesses.

7 Did the Commission speak with any other witnesses
8 related to the Arthur Wilson case?

9 A. We did. We interviewed Yvette Johnson, Kathy
10 LeBlance, and Dennis Speaks.

11 Q. And who is Yvette Johnson?

12 A. Ms. Johnson was a girlfriend of Merritt Williams
13 around the time of the crime. The Commission learned about
14 her through our review of Mr. Williams' police contact
15 records -- that's been referred to the PISTOL records --
16 because she had taken out charges on Mr. Williams for
17 multiple assaults at the end of 1983 as well as a rape in
18 February of 1984. Mr. Williams was not convicted on any of
19 these charges.

20 We spoke with Ms. Johnson on April 5, 2019. She
21 recalled dating Mr. Williams and remembered him to be
22 violent. She stated that he once tried to kill her by
23 pouring bleach down her throat. And she stated that
24 Williams told her he killed a man in South Carolina but she
25 didn't have any information about that.

1 Ms. Johnson did not know if Williams was friends
2 with Sammy Mitchell and Darryl Hunt. She never saw them
3 together but stated that even though they dated, she was not
4 around Williams very much. She had no firsthand knowledge
5 about this case.

6 And when we asked her if she knew why Mr. Williams
7 was in prison, she stated "They say murder, that he killed a
8 man at -- on Locust for five dollars or something, beat that
9 man up or something, and killed Deborah Sykes. I don't know
10 if it's true or not. I don't know."

11 She did not recall where she heard this
12 information and she stated that she was not dating Williams
13 at the time. She also read about the murder in the paper.

14 Yvette Johnson had never heard Mr. Williams talk
15 about this crime and never heard about him committing any
16 other crimes with Mitchell or Hunt.

17 **MS. SMITH:** Commissioners, Handout 73 in your
18 notebooks is the criminal record of the Yvette Johnson. If
19 you'll take just a moment to review that.

20 Do you have any questions for Mr. Ziegler
21 about Yvette Johnson?

22 (No response.)

23 Q. Who is Kathy LeBlance?

24 A. Kathy LeBlance is formerly Kathy Mitchell. She is
25 Sammy Mitchell's sister. Commission staff spoke to her on

1 April 25, 2019. She firmly believes in her brother's
2 innocence and stated that she did not know whether Mitchell
3 was at the drink house that night. Then she later stated
4 that, thinking back on her conversations with him, he was
5 not there.

6 Ms. LeBlance said that she thought Mitchell was
7 framed in the Arthur Wilson case because he was wanted for
8 the Sykes case and because he was close with Darryl Hunt.
9 Ms. LeBlance did not know who Merritt Williams Drayton is
10 and she did not know that Darryl Hunt was charged in this
11 crime.

12 Ms. LeBlance recalled Barbara Bason as the only
13 witness to claim to have seen Sammy Mitchell commit the
14 crime. There was an arrest warrant in the Winston-Salem
15 police file for LeBlance for threatening Bason during one of
16 Mitchell's trials.

17 Ms. LeBlance claimed that this was based on a lie
18 and that she did not threaten Ms. Bason. She only asked her
19 not to lie.

20 Ms. LeBlance acknowledged Mitchell's past violence
21 and said that he would get drunk and fight but that he never
22 carried a stick and would not kill someone. She stated that
23 Mitchell did not need to rob anybody because his family
24 would give him money if he needed it. And she said that he
25 directly told her he did not kill Arthur Wilson.

1 **MS. SMITH:** Commissioners, Handout 74 in your
2 notebooks is the criminal record of Kathy LeBlance. Please
3 take a moment to look at that.

4 Commissioners, do you have any questions for
5 Mr. Ziegler about Kathy LeBlance?

6 (No response.)

7 Q. Who is Dennis Speaks?

8 A. Dennis Speaks was interviewed by the police on
9 September 23rd, 1986. This report indicates that he was
10 intoxicated and had just confessed to an unrelated murder.
11 The report says Speaks said that someone named Henny Pope
12 who drove a white Cougar saw Arthur Wilson's murder and told
13 him that Mitchell and Hunt had killed Arthur Wilson.

14 **MS. SMITH:** Commissioners, Handout 75 in your
15 hearing notebooks is the criminal record of Dennis Speaks.
16 Please take a moment to review that.

17 Q. Did the Commission interview Dennis Speaks?

18 A. We did.

19 He said that he had no knowledge about the death
20 of Arthur Wilson and did not recall telling detectives that
21 Henny Pope talked to him about it.

22 **MS. SMITH:** Commissioners, Handout 76 in your
23 handout notebooks is the affidavit of Dennis Speaks. If you
24 will please take some time to review that.

25 Q. Mr. Ziegler, was there any indication in the

1 Winston-Salem Police Department file that police followed up
2 with Henny Pope?

3 A. No.

4 Q. Did commission staff speak with Ms. Pope?

5 A. No. We identified her as Loretta Hickman Pope and
6 she is deceased.

7 **MS. SMITH:** Commissioners, do you have any
8 questions about any of these witnesses?

9 (No response.)

10 Do you have any additional questions right
11 now for Mr. Ziegler about anything he has testified about?

12 **MR. GLAZIER:** You had wanted us to read 76?

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

14 **MR. GLAZIER:** I'm just trying to remember the
15 testimony. In September of '86 -- no, that's not it -- in
16 '87, who was the DA in Winston-Salem?

17 **THE WITNESS:** Warren Sparrow, I believe was
18 the DA in 1987.

19 **MR. GLAZIER:** To '88? And then switched to
20 Mr. Tisdale in '89?

21 **THE WITNESS:** Mr. Tisdale was before
22 Mr. Sparrow.

23 **MR. GLAZIER:** Okay. So Sparrow was in for
24 that four-year period?

25 **THE WITNESS:** I'm not sure how long he was in

1 but he was the DA at that time.

2 **MR. GLAZIER:** Okay. I'm just trying to get
3 it straight. Thank you.

4 **MS. SMITH:** I will ask that Mr. Ziegler step
5 down and then I will recall Ms. Tanner.

6 (Witness stands down, 11:40 a.m.)

7 (Beth Tanner recalled, 11:40 a.m.)

8 **JUDGE LOCK:** She will remain under oath.

9 **MS. SMITH:** Commissioners, during this
10 testimony, you may wish to refer to Appendix D of your
11 brief, which is the forensic testing chart for the Wilson
12 case.

13 Q. Ms. Tanner, in the Wilson case, what evidence was
14 collected and when was that evidence collected by law
15 enforcement?

16 A. The initial 1983 investigation resulted in the
17 collection of evidence from Mr. Wilson. Records indicate
18 that, on 9/17/83, the day of the crime, WSPD collected the
19 victim's clothes -- boots, cap, pants, sweater, T-shirt,
20 boxer shorts, bandanna, socks -- and 17 cents. A property
21 report in the WSPD file described the victim's pants as
22 gray, pinstriped pants.

23 On 4/11/86, which is several years after the
24 crime, Merritt Williams took police to his apartment and
25 gave them one ax handle with black tape. Records in the

1 WSPD file indicated that the ax handle and the victim's
2 clothes were released from property control for court on
3 9/8/86. Neither the clerk nor WSPD still have those. These
4 items -- none of the files that we have reviewed or have
5 been able to obtain have contained destruction orders or any
6 other disposition records.

7 Q. What efforts did commission staff undertake to
8 locate the evidence in the Wilson case?

9 A. We got the following from evidence storage at
10 WSPD. There were two boxes labeled "Arthur Wilson murder."
11 The first box was the paper case file from the WSPD
12 evidence. The second box had trial transcripts as well as
13 three small papers with what appeared to be brief phone
14 messages, an empty plastic bag, an empty paper bag
15 accompanied by a paper in a sealed plastic bag which
16 indicated that WSPD received clothes from Forsyth Regional
17 Hospital on 9/17/83. Forsyth is where the autopsy was done.
18 It appears that these empty bags once contained the victim's
19 clothes.

20 There was also a sealed envelope with a cassette
21 recording of a conversation with Wilbert Allen and a sealed
22 envelope with a CD of the case file for Arthur Wilson
23 homicide and a sealed envelope with fiber samples from the
24 ax handle.

25 We also conducted a search at the Forsyth County

1 Clerk's evidence room and there was no evidence there from
2 the Wilson case.

3 We talked about Catawba County earlier but they
4 explained that this was a change of location, not venue, so
5 they didn't even have their own file from this case. They
6 had no records at all from the Hunt case.

7 In addition, the particular assistant clerk we
8 spoke with, Whitney, remembered hearing about a case that
9 had been done in Catawba County in which Forsyth County had
10 brought over everything, including judge and staff, to do
11 the trial and then left. There was no record of that.

12 She said that if there was a paper or microfilm
13 copy of the file from their office, she would still have
14 that in the computer system. That system goes back until
15 1984 or '85. They have an evidence room with an evidence
16 log. The office moved a little over a year ago and their
17 evidence room had some rain damage. The clerk's office went
18 through it extensively, cleaned out the evidence room, and
19 it is now well organized.

20 The clerk we spoke with looked at the physical log
21 and said there was no record of this case and no evidence
22 logged prior to the year 2013. She also spoke with some
23 other assistant clerks in the office and their consensus was
24 that the clerk's office would not have kept any evidence
25 from a case with an acquittal.

1 Q. Did the Commission conduct any independent
2 forensic testing in the Wilson case?

3 A. No. Though had some of the evidence been
4 available, there were some items that we would've considered
5 testing.

6 Q. Ms. Tanner, earlier you discussed several experts
7 that were retained to review the Bryson case. We've already
8 discussed the DNA components and heard from expert Meghan
9 Clement.

10 Can you remind the commissioners about the
11 remaining experts we retained in the Bryson case and also
12 tell them what experts we retained in the Wilson case.

13 A. Yes.

14 For investigation of these cases, we used Casson
15 Reynolds. He is a reconstruction expert assisting us in the
16 Wilson case. He primarily worked with us in understanding
17 the viewpoints from the witnesses who indicated they saw the
18 assault take place.

19 We also retained an expert forensic pathologist,
20 Dr. Jerri McLemore, to look at both cases. We've already
21 talked about what she said in the Bryson case.

22 We retained Dr. Max Houck, a forensic expert,
23 regarding the trace analysis, both hair and fiber, done in
24 both the Wilson and Bryson cases.

25 In addition, we consulted with the crime lab

1 regarding the trace analysis in both cases.

2 As a reminder, though -- we just talked about
3 this -- there was a fiber found on the ax handle in Merritt
4 Williams' apartment in 1986 that was originally compared to
5 the victim's pants.

6 In the Bryson case, there were fiber comparisons
7 made between the toboggan found at the crime scene and a
8 toboggan owned by Merritt Williams.

9 In addition there, was a hair fragment from the
10 Bryson crime scene microscopically compared to Merritt
11 Williams.

12 Finally, we retained Dr. Kelley, a confession
13 expert, to examine the statements Williams made both in the
14 Bryson and Wilson cases.

15 **MS. SMITH:** Commissioners, you were already
16 provided copies of Handouts 77 through 81 prior to the
17 hearing for your review and consideration. Those handouts
18 included the reports and CVs of all of these experts that we
19 intend to call. You can refer to them during that relevant
20 testimony.

21 Q. Ms. Tanner, let's start by discussing Casson
22 Reynolds, the reconstruction expert.

23 Can you explain to us what we were looking for
24 when we reached out to Mr. Reynolds.

25 A. Yes.

1 At the trials in these cases, there were multiple
2 questions -- this also happened later in the media --
3 regarding the lighting at the time of the crime, the
4 distance that various witnesses were standing from the scene
5 of the crime, and what these witnesses said they saw or did
6 not see.

7 In addition, there were some photos from 1986
8 taken by the police but it was not clear from reviewing the
9 file what focus, angles, or lighting was used in those
10 photos. Because of that, we essentially thought we would
11 start that analysis from scratch and consult with someone on
12 these issues regarding what witnesses could or could not see
13 just based on an analysis of the scene.

14 Mr. Reynolds' task was to evaluate with
15 measurements what the witnesses reported having seen and
16 where they reported standing.

17 He also provided some opinions on how light and
18 darkness impacted the scene and he measured the rise of the
19 hill that is part of that area of Claremont Avenue.

20 Q. And you mentioned there were questions at trial
21 regarding the lighting and distance witnesses were from the
22 crime.

23 Did the Commission collect any further transcripts
24 from trial testimony related to the lighting?

25 A. Yes. We were able to collect portions of the

1 trial transcript from Darryl Hunt's first trial and from the
2 defense case of Sammy Mitchell's second trial.

3 Though the distances of the witnesses were
4 essentially fodder for cross-examination, the defense in the
5 Mitchell case did not put on any additional evidence related
6 to photography, reconstruction, or lighting. However, the
7 defense in the first Hunt trial for this case almost
8 completely focused on lighting and distances from the crime
9 scene.

10 At that trial, WSPD Detective Hicks testified
11 about the photographs and said that she was unsure of a way
12 to take photographs at night to create the exact lighting
13 conditions.

14 In addition, WSPD ID section Officer Schulte, who
15 took the pictures that are the part of the file, also
16 testified. He said that he was not aware of a way to get a
17 photo to show the exact lighting conditions and he was
18 cross-examined on the lightness of the photos in the WSPD
19 file and he said his job was to get the best photograph that
20 could be taken.

21 Defense Investigator Les Burns was also a witness
22 in that portion of the trial. He testified both on voir
23 dire and then at trial.

24 He described his process -- he went out and took
25 his own photos.

1 He described his process in taking photos and
2 going out at night to the scene of the crime. He testified
3 that when you were "positioned as Patricia Williams," you
4 could see streetlights at the corner but you could not
5 identify anyone at the corner, including race, facial
6 features, whether they had hats on their head, or their
7 gender.

8 He also testified that from Barbara Bason's view
9 you could count individuals but he could not recognize even
10 someone he knew. He could only see the person he knew when
11 he was within about 30 feet of them.

12 There was also the same voir dire and trial
13 testimony by Ron Character. He was the photographer that
14 accompanied Les Burns to take photos before trial. He
15 agreed with Mr. Burns regarding the fact that he was unable
16 to really see features, race, or gender from those
17 witnesses' standpoints.

18 In addition, the defense called a man named James
19 Lowery. Mr. Lowery owned a store on the corner of 18th and
20 Claremont at the time of the crime. He said that he did not
21 have a light in front of his store because people would
22 always punch it out. He said at night you could not see
23 people over 25 feet away.

24 There were some questions about porch lights, and
25 he testified "People on Claremont don't run their porch

1 light because it runs up your light bill." He also
2 testified that he did not go out in the area at night
3 because "People rob you because they don't have jobs."

4 Q. Did you provide that additional testimony to
5 Mr. Reynolds?

6 A. We did provide that additional testimony to
7 Mr. Reynolds.

8 MS. SMITH: Commissioners, we have not
9 provided that testimony to you-all but we do have it
10 available if that's something you think that you want to
11 see. We know there were some questions earlier about
12 lighting and what the conditions were at the time.

13 JUDGE LOCK: Does anybody want it?

14 MR. BOSWELL: Will the expert be testifying
15 about it?

16 MS. SMITH: He is going to testify as to what
17 he did. He relied on some of that information but he is
18 going to testify as to what his analysis is.

19 (Discussion off the record.)

20 JUDGE LOCK: Fair to say if anyone wants it,
21 they can look at it over the lunch break; is that right?

22 MS. SMITH: Yes. That is correct.

23 MR. BOSWELL: I would like to see it.

24 MS. COLBERT: I had asked about it too so I
25 would like to see it.

1 **MS. SMITH:** Okay. We will make that
2 available.

3 And, Commissioners, we are ahead of schedule
4 today, and our expert is not going to be here for a while.
5 Our lunch is also not going to be here until 12:30. So we
6 can pull that together so that we can maybe take an extended
7 lunch and you-all can look at that kind of at ease here
8 before the food arrives, if that works.

9 **JUDGE LOCK:** All right.

10 **MS. SMITH:** I think now is probably a good
11 stopping place for us unless you have questions for
12 Ms. Tanner before we do that.

13 **MR. EDWARDS:** I do have one question.

14 **THE WITNESS:** Yes, sir.

15 **MR. EDWARDS:** Going back to -- I think the
16 Darryl Hunt trial you said was moved to Catawba County.

17 **THE WITNESS:** Yes.

18 **MR. EDWARDS:** And that was a change of
19 location but not venue.

20 Why was that? Why was the location --

21 **THE WITNESS:** Why was the location changed?

22 **MR. EDWARDS:** Yes.

23 **THE WITNESS:** I think the location was
24 changed based on arguments made -- and I can pull the
25 transcripts together; so this is based on my memory of

1 reading those -- about -- there was just a lot of questions
2 about whether or not there could be a fair trial there given
3 all the media attention and the fact that it was Mr. Hunt.

4 So I don't -- I mean, that was kind of the
5 assessment that I got about it. I don't have any indication
6 about why there was a decision about change of venue versus
7 location, and I can't remember a portion of the transcript
8 where the judge says -- makes that distinction.

9 Yes, sir.

10 **JUDGE LOCK:** I don't know that this is either
11 here nor there, but I have been in this business for over 35
12 years. I've never heard of a change of location as opposed
13 to a change of venue.

14 Did you determine what that meant?

15 **THE WITNESS:** I have not either. But my
16 understanding of that, as was explained to me -- or to our
17 staff by the Catawba clerk, is that if it had been a "change
18 of venue," they would have created a file number and would
19 have had a file.

20 **JUDGE LOCK:** Was it the case that when a
21 venue of a trial is changed, that the file moves to the
22 clerk of court's office in the county in which the case is
23 going to be tried and once the trial is over, it is moved
24 back to the original county?

25 **THE WITNESS:** That is my understanding of

1 what change of venue does and how it happens.

2 So what Catawba Clerk said to us was they
3 define these things differently. I don't have answers from
4 the trial transcript as to any difference at all in that,
5 but they essentially said they didn't maintain or keep any
6 kind of file and so she defined that as "change of
7 location."

8 **JUDGE LOCK:** But on the other hand --

9 **THE WITNESS:** -- they wouldn't have anyway.

10 **JUDGE LOCK:** In the Sledge case, I believe,
11 the file -- or at least some evidence didn't remain in
12 Columbus County after venue was changed; is that not
13 correct?

14 **THE WITNESS:** You're -- I was not employed
15 here.

16 **MS. SMITH:** I was just thinking as you said
17 that, I do actually think the file and some of the evidence
18 remained in Columbus County and did not go back to Bladen
19 County. That was late -- a mid-'70s case. So I don't know
20 what the practice was then.

21 **JUDGE LOCK:** But regardless, the fact is the
22 Catawba County Clerk's Office claims they don't have
23 anything; is that right?

24 **THE WITNESS:** So they not only claim they
25 don't have anything, but they were able to tell us about the

1 fact that they had cleaned out their evidence room -- they
2 had a physical evidence log, and the last case of evidence
3 they had in their room went back to 2013.

4 **JUDGE LOCK:** I see.

5 **THE WITNESS:** Yeah. So they did not have --
6 at least they did not express to us they had any evidence
7 they could identify.

8 **MS. SMITH:** Any other questions for
9 Ms. Tanner?

10 (No response.)

11 **MS. SMITH:** We are printing those transcripts
12 right now and will have them to you momentarily. So we will
13 be at ease, and then the food will be ready around 12:30. I
14 know that we need to be on the call around 1:00 o'clock
15 related to this hearing. So maybe we'll take from now until
16 1:15?

17 **JUDGE LOCK:** What time is your expert here?

18 **THE WITNESS:** He said he would be here by
19 1:15.

20 **MS. SMITH:** He will be here by 1:15. So
21 1:15, maybe 1:30, if he is running a few minutes late.

22 **JUDGE LOCK:** All right. Why don't we just be
23 prepared to reconvene at 1:15, then, folks, if the expert is
24 here. If not, we will reconvene as soon as the witness
25 arrives.

1 So people that want to look at transcripts
2 can just do so during the lunch recess.

3 There is no reason not to go ahead and recess
4 for lunch, is there? That way if people need to make phone
5 calls to their offices and things like that, they can do
6 that?

7 All right. We will be in recess until 1:15.

8 (Recess taken, 11:57 a.m. to 1:26 p.m.)

9 **JUDGE LOCK:** All right. Let's come back to
10 order. We are all present, for the record.

11 **MS. SMITH:** Commissioners, we're going to
12 turn our attention now to the trace evidence in this case.
13 We are going to take a couple of experts a little bit out of
14 order just to fit everybody one in this afternoon according
15 to their schedules.

16 So we are going to turn to the trace
17 evidence. As you may recall from earlier testimony, there
18 were questions during the investigation related to both
19 fiber and hair analysis in both cases.

20 In the Wilson case, Appendix D of your brief
21 has that trace analysis chart. Page 189 of your brief and
22 the following pages regard the forensic testing and reports
23 from the Wilson case.

24 And in the Bryson case, Appendix F and
25 page 940 of your brief have information about forensic

1 testing there.

2 We have with us today Max Houck. His report
3 and CV were Handout 79 in your hearing handout notebooks --
4 sorry -- Handout 80 in your hearing handout notebooks.

5 If you wish to refer to that while he is
6 testifying, you've already had an opportunity to review that
7 prior to the hearing.

8 (WebEx conference initiated.)

9 **MS. SMITH:** Good afternoon, Dr. Houck.

10 **DR. HOUCK:** Good afternoon.

11 **MS. SMITH:** I'm Lindsey. I'm the Executive
12 Director of the North Carolina Innocence Inquiry Commission.
13 I will be asking questions of you today. And then after I
14 am done, the commissioners seated around the table may also
15 have additional questions for you. Okay?

16 **DR. HOUCK:** Very good.

17 **MS. SMITH:** Judge Lock, will you swear in the
18 witness.

19 * * * * *

20 Thereupon, MAX HOUCK, Ph.D., a witness having been called by
21 the Commission, was sworn and testified (via WebEx video
22 teleconference) as follows:

23 EXAMINATION

24 BY MS. SMITH: (1:29 p.m.)

25 Q. Dr. Houck, can you please provide your name for

1 the commissioners.

2 A. Sure. My name is Max Houck, H-o-u-c-k.

3 Q. And where do you currently work?

4 A. I am managing director of Forensic Intelligence
5 Services, which is a consulting firm in St. Petersburg,
6 Florida.

7 I am also faculty and program coordinator of the
8 Forensic Studies and Justice Program at the University of
9 South Florida in St. Petersburg.

10 Q. And have you provided your CV to the Commission?

11 A. I have.

12 Q. Have you also provided a report to the Commission?

13 A. I have.

14 Q. Can you tell the Commission just a little bit
15 about your education and experience.

16 A. Certainly.

17 I have worked at forensic laboratories and in
18 academia since 1989. Two of my degrees are in forensic
19 anthropology. My Ph.D. is in applied chemistry. My bench
20 work includes forensic anthropology and trace evidence to
21 include textile fibers and hairs.

22 Q. And the report that you provided to the
23 Commission -- does it provide your opinions and the basis
24 for your opinions?

25 A. It does.

1 **MS. SMITH:** Your Honor, I would now like to
2 tender Dr. Max Houck as an expert in trace evidence and
3 forensic practices.

4 **JUDGE LOCK:** All right. Based upon his CV,
5 for purposes of this hearing, the tender is allowed.

6 Q. Dr. Houck, when you were contacted by commission
7 staff, did they make it clear to you that we were not
8 seeking any particular opinion?

9 A. That is correct.

10 Q. And did commission staff make it clear that they
11 would present your findings to the Commission regardless of
12 what those findings were?

13 A. They did.

14 Q. I'm going to have you walk through your report for
15 the Commission. If you will start on page 2 of your report,
16 your anticipated opinions related to the Arthur Wilson case,
17 and just walk through those for the Commission.

18 A. Certainly.

19 The chain of custody on the ax handle prior to its
20 collection by the police is significant in that its location
21 and provenance makes it not suitable for evidentiary
22 purposes. It was in an uncontrolled situation for some
23 amount of time and so anything that happened to that between
24 the time of the incident and the time that that ax handle
25 was collected, there is no control for what could have

1 occurred with that ax handle. So any evidence collected
2 from it, particularly trace evidence -- which is very time
3 sensitive, very ephemeral, it doesn't necessarily last
4 terribly long -- would not be suitable as evidence.

5 That also includes fibers stuck in the ax
6 handle -- stuck into the one of the ax handles because,
7 again, in an uncontrolled situation, anything could have
8 happened to that ax handle between the time of the crime and
9 the time it was collected.

10 In textile fiber examination, one of the key
11 aspects in analyzing fibers or examining fibers is the
12 color. If you look around the room, everybody is wearing
13 slightly different colors and everything and we have
14 preferences and there are millions of colors possible in
15 textile products.

16 The wool in this case is undyed, which means it's
17 white, and that means it has very little evidential value
18 because you can't distinguish between different types of
19 wool with just a few fibers. And so white wool has very
20 little evidential value, and in fact, in my experience in
21 criminal case work and in civil case work, I would probably
22 ignore it.

23 Q. Okay. Do you have anything to add related to the
24 Wilson case?

25 A. No.

1 **MS. SMITH:** Commissioners, before we move on
2 to the Bryson case, I would like to go ahead and give you an
3 opportunity to ask Dr. Houck any questions you may have.

4 **JUDGE LOCK:** Does any commissioner have any
5 questions concerning the Wilson case?

6 (No response.)

7 **Q.** Okay. I'm going to turn your attention now to
8 your opinions in the Bryson case. If you could start with
9 your opinions about the toboggan.

10 **A.** So the fibers that were found on the two toboggans
11 is what in forensic science would be called fibers in common
12 without a known source. That is, they have not been
13 compared to a known textile fabric, a garment, something
14 like that, and they are just fibers found in two separate
15 items and they may have some or more characteristics in
16 common. That weakens their value as evidence because you
17 can't tie it to a known source as such.

18 Fibers come in two basic types to simplify it:
19 natural and manufactured. So natural fibers would be things
20 like cotton, wool, silk -- that sort of thing. Manufactured
21 fibers are either synthetic, like nylon or polyester, or
22 they are made from what are called fiber-forming substances,
23 so like wood pulp or pulped plant material.

24 So in this case, in the report and the bench
25 notes, there were three types of fibers that were listed:

1 there was rayon, there was acetate, and there was wool.

2 So rayon, which is a cellulosic fiber, has one
3 type of cross-section. It's sort of a multilobed sort of --
4 if you imagine cutting a piece of popcorn in half, popped
5 popcorn.

6 Acetates are similar to rayon, but they have only
7 a couple of cross-sectional shapes. And they look sort of
8 like a swollen cross-section of popped popcorn.

9 Now, in the notes taken by the analyst at the time
10 of the examination, it was only a limited microscopic
11 examination conducted, and I will explain what I mean by
12 that in just a second.

13 But given the technology of the time, it would
14 have been possible to do more analysis but, apparently,
15 based on the notes, that analysis was not done.

16 So, for example, the analyst could have measured
17 the fiber diameter, and that is a key discriminator between
18 manufactured fibers. Not all fibers are made of the same --
19 not just the same material, but the same diameter, and so
20 two nylon fibers would have different diameters and could be
21 distinguished, could be separated.

22 Also, it appears that the analyst incorrectly
23 identified one of the fiber types, the acetate. The
24 description of the fiber, the drawing that they made, and
25 the examination suggested to me that the fiber was actually

1 acrylic, which is a completely different fiber type and not
2 acetate as was listed.

3 The cross-section that was listed or described for
4 acetate is incorrect for that fiber type. And also, acetate
5 does not have a positive sign of elongation. It is
6 negative, which is an optical property of manufactured
7 fibers.

8 So given the description of the examinations, the
9 analyst should have been able to make further evaluations of
10 the fibers, other optical characters is like birefringence,
11 for example. They could've correctly identified the fibers,
12 maybe even distinguished between those two sets.

13 All of the fibers involved, again, are white or
14 colorless and that seriously limits their evidential value.
15 And had they conducted infrared spectroscopy, which was
16 available at the time -- I'm not sure if it was available in
17 the laboratory, but it was certainly available technology
18 and used in other laboratories at the time -- they could've
19 determined what that acetate fiber actually was.

20 Do you want to pose questions about the fibers
21 before I move on to hairs?

22 Q. Yes, sir.

23 **MS. SMITH:** Any questions on the fibers?

24 **MR. BOSWELL:** Doctor, I would like for you to
25 expand a little bit about the positive sign of elongation

1 and birefringence. And then also, what is it that would
2 make the lab make these mistakes?

3 You know, is this an elemental thing or is
4 this something that you -- that maybe they didn't have
5 enough experience?

6 Could you give us some insight as to why you
7 think these mistakes were made.

8 **THE WITNESS:** So the sign of elongation --
9 the easiest way to think of that is fibers, manufactured
10 fibers like acrylics and acetates, are made up of molecules
11 just like any other material, but they have an orientation
12 to them. And so elongation or site of elongation is
13 indication of the orientation of those molecules, of those
14 larger structures of the fiber.

15 So think of a plank of wood, okay, think of
16 soft pine, if you have ever seen soft pine, and then think
17 of hickory.

18 The grain in the wood is different and so
19 it's easier to saw across or saw lengthwise down the plank.
20 It is the same thing with textile fibers. Some of them are
21 more oriented to the long axis of the fiber and some are
22 more oriented to the short axis of the fiber, across or
23 long.

24 So site of elongation either says they are
25 more oriented one way or they're more oriented the other way

1 and it's a property that is fixed when the fiber is finished
2 in its production.

3 Birefringence is a slightly more complicated
4 version of that. So birefringence means that the fiber has
5 two axes, a long one and the short one, so along the length
6 of the fiber and across the fiber. That is the "bi" part of
7 birefringence.

8 And then the "refringence" part is like
9 refraction. So think of standing in a swimming pool or
10 putting a straw into a glass of water, where the straw or
11 your feet -- or legs, rather -- go into the water. In the
12 water, it actually looks like it has shifted over to one
13 side, right, and that's because air changes the speed of
14 light in a different way than water does. So it is
15 refracting the light differently. That's why your feet look
16 off to the side or the straw looks off to one side.

17 So what's happening in a fiber is when the
18 light hits it, it gets broken into two streams. One goes
19 along the length of the fiber; one goes across the fiber.
20 And it's the difference between those two speeds that gives
21 you birefringence.

22 So what does that mean? Well, what that
23 means is when you're looking at a textile fiber, depending
24 on what it's made of and how it was made, you can calculate
25 the birefringence with a simple -- if you know the diameter

1 and you know the refractive index, which are easy to figure
2 out, you can do simple calculations and produce
3 birefringence. So then you can distinguish between
4 otherwise similar fibers.

5 So three different nylons might have
6 different birefringence values simply because of the way
7 they were made. So it's a great way -- it's an easy way to
8 look at a fiber with the kind of microscope that this
9 laboratory had at the time and distinguish between different
10 types of fibers, maybe even of the same material type.

11 Does that make sense?

12 **MR. BOSWELL:** Yes. Thank you.

13 **THE WITNESS:** Okay. Now, in terms of why
14 they didn't do that, that I don't know because, again, with
15 the type of equipment that they had based on the notes,
16 based on my reading of the notes, there's only probably one
17 more piece of equipment that they would need, and it's not
18 even a centerpiece of equipment. It would be a filter that
19 you would insert into the microscope and it would help you
20 to determine the birefringence. It's basically a wedge of
21 cords that you stick in and look for a particular value, the
22 characteristics in the fibers, and you do a calculation and
23 it tells you birefringence. So it's not a difficult exam,
24 it's not an expensive one. And as to why they didn't do it,
25 I have no idea.

1 **MR. BOSWELL:** Thank you.

2 **JUDGE LOCK:** Commissioner Perry.

3 **DR. PERRY:** Thank you, Professor. Is it
4 typical, when you look back on cases like this -- I take it
5 this was the North Carolina Crime Lab results?

6 **MS. SMITH:** That's correct.

7 **DR. PERRY:** '86?

8 When you look back on the failure to proceed
9 with what was available, do you see this as a trend when you
10 look more and more back at cases, historical cases, 33 years
11 old? Or is this atypical of the science of that day?

12 **THE WITNESS:** Well, I would not say it's
13 typical of the science of that time because these types of
14 exams, using these types of, I would argue, fairly simple
15 microscopic examination has been done almost since the
16 invention of the microscope, which is one of the oldest
17 scientific instruments we have.

18 **DR. PERRY:** I should have said is that
19 atypical of the practice of a crime lab -- of state crime
20 labs?

21 **THE WITNESS:** Right. And I'm happy to get
22 into that with that preamble in that, as simple as these
23 exams are, in my experience, this is not an uncommon kind of
24 occurrence, where exams will proceed to a certain point and
25 then for some reason stop and there is no indication in the

1 notes as to why. It might be the analyst is untrained. It
2 might be they don't have the right filters. It might be a
3 problem with the microscope. It is very difficult to tell,
4 but it's also very frustrating because, again, these exams
5 are simple. I could probably, in maybe 20, 25 minutes,
6 teach you how to distinguish between acetate and acrylic on
7 a microscope. It's not -- you don't need to be -- you don't
8 need a Ph.D. like I have to do that sort of work.

9 **DR. PERRY:** Thank you.

10 **MS. SMITH:** Any other questions about the
11 fibers?

12 (No response.)

13 Q. Dr. Houck, if you will now walk through your
14 opinions related to hair analysis.

15 A. So all hairs, regardless of whether they are on
16 people or mammals, have three basic parts: the tip -- that's
17 the part furthest away from your head; the shaft; and then
18 the root, and the root is the part that is inside of your
19 scalp and where the hair is actually growing.

20 A hair fragment is basically a shed hair that has
21 no root. It's broken off, it's been cut -- whatever the
22 reason, there is no root to it.

23 If we don't have a root, we can't tell how long
24 that hair is, and that limits our ability to conduct an
25 examination.

1 Most hair fragments don't have sufficient
2 information to be suitable for microscopic comparison
3 purposes.

4 So given the fact that they're hair fragments, the
5 best conservative statement to make is these are human hair
6 fragments, and that would certainly be possible to say given
7 a microscopic exam.

8 Today, we would simply identify them as human hair
9 fragments and then send them out for mitochondrial DNA
10 analysis.

11 So based on the fact that they are hair fragments,
12 incomplete hairs, the testimony that was offered about --
13 the conclusions that were offered as testimony about those
14 hairs exceeded what I would consider to be a supportable
15 limit of science.

16 **MR. BOSWELL:** Would you be able to tell if it
17 was an African-American hair or a Caucasian hair or what
18 color hair or, you know, at least into that level of
19 comparison?

20 **THE WITNESS:** You certainly could tell color.
21 That would be obvious in the -- even in the smallest hair
22 fragment, you should be able to tell color.

23 In terms of ancestry or ethnicity, that can
24 be tricky because there is more than one gene that controls
25 those characteristics that we tend to associate with

1 different populations.

2 In my experience, the best and most accurate
3 you can be is about 85 percent on ethnicity. So you could
4 make an estimation, but it would be just that, an
5 estimation.

6 **MR. BOSWELL:** Thank you.

7 **MS. SMITH:** Are there any other questions for
8 Dr. Houck related to hairs?

9 **JUDGE LOCK:** Commissioner Britt.

10 **MR. BRITT:** Dr. Houck, is your opinion that
11 the description of the hairs in the lab report were very
12 misleading?

13 **THE WITNESS:** It certainly could be the
14 analyst's opinion that they were human hair fragments and it
15 certainly could have been estimated that they were of
16 African-American origin.

17 Typically, unless it is an exceptional case,
18 hair fragments are not suitable for comparison purposes.

19 I'd have to see the hairs, but 9.9 times out
20 of 10, you just don't -- you don't step out on that limb and
21 compare hair fragments. You just -- because you don't know.
22 You don't know how long the hair is. You don't know what
23 the structure of the hair is like close to this scalp.
24 There may be characteristics that you're missing. It's just
25 too -- it's a risk. It is a risk.

1 **MR. BRITT:** Thank you.

2 **MS. SMITH:** Any further questions?

3 **JUDGE LOCK:** Yes, sir, Commissioner Frye.

4 **SHERIFF FRYE:** Dr. Houck, I just want to
5 clarify something.

6 On the fibers from the ax handle, the way
7 that it was worded that you said a while ago, fibers can
8 still be of evidentiary value even though the instrument
9 that was used may have been taken away from the crime scene
10 if there was consistency in the comparisons.

11 Now, in other words, if I hit my old buddy
12 here with a stick and I take the stick with me and the
13 police find it three weeks later in my house and fibers from
14 his shirt are on that stick, that is of evidentiary value;
15 correct? You're not saying --

16 **THE WITNESS:** In that scenario, yes.

17 **SHERIFF FRYE:** You're not saying it's of no
18 evidentiary value. You're just saying that it was
19 uncontrolled during that time and anything could happen to
20 it and that's what a good defense attorney could say;
21 correct?

22 **THE WITNESS:** That's the first part of it,
23 correct.

24 The second part is, as undyed wool fibers,
25 they inherently have very little value because they could

1 have come from any undyed wool source.

2 **SHERIFF FRYE:** Correct.

3 **THE WITNESS:** You could have hit a sheep with
4 the ax handle and get undyed wool fibers.

5 **SHERIFF FRYE:** Gotcha.

6 **MS. SMITH:** Does anyone have any other
7 questions for Dr. Houck before we let him go?

8 (No response.)

9 **MS. SMITH:** Okay.

10 Thank you, Dr. Houck, for your time. We
11 appreciate it.

12 **THE WITNESS:** Thank you taking me out of
13 sequence. I appreciate it.

14 (Witness stands down, 1:50 p.m.)

15 **MS. SMITH:** We will be at ease just for a
16 moment while we get screens fixed and get ready for the next
17 witness.

18 (At ease, 1:50 to 1:58 p.m.)

19 **JUDGE LOCK:** We'll come back to order, and I
20 understand we're going to vary our order of experts; is that
21 right?

22 **MS. SMITH:** That's correct. We are going to
23 take our reconstruction expert, Casson Reynolds, next. And
24 then following that, we will have the crime lab join us for
25 the fiber opinion.

1 * * * * *

2 Thereupon, CASSON REYNOLDS, a witness having been called by
3 the Commission, was sworn and testified as follows:

4 EXAMINATION

5 BY MS. SMITH: (1:59 p.m.)

6 Q. Good afternoon, Mr. Reynolds.

7 A. Good afternoon.

8 Q. Can you tell the commissioners where you are
9 currently employed.

10 A. I am employed by the North Carolina Justice
11 Academy. It's a part of the North Carolina Department of
12 Justice.

13 Q. And prior to working with the Department of
14 Justice, what did you do?

15 A. I was sworn in law enforcement for 14 years. I
16 spent time in Virginia at the Charlottesville Police
17 Department; in Gastonia, North Carolina; and in Pittsburgh,
18 Pennsylvania.

19 Q. Did you provide to the Commission your CV and a
20 report?

21 A. Yes, I did.

22 Q. Do you have that with you today?

23 A. Yes.

24 Q. Does your report contain your opinions and the
25 basis for those opinions?

1 A. Yes, it does.

2 Q. Okay. Can you tell the Commission just a little
3 bit about your experience as relates to crime scene
4 reconstruction.

5 A. Yes.

6 So I have thousands of hours of training in crime
7 scene investigations and analysis. I am a -- recognized by
8 the courts, on the state courts and federal courts, in
9 various aspects of forensic science to include bloodstain
10 pattern analysis, shooting incident reconstruction, crime
11 scene investigations, latent print development and analysis,
12 and general crime scene reconstruction.

13 MS. SMITH: Your Honor, I would like to
14 tender Casson Reynolds as an expert in forensic
15 reconstruction.

16 JUDGE LOCK: Tender is allowed.

17 Q. When you were contacted by the Commission, did
18 commission staff make it clear to you that we weren't
19 seeking any particular opinion?

20 A. That is correct. In fact, I did not know what the
21 opinion or what the purpose of the Commission was reaching.
22 They stated that they wanted information and for me to look
23 at the scene.

24 Q. And did the commission staff make it clear that
25 regardless of what your opinions were, we were going to

1 present those to the commissioners?

2 A. Yes.

3 Q. I am going to put on the screens the crime scene
4 sketch.

5 A. Okay.

6 Q. There should be a pointer right there that you can
7 pull out.

8 Can you orient the commissioners as to what we are
9 looking at.

10 A. This right here is the 1800 and 1700 blocks of
11 North Claremont Avenue. This is 18th Street, which has been
12 changed in the 1980s, but at that time it was 18th Street.
13 There are a few houses here right in front.

14 This sketch right in this area is a mannequin --
15 or a drawing of a mannequin that is the decedent at the
16 time. And they have measurements of where his head is
17 located. They have general measurements of the size of the
18 streets and where various -- where an individual was
19 located, Barbara Bason, stating that she was standing, and
20 where individual said they were standing, Patricia Williams,
21 is what is documented here.

22 This individual was located generally in front of
23 1718 North Claremont Avenue.

24 Q. Did you assume for the purposes of your
25 reconstruction that the measurements of the location of

1 Mr. Wilson's body on this diagram were correct as taken in
2 1983 and sketched in 1986?

3 A. Yes.

4 Q. And were you asked to review documents and
5 evaluate the sight lines of several witnesses?

6 A. Yes.

7 Q. And when you made this evaluation, did you start
8 with the assumption that what individual witnesses were
9 saying in their various statements was true?

10 A. Yes. At times, the statements changed slightly,
11 but the sight lines were relatively the same.

12 One of the largest issues that I saw in regards to
13 this that is not diagrammed on this bird's-eye sketch or
14 sketch just from above is that this is a hill. So the 1700
15 block rises to the intersection and the 1800 block rises in
16 this direction to the intersection. So an individual in
17 this area may not be able to see everything going on in the
18 1700 block, and that was my concern about the sight line.

19 Q. Okay. And the initial report you provided --

20 **JUDGE LOCK:** Excuse me. I believe
21 Commissioner Britt has a question.

22 **MR. BRITT:** Mr. Reynolds, do I understand you
23 to say that this street slopes both ways?

24 **THE WITNESS:** That is correct. It is a hill
25 and the crest of the hill is in this intersection. So it

1 goes down that direction and down in this direction. So the
2 top of the hill is the intersection.

3 **MR. BRITT:** All right. Thank you.

4 Q. And did you actually visit this area as part of
5 your evaluation?

6 A. Yes, I did.

7 Q. When you made the evaluation -- let's turn first
8 to Exhibit B of your report.

9 Is that the initial report you provided to
10 commission staff?

11 A. All I can say is I don't know what Exhibit B is.
12 I can tell you that the April 16, 2019, report is the report
13 that I wrote on that date.

14 Q. That is Exhibit B.

15 A. Then yes.

16 Q. Let me hand you a copy of this. We have added to
17 this the exhibit numbers.

18 A. Okay.

19 Q. So that --

20 A. Yes. That is --

21 Q. -- it would be easy for commissioners.

22 A. Yes. That is -- Exhibit B is the report that I
23 wrote on April 16.

24 Q. If you want to have a seat, I think you will be
25 able to testify from your seat for the time being.

1 Looking at that first report, can you start with
2 the first section, which discusses McGee and Walser.

3 A. So McGee and Walser, based on their reports --
4 based on the report that I was given, spoke with the police
5 the night of the incident. They advised that they were
6 driving in a vehicle at the time and came upon the body in
7 the street and saw three unknown individuals either
8 assaulting or at the body, and it was already on the ground
9 from what the reports explained.

10 Both of these individuals were in the same
11 vehicle. The vehicle was traveling southbound on North
12 Claremont Avenue -- so going from 1800 block to the 1700
13 block. And they drove up on the body of the decedent. So
14 from their vantage point, they were in the vehicle and
15 seeing something in the street directly in front of them.

16 **MR. BOSWELL:** So if -- they were going from
17 right to left?

18 **THE WITNESS:** Yes.

19 Q. Okay. You next evaluated the sight lines from the
20 drink house porch.

21 Were you able to fully evaluate the sight lines
22 from the drink house porch?

23 A. At this report, I looked -- from this report, I
24 looked at it, and there are a few photographs from 1986 that
25 made me begin to question it as well is going onto Google

1 Earth and looking at what the image was at that time.

2 Based on the photographs as well as on Google
3 Earth, I determined that there was that slope that I have
4 already talked about.

5 The drink house -- or some people refer to it as
6 "the store" -- is located at 1816 North Claremont Avenue,
7 which is up in this general area. There is no documentation
8 for it, but it would be up in this general area.

9 When looking at that, what I was concerned about
10 most was that crest of the hill and an individual laying
11 down or on their hands and knees would have been difficult
12 for someone to see from the area of the drink house if they
13 were in the street.

14 There is no photograph that I can find of the
15 drink house. There is no -- and it is currently no longer
16 there. It was torn down quite some time ago. I don't know
17 how high the porch was. I don't know how far back it was
18 set. All I can say is that from the street, it is difficult
19 to see the other side -- it is impossible see completely the
20 other side of the hill.

21 Q. Okay. And were you able to measure the distance
22 from the location at the drink house address on the street
23 to where the victim was ultimately found?

24 A. Yes.

25 The drink house was located approximately 200 feet

1 north of the intersection. The individual was located
2 90 feet south of the intersection with the intersection
3 being 26 feet wide. Given that, the drink house is located
4 over 300 feet away from where this individual finally rested
5 or was found deceased.

6 Q. And can you provide some context for how far
7 300 feet is?

8 A. 300 feet is the length of a football field. It is
9 average -- straight on a circular track or an oval track.

10 Q. And did the topography of the area impact the
11 sight lines of the area at the crime scene?

12 A. Yes.

13 So the topography or the crest in the hill was the
14 issue that I saw with regards to someone being able to
15 completely see an incident that occurred south of the
16 intersection.

17 Q. Did you also evaluate Barbara Bason and Patricia
18 Williams' statements related to what they saw and where they
19 were on the night of Mr. Wilson's death?

20 A. Yes.

21 Bason stated that she was in front of what she
22 referred to as "the store," which is the drink house -- what
23 I believe to be the drink house -- based on her testimony or
24 based on her reports, and that she was walking towards her
25 apartment when she saw this incident.

1 Her statements -- there were three statements that
2 I found that I was -- that spoke slightly differently, but
3 she reports seeing the assault from various locations from
4 the drink house to the intersection. Her story changes
5 slightly but it was impossible for me to say exactly where
6 she was based on her reports.

7 However, based on this diagram, I was able to
8 determine that Bason is standing here, 112 feet north of the
9 intersection, and Patricia Williams is standing here,
10 which -- there is no measurement exactly. It says it is
11 30 feet north from the utility pole. Based on the
12 photographs at the time, the telephone pole is in generally
13 the same place. I can't argue a few inches, but it's in
14 generally the same place, and that is in front of the drink
15 house.

16 So Patricia Williams states that she is, based on
17 this diagram, in front of the drink house and Bason is
18 112.3 feet north of the intersection.

19 Q. And did you review photos taken by law enforcement
20 in 1986?

21 A. Yes.

22 In 1986, there were photographs taken with two
23 individuals standing that were trying to show sight lines at
24 that time.

25 I do not know the height of the camera at that

1 time. However, assuming that an individual was holding the
2 camera up and taking photograph, it was apparent that even
3 then the crest of the hill was there. The south side of the
4 intersection was not completely visible from the north side.

5 The further north you go on North Claremont
6 Avenue, the less you see.

7 **MR. BRITT:** Did you measure the slope?

8 **THE WITNESS:** Yes, I did. So I measured the
9 slope when I went to the scene.

10 **MR. BOSWELL:** Can you tell us where in the
11 brief the pictures are?

12 **MS. SMITH:** Yes. The photos taken by police
13 can be found starting on page 146 of your brief.

14 **THE WITNESS:** On May 16, when I went to the
15 scene, I determined that the slope that is south of the
16 intersection is 2.4 degrees and the slope north of the
17 intersection is 1.4 degrees. It's not great, but there is a
18 slope.

19 Q. Did you also take some photos? Did you also take
20 some photos while you were at the scene?

21 A. Yes. I took three photographs.

22 I have the camera set at 5 feet, 6 inches off the
23 ground, average height -- or average eye height of an
24 individual. Take the photographs from three locations: One
25 from the intersection, one from 100 feet north of the

1 intersection or were approximately the location of Barbara
2 Bason based on that sketch, and one from the front of the
3 drink house where Patricia Williams is standing.

4 Q. If you will look at what we have given you there,
5 are those labeled as Exhibits D, E, and F to your report?

6 A. Yes, they are.

7 Q. Mr. Reynolds, I want to start with Ms. Bason.

8 What did you learn about what she said her view
9 was that evening?

10 A. So Ms. Bason reported that -- on April 29, Bason
11 reported -- on April 29, 1986, at 2350, she reported that
12 Darryl Hunt and Sammy Mitchell assaulted and robbed a victim
13 and Mitchell assaulted the victim using a brick.

14 The next day -- or next morning, on April 30,
15 1986, at 10:07, she reported seeing Darryl Hunt, Sammy
16 Mitchell, and Junior assault and rob the victim. Mitchell
17 assaulted the victim using a stick.

18 And then in September of the same year, Bason
19 reported that she was in the street in the 1800 block of
20 North Claremont Avenue and observed the assault start in the
21 1700 block of North Claremont Avenue and continue north on
22 Claremont Avenue.

23 Her report never specifically says where she was.
24 The complication to this is I believe that she may have been
25 moving at times so her sights changed whether she was on the

1 porch, coming down into the street -- I cannot answer where
2 she was exactly when the assault occurred.

3 Q. Did you take any photos from Ms. Bason's
4 viewpoints as best as you could based on that sketch?

5 A. Yes.

6 So Ms. Bason's viewpoint, I took a photograph,
7 which is Exhibit E, which is 100 feet north of the
8 intersection, approximately 100 -- excuse me --
9 approximately 200 feet from where the decedent lay.

10 Q. Okay. I've put that photograph on the screen if
11 there's anything else you want to describe for the
12 commissioners related to that.

13 A. So I'm standing -- or I'm taking this photograph
14 from that 5 feet, 6. What I have here is -- Ms. Tanner is
15 holding a stick. Why I have this is because this stick is
16 8 feet tall and marked every foot. You notice that it is
17 about halfway from the bottom of the stick up that you
18 cannot see. So the bottom 6 inches from here, you cannot
19 see. This is just 100 feet north of the intersection.

20 Q. Okay.

21 **MS. SMITH:** Questions?

22 **MS. COLBERT:** So that's where the body was?

23 **THE WITNESS:** Yes. She is standing where the
24 body was found in 1983.

25 **MS. COLBERT:** And so if -- according to

1 Ms. Bason, this is Ms. Bason's viewpoint; right? -- that she
2 couldn't have seen the body, but if people are standing, she
3 could see the people who were standing?

4 **THE WITNESS:** Correct.

5 There were statements about kicking. I can't
6 say if the body was laying down. I can't say if the body
7 was on its hands and knees. But at 6 inches -- I don't know
8 if you would be able -- what you would be able to see, but
9 part of it would be obscured because of the crest of the
10 hill.

11 **MR. GLAZIER:** I'm sorry, Doctor. What time
12 of the day you take the photographs?

13 **THE WITNESS:** It was approximately 11:30 a.m.

14 **MR. BRITT:** And this is Ms. Tanner?

15 **THE WITNESS:** This is Ms. Tanner. Yes, it
16 is.

17 **MR. BRITT:** Okay.

18 **MS. SMITH:** Any further questions?

19 **MR. BRITT:** No.

20 Q. Okay. You may have a seat.

21 Let's turn now to Patricia Williams. Can you tell
22 commissioners what you learned about what she said about her
23 view that evening.

24 A. Patricia Williams states that she was at the drink
25 house, 1860 North Claremont Avenue, and left with two

1 individuals and she was walking south on 18th Street. She
2 states that she is near the intersection when she sees the
3 assault. However, according to the report and sketch, she
4 is near the drink house. So we have controversial
5 information.

6 The sketch says that she is back at the drink
7 house, but her report says that she was walking towards the
8 intersection of 18th Street and North Claremont Avenue.

9 Q. And did you take any pictures from Ms. Williams'
10 viewpoint?

11 A. Yes. Took a photograph from the -- if she was
12 located at -- in front of the drink house, which is
13 Exhibit F.

14 Same situation. The camera is set at 5 feet,
15 6 inches. Take a photograph, and what I am looking for is
16 how much you can see. Zooming in, you can see that that
17 stick holding there, you cannot see the approximate 3 1/2
18 feet of ground. Everything above that you can see, but
19 3 1/2 feet down, you are not able to see.

20 Can we zoom in?

21 So if we have the top -- 1 foot, 2, 3, 4 -- and
22 you don't get to 5. So that means that you have 4 1/2 feet
23 of the stick that is 8 feet not visible -- or excuse me --
24 4 1/2 feet of the 8 feet is visible. The bottom 3 1/2 is
25 not.

1 **JUDGE LOCK:** Commissioner Perry.

2 **DR. PERRY:** Thank you, Mr. Chairman.

3 Sir, you said that it's not clear where
4 Williams was in the street, on the porch.

5 **THE WITNESS:** That is correct.

6 Her statement -- she has numerous statements.
7 One of her statements -- or several of her statements are
8 that she walks out of the drink house because she has had
9 too much to drink and she is sick.

10 She then turns and looks uphill and sees the
11 assault.

12 She doesn't say anything about going and
13 traveling north to the intersection when she says that she
14 sees the assault. However, there is one report that does
15 say that she leaves with two individuals and is walking
16 towards the intersection and sees -- when the assault
17 occurs.

18 I can't answer for why the difference in the
19 reports. All I can say is that I judged it from the
20 furthest back that she was and also documented closer.

21 If she was standing in the intersection, she
22 would have been able to see basically the entire area.

23 **DR. PERRY:** If she had been on the porch, you
24 don't know?

25 **THE WITNESS:** I do not have a photograph or

1 any way to document that. The house has been torn down.

2 **DR. PERRY:** Right.

3 **THE WITNESS:** The sight lines would have
4 raised it. However, at the same time, it also depends on
5 how far back the house was set. I am not going to answer --
6 I am not going to guess at what that could be.

7 **DR. PERRY:** It's simply an unknown.

8 And Bason was in the street --

9 **THE WITNESS:** Yes.

10 **DR. PERRY:** -- according to her testimony.

11 **THE WITNESS:** Yes.

12 And Williams states that she walks out of the
13 house and down into the street to get sick and looks up and
14 sees the assault.

15 **DR. PERRY:** Thank you.

16 Q. You also took what is labeled as Exhibit D, a
17 photograph. Would you explain to the commissioners what
18 that photograph is showing.

19 A. This is a photograph taken from the
20 intersection -- the center of the intersection.

21 If somebody, a vehicle or an individual on foot,
22 as you can see, they can see everything that is there.

23 **MS. SMITH:** Are there other questions before
24 I move on?

25 (No response.)

1 Q. In all of the materials that you reviewed, did you
2 read anything in there that would suggest that the victim
3 moved or crawled after he was hit in the head or knocked
4 down?

5 A. There was no evidence in the report to say that
6 the moved. There is no reports of blood or any other
7 evidence that I could find.

8 Q. Did you read anything in all those materials to
9 suggest that any witness described a blow or injury prior to
10 the injury that knocked Mr. Wilson to the ground?

11 A. No.

12 MS. SMITH: Commissioners, do you have
13 further questions for Mr. Reynolds?

14 MR. EDWARDS: Good afternoon. I am Seth
15 Edwards.

16 Would it be fair to say that the ability of a
17 witness to observe any event, not just this one in
18 particular, will depend on a number of things -- their
19 eyesight, the lighting --

20 THE WITNESS: Absolutely.

21 MR. EDWARDS: -- their vantage point of where
22 they observed this event?

23 THE WITNESS: Absolutely.

24 There are several factors that come into
25 play. The easiest one that I can give is if you see an

1 individual in broad daylight from 300 feet away, you may not
2 be able to pick them out of a photo lineup. But if you see
3 someone that you are well-known with -- family member,
4 child -- from 300 feet away, you would easily know that is
5 your relative. I have no way of knowing how well-known any
6 of the witnesses are to any of the individuals involved.

7 Whether it is daylight or nighttime, that is
8 part of it.

9 The other part is that this did occur at
10 night and there is no way for me to judge how much someone
11 can see at night. If they walk from a brightly lit area
12 into a darkly lit area, if their eyes don't have time to
13 adjust -- you walk into a dark movie theater. Similarly, if
14 there is a vehicle driving north and the light is shining at
15 them, it could challenge their eyesight.

16 All of these factors are impossible for me to
17 answer.

18 **MR. EDWARDS:** And following up on that, I
19 think you testified that -- like, Barbara Bason, it's really
20 impossible for you to say exactly where she was standing
21 when she claims to have witnessed these events because she
22 apparently was moving around some.

23 **THE WITNESS:** She was -- appeared to be
24 moving around, and she also has numerous different
25 statements about where she was.

1 **MR. EDWARDS:** And of the statements of these
2 witnesses that you reviewed and looked at the diagrams came
3 approximately three years after they allegedly observed the
4 events.

5 **THE WITNESS:** That is correct.

6 **JUDGE LOCK:** Commissioner Glazier.

7 **MR. GLAZIER:** Following on Mr. Edwards'
8 question, one other one, another factor seems to me it goes
9 without saying, but for the record, whether someone is
10 inebriated and the extent of that inebriation would also
11 affect their ability to make any legitimate identification.

12 **THE WITNESS:** That could be a factor. But,
13 again, there's no way for me to scientifically answer what
14 somebody could have seen in that situation.

15 **MS. SMITH:** Any other questions?

16 **DR. PERRY:** May I just quickly?

17 Madam Director, we have the photographs from
18 '86; is that right?

19 **MS. SMITH:** Uh-huh.

20 **DR. PERRY:** Where are they again?

21 (Reporter clarification.)

22 **MS. SMITH:** They would be on 146.

23 **DR. PERRY:** Is it 146 through 159?

24 **MR. BOSWELL:** Yes.

25 **MS. SMITH:** 154.

1 **MR. BOSWELL:** May I ask a question?

2 **MS. SMITH:** Yes.

3 **MR. BOSWELL:** Did you review the photographs
4 that were taken in '86?

5 **THE WITNESS:** Yes, I did.

6 **MR. BOSWELL:** Did that give you any
7 information in addition or different from what you figured
8 out from taking your own photographs?

9 **THE WITNESS:** There are numerous -- more
10 trees then than there are now. That could have obscured
11 sight lines from off the side that I am not aware of.

12 There are no -- the streetlights are
13 different then than they are today. There are factors like
14 that that have changed.

15 The general slope and crest of the hill do
16 not appear to have changed at all.

17 **MR. BOSWELL:** It doesn't look like there is a
18 photograph taken at night from the drink house to where the
19 body was found from 1986. Am I incorrect about that?

20 **THE WITNESS:** I do not -- the problem with
21 the photographs from '86 and '83 is I don't know the
22 locations of where they are standing. There are a few
23 photographs that are taken down the hill of something, but I
24 believe it is in the 1800 block; however, there is no way
25 for me to know exactly where they were taken from.

1 I can tell you that the street had
2 streetlights and it had foliage. That's all I can say.

3 **MR. BOSWELL:** Thank you.

4 **JUDGE LOCK:** Sheriff Frye.

5 **SHERIFF FRYE:** In all of this, in your
6 experience, the human brain a lot of times fills in for
7 visuals that we don't actually see.

8 **THE WITNESS:** (Moves head up and down.)

9 **SHERIFF FRYE:** As you explained earlier, if
10 you know somebody, you can recognize them from 300 feet.
11 But if you see a stranger, 300 feet would be very hard to
12 pick them out of a lineup.

13 **THE WITNESS:** (Moves head up and down.)

14 **SHERIFF FRYE:** Familiarity of a person at
15 that distance with the other person that they are seeing --
16 how large a factor would that play in identification?

17 **THE WITNESS:** In my opinion, 300 feet at
18 night, a stranger would be very difficult to make out.
19 Given the streetlights and the foliage, and well lit or not,
20 300 feet, especially at night, is difficult to see.

21 **SHERIFF FRYE:** A stranger would be very
22 difficult?

23 **THE WITNESS:** A stranger -- I can't answer
24 for -- a stranger would be difficult to see. Someone that
25 you are very, very well-known with you might recognize their

1 movement behaviors -- for example, the way somebody walks,
2 the way somebody moves -- if you are very familiar.

3 **SHERIFF FRYE:** Your brain fills in -- you
4 actually see it, but you're really not seeing it.

5 **THE WITNESS:** I can't answer that. I can
6 tell you that there is a spectrum of what you could or not.

7 What your brain could fill in is a lot of
8 things. Somebody walking up quickly on an individual may
9 look the same as a kick. I can't answer what they did or
10 did not do. But our brains do play tricks on us for what we
11 see or not see.

12 **MR. GLAZIER:** Just along that line to add in
13 what the sheriff was saying, I would assume as well the
14 misinformation effect that happens with what language is
15 being said by others at the scene also affects the fill-in.

16 **THE WITNESS:** So in law enforcement, one of
17 the biggest things that we want to do is separate witnesses
18 after an event to get a true report of what they saw, heard.
19 This is three years. I can only assume that this incident
20 was a topic of conversation over a three-year period.

21 **MS. SMITH:** I do have just a couple of
22 follow-ups related to some of the questions we heard.

23 Q. Did you review any documents that we provided that
24 explained the shutter speed or other camera settings you
25 used?

1 A. That I used -- I was not trying to show light.
2 The problem with shutter speeds and documentation of how
3 bright or dark the scene is, without knowing the shutter
4 speeds and other controls, it is impossible for me to say
5 how bright the scene was lit.

6 I can make a completely dark room look bright if I
7 have a long shutter exposure. I do not know what the
8 settings were on the camera from 1986 or 1983, and
9 therefore, how bright or dark a scene is impossible to judge
10 in a photograph.

11 Q. Thank you.

12 **MS. SMITH:** Any further questions?

13 **SHERIFF FRYE:** To follow up on just what you
14 said.

15 And the stagnant picture that you would get
16 no matter what shutter speed you use is not -- is not
17 indicative of what the visual was because everybody has
18 different nighttime visual perspectives.

19 **THE WITNESS:** That is correct. Whatever the
20 photograph is, it's the photograph. It doesn't talk on
21 anything about what an individual may or may not see.

22 **MS. SMITH:** All right. I would ask that
23 Mr. Reynolds be released.

24 **JUDGE LOCK:** Does anybody have any further
25 questions?

1 (No response.)

2 **JUDGE LOCK:** Thank you very much -- oh, I'm
3 sorry.

4 **MR. BOSWELL:** I was waving goodbye.

5 (Witness dismissed, 2:33 p.m.)

6 **DR. PERRY:** Ms. Smith, do we have anyone who
7 is a witness that says they had not been drinking?

8 (Overlapping speakers.)

9 **MR. ZIEGLER:** Of the people that claimed to
10 have seen the crime, Mr. Ford said that he had not been
11 drinking. And Ms. Coble said that she did not drink and
12 doesn't drink in general and hadn't been drinking that
13 night.

14 The witnesses that came from Ezelle Clowers'
15 drink house, there is indications that all of them had been
16 drinking.

17 **MS. SMITH:** And, Mr. Ziegler, is it correct
18 that Mr. Ford admitted to using cocaine that evening?

19 **MR. ZIEGLER:** Mr. Ford said he used cocaine
20 after he had seen the incident.

21 **DR. PERRY:** So two out of how many, roughly?

22 **MR. ZIEGLER:** Five.

23 **DR. PERRY:** Five?

24 **MR. ZIEGLER:** And of the witnesses at the
25 drink house, it's Mattie Mae Davis, Barbara Bason, and

1 Patricia Williams who said that they actually saw the
2 incident.

3 DR. PERRY: Thank you.

4 JUDGE LOCK: Who will be the next witness?

5 MS. SMITH: That will be our witness from the
6 State crime lab.

7 JUDGE LOCK: Live or by --

8 MS. SMITH: Live.

9 JUDGE LOCK: The witness is here?

10 MS. SMITH: We need just a few moments.

11 JUDGE LOCK: Is five minutes enough?

12 MS. SMITH: Yes. Five minutes will be
13 enough.

14 JUDGE LOCK: This will not be the afternoon
15 recess but a five-minute comfort break.

16 (Recess taken, 2:35 to 2:50 p.m.)

17 JUDGE LOCK: All right. We'll come back to
18 order.

19 Who is our next witness?

20 MS. SMITH: The Commission calls Lindsey
21 Admire.

22 * * * * *

23 Thereupon, LINDSEY ADMIRE, a witness having been called by
24 the Commission, was sworn and testified as follows:

25 MS. SMITH: All right.

1 Carolina University. I then went to Indiana University
2 where I obtained a Master of Science in Biochemistry.

3 I was then hired by the North Carolina State Crime
4 Lab and assigned to the trace evidence section where I first
5 was trained in hair analysis, which encompassed a year-long
6 training block and multiple modules, including
7 identification of hairs. And then I underwent a one-year
8 training in fiber analysis, which some hairs can also be
9 fibers. But along with the fiber analysis, I have taken
10 courses in the McCrone and Hooke College for hair
11 identification and fiber identification, use of the
12 polarized light microscopy, the FTIR, which is the infrared
13 analysis for fibers, as well as courses for polymer analysis
14 and tape classification.

15 Q. Did you provide for the Commission a copy of your
16 CV?

17 A. I did.

18 MS. SMITH: Commissioners, that is Handout
19 79 which you've previously been provided.

20 Q. Ms. Admire, have you been -- you testified before?

21 A. I have.

22 Q. Approximately how many times?

23 A. A little over 20.

24 MS. SMITH: Your Honor, I would like to
25 tender Ms. Admire as an expert in trace evidence.

1 **JUDGE LOCK:** Tender allowed.

2 Q. Ms. Admire, do you have with you a May 22, 1986,
3 lab report and bench notes from the Wilson case?

4 A. I don't believe I have May 22. I have May 15 and
5 June 8.

6 Q. Those are for the Bryson case; correct?

7 A. Yes.

8 Q. Okay.

9 A. Okay. Yes, I have this one.

10 Q. Okay.

11 **MS. SMITH:** Commissioners, those lab reports
12 can be found in your brief. The Wilson lab report and bench
13 notes begin on page 189 of the brief and the Bryson lab
14 reports and bench notes begin on page 940 of your brief.

15 Q. Do you also have testimony from Mr. Bendura?

16 A. I do.

17 Q. And do you also have testimony of Mr. Worsham?

18 A. Yes.

19 Q. Can you give the commissioners an overview of how
20 fiber analysis is done between fibers.

21 A. So in looking for fiber analysis, what we're
22 specifically looking for is whether or not fibers could have
23 originated from a known source. So items of evidence from a
24 crime scene, for example, to know items of evidence such as
25 suspect clothing, maybe a blanket, a rope -- anything of

1 that nature.

2 So we're looking to determine -- we will open the
3 question item, or if it's, say, a hit-and-run and there are
4 fibers on a windshield, we'll look at the questioned fibers,
5 determine what type of fibers are present. So say if it's
6 something like red fibers, then we will open the known
7 standard -- so say if it's victim's clothing or suspect
8 clothing -- and we'll look to see if there are red fibers
9 present. If so, on the known standard, then we will mount
10 those fibers and do a side-by-side comparison to determine
11 if questioned fibers could have come from the known source.

12 Q. Okay. I want to first turn your attention to the
13 Wilson case related to the ax handle.

14 A. Okay.

15 Q. In Mr. Bendura's testimony, he indicates that he
16 chose fibers that he defined as stuck in the handle and got
17 rid of those or discarded those that were just kind of on
18 the surface of that handle based on the fact that the time
19 elapsed between the crime and in the collection of that as
20 handle.

21 A. Correct.

22 Q. Is there any way to age or date fibers?

23 A. I would like to clarify. I don't believe he
24 "discarded" evidence. So he wouldn't have essentially
25 thrown away or discarded any fibers that were on the

1 surface.

2 What it means is he probably would've collected
3 them and essentially set them aside because they weren't
4 fibers that he was targeting specifically.

5 So there isn't a way to age fibers themselves.
6 So, I mean, you could look at something like, maybe, wear or
7 something is worn, it may have a little more, say, damage or
8 something than something that is brand-new but we can't age
9 or say how long something has been present on an object.

10 Q. And is there anything today about the way that you
11 would assess that evidence that is different than the way
12 that he assessed it in the '80s?

13 A. In regards to?

14 Q. Choosing which fibers to look at.

15 A. No. Because even today, we would have collected
16 all fibers.

17 So I believe in this case, he knew that it was an
18 ax handle that had been essentially exposed before -- for
19 years before it was collected. So he specifically was
20 targeting fibers that weren't on the surface because
21 something that has been loosely deposited on top of a
22 surface probably isn't going to be there after multiple
23 years, especially if it's been exposed to wind or movement
24 or any type of, you know -- if it's just lightly on the
25 surface, even brushing it could remove those fibers.

1 So if you want something that has been aged or
2 there for a while, you may target specifically something
3 that, in this case, was snagged -- so meaning that something
4 was holding it in place. We still can't say how long it was
5 held in place, but it was held in place longer than the
6 stuff that was likely sitting on the surface.

7 Q. Okay. And we know from the 1986 analysis that
8 there was a determination of a white wool fiber?

9 A. Correct.

10 Q. Is there any way for us to know how common white
11 wool was in the 1980s?

12 A. No. A lot of times, manufacturers -- and even to
13 this day -- don't release manufacturing information to us.
14 They don't say how many fibers are used in production to
15 this number of garments that are produced and distributed in
16 this area of the United States or abroad. So there's no
17 good way to know the commonality of a fiber type.

18 Q. Before I ask the commissioners if they have any
19 questions about that, do you have anything else you want to
20 add specifically related to the testing and the ax, the
21 hairs on the -- sorry -- the fibers on the ax handle?

22 A. No. I believe that that pretty much covers, you
23 know, his analysis and what he performed with the fiber that
24 was present.

25 **MS. SMITH:** Commissioners, do you have

1 questions about that particular item?

2 **JUDGE LOCK:** Commissioner Glazier.

3 **MR. GLAZIER:** You had mentioned earlier in
4 your testimony as to what the examiner would likely have
5 done with the top fibers.

6 Is there anything in your notes, anything in
7 his notes, that indicates that was done -- that that was
8 done? Or is that just your speculation based on what should
9 have been the protocol?

10 **THE WITNESS:** The common practice is that any
11 fibers or debris -- so, say, we opened something that is
12 dirty -- we actually will collect that debris and preserve
13 it either in a tin or on a piece of tape, and then it stays
14 with the item.

15 But I was not -- in '83, I was 1. So I
16 don't -- you know, how I was trained and how the crime lab
17 has told me that their process is, we never discard or
18 essentially throw away evidence.

19 **MR. GLAZIER:** My next question in follow-up
20 is was there anything in the notes or anything you saw that
21 indicates the -- and I mean discarded in the sense of put
22 somewhere -- that those fibers were tagged or marked were
23 kept anywhere as a piece of evidence?

24 **THE WITNESS:** No. I do not remember seeing
25 in his notes where he specifically says, "I placed them in a

1 tin or on a piece of tape."

2 **MR. GLAZIER:** Today, if you got that same ax
3 handle and were following your protocol, would you tag those
4 discarded fibers and preserve them in a way the chain of
5 custody would be available for them?

6 **THE WITNESS:** Yes. I would put it in a tin
7 or on a piece of tape and it would say "fibers" or "debris"
8 or "trace material removed from" this item, and it would be
9 packaged in the item itself.

10 **MR. GLAZIER:** Thank you.

11 **MR. EDWARDS:** Good afternoon. We heard some
12 testimony earlier from another expert in regard to the
13 fibers. And, Ms. Smith, if I am misstating, please let me
14 know, but I want to read one of his conclusions and ask your
15 opinion.

16 "One of the most important aspects of fiber
17 examination is color, particularly for natural fibers like
18 wool. The wool is undyed (no color), and therefore has
19 little evidential value. You cannot reliably distinguish
20 between types of wool."

21 What is your opinion of that statement?

22 **THE WITNESS:** I do agree that if it is truly
23 an undyed fiber, absolutely, because color is a very common
24 indicator. You know, red versus green -- you can easily
25 exclude. Red versus red, you know, people think you can

1 include, but even red to red, you can't because there could
2 be variance in the dye itself.

3 But white or colorless does not necessarily
4 mean undyed. You can have very lightly colored fibers --
5 yellows, grays, light blues. The garment itself may appear
6 dyed to you. The individual fibers under the microscope may
7 appear completely undyed. So that is also a variance.

8 You know, to say that because it's white wool
9 it is therefore undyed, I wouldn't make that assumption
10 either.

11 **MR. EDWARDS:** So the notes, I believe, from
12 the lab report that was done back in 1986, if I can find
13 it --

14 **MR. BOSWELL:** It might be page 195.

15 **MR. EDWARDS:** Yes.

16 Where -- do you have those handwritten notes
17 in the top of it? What I am looking at has notes and then
18 has the -- appears to have the lab number, 8605935.

19 **THE WITNESS:** Yes. With the two slides?

20 **MR. EDWARDS:** Well, I see -- yes, I guess. I
21 see five slides underlined.

22 **THE WITNESS:** Yes.

23 **MR. EDWARDS:** Dull, white wool fibers found.

24 **THE WITNESS:** Uh-huh.

25 **MR. EDWARDS:** All right. So based on what I

1 think I heard you say, the fact that they are white, maybe
2 dull white, would it be possible for comparison -- to
3 compare two fibers that are dull and white?

4 **THE WITNESS:** If I have a known source, yes.
5 Because if my known source does include white wool or, you
6 know, a wool source that is white or dull white, I could do
7 a comparison.

8 If I have a source that has wool in it but
9 say the wool is dyed, then that is an exclusionary factor.
10 So even though it is white wool, it almost has value in
11 exclusion, say, more than inclusion. Because if the source
12 they hand me has zero your white wool in it, then it didn't
13 come from that source. If they hand me a source that has
14 white wool in it, then it could have come from that source
15 because the only characters I can compare are consistent.

16 **JUDGE LOCK:** Will clothing manufacturers
17 sometimes dye white wool white to obtain a particular shade
18 of white, such as what I hear described sometimes as "winter
19 white"?

20 **THE WITNESS:** I imagine it's not dyeing --
21 more bleaching, because they are probably, in that, removing
22 the characteristics itself.

23 So, you know, a sheep who is growing his wool
24 a lot of times may be exposed to the environment itself so
25 it's going to be ugly, dirty, and so the manufacturer is

1 going to have to clean it and process it. And so that is
2 part of the process they go through in manufacturing it.

3 And so part of that cleaning process is
4 whitening it, essentially, and getting rid of it.

5 **JUDGE LOCK:** When examining undyed white
6 wool, are there differences in the shade of white -- if that
7 makes sense -- or are some whites whiter than others?

8 **THE WITNESS:** There could be a variance.

9 **JUDGE LOCK:** And if white wool had been dyed,
10 is it possible through the microscope to tell that it has
11 been dyed -- if they dyed white? White wool has been dyed
12 white? Or if it has been bleached?

13 **THE WITNESS:** I wouldn't say so, especially
14 if the scales have been stripped off, essentially -- the
15 outer coating of the hair itself, so the scales that are
16 present on the hair. Sometimes they will strip those off.
17 So then I'm just looking at a fiber that is white that is
18 animal hair, because sometimes it will have a medulla in it,
19 which is a hair characteristic and not a fiber
20 characteristic. We don't -- as in, we don't manufacture
21 fibers that have medullas in them.

22 So if I look at something and it's pure white
23 versus off-white, I mean, that could just be part of
24 manufacturing itself. So whether or not it is dyed white or
25 even if it is off-white, I can't tell that. When I am

1 looking at dyeing, I'm looking at actual color itself
2 addition. So white is essentially white.

3 So dyed versus undyed, I'm not going to be
4 able to see those characteristics.

5 **JUDGE LOCK:** Would it be fair to say that the
6 examination of wool done in 1986, when the examination was
7 done, that those results were of little probative value?

8 **THE WITNESS:** Little probative value because
9 he has an association?

10 **JUDGE LOCK:** Is the association one that you
11 would describe as a strong association?

12 **THE WITNESS:** It is an association. So I
13 don't know that I would put "strong" versus "weak" on it.
14 It's not strong like a red wool fiber to this red wool
15 because you can do further analysis in colored fibers.

16 So today we have the microspectrophotometer
17 which will actually look at the dye components itself and
18 say the potential types of colors that are present when they
19 manufactured it, and so that's where I say, you know, red is
20 not always red. To my eyes, it may look the same but the
21 instrument is going to tell me they're different.

22 I don't have the ability to go further with
23 that. So, yes, white wool is a weaker association in that
24 it only has minimal characteristics I can look at. But it
25 is still an association. So I guess that's where it's

1 weaker because I don't have a lot to look at, but it's still
2 an association.

3 **JUDGE LOCK:** My question was not artfully
4 worded and you did a masterful job of answering it.

5 **MR. BOSWELL:** Well, you sort of asked my
6 question. And I guess these two wool fibers would be
7 meaningful if they were different, but the fact that they
8 are the same doesn't really mean very much.

9 **THE WITNESS:** Correct. Because I can only
10 look at the characteristics of it's white wool, did it have
11 scales, did it not have scales, does it have, say, the same
12 fluorescence colors.

13 **MR. BOSWELL:** But none of that was even done
14 here -- scales versus nonscales, fluorescence colors, or any
15 of that.

16 **THE WITNESS:** And that's where -- because I
17 can't say the exact characteristics he looked at under the
18 microscope because it does say "same scale pattern." So it
19 says "consistent in color, same scale pattern." So that
20 does tell me that there were scales present; so a difference
21 would have been if one had no scales and one has scales,
22 that's a difference.

23 So the fact --

24 **MR. BOSWELL:** What are scales?

25 **THE WITNESS:** That's essentially -- so in

1 hair analysis -- I am going to pull out a pencil.

2 We have -- essentially, if you think about
3 hairs like a pencil, so just like this pencil is coated in a
4 yellow paint, your hair is coated in scales, kind of like a
5 fish or a snake. And those scales can be used to, say,
6 distinguish between a human hair versus a mink hair versus a
7 bear. So we can look at the scale pattern itself.

8 So all hairs have these scale patterns on it.
9 So some manufacturers will strip those scales completely off
10 and so they are not present. So he is saying that the scale
11 pattern is the same.

12 So you can -- and whether or not he did this
13 I don't know, but you can basically get an impression of the
14 scales themselves and make measurements off of them and can
15 do comparison on the scales themselves, what type of shape
16 they have, how far are they separated. So what he is saying
17 is it has the same type of scale pattern. So if it's an
18 intricate pattern or a petal pattern.

19 So it has the color. It's white. It does
20 have scales. They do have the same type of pattern. So he
21 at least was able to look at those characteristics.

22 **MR. BOSWELL:** Now, this is the first time
23 that that has come up so thank you for bringing that up.

24 What -- how often is -- are scale patterns
25 the same versus different? I mean, I know it's not as

1 different as, like, two people's DNA, but what -- you know,
2 are there a million different kinds of scale patterns? five
3 different kinds of scale patterns? How meaningful is it
4 that they have the same scale pattern?

5 **THE WITNESS:** Within a species, I mean, you
6 expect to see the same type of scale pattern. But where the
7 variance can occur is just like, you know, you can have
8 variability in -- and I hate to say this because I don't
9 want to -- it's not my expertise, but, like, fingernail --
10 fingerprint patterns, you know, you can have loop or arch or
11 whatever are the types that can be present there.

12 You can have an intricate pattern, but one
13 sheep may naturally have more separation in his scales.
14 Another sheep may have less separation in his scales. So
15 it's the same type of pattern but you can have variability
16 within the pattern itself. So -- but like a sheep is not
17 going to have a petal pattern. That's not part of his
18 genetic makeup.

19 **MR. BOSWELL:** Right. Got it. Okay.

20 **MS. SMITH:** Other questions related to the
21 fiber and the ax?

22 **MS. COLBERT:** So, you know, when he examined
23 a fiber that was stuck in the ax and the report said that it
24 was consistent to the victim's slacks -- so when we are
25 talking about slacks, when a manufacturer is making slacks

1 and they -- you know, they are pumping out the same color
2 slacks, is there any other difference? So if I had a
3 pair -- Lindsey and I go to the store and buy a skirt and
4 it's the same skirt, are those skirts going to be different
5 if we pull out a piece of fabric from those skirts that
6 would make it --

7 **THE WITNESS:** If it's within the same
8 manufacturer?

9 It really depends on where it is in the line.
10 Because -- so say, you know, they set the instrument up to
11 manufacture at the same weave pattern of your skirt. So say
12 my jacket. But halfway through my line, they run out of one
13 type of fiber and put another spool on. That could
14 absolutely cause difference in your fabrics.

15 So, yes, it's -- so you could use the same
16 type of fiber -- so, say, polyester -- but I'm going to have
17 to look at the characteristics within that polyester itself.

18 So that's where wool is a little bit harder
19 because you don't have those manufactured characteristics.
20 So, you know, if they carded the material that's made of the
21 wool onto a bobbin that they put onto the instrument in
22 order to manufacture the fiber, you know, one sheep could be
23 on this bobbin, multiple sheep could be on that bobbin.
24 There could be a lot of variability already on that so --
25 which introduces variability into the fabrics even though

1 they came off the same line.

2 Q. I'm going to turn your attention now to the Bryson
3 case. We will start with the fiber comparison that was done
4 between the two toboggans.

5 MR. BOSWELL: Where is that in the brief?

6 MS. SMITH: Page 945 in your brief. I
7 believe that that is the report dated June 8, 1987. Sorry.
8 943 is the report. Page 945 is the bench notes that
9 accompany that report.

10 Q. When you met with Beth and I at the crime lab, we
11 talked about triangulating evidence, connecting an item from
12 the evidentiary item back to the scene.

13 Can you explain that to the commissioners.

14 A. So when we're doing a comparison -- like I said,
15 we like to look for a known source. So specifically, you
16 know, something from the scene that could have transferred
17 fibers onto this. Because just like we talked about with
18 the manufacturing characteristics, there can be fibers that
19 are manufactured for a shirt versus a pant that are the same
20 type of fibers but, say, the shirt was present at the crime
21 scene but not the pant. And so fiber transfer from the pant
22 and at -- the suspect has the shirt.

23 So we'd like to have the known source because we
24 can't source questioned fibers to questioned fibers because
25 there's just too much -- we don't know how the fiber could

1 have gotten there. So when doing the analysis today, the
2 first question I'm going to ask you is -- so say you have a
3 victim and a suspect coming in contact -- "Do you have the
4 clothing that they were wearing during the time the incident
5 occurred?" Because I am going to look specifically for
6 exactly how the suspect's clothing is manufactured, did
7 those fibers transfer, exactly how the victim's clothing was
8 manufactured, did those fibers transfer.

9 So instead of just looking at a set of victim's
10 clothing and saying, "I found these type of fibers
11 present" -- because there are thousands of fibers that are
12 present on your clothing that it could have come from any
13 type of contact that you have, so I can't source everything.

14 Q. So in looking at the testing that was done in 1987
15 related to the fibers in the toboggans here, can you just
16 explain to the commissioners what was done then?

17 A. So it appears that he removed fibers and hair from
18 the toboggans themselves and then he transferred the hairs
19 from the toboggans to a hair analyst and then he looked at
20 the fibers. And he said that he noticed that there are
21 three types of fibers on one toboggan and also those same
22 types of fibers were present on another toboggan. So it
23 appears that it was essentially a question source to a
24 question source.

25 You know, could -- therefore, these fibers could

1 have been in the same environment.

2 So today, I wouldn't do that. I may look at it.
3 And if I notice a lot of one type of fiber, I may call and
4 say, "Do you have a source of this? Is there a blanket or a
5 shirt or something at the house that has this type of" --
6 you know, say I see a whole lot of orange fibers, "Is there
7 an orange fiber or an orange towel or orange carpet -- can
8 you send me in a standard?"

9 Q. Have you had an opportunity to review Dr. Houck's
10 report related to -- specifically to the fibers and the
11 toboggans?

12 A. I have.

13 Q. Do you agree with his opinions or are there any
14 opinions that you disagree with?

15 A. I do not agree with his opinion regarding the
16 fiber classification of acrylic versus acetate.

17 Q. Okay. Can you explain that a little bit further.

18 A. So in reading the report, he stated that "Based on
19 the laboratory notes, it appears the analyst incorrectly
20 identified the fiber. The description of the fiber, the
21 drawing, and the examination suggest the fiber was actually
22 acrylic and not acetate."

23 In that finding -- I do not agree with that.
24 Because within the analyst's notes, when he drew the fiber,
25 he states it's a positive sign of elongation. Acetate has a

1 positive sign of elongation. So further down, he states
2 acetate does not have a positive sign of elongation.
3 Acetate does have a positive sign of elongation. Acrylic
4 has a negative sign of elongation.

5 So the fact the notes indicate the analyst wrote
6 positive sign of elongation -- that is not an acrylic fiber.
7 Acrylic has a negative sign of elongation.

8 Acetate can have -- it's called triacetate.
9 Triacetate can vary. It can be either positive or negative
10 sign of elongation. But acetate itself tends to land on the
11 positive sign of elongation; acrylic is negative.

12 So this analyst, when he writes acetate, it could,
13 maybe, have been a triacetate fiber. The only way to
14 distinguish between acetate and triacetate is to do a
15 solubility test. You put it in a specific chemical, one is
16 soluble, one is not, and that's how you can distinguish
17 triacetate versus acetate.

18 But the sign of elongation can be used to
19 determine acrylic versus acetate.

20 Q. Okay.

21 MS. SMITH: Are there any -- yes.

22 MR. GLAZIER: You may be asking questions so
23 I will hold.

24 MS. SMITH: You can go ahead.

25 MR. GLAZIER: Are there any other of the

1 determinations made by Dr. Houck that you disagree with? Or
2 do you agree with the rest of his determinations?

3 **THE WITNESS:** He also states that "The
4 analyst's description of the fiber provides the wrong
5 cross-section for acetate."

6 I'm not necessarily sure I agree with that
7 either because in order to determine the cross-section --
8 the true cross-section of the fiber itself, you would need
9 to perform a cross-section, which is essentially -- if you
10 were to, say, take a fiber, and you cut it in half and then
11 I look at, literally, this view of it, that is the only way
12 for me to determine the true cross-section of the fiber.

13 Otherwise, we have a longitudinal mount. So
14 say this is the fiber and I put it on the slide, it may
15 appear line round with slight irregularities, and he puts
16 "fairly round" on it. He is not going to know if it's round
17 or maybe that popcorn shape, has just very minimal
18 indentations, unless you look at it through this manner.

19 So to say that it's the wrong cross-section
20 for the acetate because it appears to be a longitudinal
21 mount, it could be the correct cross-section but he didn't
22 look at it from this perspective. He just looked at it from
23 this perspective.

24 He also states "Given the description of the
25 examinations conducted, the analyst should have been able to

1 make further evaluations (for birefringence, for example)."

2 He did look at birefringence. In his notes,
3 he indicates it is low birefringence. Low birefringence
4 means it is white.

5 When I cross the polars under the polarized
6 light microscopy -- and the white indicates it can either be
7 low birefringence or high birefringence. I have to add in a
8 wavelength, essentially 528 nanometers, and if I see color,
9 it goes from white to either blue or yellow, then I know it
10 is low birefringence. If I see no addition of color, then I
11 know it's high birefringence.

12 So he did do the birefringence because he
13 told you it's a positive sign of elongation. So it turned
14 blue when I put in the extra wavelength.

15 So -- and he even did that on the rayon. He
16 states that it's a medium birefringence.

17 So when you talk about all of the fibers are
18 white or colorless, this means they have limited evidential
19 value -- on the wool, as we've talked about, possibly yes,
20 because there's very little for you to look at.

21 However, if you look at his notes for the
22 acetate, he indicates that it's delustered -- heavily
23 delustered, and he has speckles that are drawn. So what
24 that means is that the manufacturer has specifically put in
25 the lustrant, essentially -- could be titanium dioxide or a

1 pigment -- into the fiber in order to make it less shiny.
2 So you appear less shiny in your garment. So when I'm
3 comparing the manufactured fibers, if I have heavily
4 delustered fiber and even, say, just a lightly delustered
5 fiber, they're different.

6 So there's a lot of characteristics that you
7 can look at when you're doing the analysis. You're not just
8 looking for a white fiber.

9 So you're looking at -- you know, here he is
10 saying it's fairly round. Well, if I have one that appears
11 like the rayon, striated, okay, it's different even on a
12 longitudinal mount. It's not delustered. It's different.
13 So there's a lot of characteristics that he did do. So I
14 don't agree with saying that because it's white it is
15 limited evidentiary value.

16 When you get into a manufactured fiber, you
17 have of a lot more characteristics than nature. So I
18 wouldn't assess limited evidentiary value on a manufactured
19 white fiber.

20 **MR. GLAZIER:** This is more to Lindsey. It
21 seems like there is some difference between the experts on
22 this particular issue.

23 Did you go back, knowing what this expert was
24 going to say, to Dr. Houck to get his determination of why
25 he said what he said?

1 **MS. SMITH:** We have not had an opportunity to
2 do that.

3 **MR. GLAZIER:** I think I would like to hear
4 his explanation.

5 **MS. SMITH:** We will certainly reach back out
6 to him.

7 **MR. GLAZIER:** Because they are clearly
8 different on this issue.

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

10 **JUDGE LOCK:** Mr. Edwards.

11 **MR. EDWARDS:** I believe you said the finding
12 that these fibers were found to be consistent with white
13 acetate, white rayon, and white wool fibers found in the
14 suspect's toboggan -- I believe you said that today you
15 would not make that type of, I guess, determination or
16 opinion. I'm not sure that's the right word.

17 Is that right?

18 **THE WITNESS:** Yeah. I wouldn't have formed
19 the opinion that questioned fibers on one item could have
20 come from the same source as questioned fibers on another
21 item.

22 I may have put in my notes or even in my
23 conclusion "I found acetate, rayon, and acrylic. Also,
24 acetate, rayon, and acrylic was here. Requested a potential
25 source. No source at this time. Should a source be

1 developed? Please resubmit and a comparison will be
2 performed at that time."

3 **MR. EDWARDS:** Okay. So without the source,
4 you would not make -- come to that conclusion; is that
5 right?

6 **THE WITNESS:** Today, no. But if you're
7 looking at the characteristics themselves, to say it could
8 have come from the same source isn't an out-of-bounds reach.
9 You know, you're still looking at the characteristics
10 themselves. They do all line up enough that it stood out to
11 the analyst when he even puts his notes -- he's looking at
12 thousands of fibers; so it stood out enough for him to be,
13 like, "Out of these thousands of fibers, I'm seeing white
14 rayon, white wool, white acrylic."

15 And he did reach out for a source because in
16 the testimony that I have, he specifically says, "I do have
17 one source from the defendant's apartment. I believe it was
18 a wool-polyester blend sample was submitted the wool fiber
19 may have originated from. We're talking about just the
20 wool. The other two I do not have a known source of where
21 they may have come from."

22 So he could have reached out to the agency
23 and said, "Do you have a source?" They submitted the white
24 wool blanket, which also has manufactured fibers in it.
25 It's manufactured polyester, not rayon or acrylic. So he

1 says, "It could have -- the wool could have come from here
2 but I still have acetate and rayon that are present. They
3 could've come from another source. I don't have that
4 source."

5 **JUDGE LOCK:** If you said this, I just missed
6 it and I apologize.

7 Is it your understanding that Agent Bendura
8 was examining fibers that he believed had adhered to these
9 toboggans from some other source or were they fibers taken
10 from the toboggans themselves that were used in the
11 manufacturing of these toboggans?

12 **THE WITNESS:** Removed from the toboggan
13 itself, not part of the makeup. Because he states within
14 here that they do have very similar makeup. So they are
15 both brown toboggan fibers. So he did look to see if brown
16 toboggan fibers from the toboggan that was turned over could
17 have been on the toboggan that was found at the crime scene
18 but he could not find a transfer between the known source to
19 a known source because clothing itself acts as both a
20 questioned and a known at the same time because I'm removing
21 questioned fibers off of the surface but I'm using the
22 makeup itself to determine exactly what this is made of and
23 I'm doing the same thing on the other item.

24 **JUDGE LOCK:** With regard to both items, these
25 fibers were extracted from the toboggans themselves. They

1 did not adhere to the toboggans from some other sources; is
2 that --

3 **THE WITNESS:** No. They were possibly adhered
4 from another source. They weren't -- the makeup of the
5 fiber itself.

6 **JUDGE LOCK:** They were not the makeup?

7 **THE WITNESS:** They were not the makeup.

8 **JUDGE LOCK:** I misunderstood.

9 **THE WITNESS:** Yeah. So he says in here that
10 he did look for the makeup -- so the actual brown fibers --
11 and did not find that association. But in looking for the
12 makeup, he noted these three types of fibers on one item as
13 well as these three types of fibers on another item.

14 **JUDGE LOCK:** So assuming the accuracy of his
15 work, is it reasonable to assume that both toboggans had at
16 one time been in contact with the same source?

17 **THE WITNESS:** Yes. And so that's what he's
18 stating is they could have been in the same environment.
19 Therefore, in that environment -- so say you come in from
20 the winter, you take your toboggan off and you toss it on
21 the couch. Well, on that couch is a blanket that you have
22 there. So that could be the source. Well, then you donate
23 in the spring -- your spring clean, you donate that blanket
24 to Goodwill. Well, now that blanket is no longer at your
25 house but the fibers could have adhered to the toboggan that

1 you threw on the couch.

2 **JUDGE LOCK:** Thank you for clarifying that.
3 Sheriff Frye.

4 **SHERIFF FRYE:** And this is following up on
5 this. Two toboggans, both of them have fibers that are
6 consistent with being from the same source --

7 **THE WITNESS:** Yes.

8 **SHERIFF FRYE:** -- correct?

9 What are the odds? I don't know whether I'm
10 asking you to give a statistical analysis or a sporting
11 bookie odds. What are the odds that they didn't come from
12 the exact same source?

13 **THE WITNESS:** And I wouldn't even be able to
14 give you a speculation because that goes back to the
15 manufacturers won't even give me the odds of those fibers
16 being in the environment themselves.

17 So I'm missing -- there's too many unknowns.
18 Until the manufacturers release to the fiber community every
19 type of fiber that they are using and how often they are
20 using it and how they are manufacturing it with the type of
21 delustrant, how common that delustrant is, if it's heavily
22 delustered, not delustered -- I can't answer that question
23 because I don't even know how many potential sources it
24 could have been used in in order to give a ballpark estimate
25 of what's the probability of it being in the environment.

1 **SHERIFF FRYE:** What's the statistical
2 probability?

3 **THE WITNESS:** Correct.

4 **MR. BOSWELL:** So -- and I apologize if I'm
5 belaboring this point, but what I think I understood you to
6 say is there wasn't -- he didn't find any evidence that a
7 fiber from one of the toboggans was on the other toboggan.
8 There is no evidence that a fiber from one toboggan went to
9 the other toboggan.

10 **THE WITNESS:** And he does account for that.
11 So --

12 **MR. BOSWELL:** Well, let me -- first, is what
13 I said true?

14 **THE WITNESS:** Well, and that's where -- so he
15 says he looked for it. The problem is you're looking for a
16 brown source on a brown source. So could the transfer have
17 occurred and he not have located it? Absolutely. Could the
18 transfer have not occurred and therefore he didn't locate
19 it? Absolutely.

20 **MR. BOSWELL:** All right. So there's not
21 really any evidentiary value because they are both the same
22 color and made of the same stuff.

23 **THE WITNESS:** Yeah. So that would be like me
24 looking for black polyester on this suit -- or whatever this
25 is. I think it's polyester.

1 So the probability of me taping this -- so
2 when you tape a surface, you're removing the loose fibers
3 that this is comprised of as well as questioned fibers.

4 **MR. BOSWELL:** Right.

5 **THE WITNESS:** So if I'm looking through
6 thousands of black polyester fibers for a black polyester
7 fiber, it is likely that I could have missed it unless I
8 look at every single fiber that is on that piece of tape.

9 **MR. BOSWELL:** Yeah. So there's no probative
10 value of the fact that he did not find any transfer of
11 fibers between the two because there may have been and there
12 may not have been. Who knows?

13 **THE WITNESS:** Correct.

14 **MR. BOSWELL:** But so -- then what he's
15 looking at is fibers that appeared to be on the same -- on
16 both toboggans that came from somewhere else.

17 **THE WITNESS:** Correct.

18 **MR. BOSWELL:** But because there was no known
19 source, you can't be sure that those sources to one and
20 sources to the other were the same.

21 **THE WITNESS:** Right. So he has the source of
22 potentially the wool. That is the blanket from the
23 defendant's house that was submitted. It's the rayon --

24 (Overlapping speakers.)

25 **MR. BOSWELL:** Is he sure that it's from that

1 same blanket or --

2 **THE WITNESS:** We can never be sure it's from
3 that blanket to the exclusion of all other blankets because
4 that goes back into the manufacturing.

5 **MR. BOSWELL:** Got it. Okay.

6 So that is a piece of evidence that it could
7 be --

8 **THE WITNESS:** Correct.

9 **MR. BOSWELL:** -- but it is not definitive.

10 **THE WITNESS:** Correct.

11 So we have the wool potentially from a source
12 that -- a known source that they submitted. We have the
13 acetate and rayon that a known source wasn't located. Like
14 I said, does that mean that it was a blanket in the house
15 that got donated to Goodwill? Or does that mean it was
16 never in that house to begin with? We can't make that
17 assessment.

18 **MR. BOSWELL:** But those three fibers that
19 were pulled off of those -- those three fibers were
20 consistent to one another -- so the wool, the acetate, and
21 the rayon were similar to one another or not?

22 **THE WITNESS:** He calls them consistent with.

23 **MR. BOSWELL:** Okay. And so -- I don't know
24 how to ask this question. But how meaningful is it that two
25 fibers are consistent with one another? Is that something

1 you would expect to see between, sort of, any two garments
2 that you're going to be able find consistent fibers? Or is
3 it rare that you would find consistent fibers that are on
4 two different garments?

5 **THE WITNESS:** That goes back to the
6 statistical ballpark. I'm not going to be able to answer
7 that only because until the manufacturers unzip their lips,
8 the forensic community doesn't know prevalence of fibers
9 that are used. Because it could be very, very prevalent in
10 California and not prevalent at all in North Carolina. I
11 don't know.

12 So say you have a suspect that lives in
13 California. He has that blanket. I never see it in case
14 work. He moves to North Carolina, commits a crime, it comes
15 in as case work. That's extremely rare to me. You ask a
16 California analyst, and they're like, "No, I see this all
17 the time."

18 So we can't, you know, testify to whether
19 something is rare or -- or common or not common because we
20 don't know manufacturing characteristics.

21 **MR. BOSWELL:** That was very helpful. Thank
22 you.

23 Q. I do have a follow-up.

24 We have talked about the white wool fiber that's
25 on the two toboggans and you've also indicated that in

1 Mr. Bendura's testimony -- and it also appears in his -- I
2 think, at the bottom of his notes, that that is also found
3 to be a part of item --

4 A. -- S-1-5.

5 Q. Correct. 5-1-5, which is some fibers from the
6 defendant's -- or suspect's apartment.

7 A. Yes.

8 Q. But I don't see that in the report.

9 A. It's listed. And it appears to be an S on the
10 laboratory report that's dated June 8, 1987.

11 Q. Yes.

12 A. It says "Items submitted on April 30, 1986, by
13 Officer J.K. Dorn. Item S-1-5, sealed plastic bags
14 containing fiber samples from the suspect's apartment."

15 So that would be -- so S-1-5, whenever we get an
16 item that contains multiple items, we subitem within it so
17 that we can specify. So they sent me fiber samples from the
18 suspect's apartment. They sampled carpet in the living
19 room, the couch, a curtain, carpet in the bedroom, and the
20 blanket.

21 I'm not going to mount all five of those on one
22 slide together. I'm going to separate them all out. So I'm
23 going to call the carpet from the living room S-1-1. I'm
24 going to call the blanket S-1-2. And so I'm going to
25 specify that within the laboratory.

1 Q. Okay. Can you take a look at the report and the
2 analysis and see if you see where he reports that connection
3 between the wool.

4 A. Yes.

5 It's -- let's see. On his handwritten notes,
6 page 2, halfway down it says "Items S-1-1 through S-1-5,
7 fiber samples from suspect's" -- I can't interpret that
8 word. "Five sealed plastic bags. One association made with
9 wool." I think that's where he's saying that the
10 association was made with the wool fiber. It cut off on the
11 edge of mine, but that's where he says he separated them
12 into five individual items.

13 Q. Is it in the typewritten report though? I'm not
14 really trying to trick you. I just don't see it.

15 A. No. It's not in the typewritten report.

16 Q. Is there any reason that that would be the case?
17 I mean, he testifies to it and it appears to be in the bench
18 notes, but is not in the typewritten report.

19 A. Well, even now, currently, that would only be in
20 our chain of custody. So when I create subitems within the
21 laboratory, it's in my chain of custody and it will say
22 "item created by analyst" on this date. I don't put it in
23 my lab report.

24 Q. I don't mean the subitems. I'm talking about the
25 actual --

1 A. Oh, the actual item itself.

2 Q. The item where it says that that connection has
3 been made between the wool from the toboggans and the wool
4 that is found in S-1-5 -- or S-1 is maybe how it would look
5 in the report.

6 A. I do not see that on the report itself.

7 No, I do not see where he lists that on the
8 report. It's just within his notes.

9 Q. Okay. Do you know if that is -- was a common
10 practice? Or would that be unusual?

11 A. That would be unusual because that's a conclusion
12 and a finding that he has. Yeah. I don't see where, other
13 than his notes, where he just indicates in his notes that
14 conclusion.

15 Q. Okay. All right. Thank you.

16 And if we -- we don't have the toboggans today or
17 the fibers from those toboggans. If we were, is there
18 anything that the crime lab could do to analyze those today?

19 A. I believe the only thing we could do is go back
20 and verify -- so, example, the question between acrylic
21 versus acetate. We could confirm that. So you can
22 potentially determine generic fiber classifications using
23 PLM. So part of our fiber training is I should know before
24 I even go to the IR what fiber class I'm dealing with.

25 **MR. BOSWELL:** Would you not use acronyms? We

1 don't know what "PLM" and "IR" are.

2 **THE WITNESS:** Oh, sorry.

3 The Fourier-Transform Infrared Analysis.

4 And so what that is looking for is the actual
5 chemical makeup of the fiber itself.

6 So when they're manufacturing acetate, it has
7 specific groups on it that hang off, essentially, the
8 chemical backbone. And so it has functional groups that are
9 made to function a certain way. Polyester has certain
10 groups. Polyethylene, polypropylene -- all the generic
11 classes of fibers themselves are manufactured to act in
12 specific ways.

13 So nylon versus Saran versus Kevlar. So
14 Kevlar is extremely strong, extremely organized. We use it
15 in bulletproof vests. So nylon, very common, very durable.
16 We are going to use it in carpets. You know, polyester --
17 clothing.

18 So the manufacturers manufacture these fibers
19 to look at specific things.

20 What the FTIR, Fourier-Transform Infrared, is
21 looking at is what are those functional groups? And those
22 functional groups are going to interact a certain way with
23 each other, and that's what the instrument is telling me.
24 So it is saying "This is acetate. This is rayon. This is
25 polyester."

1 I should already know before I get to that,
2 which is a confirmatory, what I'm looking at based on the
3 characteristics on the microscope. So that would be the
4 only additional analysis I could do, would be to put it on
5 that, or I could do the solubility testing.

6 Solubility testing is destructive, is the
7 other thing. So if I only have one acetate fiber and it's
8 tiny and I dissolve it, you're never going to be able to
9 look at it again because if it dissolves, I know which
10 classification it's in, but you're never going to be able to
11 look at it again. So solubility testing is destructive.

12 And I'm not going to be able to use the IR to
13 distinguish between triacetate and acetate; so ...

14 Q. Thank you.

15 **MS. SMITH:** Before we turn our attention to
16 the hairs from the toboggan, are there any additional
17 questions about the fibers?

18 (No response.)

19 Q. Let's look now at the hair comparisons from the
20 Bryson case. You have had an opportunity to look at that
21 report and read Mr. Worsham's testimony; is that correct?

22 A. Yes.

23 Q. Can you just generally explain hair comparison to
24 the commissioners.

25 A. So hair comparison -- and we've kind of gone a

1 little bit into hair comparison when we've been talking
2 about wool. So hair comparison itself, when I am doing the
3 comparison, I am essentially looking at a hair -- and it's
4 very similar to how this pencil is. So just like the eraser
5 of the pencil, this would represent similar to the root end
6 of your hair, along the shaft, which has the yellow painting
7 on it, just like your hair has a coating of scales, to the
8 tip of the hair.

9 So this pencil itself is brand-new so it has a
10 very cut tip versus a pencil that's been sharpened and used
11 as what, in hair analysis, we could call a natural taper
12 tip. So just exposure to clothing, rubbing is going to rub
13 away at this.

14 And so within that -- so that's just the outside
15 characteristics. So I can look at this and say, you know, a
16 hair -- look at form. Is it curly? Is it long? Is it
17 short? Is it blonde? Is it red? Is it brown? So, you
18 know, you can have variation within a standard or you can
19 have, you know, hairs that look very similar to each other.

20 So most hair standards -- you have about 8 to 10
21 different variances in your hair naturally. So we get a
22 known standard and we want to look at those characteristics.
23 So I'm going to write down the macrocharacteristics of that
24 standard. So if you were to submit this to me, I'm going to
25 list the color variance that I see, I'm going to list if

1 there's any form variance on it that I am looking at.

2 So -- and then under the microscope, I can look
3 essentially, just like this has, you know, wood grain, and
4 you can have variance between wood grain in trees -- so oak
5 versus pine. You can have variance within the cortex of
6 your hair. And so within the cortex, that's where I'm going
7 to find the pigment. So I'm looking at the pattern, the
8 distribution, the size, the presence.

9 And just like these pencils that have lead that
10 run through them, you could have what's called a medulla
11 that runs through your hair. It can be dark. It can be
12 colorless. It can be absent.

13 So on totality of these, making an assessment of
14 the standard. Do I have any variability? What is that
15 variability? And then I'm going to go to my questioned item
16 and I'm going to look for potentially any transfer that
17 could have occurred.

18 So if I'm targeting a pink hair, I'm not going to
19 pull off a yellow hair because, macroscopically, looking at
20 them with the naked eye, they already look completely
21 different. So I am going to pass over this hair.

22 So say I'm looking for this, yellow, and I find
23 yellow hairs. Then I'm going to pull that off and I'm going
24 to do a side-by-side comparison looking all the way in to
25 the pigment itself. Did I see at any point any differences?

1 And I am going to note that.

2 So that's how we perform a hair comparison.

3 So I'm going to look at an item -- just like I'm
4 looking for the fibers, I'm going to look for
5 macroscopically what type of hair am I looking for, I'm
6 going to pull it off of that item, mount it on a microscope
7 slide, and then do a microscopic hair comparison.

8 Q. Can you tell us today whether or not you can tell
9 how long the hair fragment was in this case?

10 A. No.

11 So a fragment basically just means that you are
12 missing the root end. That's all it means. So if, you
13 know, you were to go and grab a hair and pull it out, then
14 you have a full length hair. "Fragment" means you could go
15 as close to the skin as possible and cut it -- well, I don't
16 know if you went as close to the skin and cut it or if you
17 went down here and cut it or if you went up here and cut it.
18 So a fragment on my hair can be any variability. Say I have
19 50-centimeter long hair, it can range from, you know,
20 49.9 centimeters all the way to .1 centimeters.

21 The lack of a root just indicates it's a fragment.

22 Q. And there is just nothing in the notes that you
23 have that indicate that that hair was measured or that you
24 would have any idea how long the fragment is?

25 A. No.

1 Q. Okay. Can you tell us today what the practice is
2 when you receive a hair without a root at the crime lab.

3 A. So it would be exactly the same here. I'm going
4 to look at the characteristics of the hair itself. When
5 we're doing hair comparisons, we can only compare head hair
6 and pubic hair. Those are the only two regions on the body
7 that contain enough distinguishing characteristics for me to
8 say it could have originated from someone.

9 So if I look at a hair -- so say, example, you
10 know, an eyebrow hair or, you know, an eyelash hair -- more
11 use of that dark art form, I can't compare eyelash or
12 eyebrow hairs because there's not enough distinguishing hair
13 characteristics for me to say it could have originated from
14 a individual. So I'm going to look for head hair or pubic
15 hair.

16 So I will look at the hair itself to determine
17 even macroscopically -- like I said, does it have the same
18 form, the same color? If so, is it long enough? Then I'm
19 going to mount it for further comparison. Because sometimes
20 I'm not going to know until that hair is on the microscope
21 because it could be, say, a blonde hair and I get it on the
22 microscope and it doesn't have a lot of pigment or medulla,
23 and so it lacks the characteristics for me to be able to
24 perform a comparison.

25 So I'm going to have to look at the totality of

1 what's present on that hair.

2 So -- but a hair fragment -- I can compare a hair
3 fragment depending on the length and if I can determine if
4 it came potentially from a head hair or a pubic hair region.

5 Q. And is there any other steps that the crime lab
6 takes once that hair comparison is done today that wouldn't
7 have been done back in the '80s?

8 A. We potentially can recommend it go for -- in this
9 case, because it's a fragment, we would've recommended
10 mitochondrial DNA analysis.

11 So if it would have had a root on it that
12 potentially has tissue that may contain nuclei that may be
13 suitable for nuclear DNA analysis or Y-STR testing, then
14 today we could send it to our DNA section to determine if it
15 could have a DNA profile. Otherwise, we're going to
16 recommend it go to mitochondrial which is not performed at
17 the North Carolina State Crime Laboratory so we're going to
18 recommend that it be outsourced to a laboratory that does
19 that type of analysis.

20 Q. And that mitochondrial DNA analysis just would not
21 have been available back in the '80s?

22 A. I don't believe so.

23 Q. It wouldn't have been routine practice to do that
24 then?

25 A. No. Because I don't even believe DNA analysis

1 came on until the '90s, like, as sensitive as we would
2 need it to be for hair roots themselves.

3 Q. You've also had an opportunity to review
4 Dr. Houck's report related to the hair analysis.

5 Do you have any -- any parts of his opinion there
6 that you disagree with or anything that you agree with?

7 A. So just like we talked about, he just says there
8 are three basic parts of a hair -- or the tip, the shaft,
9 and the root, which is true. But like I talked about,
10 within the hair itself, within that cortex, there is a lot
11 of information regarding pigment that we can look at.

12 Pigment can be used to distinguish potential
13 racial classifications. And when I say that, I'm not
14 talking about a person's outward appearance. I'm talking
15 more genealogical, your heritage. So a Negroid hair,
16 African lineage; a Mongoloid hair, Asian lineage; a
17 Caucasian hair, European lineage.

18 So we can potentially look within that cortex
19 itself in order to determine potential, you know, Negroid
20 hair, Caucasian hair, Mongoloid hair.

21 And so it's a lot more than just three basic
22 parts.

23 So -- and then he says "Most hair fragments do not
24 have sufficient information to be suitable for significant
25 comparison purposes." Once again, that goes into how long

1 was the hair? If I have 45 centimeters to look at, it's
2 still a fragment but there's enough information that I could
3 be able to do a full comparison and be able to call it
4 similar or consistent with an individual or different from
5 an individual.

6 So the fact that it's a fragment doesn't take away
7 from the ability to perform a comparison.

8 Q. Okay. Anything else you want to add related to
9 Dr. Houck's report?

10 A. (No response.)

11 **MR. EDWARDS:** I have a question.

12 So if I understand what you said, nowadays,
13 you would be able to potentially analyze a hair fragment and
14 determine genealogy, which you've just testified to; is that
15 right?

16 **THE WITNESS:** Nowadays, it's actually a lot
17 harder than it probably would have been in the '60s and
18 '70s because we're a melting pot now. So that genetic
19 heritage is mixed. You know, you could have African
20 ancestry and then you've had enough influx of, you know,
21 Asian or European ancestry that your hair individually may
22 look mixed racial or Caucasian where you're -- because a lot
23 of people tend to think outward appearance, about, say,
24 Caucasian hair, they think white. Not necessarily.

25 So that's where you have to be very careful

1 when you get into that.

2 What I'm talking about specifically are the
3 characteristics. So yes, I would say it was much easier for
4 him. So if he specifies that they were two Negroid hair
5 fragments, we actually today are getting away from saying
6 "two Negroid hair fragments." We would just say two hair
7 fragments that are either similar or consistent with an
8 individual because of that. So that is where that line has
9 really blurred when you get into actual characteristics
10 today versus back then.

11 **MR. EDWARDS:** So my next question was going
12 to be his statement -- Dr. Houck's statement that, "In
13 almost all circumstances, the limit of conclusion for a hair
14 fragment is 'this is a human hair fragment'" -- what is your
15 opinion on that statement?

16 **THE WITNESS:** I do not agree with that at
17 all.

18 Because I can call similar or consistent with
19 or different or even inconclusive based on the
20 characteristics I'm looking at. So that goes back into if
21 I'm targeting pink hairs and every hair I see is yellow,
22 they didn't come from the same source. If I'm targeting
23 yellow hairs and I have a yellow standard, they could've
24 come from the same source.

25 So otherwise, I'm telling you it's a hair

1 fragment and that's all I can tell you. I can tell you
2 nothing about these two hairs compared to this standard when
3 in reality I can. So it really gets into more depth.

4 Which is why I'm saying if you looked at that
5 at the surface and you tell me there is a root and that
6 there is length and there's a tip and that's it, absolutely
7 all I can tell you is it's a hair fragment and it's human.
8 That's the only thing I'm going to be able to tell you.

9 When you go in depth and do the comparison, I
10 can tell you a lot more information about that hair itself,
11 and that's what this analyst was able to do.

12 **DR. PERRY:** Are you going to ask the rest of
13 that paragraph? Or did she address that?

14 After the quote -- I was curious if you were
15 curious about that.

16 **MR. EDWARDS:** No. I'll be glad for you to do
17 that.

18 **DR. PERRY:** I thought that's where you were
19 going. And I don't think you've addressed this, ma'am.

20 The follow-up, do you have it there?

21 **THE WITNESS:** "Based on my education,
22 training, and experience"?

23 **DR. PERRY:** Right. To the end.

24 **THE WITNESS:** Uh-huh.

25 **DR. PERRY:** What's your assessment of that?

1 **THE WITNESS:** And that's where I don't agree
2 with that at all because it goes more in depth than looking
3 at the surface.

4 **DR. PERRY:** So you disagree with that entire
5 summation?

6 **THE WITNESS:** Yes. To say that hair -- to
7 say the fragments exceed the supportable conclusion about
8 the identity of a source of a hair fragment, I don't agree
9 with that at all because in order to do a comparison -- you
10 did step one. Is it a human hair? Absolutely. It's a
11 human hair. We can distinguish human from animal.

12 Step two, what does it macroscopically look
13 like? Okay.

14 Step three, what does it microscopically look
15 like?

16 So you're forming opinions the entire way.
17 So to say that just because it's lacking the root, I can say
18 nothing about the hair itself is where I don't agree with
19 that. Because if there is enough characteristics for me to
20 be able -- if both of these are lacking roots, you can look
21 at them just like I could as a hair analyst and go, "Nope,
22 they're different" other than saying, "They're both human."

23 So, you know -- and to get into saying that
24 they are two Negroid hair fragments -- so that tells me that
25 he's able to look through, look at that pigment, look at the

1 distribution of the pigment -- because Negroid pigment tends
2 to be clumpier. So the pigment tends to clump together.
3 Caucasian pigment tends to be more evenly distributed.
4 Mongoloid pigment tends to be very streaky. So it almost
5 looks like a paintbrush running down it. So there's three
6 different differences right there.

7 So now I've classified it not only as human,
8 I've also classified it as Negroid.

9 So now I go back to my standard. Is my
10 standard human? Is it Negroid? Yes and yes.

11 So now I go into what color is it? You know,
12 because it could be black or it could be, say, bleached
13 blonde. Okay. Now, there is your difference. Or it could
14 be this one is completely opaque. I can't tell anything
15 about it. This one is for very, very, very lightly colored.

16 So there's a lot of characteristics that
17 you're looking at. So to say that just because it's a
18 fragment -- now, if I get a fragment that's only like this
19 much, there may not be those characteristics for me to be
20 able to tell you anything. But this analyst was able to
21 tell you that there were two human -- or two human hairs,
22 two Negroid hair fragments, and that they were
23 microscopically consistent with a known standard. So he was
24 able to see all the characteristics that we needed in order
25 to perform the analysis.

1 **DR. PERRY:** So paragraph b you don't just
2 disagree with; it's absolutely false your mind?

3 **THE WITNESS:** Without seeing the evidence and
4 just going on the analysis performed and how I would release
5 the conclusion, yes, because I would say right here the only
6 thing that he's -- the only thing Houck says is all he can
7 say, because it's a fragment, is if it's human or animal.
8 And I don't agree with that at all because he says it's two
9 Negroid hair fragments that are consistent with an
10 individual.

11 **DR. PERRY:** Thank you, ma'am.

12 **SHERIFF FRYE:** Based on that, though, let's
13 go back to the statistical probability.

14 You're saying it's a Negroid hair sample
15 which would match the large proportion of the population of
16 African-Americans; correct?

17 **THE WITNESS:** I can't say that at all. I can
18 say it is either -- so "consistent" means it is either --
19 the characteristics present, all of the characteristics
20 present are consistent with that person or someone who has
21 those exact same microscopic characteristics.

22 So how many people is that? I don't know.
23 Unfortunately, that goes past manufacturing because, like I
24 said, you naturally have variance on your own hair. So you
25 have 8 to 10 different types of hair. So if you take the

1 entire population that is present and say they have a
2 variance of 8 to 10 different types, how much variation is
3 present? So hair will never be conclusive. So saying it's
4 consistent with does not mean that it is that person to the
5 exclusion of everybody else.

6 **SHERIFF FRYE:** And there's no way to tell --

7 (Overlapping speakers.)

8 **THE WITNESS:** There never was --

9 **SHERIFF FRYE:** -- what that base population
10 is that's going to have hair that's consistent with that
11 fragment.

12 **THE WITNESS:** Correct. And that's where the
13 '80s versus today is much different. That is where DNA is
14 needed.

15 **SHERIFF FRYE:** Right.

16 **THE WITNESS:** Absolutely.

17 Q. I've got a follow-up that kind of fits right in
18 with that.

19 Related to DNA, is it true that mitochondrial DNA
20 testing could distinguish between two hairs that were
21 determined to be microscopically consistent?

22 A. It could. So mitochondrial DNA is already less
23 specific than nuclear DNA. Mitochondrial DNA is through the
24 maternal lineage. So I'm already not -- hair-wise, I
25 actually could distinguish between brothers. Mito would not

1 be able to distinguish on their DNA because the brothers are
2 going to have the exact same DNA as long as they have the
3 same mother.

4 So there is a variance.

5 So mito has less specificity than you are going to
6 have through nuclear DNA analysis.

7 So in that aspect, it may not be able to
8 distinguish but it could, absolutely. So if I have two
9 hairs that microscopically look the same and they're from
10 two different maternal lines, yes, mitochondrial could say
11 this is from one maternal line and this is from the other
12 where the characteristics can't be distinguished.

13 Q. The other thing that I wanted to ask you about --
14 when we met, we talked about when a sample is collected in
15 relation to when an evidentiary hair is left. And in this
16 case, there is about -- I don't remember how much time
17 between when the hair is collected from the crime scene and
18 a hair is collected from the suspect, but you had kind of
19 given us a broad range of the amount of time.

20 Can you just explain for the commissioners that
21 difference -- not specific to this case, just generally
22 speaking, if you collect a hair from a crime scene on day
23 one, is there a difference related to when you collect
24 someone's hair as a standard?

25 A. Absolutely. So hair also has a limitation with --

1 you naturally replace all hairs on your head every five to
2 seven years.

3 So you see this a lot more common to say -- you're
4 going to see it real quick from an infant. A baby who's
5 born with black hair, two weeks later it has blonde hair,
6 then it has red hair. As they age, you're like, "Well,
7 there went the blonde hair; now they're brown-haired." As
8 they go through college, you know -- so you're going to see
9 it quicker as they're younger, but you do the same thing
10 naturally.

11 I mean, in 13 years I have a lot more gray hairs
12 than I used to have.

13 So what you're doing is your body essentially --
14 your scalp is manufacturing. So your cuticles are producing
15 hair and they're producing hair. Your follicles say, okay,
16 so about every five years, your body serves an eviction
17 notice in that follicle and says get out.

18 Sometimes the hair comes back; sometimes it
19 doesn't. Sometimes the hair will come back curly.
20 Sometimes it comes back straight. Sometimes it comes back
21 darker. Sometimes it comes back lighter. Sometimes it's
22 gray.

23 So in that variability, you could have -- as a
24 suspect or a victim -- deposited a hair today and we don't
25 collect your hair. So you collect it three years later. In

1 that time frame, you potentially lost the hairs that have
2 those characteristics that I'm looking for. You've
3 potentially cut your hair, dyed your hair, lost your hair,
4 you've pulled a Britney Spears 2007, you shaved it all off.

5 You know, so that is something that can affect
6 hair analysis. The longer you go between when a hair is
7 deposited versus when a standard is collected, the more
8 likely you are to inlay, insert potential variance in your
9 evidence.

10 **DR. PERRY:** So that was three years?

11 **MS. SMITH:** I'm going to give you the correct
12 about of time for this case. The crime was in December of
13 1985. His head hairs were submitted in April of '86; so it
14 is about a four-month period -- four- to five-month period.

15 **DR. PERRY:** Okay.

16 Q. So aside, though, from the natural five to seven
17 years, we can cut our hair, we can dye our hair, things like
18 that could affect -- not saying that it did here --

19 A. Right.

20 Q. -- but those things can affect whether or not the
21 characteristics are going to appear to be the same?

22 A. They could.

23 **MS. SMITH:** Are there any other questions for
24 Ms. Admire related to any of the testing?

25 (No response.)

1 **MS. SMITH:** All right. I would ask that she
2 be released.

3 **JUDGE LOCK:** She is. Thank you very much,
4 Ms. Admire.

5 (Witness stands down, 4:08 p.m.)

6 **JUDGE LOCK:** Is this a good time for a short
7 break?

8 **MS. SMITH:** We have another expert that is
9 waiting on the video.

10 **JUDGE LOCK:** Let's try to keep it to five
11 minutes, folks.

12 (Recess taken, 4:14 to 4:24 p.m.)

13 **JUDGE LOCK:** All right. Let's get back to
14 work.

15 **MS. SMITH:** We're still trying to get
16 Dr. McLemore on the screen, but Ms. Tanner has a few
17 moments' -- or a few minutes' worth of testimony that we'll
18 go ahead and do and hopefully in the meantime Jason will be
19 able to get Dr. McLemore on the screen.

20 (Beth Tanner recalled.)

21 **JUDGE LOCK:** All right. Ms. Tanner of course
22 remains under oath.

23 Ms. Guice Smith, you may proceed.

24 **BY MS. SMITH:** (4:26 p.m.)

25 **Q.** Ms. Tanner, you already explained the scope of the

1 consultation with the pathology expert in the Bryson case.

2 Can you now tell the commissioners the background
3 on why we consulted and retained an expert medical examiner
4 in the Wilson case.

5 A. Yes.

6 The Wilson case contained several statements by
7 witnesses during the reinvestigation into this case in 1986,
8 including statements by Merritt Williams, that described a
9 relatively severe beating incident.

10 However -- that's Dr. McLemore.

11 However, the autopsy report and what photos
12 existed did not have evidence of any injury except what
13 appeared to be the fatal wound to the back of Mr. Wilson's
14 head.

15 In addition, there was testimony from the
16 pathologist at the time, Dr. McCool, regarding the source of
17 that injury at trial but we had questions about what other
18 sources, if any, could have caused the injury.

19 Furthermore, questions were raised by Ms. Zerwick
20 in her article, and there were certain pathologists that had
21 been interviewed by Ms. Zerwick related to this case.

22 We also interviewed those pathologists as well but
23 ultimately determined that we needed to have an independent
24 review of the autopsy in the Wilson case.

25 Q. And what pathologists did you interview in this

1 case related to that Zerwick article?

2 A. Dr. John Butts and Dr. Patrick Lantz. Neither of
3 those doctors had an independent recollection of discussing
4 the case with Ms. Zerwick, though we did ultimately find
5 faxed memos to both of them from her with the autopsy report
6 in her notes. So it appeared that she did have that
7 conversation with him.

8 Q. Tell us about your interview with Dr. Butts.

9 A. Dr. Butts explained to us that in 1983, he
10 would've been the Deputy Chief Medical Examiner. He
11 reviewed the cases of area pathologists on behalf of OCME.
12 So he would have different areas across the state where he
13 would do the review of what the pathologists had done at
14 autopsy.

15 He did review Forsyth cases at one time but did
16 not remember when he did those reviews.

17 We provided Dr. Butts several of Williams'
18 statements related to the Wilson case where he described the
19 events of that night to police as well as some of the other
20 witness reports in the case. We also provided him with the
21 autopsy report and we provided him the article by Phoebe
22 Zerwick.

23 Dr. Butts explained to us that Dr. McCool was not
24 a board-certified forensic pathologist. He explained that,
25 at the time, local pathologists would do autopsies in that

1 area, Forsyth area, and that then the Office of the Chief
2 Medical Examiner would do a document-only review of the
3 autopsy report and put an official report in the OCME file.

4 Dr. Butts agreed that he would have expected to
5 see more injuries even on someone with dark skin than he saw
6 in the case where there was a description of kicking and
7 beating with an ax handle. However, he also told us that
8 appearance of bruising could depend on the blood pressure
9 someone had at the time injury was inflicted.

10 In this case, it appeared that, after the injury
11 to the head, Mr. Wilson's heart continued to beat because
12 there was bleeding in the brain that appeared to have
13 continued after that injury to the head.

14 However, Dr. Butts explained that the degree of
15 injury, clothing, and the type of instrument might make a
16 difference in whether a bruise appeared.

17 For example, he explained to us that the flat
18 section of an ax handle might not leave a physical mark.

19 Dr. Butts also explained that it was possible that
20 a nonround object, even someone falling on a sidewalk, could
21 have caused the head injury that is seen on Mr. Wilson's
22 head at autopsy despite Dr. McCool's testimony at trial.

23 Dr. Butts explained that the autopsy actually
24 described two different types of bleeding, both the bleeding
25 at the area of injury on the head as well as a significant

1 subarachnoid bleeding, s-u-b-a-r-a-c-h-n-o-i-d, found at the
2 base of the brain. He indicated that there was nothing
3 found at the autopsy that would explain that type of
4 bleeding.

5 Dr. Butts said that the description of
6 clotheslining, in his mind, could explain a "snapping back
7 of the head" that could cause subarachnoid bleeding from an
8 aneurysm happening at the base of the skull.

9 In addition, Dr. Butts explained that Mr. Wilson
10 was highly intoxicated to the point that most people would
11 have been violently ill or passed out. He explained that
12 this also causes a lack of neck and body control, which
13 could also add to the explanation that a clothesline could
14 cause someone's neck to snap.

15 MS. SMITH: Commissioners, do you have any
16 questions about that?

17 (No response.)

18 Q. Can you tell us about your interview with
19 Dr. Lantz.

20 A. Yes. And, I'm sorry, these interviews were both
21 recorded and transcribed. I did not mention that before.

22 Dr. Lantz also did not recall the interview with
23 Phoebe Zerwick. He also did not remember generally that
24 Hunt was even involved in the Wilson case. However, he did
25 recall being involved in the Sykes case -- Dr. Lantz

1 recalled being involved in the Sykes case. When the
2 prosecution asked him to research and opine on how often a
3 rapist actually ejaculates intravaginally, Dr. Lantz
4 recalled that the Forsyth DA's office was looking at the
5 case because they had received DNA results that excluded
6 Hunt and wanted to know if it was possible that Hunt had
7 been involved in the rape but just not ejaculated.

8 Dr. Lantz also explained the history of how the
9 Office of Chief Medical Examiner got started in North
10 Carolina. In the 1980s, the counties in certain areas still
11 maintained control of doing criminal autopsies as opposed to
12 the state office, which would explain why Dr. McCool, at
13 Forsyth Hospital, did the autopsy instead of a trained
14 forensic pathologist.

15 Dr. Lantz did not believe that the injury to
16 Wilson -- Mr. Wilson's head had to have been caused by a
17 round object. He also provided that an ax handle, in his
18 mind, was not a round object that would have caused that
19 shape of injury.

20 Dr. Lantz said that you could see a rounded
21 abraded or scraped area with a central laceration when you
22 fall or get pushed and hit a flat area. He agreed that
23 other objects like a brick could have caused the injury seen
24 on the head.

25 Dr. Lantz said that the appearance of bruises from

1 a beating would depend on how hard Mr. Wilson was hit and
2 whether the clothing he was wearing padded the skin.

3 Dr. Lantz said that there were not any fractures
4 or other bleeding or bruising described to indicate there
5 was further beating but cautioned that Dr. McCool was not a
6 forensic pathologist. However, he did say if Mr. Wilson was
7 beaten around the face, he would have expected to see some
8 injuries that are not apparent on the photos.

9 When asked about the striations that appear on the
10 wound on the back of Mr. Wilson's head, Dr. Lantz said that
11 could also have been from being shaven at the time of the
12 autopsy. Officer Wilkins had specifically remembered that
13 the wound was unusual because of the striations. So we drew
14 that to Dr. Lantz's attention. He said he ultimately could
15 not determine if those came from shaving or from the object
16 that hit the back of the head.

17 Dr. Lantz explained that when someone falls and
18 hits their head, you usually also find what is called a
19 coup, c-o-u-p, and contrecoup, c-o-n-t-r-a-c-o-u-p [sic]
20 contusion. This means a bruise on the front of the brain
21 where the brain jostles. There is nothing here that
22 indicates whether Dr. McCool even looked for that in this
23 particular autopsy.

24 As to the fact that there was both subdural
25 bleeding or bleeding at the site of the injury and

1 subarachnoid bleeding or bleeding at the base of the brain,
2 Dr. Lantz was of the opinion that blunt trauma could cause
3 both.

4 Dr. Lantz also reviewed some of the statements
5 originally provided by Williams describing the event and
6 stated he would have expected to see evidence of someone
7 being pummeled.

8 When asked about the clotheslining, Dr. Lantz
9 indicated that he did not believe the clotheslining would
10 have necessarily explained the subarachnoid bleeding but it
11 was rather the fall or trauma that explained this bleeding.

12 He agreed there was no evidence of subdural
13 hematoma.

14 Dr. Lantz also pointed out that there was no
15 indication of any defensive wounds.

16 Finally, we learned from Dr. Lantz that the full
17 OCME file -- sorry -- Office of the Chief Medical Examiner
18 file or death certificate could show if the cause of death
19 was changed. In fact, we learned that originally the cause
20 of death was pending and then changed to blunt force trauma.

21 Q. You mentioned that both Dr. Butts and Dr. Lantz
22 referred to that full Office of the Chief Medical Examiner
23 file.

24 Did the Commission ever obtain the full file?

25 A. Yes. We obtained a court order to receive the

1 full file, not just the public records portion of the file.

2 Q. Tell the commissioners what information was
3 contained in that file in addition to what was already
4 provided in their briefs.

5 A. Dr. Butts and Dr. Lantz had both indicated if they
6 had any notes even related to Zerwick's discussion that
7 those would be in the file. We checked and there were no
8 additional notes in the file.

9 Dr. Lantz had also discussed the possibility that
10 the cause of death had been determined later, like after the
11 initial autopsy. And, in fact, the full OCME file showed
12 that the cause of death was ultimately determined to be
13 blunt trauma to the head where it had previously been marked
14 as pending.

15 MS. SMITH: Commissioners, before I call
16 Dr. McLemore to testify, does anyone have questions for
17 Ms. Tanner about any of this material?

18 MR. BRITT: Were the photographs in the file
19 at the Chief Medical Examiner's Office?

20 THE WITNESS: I don't think so. Let me go
21 back and look.

22 There were no additional photographs. I'm
23 sorry.

24 MR. BRITT: And are the photographs that we
25 have in the brief -- are they the only photographs?

1 **THE WITNESS:** Yes.

2 So it was apparently the practice at the time
3 to have the police department take photos. It was not
4 actually necessarily the medical examiner's practice to take
5 his own photos.

6 Dr. Lantz did note that he might would now
7 take photos as the autopsy was being done of some things but
8 that we just don't have any photos of that here and no
9 indication that any were taken.

10 **MR. BRITT:** And there were no other autopsy
11 photographs from the Winston-Salem Police Department file?

12 **THE WITNESS:** No. I will double-check that
13 we've provided you everything we have, but I believe we did
14 provide it all in the brief.

15 **MS. SMITH:** Okay. I would ask that
16 Ms. Tanner step down.

17 **JUDGE LOCK:** All right.

18 (Witness stands down, 4:37 p.m.)

19 **MR. GLAZIER:** Quick question.

20 Are the transcripts of the Butts interview
21 available? Is that being made available?

22 **MS. TANNER:** Yes. We do have transcripts of
23 Dr. Butts and Dr. Lantz's interviews, if the Commissioner
24 would like a copy.

25 **MR. GLAZIER:** I would like the Butts one. I

1 don't care about the other one.

2 **MR. BRITT:** I would like the Butts one as
3 well.

4 **MS. TANNER:** We will get that together.

5 **MS. SMITH:** The Commission would call
6 Dr. Jerri McLemore.

7 (WebEx Conference activated, 4:38 p.m.)

8 **JUDGE LOCK:** Good afternoon, Dr. McLemore.

9 **THE WITNESS:** Good afternoon. Can you hear
10 me?

11 **MS. SMITH:** We can. Yes.

12 * * * * *

13 Thereupon, JERRI MCLEMORE, M.D., a witness having been
14 called by the Commission, was examined (via WebEx
15 conference) as follows:

16 EXAMINATION

17 BY MS. SMITH (4:39 p.m.)

18 Q. Good afternoon, Dr. McLemore.

19 A. Good afternoon.

20 Q. My name is Lindsey Smith. I am the Executive
21 Director at the North Carolina Innocence Inquiry Commission.
22 We've spoken on the phone.

23 A. Yes.

24 Q. Can you tell the commissioners where you currently
25 work.

1 A. I currently am the medical director on the autopsy
2 service in the Department of Pathology at Wake Forest School
3 of Medicine.

4 Q. And how long have you been in that role?

5 A. I became medical director in 2016. However, I
6 have been here at Wake Forest Baptist Health since 2010.

7 Q. And you've provided a copy of your CV along with
8 your report to the Commission?

9 A. Yes.

10 **MS. SMITH:** Commissioners, that is Handout
11 78.

12 Q. Can you tell the Commission just a little bit of
13 additional information about your education and experience.

14 A. Yes. I received my medical degree at the
15 University of Kansas Medical Center in Kansas City, Kansas.
16 I then received my certification in anatomic and clinical
17 pathology after finishing residency at the University of New
18 Mexico Health Sciences Center in Albuquerque, New Mexico.

19 I completed a fellowship year in forensic
20 pathology at the Office of the Medical Investigator, which
21 is affiliated with the University of New Mexico Health
22 Sciences Center, again in Albuquerque, New Mexico.

23 And I am board-certified by the American Board of
24 pathology in anatomic, clinical, and forensic pathology.

25 Q. And have you testified before?

1 A. Yes, I have.

2 Q. Approximately how many times?

3 A. I have testified approximately 300 times.

4 Q. Thank you.

5 MS. SMITH: Judge Lock, at this time, I would
6 like to tender Dr. Jerri McLemore as an expert in forensic
7 pathology.

8 JUDGE LOCK: That tender is allowed.

9 Q. Dr. McLemore, when you were contacted by
10 commission staff, did the commission staff make it clear
11 that we weren't seeking any particular opinion?

12 A. Yes.

13 Q. And did we also let you know that we would present
14 your opinion to the commissioners no matter what that
15 opinion was?

16 A. Yes.

17 Q. I want to first turn your attention to your
18 opinions in the Wilson case. You first address in your
19 report Arthur Wilson's cause of death.

20 What did the autopsy provide as to Mr. Wilson's
21 injuries?

22 A. The autopsy information unfortunately was fairly
23 sparse as far as the description of the wounds, especially
24 on the back of the head.

25 The description of the type of blood and the

1 injuries around the brain were also fairly sparse.

2 Unfortunately, the photographs of the wounds, in
3 my opinion, were hard to visualize. They were suboptimal
4 with no scale in the image. So it was -- it was very hard
5 to actually see, with clarity, the injury.

6 Q. And did you make any findings as to the injury to
7 the head and the subdural hemorrhaging?

8 A. The injury to the head by the description and what
9 I could glean from the images, it looked like there was a
10 laceration with an associated abraded area that was just
11 oval to round, but pretty irregular at the margins of that
12 laceration.

13 This was at the back of the head, where the head
14 actually curves the most. The head, of course, is round,
15 but the head -- where it curves the most, that laceration
16 and abraded area -- an abrasion is simply a scraping off of
17 the superficial skin on the back of the head, in that area.

18 Internally -- the description of the subarachnoid,
19 which is the bleeding into the thin layers covering the
20 brain, and the subdural, which is bleeding between the thick
21 covering of the brain and the brain itself, again, were
22 unusual in that the subarachnoid -- the description of the
23 subarachnoid bleeding seemed like it was thicker at the base
24 of the skull than anywhere else.

25 The subdural was really -- the description of

1 20 milliliters of liquid blood -- if you take 20 milliliters
2 of blood and pour it out into the subdural space, that is a
3 fairly thin layer and certainly not one that is going to
4 compress the brain. Because as blood accumulates, it has
5 nowhere to go in the skull because of the bone -- the bony
6 skull, and so that accumulation will eventually press down
7 the brain, which is usually the cause of death in a
8 subdural -- with subdural bleeding.

9 Q. Can you talk about your findings as to the
10 subarachnoid bleeding.

11 A. As I said, the subarachnoid bleeding description
12 was unusual in that there -- it seemed like more blood was
13 within the base of the brain and was then covering the base
14 of the brain than anywhere else on the brain. That is
15 unusual. That is an unusual pattern for a fall -- from a
16 falling back and dying very quickly, it seems like.

17 And so one of the questions I had was whether or
18 not there might have been another reason for that
19 accumulation of the blood. Typically when you see a
20 subarachnoid hemorrhage, that -- with any accumulation of
21 significance along the base of the brain in situations like
22 this, there -- it brings up the possibility of a vertebral
23 artery dissection.

24 Q. Can you explain that further?

25 A. A vertebral artery dissection is damage to the

1 vessels leading to the brain. And typically an injury like
2 that occurs when there is, say, a punch when someone is not
3 expecting it to the under jaw -- to the underneath of the
4 jaw where the head snaps up and may twist left or right.
5 They used to call it punch-drunk -- a punch-drunk mechanism.

6 So a person who may be intoxicated and is not
7 ready for any kind of punch or motion like that, if they
8 have that movement where their head snaps up and twists,
9 that can actually cause stretching of the vessels and cause
10 a tear in the wall of that big vessel leading to the brain
11 that blood can dissect within the wall to the brain and
12 rupture out at the base of the brain causing subarachnoid
13 hemorrhage.

14 Typically a person that receives that kind of blow
15 or that kind of mechanism will drop instantly.

16 Q. And were there any other injuries noted to
17 Mr. Wilson in the autopsy?

18 A. So in the autopsy report, surprisingly, there was
19 no other description of any other injuries.

20 Q. I want to move on and address your opinions as to
21 Dr. McCool's testimony.

22 You've had an opportunity to review that; is that
23 correct?

24 A. Yes.

25 Q. Can you explain to us the training and experience

1 of Dr. McCool and why that might matter here.

2 A. From my understanding, Dr. McCool was a general
3 pathologist. So that is a pathologist who has usually
4 passed the required training for anatomic pathology and
5 possibly clinical pathology also but not forensic pathology.
6 So a general pathologist should be well-equipped to perform
7 standard hospital autopsies, deaths of patients in the
8 hospital from a natural disease process.

9 A forensic pathologist has additional training
10 that specifically focuses on injuries, toxins like drugs and
11 other poisons, and how to basically understand the
12 mechanisms and how they cause death.

13 Q. Do you agree -- do you agree with Dr. McCool's
14 conclusion that a round object had to have caused the injury
15 to Mr. Wilson?

16 A. No.

17 Q. Can you explain that further.

18 A. Yes.

19 Even though the abraded area may look round, we
20 have got to remember this is on the back of the head and
21 it's in the area where the head starts to really curve. So
22 an impact on a curved -- this is physics, actually. An
23 impact on a curved space can actually create what appears to
24 be a rounded injury.

25 Q. Before we move on to the Bryson case, do you have

1 any other conclusions or opinions to provide the
2 commissioners or anything that I have missed?

3 A. So the other possibility as far as the subdural --
4 the subdural could have started accumulating. That could
5 have happened with an impact against something. So the
6 blunt trauma. But I -- for instance, his hitting the
7 sidewalk. But I am -- I am very suspicious, should I say --
8 I am very suspicious that, in the testimony, some of the
9 early testimony that I saw and police reports about a
10 possible person clotheslining this man, I can't -- from
11 where I stand, I can't really rule out that there was not a
12 vertebral artery dissection present.

13 Q. Okay.

14 MS. SMITH: Commissioners, before we move on
15 to Dr. McLemore's conclusions in the -- and analysis in the
16 Bryson case, I want to give you an opportunity to ask about
17 her analysis in the Wilson case.

18 MR. BOSWELL: Doctor, you said something a
19 second ago. You said an impact on a curved space -- can you
20 say a little bit more about that? I thought you were going
21 to say an impact on a flat space when you said that, but you
22 said a curved space and it threw me off.

23 THE WITNESS: Well, the head is a curved
24 space. So any impact, especially in the area of the
25 laceration where the head starts to curve more -- an impact

1 there, even if it's a flat object, even it's a brick, can
2 actually cause a round type of injury.

3 **MR. BOSWELL:** Thank you.

4 **JUDGE LOCK:** Sheriff Frye.

5 **SHERIFF FRYE:** Doctor, thank you for being
6 here today.

7 I just want to make sure. Looking at the
8 evidence that we have about the pooling of the blood at the
9 base of the brain and how you think that may have occurred
10 with the vertebral artery dissection -- am I right on that?

11 **THE WITNESS:** Yes.

12 **SHERIFF FRYE:** Okay. If a person were
13 clotheslined, fell straight back and hit their head, would
14 that explain the injuries that we are seeing consistent with
15 Mr. Wilson?

16 **THE WITNESS:** Yes.

17 **MS. SMITH:** Any other questions?

18 (No response.)

19 Q. I will turn your attention now to the Bryson case.
20 What were you asked to review in the Bryson case?

21 A. So in the Bryson case, I was asked to review,
22 again, the information that was in the autopsy report and
23 including, in this case, diagrams of what was, I am
24 assuming, seen in the autopsy by the pathologists and I also
25 reviewed those. I did review some of the scene photographs

1 also.

2 Q. Okay. And what was your opinion with respect to
3 whether or not Ms. Bryson could have been strangled with a
4 ligature or with some other object such as with a chokehold?

5 A. So unfortunately, none of the scene photographs
6 really had a good shot of Ms. Bryson's neck. There was
7 clothing in the way and so her neck was never really
8 visualized in any of the photographs.

9 The diagrams that were made at autopsy showed a
10 linear -- a linear -- a small pale area with kind of what we
11 call train-tracking across one side of her neck. If that
12 was an accurate depiction of what was seen at the autopsy,
13 that, to me, looked like what would be a ligature furrow,
14 which would go with the strangulation with a ligature.

15 Now, as far as a chokehold -- a properly
16 administered chokehold, kind of like a sleeper hold, if --
17 the goal for that kind of hold is to actually cut off the
18 circulation from the large arteries in the neck. If that is
19 applied correctly, there may not be any finding on the neck
20 as far as injuries associated with that.

21 So from the diagram, I -- I would say, if that's
22 accurate, I would say that, yes, that is consistent with a
23 ligature strangulation. However, I can't rule out that
24 maybe a chokehold was also used.

25 MS. SMITH: Commissioners, do you-all have

1 questions for Dr. McLemore more about the Bryson case?

2 (No response.)

3 **MS. SMITH:** All right. I think that is all
4 we have for you, Dr. McLemore.

5 I would ask, Your Honor, that she be released
6 from the subpoena.

7 **JUDGE LOCK:** And she may.

8 Thank you very much, Doctor.

9 (Witness stands down, 4:55 p.m.)

10 **MS. SMITH:** Before we go, earlier today, you
11 asked if we could cue up for you the deposition video of
12 Mattie Mae Davis. When we went to do that, in trying to
13 replay back that video, after the first two minutes of the
14 deposition, the video freezes and so we do not have that
15 available.

16 I do have audio. I am happy to play those
17 first two minutes if what you-all wanted was to see Mattie
18 Mae Davis. I am also happy to cue audio for you if you want
19 to hear that. And I apologize that we don't have that
20 available for you.

21 **JUDGE LOCK:** I would not mind laying eyes on
22 it if it's only for two minutes.

23 (Discussion off the record.)

24 **MS. SMITH:** All right. There are three
25 separate videos. The way that our -- I guess it's -- the

1 way our video equipment works is it stops after a certain
2 period of time. So we have three separate videos. It's the
3 first couple of minutes of each of those. So we will start
4 one. And if you want to see the next one, we will move on
5 to the next one.

6 **JUDGE LOCK:** I would just like to visualize,
7 form some opinion as to her -- how articulate she is and so
8 forth.

9 **MS. SMITH:** The other thing we are working on
10 right now, we are printing Dr. Butts' -- the interview
11 transcript, and we will have it ready in the next few
12 minutes before you leave today.

13 There were several exhibits that we provided
14 Dr. Butts during that interview. We are not attaching those
15 but we have listed them out and told you where they are
16 located on the pages in your brief. So you will be able to
17 refer to those as you review that this evening.

18 **JUDGE LOCK:** Do you want to make the
19 announcement about our meeting place tomorrow and
20 housekeeping?

21 **MS. SMITH:** Yes.

22 Commissioners, also, for housekeeping
23 purposes, tomorrow this room is being used by the Sentencing
24 Commission for their meeting. So if you come in here in the
25 morning, you will not be around this table listening to this

1 but will instead be participating in that meeting.

2 Instead, we are going to meet directly across
3 the lobby in the mock courtroom. We will have that set up.
4 It is not the same setup but we only have a couple of
5 witnesses in the morning and we will not be in there all
6 day.

7 We will move all of your stuff so you can
8 leave it here and we will take care of moving it for you
9 tonight. And then for deliberations, we're actually going
10 to move into a little -- a room that's different, kind of
11 across the hall from that, that is more suited for a
12 deliberation space than the mock courtroom.

13 **MR. GLAZIER:** Witnesses -- what is the likely
14 agenda for tomorrow?

15 **MS. SMITH:** We still need to hear from
16 Dr. Kelley and we need to hear from Merritt Williams.
17 Dr. Houck, I think, will be available at 9:00 o'clock in the
18 morning as well if there are any additional questions for
19 him in light of the testimony from Ms. Admire.

20 And those are all of the witnesses that we
21 have planned so far unless you-all come up with someone else
22 that you would like to hear from.

23 **MR. EDWARDS:** So approximate time frame for
24 tomorrow?

25 **MS. SMITH:** My best guess is that we should

1 be able to deliberate starting around lunchtime tomorrow.
2 It will depend a little bit on how long those two witnesses
3 take, depending on how long you-all spend with Mr. Williams.
4 Sometimes that can vary greatly between the various
5 claimants.

6 So I anticipate that by lunchtime you will be
7 able to deliberate.

8 We do have sandwiches for lunch tomorrow so
9 you will be able to eat those while you-all deliberate.

10 **JUDGE LOCK:** Yes, sir.

11 **MR. BOSWELL:** Do we envision talking to
12 Dr. Houck?

13 **MR. GLAZIER:** I have questions.

14 **MS. SMITH:** Okay.

15 We are now going to play for the
16 Commissioners the first couple minutes of the Mattie Mae
17 Davis deposition from April of this year -- April 15 of
18 2019.

19 (Video recording played.)

20 **MS. SMITH:** So, Commissioners, we did check
21 with the IT A/V folks here, and this is irreparable, but we
22 do have the audio of it, that full deposition, if anyone
23 wants to listen to it.

24 **JUDGE LOCK:** Thank you very much.

25 **MS. SMITH:** Okay. I think we can be

1 adjourned. We'll just check on those handouts for you-all
2 for tonight. If everyone will stay put for just a few
3 minutes, we'll bring those in.

4 **JUDGE LOCK:** We can recess the hearing but
5 hang around a little bit; is that right?

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

7 **JUDGE LOCK:** 9:00 o'clock in the morning?

8 **MS. SMITH:** Yes, sir.

9 **JUDGE LOCK:** All right. We will stand in
10 recess until 9:00 o'clock tomorrow morning.

11 (Overnight recess, 5:03 p.m.)

12 (Volume 4 begins on page 643.)

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