

STATE OF NORTH CAROLINA,)
Plaintiff,)
v)
ROBERT CHARLES BRAGG,)
Defendant.)

HEARING BEFORE THE
NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

VOLUME I OF II

Judge Anna Mills Wagoner, Chair
Judge Thomas H. Lock (alternate)
Mr. Seth Edwards
Mr. David Long
Ms. Barbara Pickens
Mr. Kevin Frye
Ms. T. Diane Surgeon
Ms. Aurelia Sands Belle
Mr. Nigle "Tex" Barrow (alternate)
Ms. Camilla Cover

August 30, 2016

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A P P E A R A N C E S

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NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

Administrative Office of the Courts

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PRESENTATION BY THE COMMISSION

EXAMINATION

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DOCUMENTS TENDERED DURING THE HEARING

REPORTER'S NOTE: All quotes are as read

Map of Boone (321 Area)
Map of Trailer Park
Harrison Transcript - NCIIC Interview (Partial)
Affidavit of Jeff Hedrick
Affidavit of Vince Gable
Affidavit of Kristin Parks
Affidavit of J. Phillip Griffin, Jr.
Affidavit of Gerald Wilson
Criminal Record - Nancy Horton
Criminal Record - Linda Rene Nelson
Criminal Record - Shawn Valdez
Law Enforcement Interviews - Cherie Lynn Gray
Map of Trailer Park with Names of Residents
Criminal Record - Jeffrey Everet Nelson
Letters from NC Center on Actual Innocence to Jeffrey Nelson
Criminal Record - Nicholas David Gray
Criminal Record - Shawn Daniel Delp
Transcript of Commission Deposition of Jeffrey Nelson
Order for Preservation of Evidence - 6/8/1995 & Memo -
6/9/1995
Affidavit of Boone Police Department
Order for Disposition of Physical Evidence - 3/2/2005
Affidavit of Watauga County Sheriff's Office
Curriculum Vitae - Meghan Clement
Criminal Record - Kenneth Eugene Coffey
Criminal Record - Joe Lee Cothren
Immunity Packet
Affidavit of Kenneth Eugene Coffey
DPS Summary - Kenneth Coffey (Returned - ordered NOT public
record)
Criminal Record - Lamont Underwood
Newspaper Article

DOCUMENTS TENDERED DURING THE HEARING

(CONT'D)

REPORTER'S NOTE: All quotes are as read

Criminal Record - Rhonda Jean Carson
Criminal Record - James Allen Manuel
Criminal Record - John Shoemake
Criminal Record - Jackie Shoemake
Criminal Record - Alfred Henley
Criminal Record - Robert Charles Bragg
DPS Summary - Robert Bragg (Returned - ordered NOT
public record)
Criminal Record - Quinton Sherrill
Coffey Transcript - NCIIC Interview - 10/20/2011
Coffey Transcript - NCIIC Interview - 8/11/2016

THE FOLLOWING ITEMS WERE PROVIDED TO THE
COMMISSIONERS VIA POWERPOINT

Map of Boone (321 Area) (same as handout)
Map of Trailer Park (same as handout)
9 Photographs from the Crime Scene
3 Recent Photographs of the Trailer Park
Map of Trailer Park w/Names of Residents (same as handout)
2 Audio Clips from Deposition of Jeffrey Nelson
Booking Photographs - Robert Bragg
Booking Photographs - Kenneth Coffey
DPS Photograph - Kenneth Coffey
Map of Boone to Mountain City

1 WEDNESDAY, AUGUST 31, 2016 (9:10 A.M.)

2 **JUDGE WAGONER:** All right. Good morning,
3 everyone.

4 We will be hearing in the next days the Watauga
5 County case of *State versus Robert Charles Bragg*, 94 CRS
6 4929.

7 Although this hearing is open to the public,
8 distractions are to be kept to a minimum and the door should
9 remain closed during the hearing and no one should go in or
10 out until we are in -- until we are on a break. If there
11 are any disruptions, you might be asked to leave the
12 hearing.

13 With the exception of the Commission staff, all
14 witnesses that will be called by the Commission to testify
15 at this hearing are sequestered for the duration of this
16 hearing.

17 At this time, we're going to go around the table
18 and have the Commissioners and Commission staff who are at
19 the table state and spell their names for the court
20 reporter.

21 If you are serving as a Commissioner for today's
22 hearing, please indicate that.

23 If you are an alternate but you are serving as a
24 Commissioner for today's hearing, please indicate that.

25 If you are an alternate who is here as an

1 alternate, please indicate that as well.

2 All right. I'll start. My name is Anna Mills
3 Wagoner, Senior Resident Superior Court Judge 19C.

4 **JUDGE LOCK:** I'm Tom Lock. I'm the Senior
5 Resident Superior Court Judge for Judicial District 11B,
6 Johnston County. I am here as an alternate chairman serving
7 as alternate.

8 **MR. LONG:** I am David Long from Raleigh. I'm an
9 alternate serving as a Commissioner here today.

10 **MR. BARROW:** I am Tex Barrow from Raleigh. I am
11 an alternate serving as an alternate. B-a-r-r-o-w.

12 **MS. SMITH:** Lindsey Greice Smith, Executive
13 Director of the Innocence Inquiry Commission.

14 **MS. STELLATO:** Sharon Stellato, Associate Director
15 of the Innocence Inquiry Commission.

16 **MS. MATOIAN:** Catherine Matoian, staff attorney of
17 the Innocence Inquiry Commission, M-a-t-o-i-a-n.

18 **MS. COVER:** Camilla Cover, C-o-v-e-r. I'm an
19 alternate serving as Commissioner.

20 **MS. BELLE:** My name is Aurelia Sands Belle and I
21 am a Commissioner.

22 **MS. SURGEON:** Good morning. I am Diane Surgeon,
23 and I am a Commissioner serving as Commissioner.

24 **MS. PICKENS:** Good Morning. I am Barbara Pickens,
25 and I am a Commissioner.

1 **MR. FRYE:** Kevin Frye serving as Commissioner. I
2 am Sheriff in Avery County.

3 **MR. EDWARDS:** Seth Edwards. I am District
4 Attorney for District 2 in the East, and I am an alternate
5 district attorney serving as Commissioner.

6 **JUDGE WAGONER:** Thank you.

7 For the record, we have eight voting members of
8 the Commission present as required by statute.

9 At this time, I going to make a formal inquiry as
10 to whether any commissioner needs to recuse himself or
11 herself pursuant to Rule 6(C)(1) of our rules and
12 procedures. The rule states, "A commissioner shall recuse
13 himself or herself if some reason has caused him/her to
14 become biased about a case and unable to participate in the
15 hearing in a fair and impartial manner."

16 Anyone?

17 (No response.)

18 **JUDGE WAGONER:** A list of people -- recusal
19 information has previously been reviewed by all of the
20 commission members, and no one recused.

21 Are there any commissioners who need to recuse
22 themselves based on this rule today?

23 (No response.)

24 **JUDGE WAGONER:** There being none, we will keep
25 going.

1 Rule 6(C)(3) prohibits Commissioners from
2 conducting any investigation -- any independent
3 investigation of the case.

4 Have any Commissioners conducted any independent
5 investigation of the case?

6 (No response.)

7 **JUDGE WAGONER:** Okay. There being none, we will
8 move on.

9 Just as a reminder, those of you are attending as
10 alternates, be reminded that Article 60 of the Commission
11 Rules of Procedure states that "The alternate commissioner
12 is not fulfilling full commission duties. He or she may
13 attend the hearings of the Commission but may not
14 participate in discussion and may not vote. Alternates are
15 welcome to attend the hearing and ask questions of the
16 witnesses, but they may not participate in any deliberations
17 or vote. Alternate commissioners will be asked to leave
18 prior to deliberations."

19 At this time, I'm going to turn the hearing over
20 to our executive director, Mrs. Smith.

21 **MS. SMITH:** Thank you, Your Honor.

22 Good morning, Commissioners. Thank you for being
23 here today.

24 This case involves the 1994 murder of Marvin "Coy"
25 Hartley in his home in Boone, North Carolina. You have all

1 been provided with the Commission brief. It describes the
2 law enforcement investigation, the trials of Mr. Bragg and
3 his codefendant Kenneth Coffey, and Mr. Bragg's appeals and
4 other postconviction work.

5 We will not review that material in detail during
6 this hearing, but we'll instead be presenting the
7 Commission's investigation.

8 Associate Director Sharon Stellato and Grant Staff
9 Attorney Catherine Matoian were the assigned investigators
10 on the case. Throughout the hearing, I will be calling both
11 Ms. Stellato and Ms. Matoian to testify about the
12 Commission's investigation.

13 I will also be calling Meghan Clement, a DNA
14 expert, to testify about the DNA testing that the Commission
15 had conducted in the case.

16 We've also subpoenaed three lay witnesses to
17 testify. They are Rene and Jeffrey Nelson, who gave
18 statements about seeing Mr. Bragg and Mr. Coffey on the day
19 of the crime and who testified at both of those trials, and
20 Mr. Shull.

21 You have also been previously provided the
22 statements of Ms. Nelson and Mr. Nelson. They have been
23 subpoenaed, all three of them, and we hope that they will be
24 here later today.

25 The claimant, Robert Bragg, will also testify.

1 His testimony will happen tomorrow.

2 The Commission staff has interviewed the original
3 law enforcement officers and prosecutors in the case. Staff
4 will testify about these interviews. Several of those
5 individuals have been subpoenaed and are on telephone
6 standby. In the event that the Commissioners have any
7 questions, we can give them a call.

8 After the hearing, the Commission will be holding
9 an unrelated administrative meeting. That is a closed
10 session and is not related to this case.

11 The victim's only living family member, Mr. Jerry
12 Hartley, is here with us today.

13 At the end of this hearing, you will be asked to
14 determine whether there is sufficient evidence of factual
15 innocence to merit judicial review.

16 The case will only move forward if at least five
17 of the eight Commissioners vote that there is sufficient
18 evidence of factual innocence to merit judicial review. If
19 less than five Commissioners vote for further review, the
20 case will be closed with the Commission and there is no
21 appeal available.

22 Commissioners, do you have any questions about
23 that before we get started?

24 (No response.)

25 **MS. SMITH:** Okay. The Commission calls Associate

1 Director Sharon Stellato.

2 Thereupon, SHARON STELLATO, having been sworn, was examined
3 and testified as follows on EXAMINATION

4 BY MS. SMITH: (9:18 a.m.)

5 Q Ms. Stellato, would you please state your full
6 name for the record.

7 A Sharon Stellato.

8 Q And how are you employed?

9 A I'm Associate Director of the Commission.

10 Q And how long have you been employed by the
11 Commission?

12 A Eight years next month.

13 Q And were you assigned to the Bragg case?

14 A I am.

15 Q In the course of your investigation, did you
16 obtain and review files and records from other agencies?

17 A Yes, we did.

18 Q And tell us what files and records you obtained
19 and reviewed.

20 A The Boone Police Department file, the North
21 Carolina State crime lab file, the SBI investigative file,
22 the Watauga County District Attorney's Office file, trial
23 transcripts from both Robert Bragg and Kenneth Coffey
24 trials, the Department of Public Safety records for both
25 Robert Bragg and Kenneth Coffey -- these included prison

1 combined records, substance abuse records, medical and
2 mental health records, education and probation records. We
3 obtained a partial file from Kris Bragg, she was his
4 postconviction attorney.

5 Q Do you mean Kris Parks?

6 A Excuse me. Kris Parks.

7 This was a part of the original defense attorney's
8 files in there. It contained an appellate file. And then
9 part of North Carolina Prisoner Legal Services
10 postconviction file was in there.

11 We also obtained the North Carolina Center on
12 Actual Innocence file for Bragg. This file had part of the
13 defense attorney's private investigator file. We know it
14 was only part of the file because the private investigator
15 had recordings and those were not in the file.

16 MS. SMITH: Commissioners, throughout this
17 hearing, several locations in Boone, North Carolina, will be
18 mentioned. I am going to put a map on your screen of the
19 area, and we'll be passing around a copy as well.

20 You may refer to that copy throughout the hearing,
21 but if at any point you would like me to put the map back up
22 on the screen, I will be happy to do that.

23 Q Ms. Stellato, I'm also going to hand you a copy of
24 the map. And if you will, just tell the Commissioners what
25 this map shows.

1 A So if you are looking at the map, in the far left
2 side where it says Winter and Summer Drive, that is the
3 trailer park. We actually have an additional map that we
4 will hand out to you in a moment that kind of zooms in on
5 that area.

6 Next to the trailer park you will see two little
7 spots marked Pic 'n Pay and the A&P. That is where you will
8 hear later that they walked to the A&P; if you've read in
9 their brief, that's that location. Also, up at the top
10 there's an Amoco station; you'll hear about that as well.
11 Fairvalue, Roses, all of these are areas that either were
12 discussed in your brief or will be discussed during the
13 hearing.

14 The Peddler is a restaurant. Located next to it
15 is the Pantry; that's a convenience store. The Longvue
16 Motel is where Bragg and Coffey are arrested on Tuesday,
17 December 6th.

18 Pepper's Restaurant is located at the bottom of
19 this map; it will be discussed later.

20 And then the ABC store has been discussed in your
21 brief, and we will also talk about it a little bit later.

22 MS. SMITH: Commissioners, I am now passing around
23 a map of the trailer park area that's kind of zoomed in.

24 Q Ms. Stellato, I am handing you a copy of that map.
25 Once the Commissioners all have it, if you would describe

1 that as well.

2 **A** This is zoomed in on the trailer park. You will
3 see Summer Drive and Winter Drive. The trailer that is on
4 the very end closest to me is the victim's trailer.

5 Again, to your right you will see Pic 'n Pay and
6 **A&P.** They could cut across the back behind the victim's
7 trailer to get over there to that shopping center. So we're
8 just kind of giving you a lay of the land.

9 **MS. SMITH:** Commissioners, do you have any
10 questions about the maps?

11 **MR. EDWARDS:** Could you tell us again which
12 trailer was the victim's trailer?

13 **THE WITNESS:** If you're looking at the map, right
14 here, the very bottom here (indicating), where it looks
15 almost like it's between Winter and Summer, it's because
16 it's not set on the edge of the road -- it's set back just a
17 little bit.

18 **Q** Ms. Stellato, did you interview law enforcement in
19 this case?

20 **A** Yes, we did. We interviewed the lead
21 investigators assigned to the case.

22 **Q** Did you interview SBI agent Steve Wilson?

23 **A** We did.

24 **Q** Did he recall his involvement in this case?

25 **A** He very vaguely recalled the case. He had retired

1 in January of 2010. He remembered that -- independently he
2 remembered that the victim was an elderly man who was killed
3 in a mobile home.

4 He could not recall if the suspects in the case
5 had been identified initially or if there were witnesses to
6 the crime.

7 He did recall that he had conducted an interview
8 of Kenneth Coffey at the police department but this was the
9 only information that he could recall independently.

10 Q Did you also interview Detective Mark Shook?

11 A Yes, we did.

12 Q What can you tell me about that? What he recalled
13 about the case?

14 A At the time of the crime, he had only been a
15 detective for approximately 6 months. So Detective Harrison
16 was actually the lead investigator on the case.

17 He recalled that he had arrived at the crime scene
18 between 7:30 and 8:00 p.m. and that he had taken photographs
19 and measurements of the scene. There are crime scene photos
20 that we included in the brief.

21 Q Okay.

22 MS. SMITH: Commissioners, I am going to put those
23 crime scene photos on the screens for you. The copies that
24 were in your brief were somewhat difficult to see, and so we
25 have been able to put better copies on the screen.

1 Q Ms. Stellato, as I put these up, if you will just
2 explain what each photo shows.

3 A That is the front of the victim's trailer. That
4 is -- the victim had a couch and a bed in his living room.
5 That is the couch in his living room.

6 So that's a photograph of -- there is a counter in
7 the kitchen and then you are looking a little bit -- there's
8 a front door and you're looking a little bit down the hall.

9 I should say that the photos that they had --
10 there's notations throughout the file; they took a lot of
11 photos, but they had camera issues, development issues -- so
12 these are the only ones that we have, and they are of very
13 poor quality.

14 That is blood that is on a wood beam on the
15 ceiling.

16 That is the vodka bottle -- bottle of vodka that
17 is found underneath a bed -- underneath the victim's bed in
18 the living room, and it's toward a chair.

19 That's a photograph of blood that's in the
20 hallway.

21 So this is the end of the victim's bed. You are
22 looking at the bedsheets and blankets, and then the curtains
23 toward -- where there is blood. And those are the two guns
24 that he had.

25 That's also the bed with blood on the pillow.

1 **That's the victim's closet.**

2 **Q** Turning your attention back to the interview that
3 the Commission conducted with Detective Shook, what else did
4 he recall about the case when you interviewed him?

5 **A** He remembered that -- well he stated that they
6 canvassed the neighborhood. He remembered talking to Nancy
7 Horton, and he recalled that they talked to the Nelsons.

8 He said that they had spoken with the grandmother
9 of Jeffrey Nelson and that she said that her grandson was
10 scared -- that he had ran in and seen something.

11 He stated that they had even talked to Jeffrey and
12 that Jeffrey said he had followed Kenneth Coffey and Robert
13 Bragg, that they had walked behind the victim, that they
14 were yelling at him like they were teasing him, and that
15 Bragg was swinging something in his hand that kind of hung
16 down.

17 Detective Shook said that they then located
18 Coffey, and Agent Wilson and Detective Harrison interviewed
19 Coffey, and Coffey stated that he had been with Shirley
20 Faircloth.

21 Detective Shook interviewed Shirley Faircloth. In
22 that interview, Shirley Faircloth told Detective Shook that
23 Coffey had contacted her. She had picked him up at the A&P
24 and that Coffey had some money, and they went to Blowing
25 Rock that night.

1 Q Is this memory consistent with what is in the law
2 enforcement file?

3 A No. Linda Wilcox, who is the grandmother of
4 Jeffrey Nelson, was not interviewed until much later. She
5 was not interviewed that night. She was not interviewed
6 until almost a week later.

7 When she was interviewed, she did not make any
8 statements regarding anything that Jeffrey saw on the day of
9 the crime. And in addition, Jeffrey Nelson was not
10 interviewed until December 15, and he was not ever the
11 reason that law enforcement began searching for Bragg and
12 Coffey.

13 Q What else did Detective Shook say?

14 A Detective Shook stated that they charged Kenneth
15 Coffey and that, two days later, they found Bobby Bragg in
16 Tennessee, that they collected Bobby Bragg's clothing. He
17 said he wanted to say that there was blood on Bragg's coat,
18 but he couldn't remember that.

19 He stated that Kenneth Coffey would only speak
20 with him -- "him" being Detective Shook -- and so that when
21 Coffey wanted to be interviewed, he requested Detective
22 Shook. And Coffey started telling him that he and Bragg
23 needed the money.

24 Coffey said he knew that the victim had money and
25 he knew when the money came in, around what time of the

1 month it came in. And Coffey said that Bobby Bragg had a
2 trailer hitch ball in a sock.

3 So they followed the victim inside, Bragg shoved
4 the victim and started hitting him with the sock, and Bragg
5 and Coffey got the victim's money and split the money
6 between them.

7 Q And is this memory -- this memory consistent with
8 the law enforcement file?

9 A No. They did not arrest Kenneth Coffey. He was
10 not even charged until January 6, 1995. And he was actually
11 interviewed by law enforcement three times.

12 JUDGE WAGONER: Would you repeat your question
13 again?

14 MS. SMITH: Was his memory consistent with the law
15 enforcement file.

16 JUDGE WAGONER: Thank you.

17 A He was interviewed three times, and during that
18 time, he was not charged; he was out.

19 Q And to your knowledge, did law enforcement or the
20 crime lab ever verify that there was any blood on
21 Mr. Bragg's coat?

22 A No. They scanned the coat for blood and said that
23 there was not blood.

24 Q Okay. What else did Detective Shook say?

25 A Detective Shook said that, in the past, he had

1 arrested both Bragg and Coffey, that he had served warrants
2 on them, especially Mr. Bragg, and that he considered both
3 of them alcoholics, that they would get into fights, usually
4 when they were acting drunk and disruptive.

5 Q Did he tell you anything about Crimestopper tips?

6 A He said that he didn't remember getting or hearing
7 any Crimestoppers tips; but if they had got any, Detective
8 Harrison was actually over the Crimestoppers Program so he
9 would have the information about that.

10 Q And did Detective Shook have any files or notes
11 related to the case?

12 A No. He stated that all of his files and notes
13 would be in the Boone Police Department file.

14 Q Okay. Turn your attention now to Detective Jim
15 Harrison. Did you interview Detective Harrison?

16 A. The Commission interviewed Detective Harrison two
17 times.

18 Q And tell the Commissioners about the interview
19 conducted with Detective Harrison in that first interview.

20 A In our first interview, Detective Harrison stated
21 that, prior to the crime, he had only heard of Robert Bragg,
22 that he did not know him, but he did know Kenneth Coffey.

23 He stated that he was the lead investigator at the
24 time of the crime, that Mark Shook was a fairly new
25 detective and that Mark Shook was working with him on the

1 case. He stated when they arrived at the crime scene that
2 they had assumed that the victim had fallen. It wasn't
3 until they rolled him over and saw that he had a hole in his
4 face and several open sores that they realized there had
5 been a crime.

6 From what he recalled, there had been two people
7 who were seen walking up and going into the victim's
8 trailer, and they were seen leaving. He recalled the
9 description being a long trench coat and a Braves baseball
10 hat on one of the individuals.

11 He stated that, at the time, there were two
12 witnesses -- a young boy and his mother -- that had seen the
13 men leaving the victim's home. And he confirmed that these
14 two witnesses were Jeffrey and Rene Nelson.

15 He stated that the Nelsons were a key factor and
16 he could not recall if there were any other witnesses in the
17 case.

18 Q And is his memory related to those events
19 consistent with what is in the law enforcement file?

20 A No. Mr. Bragg and Mr. Coffey became suspects in
21 the hours immediately following the victim's body being
22 found. They were suspects based on the description provided
23 by Nancy Horton of a white male that she saw near the crime
24 scene.

25 Police immediately began searching for Bragg and

1 Coffey early December 9, in the morning hours. And they
2 interviewed Coffey as a suspect early on December 9. After
3 that interview with Coffey, an order for arrest was issued
4 for Bragg but not Coffey.

5 This was all prior to the statements of Jeffrey
6 and Rene Nelson which were not given until December 15.

7 Q Did Detective Harrison say anything else related
8 to Jeffrey or Rene Nelson?

9 A He stated that he had known Rene Nelson prior to
10 this because he knew her mother. Her mother, Linda, had
11 helped him out a few times when he was looking for somebody.
12 He stated when -- it was when he was looking for somebody or
13 this kind of thing.

14 Detective Harrison did state that he was over the
15 Crimestoppers Program and he couldn't remember if Rene
16 Nelson had received a reward or not.

17 He discussed that rewards were paid from other
18 budgets other than Crimestoppers. And when asked whether or
19 not she did receive a reward, he stated, "I mean, they could
20 have. They could not have. It was brought up. I know it
21 was brought up but I don't know whether it was ever -- I
22 just don't know. But I'm thinking that they did -- excuse
23 me -- I am thinking that they didn't."

24 JUDGE WAGONER: They didn't?

25 THE WITNESS: They didn't.

1 **Q** Did Detective Harrison say anything else about the
2 case?

3 **A** He said that Kenneth Coffey had developed a
4 rapport with Detective Mark Shook and so he wanted to speak
5 with him.

6 When asked if they were focused on Bobby Bragg and
7 Kenneth Coffey from the beginning, Detective Harrison
8 responded, "Kenneth Coffey."

9 **Q** And can you tell the Commissioners about the
10 second interview that the Commission staff did with
11 Detective Harrison.

12 **A** In his second interview, most of the information
13 that he provided from the first interview, he confirmed.

14 He stated that during a canvass of the
15 neighborhood, they found people who had seen Bragg and
16 Coffey walking down the street toward the victim's trailer.
17 That in his canvass, the witness was Jeffrey Nelson and his
18 mother, Rene.

19 He stated that Jeffrey had seen the victim and
20 that he knew both of them, that Jeffrey was on his bicycle
21 riding up and down the street and he watched them go into
22 the trailer.

23 Detective Harrison also stated that the
24 description was of a guy going up and down wearing a Braves
25 baseball hat that was navy blue with a white A and a red

1 bill, and that he was also wearing a long, gray trench coat.

2 Q And is his memory, related to those events,
3 consistent with the law enforcement file?

4 A No. There is no Braves baseball hat or a gray
5 trench coat mentioned. And at this point in the
6 investigation, the canvass of the neighborhood, again, no
7 one had ever mentioned Bragg or Coffey by name, and Jeffrey
8 and Rene Nelson had not provided that information.

9 Q And did Detective Harrison say anything else?

10 A He stated that he had made a decision to try and
11 find Kenneth Coffey. They were looking for Bobby Bragg and
12 the Sheriff's office in Tennessee had found Bragg.

13 When they picked him up, that Bragg had on a
14 Braves baseball cap, a trench coat, and a trailer hitch ball
15 in a sock in his pocket. And then he and Agent Wilson went
16 to Tennessee to interview Bragg.

17 Q Did he say anything related to the Crimestoppers
18 tips in this case?

19 A Yes.

20 MS. SMITH: Commissioners, I am going to pass
21 around a copy of the portion of the transcript from
22 Detective Harrison's second interview that is related to
23 Crimestoppers. If you will please follow along.

24 Q Ms. Stellato, once that goes around, I am going to
25 ask you to read aloud page 21, line 6, to page 25, line 6.

1 **JUDGE WAGONER:** 21 is the first page; correct?
2 There's no numbering.

3 **MS. SMITH:** It is. I apologize.

4 (Read by Ms. Stellato:)

5 **"Q** *Were there any Crimestoppers tips in this*
6 *case?*

7 **"A** **There was.**

8 **"Q** *Okay. And what was that?*

9 **"A** **Okay. Well, Crimestoppers tip had stated**
10 **that -- that the two of them were seen walking to the**
11 **trailer and went in.**

12 **"Q** *And was anyone given a reward for that*
13 *Crimestoppers tip after the trial?*

14 **"A** **There is a really good possibility that --**
15 **see, I was the police coordinator --**

16 **"Q** *Okay."*

17 Question -- it's getting a little confusing.

18 **"A** **-- of Crimestoppers and all. I'm thinking**
19 **that it was done -- that there was a reward given,**
20 **yeah.**

21 **"Q** *Okay. And do you remember who that person*
22 *was who called in that tip?*

23 **"A** **Yeah, I know exactly, but -- I almost went to**
24 **jail for refusing to divulge a Crimestopper informant.**
25 **I had a judge that just about locked me up for it.**

1 Yeah, I know who it was. I mean, if you-all absolutely
2 have to know, I --

3 "Q It would be very helpful for us if you feel
4 comfortable telling us.

5 "A Well, it was Jeffrey and his mother.

6 "Q Okay.

7 "A Yeah. But like I say, you know, we ran it
8 through later. It wasn't that they were doing anything
9 to get a reward. You know, they tried to make a big
10 deal, the defense tried to, but, I mean, you know ...

11 "Q So if someone calls in a Crimestoppers tip,
12 how would it be documented in the file?

13 "A Okay. Okay. If someone calls in, the way
14 it's normally done, there would -- there would be a
15 report made. It may not say much. It might say that
16 the caller said such and such. And it would be
17 assigned a caller code number.

18 Say, for instance, you called in a crime
19 today and -- and I took the call. And you might say,
20 'Well, there's a guy out there carrying a gun and he's
21 threatening people.' You don't want to get involved;
22 you don't want to have to be a witness in court or
23 anything, but your motive for calling would be one of
24 three things: Money would be a motive. It could be a
25 family member, or it could be a concerned citizen, you

1 **know, that just wants to report a crime and not be**
2 **involved as a witness.**

3 *"Q Do you remember documenting the call from*
4 *Jeffrey and his mother?*

5 **"A Right offhand, I don't.**

6 *"Q Okay.*

7 **"A Yeah. Yeah. I mean, I'm not -- I don't**
8 **know -- I'm thinking that -- I'm thinking we did one,**
9 **but -- now, that's where I'm not 100 percent.**

10 *"Q Sure.*

11 **"A Or we -- we discussed doing it, but -- but**
12 **I'm not totally sure of that, you know.**

13 *"Q And if someone -- and both Jeffrey and his*
14 *mother ended up testifying at trial, so they didn't end*
15 *up being anonymous by the end of it; correct?*

16 **"A No. No.**

17 *"Q Okay. And so if someone is given a reward*
18 *after the trial through Crimestoppers, is that going to*
19 *be documented in the file?*

20 **"A It may be. You know, I don't know.**

21 *"Q Okay.*

22 **"A I can't remember. I know we discussed it**
23 **with the DA.**

24 *"Q Okay.*

25 **"A And we -- we elected probably not to do that**

1 **is what I'm thinking.**

2 "Q *And elected not to give the reward?*

3 "A **Not then, you know.**

4 "Q *Okay.*

5 "A **I -- I think if anything was done, when it**
6 **was done down the road, based upon their cooperation,**
7 **we may have gave some reward money, I'm thinking.**

8 "Q *So after the trial?*

9 "A **Yeah. I'm thinking, you know.**

10 "Q *Okay.*

11 "A **Yeah. We discussed it, but I'm not sure as**
12 **to how far we went through it, you know. And, of**
13 **course, there was no incentive. You know, they -- they**
14 **probably didn't even know about Crimestoppers.**

15 "Q *Okay.*

16 "A **Yeah.**

17 "Q *And so the -- and I know you said you were*
18 *the police coordinator for Crimestoppers.*

19 "A **Uh huh.**

20 "Q *So were there -- for that program, if a*
21 *reward was given out, was not necessarily in the file,*
22 *but would the program keep a record of that at any*
23 *time?*

24 "A **Well probably at one time, yes.**

25 "Q *So if that existed, it would -- I know it's*

1 *been 20 years, so maybe it's been destroyed by now, but*
2 *if that existed, it would be at the Boone Police*
3 *Department?*

4 **"A If it existed. I know -- I'm not sure how**
5 **long we talked about, if it's been three years we would**
6 **purge stuff.**

7 **"Q Okay.**

8 **"A Yeah."**

9 **Q Did Detective Harrison say anything else related**
10 **to the Crimestoppers tips in this interview?**

11 **A We asked him if he could -- if he knew of any**
12 **other Crimestoppers tips in the case related to other**
13 **individuals.**

14 **Q And what did he say?**

15 **A He said, "No."**

16 **Q And is his memory of other Crimestoppers tips**
17 **consistent with what is in the law enforcement file?**

18 **A No. But there were two other Crimestoppers tips**
19 **in the law enforcement file related to Rhonda Carson.**

20 **Q Did the Commission have any other contact with**
21 **Detective Harrison?**

22 **A Yes. Detective Harrison contacted the Commission.**
23 **He called the Commission in July and August of 2016.**

24 **Q And can you tell me how that July phone call came**
25 **about.**

1 A The Commission had contacted the Crimestoppers
2 Program in an effort to determine how long the records would
3 be kept there. So during that conversation, we spoke with a
4 Sergeant Shane Robins of the Boone Police Department. He is
5 currently in charge of the Crimestoppers Program.

6 He stated that they take the tip and create
7 anonymous code or letter combination to identify -- for
8 identification purposes. The tip is then written up and
9 goes to the relevant agency.

10 They now have a computer system which was
11 implemented two years ago. So prior to the computer
12 program, they kept a master log of tips and a record of
13 rewards.

14 Sergeant Robins stated that Detective Harrison
15 would have been the one who was in charge of the
16 Crimestoppers Program prior to that; so he would have to get
17 in contact with Detective Harrison to provide us with the
18 information.

19 So after that phone call with the Crimestoppers
20 Program, Detective Harrison contacted the Commission
21 directly. He stated that more than likely no records
22 existed because nothing was kept past three years. And that
23 if rewards were paid, it was done after the trial was over.

24 He also stated that no reward was ever paid but if
25 it was paid, it was paid after the trial.

1 **Q** Okay. Can you tell us about the August phone call
2 from Detective Harrison?

3 **A** Detective Harrison has been subpoenaed for this
4 case to be on standby. Just on telephone standby if the
5 Commission has additional questions. He just contacted the
6 Commission to determine what was going on, and during that
7 phone call, he stated that Crimestoppers had not paid
8 anything in this case and that he had been contacted by
9 everybody to see what was going on.

10 And we asked him who is "everybody," who has
11 contacted you? And he stated that it had been the Boone
12 Police Department about the Crimestoppers tip.

13 Detective Harrison stated no one had been paid and
14 that if anybody had been paid, it would have been through
15 them, and that he would hate for the Crimestoppers Program
16 to be blamed for something. He didn't want anybody to think
17 that Crimestoppers had done something wrong or there was a
18 problem with the program.

19 We explained to him why he was under subpoena and
20 appreciated his cooperation.

21 **MS. SMITH:** Commissioners, do you-all have any
22 questions for Ms. Stellato about the law enforcement
23 interviews that the Commission conducted?

24 **MR. FRYE:** I have one question. Just when we
25 were looking at the pictures earlier that you showed, the

1 bloodstains that were near the bed, I think, was that a
2 curtain?

3 **THE WITNESS:** Uh-huh.

4 **MR. FRYE:** Where is that in relation -- that's to
5 the left -- is that correct? -- of the couch?

6 **THE WITNESS:** If you're looking at the couch, it
7 would be on the right. The bed would be on the left.

8 **JUDGE WAGONER:** Could you put the picture back up
9 again? It might be more helpful.

10 **MS. SMITH:** I will.

11 **MR. FRYE:** There (indicating).

12 **THE WITNESS:** So actually, go to the picture with
13 the couch. So if you look -- the couch -- you'll see the
14 end of the couch on the right-hand corner -- do you see
15 that? -- I mean the end of the bed -- I'm sorry.

16 The bed is across from the couch. So you are
17 seeing part of the curtain on that side, and then it wraps
18 around.

19 Do you see what I mean?

20 **MR. FRYE:** Uh-huh. Comes around this way?

21 **THE WITNESS:** Uh-huh.

22 **MR. FRYE:** Okay. So the blood is on the curtain
23 that wraps around the picture that we see?

24 **THE WITNESS:** Uh-huh.

25 **MR. FRYE:** In this photograph of the crime scene,

1 I'm trying to -- the victim's head was to the left, at the
2 bottom of the couch?

3 **THE WITNESS:** The victim's head -- so go back to
4 the bed --

5 Will you get the SBI?

6 **MS. SMITH:** Commissioners, if I can turn your
7 attention to page 34 in your brief.

8 **Q** Ms. Stellato, I'm handing you what is page 34 of
9 the Commissioner's brief and if you can describe what that
10 is and answer Sheriff Frye's question.

11 **A** If you look, you will kind of see the chair there
12 in the photograph. The victim's head is wedged there
13 between the chair and the wall.

14 **JUDGE WAGONER:** Could you stand up and point to
15 the one behind you, please?

16 **THE WITNESS:** Sure. Just right here. So the
17 victim is over here, almost (indicating) --

18 **MR. FRYE:** Okay.

19 **JUDGE WAGONER:** And his head is where?

20 **THE WITNESS:** -- between -- there should be a wall
21 right here (indicating), between the chair and the wall.

22 **MR. FRYE:** Okay. Thank you. That gives me the
23 reference that I was looking at.

24 **JUDGE WAGONER:** Okay.

25 **MS. SMITH:** Commissioners, do you have any other

1 questions?

2 **MR. EDWARDS:** I actually do have a question. I'm
3 not sure if this is the appropriate time, but I believe when
4 you interviewed Detective Harrison, you talked about the
5 description of someone wearing a trench coat and an Atlanta
6 Braves baseball hat. And when Bragg was arrested, was he,
7 in fact, wearing a trench coat and a Braves hat? Is that --
8 am I getting ahead of ourselves?

9 **THE WITNESS:** The description -- all of the -- he
10 was not wearing that but everything that they collected from
11 Bragg, at the time, is going to be discussed when Bragg's
12 arrested.

13 **MR. EDWARDS:** Okay.

14 **JUDGE WAGONER:** I have a follow-up question, then.
15 Maybe I misunderstood you.

16 The baseball -- the Braves hat and whatever
17 Officer Harrison said that he -- Mr. Bragg -- had on, did
18 you say that was not in the original report?

19 **THE WITNESS:** It was never in the original report.

20 **JUDGE WAGONER:** This was new, that you just heard
21 back in June?

22 **THE WITNESS:** Yes.

23 **JUDGE WAGONER:** Or whenever you interviewed.

24 **THE WITNESS:** Yes. There was no information given
25 in the description of the suspect as ever wearing an Atlanta

1 Braves hat. That was not in the information about a
2 description of the suspect. But what they collect from
3 Bragg when he is arrested on December 10th, we will talk
4 about at the time of his arrest.

5 Does that clarify?

6 **JUDGE WAGONER:** Yeah.

7 **MR. FRYE:** And when you interviewed Detective
8 Harrison pursuant to your investigation, just by memory, he
9 recalled the description of the trench coat and Atlanta
10 Braves hat?

11 **THE WITNESS:** Uh-huh. He recalled that the
12 description that was given was an Atlanta Braves hat and a
13 gray trench coat; correct.

14 **JUDGE WAGONER:** But, again, that was not reflected
15 in the file?

16 **THE WITNESS:** Yes, ma'am. That's correct.

17 **JUDGE LOCK:** In the photograph that you showed
18 just a moment ago, are those two firearms on the floor
19 between the bed and the chair?

20 **THE WITNESS:** It is a BB gun, and I think the
21 other one is a toy gun.

22 **JUDGE LOCK:** Those are the ones referenced?

23 **THE WITNESS:** Uh-huh.

24 **Q** Ms. Stellato, did the Commission interview any
25 attorneys for Mr. Bragg during the course of its

1 investigation?

2 **A Yes, we did.**

3 **Q** And did you interview Jeffrey Hedrick?

4 **A We did.**

5 **Q** And who is Jeff Hedrick?

6 **A Mr. Hedrick was Robert Bragg's original defense**
7 **attorney. He had two at the time, Mr. Hedrick and**
8 **Mr. Gable.**

9 **Q** And did he have two attorneys because the case was
10 originally treated as a capital case?

11 **A That's correct.**

12 **Q** Okay. And what did Mr. Hedrick tell the
13 Commission?

14 **A Mr. Hedrick originally, in his first interview,**
15 **told the Commission that he had most of the file from the**
16 **trial and that it was very large -- it was in boxes -- and**
17 **that he believed he still had them, and he would have to**
18 **check and find them, and that Mr. Bragg had always denied**
19 **being involved in the murder.**

20 **Q** Did you follow up with Mr. Hedrick about this
21 file?

22 **A We did. We followed up with him. He stated that**
23 **he had looked and he could not find his files, that he would**
24 **continue to look but he was 80 percent sure he would not**
25 **find them.**

1 He stated he knew he had not gotten rid of the
2 file, that he had either disposed of it or he had given it
3 to someone who was connected with the case.

4 Q And did you speak with Mr. Hedrick again after
5 that?

6 A We did. The Commission deposed Mr. Hedrick.

7 Q What did Mr. Hedrick tell the Commission during
8 that deposition?

9 A He recalled that he was cocounsel with Vince Gable
10 on the case and that Mr. Hedrick did much of the work -- the
11 majority of the work.

12 He had hired a private investigator in the Boone
13 area named Jerry Vaughn, and that he recalled Assistant
14 District Attorney Gerald Wilson being the one who primarily
15 handled the case.

16 He recalled that, after the murder, Kenneth Coffey
17 was arrested pretty promptly and Mr. Hedrick knew Kenneth
18 Coffey prior to the case. He knew Kenneth Coffey to be a
19 street person.

20 Mr. Hedrick stated that Jeffrey Nelson was the one
21 who saw Bragg and Coffey prior to the victim's death.

22 Mr. Hedrick stated it was his understanding that there had
23 been a Crimestoppers tip that was provided either by Jeffrey
24 Nelson or his mother, Rene. And it was his suspicion that
25 Jeffrey Nelson received a reward but he could not recall

1 whether he did or not.

2 Mr. Hedrick recalled that there were phone records
3 placing Mr. Bragg in Mountain City at the time of the crime,
4 that Mr. Bragg had always maintained his innocence, that
5 Mr. Bragg had said he didn't know who committed the crime,
6 and that he did not see it happen.

7 Regarding his file, he stated that he had been
8 contacted by an innocence group many years ago and he
9 believed that Chris Mumma was involved in that inquiry, but
10 he had given them -- he had given that group his entire
11 file.

12 Q Did the Commission do anything else with respect
13 to Mr. Hedrick?

14 A After that deposition, we told him that we needed
15 a search to be done again. The Commission confirmed that
16 the search that he had conducted was for a different agency
17 and explained to him that he needed to search all locations
18 again for his file.

19 He and his attorney agreed to do so, and he
20 provided an affidavit to that effect.

21 Q Did the Commission obtain that affidavit?

22 A We did.

23 MS. SMITH: Commissioners, at this time I am going
24 to pass around the affidavit of attorney Jeff Hedrick.
25 Please take time to read and review that.

1 Q Ms. Stellato, did the Commission interview any
2 other attorneys for Mr. Bragg?

3 A We interviewed Vince Gable.

4 Q And who is Vince Gable?

5 A He was the other defense attorney for Mr. Bragg.

6 Q What did he tell the Commission?

7 A He stated that he believes Mr. Bragg was innocent.
8 When asked about his file, he stated that he gave it to
9 Innocence Project students who were working on the case. He
10 admitted that he probably shouldn't have, but he stated that
11 he was happy they were working to prove Mr. Bragg innocent.

12 He is retired and absolutely positive that he gave
13 the file to the students and that he has nothing related to
14 the case in his possession.

15 We then interviewed him a second time. When asked
16 about his recollection of the case, he stated that he was
17 court appointed.

18 He remembered that Mr. Bragg was in Mountain City,
19 Tennessee, at the time that the crime occurred. He stated
20 that Mr. Bragg did not get a fair shake.

21 He recalled that Mr. Bragg was carrying a trailer
22 hitch ball in his overcoat and the theory was that it was
23 the murder weapon. But it did not have blood on it.

24 Mr. Gable stated that there was no blood in the
25 pockets of the overcoat. He recalled that there was a

1 hammer in the victim's trailer and that it was visible in
2 the crime scene photos but was never examined or picked up
3 and placed into evidence.

4 JUDGE WAGONER: Did you say hammer?

5 THE WITNESS: Hammer. Yes, ma'am.

6 A Mr. Gable remembered that the only witness in the
7 case was a young man with a pending narcotics charge and the
8 charge was later dropped. The man saw Bragg and Coffey
9 walking up the street agitated and mad.

10 Gable said that the prosecution presented the
11 victim as a nice older man and both the defendants were
12 street people. Gable said that he knew Bragg previously and
13 that Bragg had never lied to him.

14 Gable stated that he had hired private
15 investigator Jerry Vaughn to work on the case. Vaughn was
16 the only private investigator in that area and that he was
17 not very good.

18 Gable stated that he had no files whatsoever and
19 that he had been contacted several years ago and sent those
20 files because he had no need for them.

21 Q Did the Commission obtain an affidavit from
22 Mr. Gable?

23 A We did.

24 MS. SMITH: Commissioners, at this time, I am
25 passing around the affidavit of attorney Vince Gable. If

1 you will take a few moments to review that.

2 Q Ms. Stellato, did you interview any other
3 attorneys for Mr. Bragg?

4 A We interviewed Kris Parks.

5 Q And who is Kris Parks?

6 A She worked as an attorney at Prisoner Legal
7 Services, and she had been assigned to handle the case --
8 postconviction claim in this case.

9 Q And what did Ms. Parks tell the Commission?

10 A She stated that when she had left Prisoner Legal
11 Services in the fall of 2003, that she had continued to work
12 on Mr. Bragg's case.

13 Prisoner Legal Services had been contacted about a
14 file for Mr. Bragg, and they had indicated that Ms. Parks
15 had taken the entire original file. Ms. Parks stated that
16 she did not do so; she did not take that entire file.

17 Q And did she provide the file that she had to the
18 Commission?

19 A Yes, she did.

20 Q What did the file contain?

21 A It contained copies of pleadings, a partial
22 appellate defense attorney file of Jeff Hedrick when he
23 filed appellant documents for Mr. Bragg.

24 It contained some notes and letters that were
25 written back and forth between Mr. Bragg and Ms. Parks.

1 Q And what else did Ms. Parks tell the Commission?

2 A Ms. Parks stated that after she left PLS and
3 worked on Mr. Bragg's case, she had contacted Professor
4 Richard Rosen at --

5 (Cell phone interruption.)

6 A She had contacted Professor Richard Rosen at the
7 UNC School of Law for assistance with Mr. Bragg's innocence
8 claim.

9 She referred the case in September of 2006 to the
10 UNC Wrongful Convictions Clinic.

11 Professor Rosen was a board member of the North
12 Carolina Center on Actual Innocence at that time;
13 ultimately, the Center on Actual Innocence began working on
14 the case.

15 Ms. Parks offered to do some investigation in the
16 case while it was with the Center on Actual Innocence and
17 she did so when the case was assigned with the students at
18 the Wrongful Convictions class.

19 Her recollections of her work on the case are
20 related to Jeffrey Nelson and her attempts to contact him.

21 She also recalled that one of the defense
22 attorneys told her that the trial judge had been worried
23 that the jury convicted Bragg because he was homeless and
24 that would give him a home and three meals a day.

25 She stated that she continues to have minimal

1 **contact with Mr. Bragg and sends him Christmas cards.**

2 **She also stated that Mr. Bragg has denied guilt to**
3 **her and always stated that he was innocent.**

4 **Q** And did the Commission obtain an affidavit from
5 Ms. Parks?

6 **A** **Yes, we did.**

7 **MS. SMITH:** Commissioners, I am going to pass
8 around the affidavit of Kris Parks. If you will, please
9 take a moment to review that.

10 **Q** Ms. Stellato, did you interview any other
11 attorneys for Mr. Bragg?

12 **A** **We interviewed attorney Phil Griffin. Mr. Griffin**
13 **had been assigned to Robert Bragg's case postconviction when**
14 **it was at Prisoner Legal Services.**

15 **Q** And what did he recall about the case?

16 **A** **He recalled that Mr. Bragg was a homeless man who**
17 **was convicted of murder, that there was no physical evidence**
18 **or blood on Bragg's clothing or overcoat. He recalled that**
19 **the man who testified against Bragg was mentally challenged**
20 **in some way.**

21 **He stated he had interviewed one of Bragg's**
22 **defense attorneys, who he believed was Jeff Hedrick. He**
23 **asked Mr. Hedrick how Mr. Bragg could have been convicted,**
24 **and Mr. Hedrick stated that the jury had no sympathy for**
25 **Bragg and thought Bragg was better off of the streets.**

1 **He also stated that Mr. Bragg was absolutely,**
2 **positively innocent. He said that Bragg had no knowledge of**
3 **the crime and was indignant.**

4 **Q** Did the Commission obtain an affidavit from
5 Mr. Griffin?

6 **A** **Yes.**

7 **MS. SMITH:** Commissioners, I am passing around the
8 affidavit of attorney Philip Griffin. Please take time to
9 review that.

10 **Q** Ms. Stellato, did you interview anyone else who
11 worked on Mr. Bragg's case postconviction?

12 **A** **We interviewed Chris Mumma, the executive director**
13 **of the North Carolina Center on Actual Innocence.**

14 **Q** What was the Center's involvement in Mr. Bragg's
15 case?

16 **A** **The North Carolina Center on Actual Innocence had**
17 **Mr. Bragg's case from the fall of 2006 until they referred**
18 **it to the Commission in July of 2010.**

19 **They conducted a limited investigation in the case**
20 **consisting of approximately a dozen interviews during that**
21 **time. And when the case was at the Center, it was assigned**
22 **to the Wrongful Convictions class at UNC and then later**
23 **returned back to the Center.**

24 **Q** And did the Commission obtain the Center on Actual
25 Innocence file in this case?

1 **A** The Center provided their file to the Commission
2 when it was referred to the Commission. However, after
3 meeting with Ms. Mumma, we determined that several documents
4 were missing from the file.

5 Ms. Mumma then provided a second copy of the
6 scanned file last week. She indicated in her interview that
7 the original file may have been shredded but that they
8 maintain scanned copies of the file.

9 There are still documents missing from the file.

10 **Q** And did -- in that interview with Ms. Mumma, did
11 she indicate what Mr. Bragg had said about his guilt or
12 innocence?

13 **A** Ms. Mumma stated that Mr. Bragg has always
14 maintained his innocence and made statements of innocence.

15 **Q** And what did Ms. Mumma tell you about the Center's
16 work on the case?

17 **A** When asked about specific interviews, Ms. Mumma
18 recalled an interview with Jeffrey Nelson, but could not
19 recall any additional interviews.

20 **Q** Is there anything further from that interview?

21 **A** She indicated that the Center had letters from
22 Kenneth Coffey and asked the Commission if we had those
23 letters. We do not have those letters.

24 Ms. Mumma stated that the Center had definite
25 "crazy letters" from Mr. Coffey and indicated that we should

1 have those. It was later determined, though, that
2 Mr. Coffey had applied directly to the Center and that is
3 why they have those letters.

4 The Center indicated that there was a motion to
5 preserve all evidence in the case; however, that motion was
6 never filed. When asked why the motion was not filed in
7 2006, Ms. Mumma stated she had contacted the Boone Police
8 Department directly and discussed the preservation statute
9 with them. She does not recall directly who she spoke to
10 but was able to make the logical conclusion that it was
11 likely Detective Harrison.

12 The Center's file does not contain any handwritten
13 notes from their interviews but Ms. Mumma indicated that
14 this was because at the time they did not document anything
15 that was repeated in an interview, only what was new.

16 Q Ms. Stellato, when you say that it was later
17 determined that the letters that the Center received from
18 Mr. Coffey were because he had applied to the Center
19 individually, does that mean that those letters are not in
20 the Bragg file?

21 A That's correct.

22 Q Thank you.

23 MS. SMITH: Commissioners, do you have any
24 questions for Ms. Stellato about her interviews with the
25 defense attorneys and other postconviction attorneys in this

1 case?

2 (No response.)

3 **MS. SMITH:** Okay.

4 BY MS. SMITH:

5 **Q** Ms. Stellato, did the Commission also interview
6 the prosecutors that were involved in the original
7 prosecution of Mr. Bragg?

8 **A** Yes, we did.

9 **Q** And tell the commissioners who you interviewed.

10 **A** We interviewed both Mr. Wilson, Gerald Wilson, and
11 Tom Rusher. Tom Rusher was the DA at the time and Gerald
12 Wilson was the ADA. Gerald Wilson later became the DA.

13 **Q** Can you tell the Commissioners about the first
14 conversation commission staff had with Mr. Wilson?

15 **A** The first conversation, Mr. Wilson stated he would
16 like to know how to object to the Commission because he
17 believed that the Commission was on a fishing expedition.
18 He was angry that the Commission was looking into this case.

19 He stated that there was DNA evidence that showed
20 that there was blood on Bragg's coat. He then stated that
21 it was not the victim's blood.

22 Mr. Wilson did agree to provide his entire file
23 but stated that any evidence issues that had existed were
24 between the clerk and the Sheriff's office.

25 The Commission subsequently obtained a court order

1 for this file, and Mr. Wilson provided his file pursuant to
2 the court order.

3 We later interviewed Mr. Wilson again. At this
4 time, Mr. Wilson had some health issues. He stated that he
5 remembered the case.

6 He remembered that Mr. Bragg had murdered an
7 elderly man for his welfare check, that the man had been
8 beaten with a door knob inside of a pillow case, and that
9 Kenneth Coffey was his codefendant.

10 When he was asked about a Crimestoppers tip,
11 Mr. Wilson stated that there was a lady, whose name he could
12 not recall, and her young son who both saw Mr. Bragg leaving
13 the trailer park.

14 He recalled in the tip -- excuse me -- she called
15 in the tip and then agreed to be a witness; so she was not
16 anonymous after that.

17 Detective Harrison told him after the trial that
18 she had received an award in the case. Mr. Wilson was asked
19 if he was talking about Rene Nelson, and he stated he was
20 not sure of the name.

21 Q Did the Commission obtain an affidavit from
22 Mr. Wilson?

23 A Yes, we did.

24 MS. SMITH: Commissioners, at this time I am
25 passing around the affidavit of Gerald Wilson. If you

1 would, please take time to review that.

2 **JUDGE WAGONER:** Question. Did you say,
3 Ms. Stellato, that the Commission has the prosecutor --
4 Mr. Wilson's file?

5 **THE WITNESS:** We have the DA's file. Yes, ma'am.

6 **JUDGE WAGONER:** Okay.

7 **Q** Ms. Stellato, did the Commission also interview
8 District Attorney Rusher?

9 **A** Yes, we did.

10 **Q** And can you tell the Commissioners about that
11 interview?

12 **A** Mr. Rusher recalled that Jerry Wilson tried the
13 case but he recalled being there. He stated Mr. Wilson was
14 the prosecutor.

15 He recalled that Kenneth Coffey and Robert Bragg
16 were charged, that Coffey was tried first and convicted of
17 first-degree murder and given life in prison.

18 He stated that, during Coffey's trial, he had
19 given testimony that more thoroughly implicated Bragg and so
20 they extended Coffey use immunity so that he could testify.
21 And Coffey did testify against Bragg.

22 He recalled that Coffey had a brain injury, that
23 Coffey had given inconsistent statements and that Coffey's
24 credibility was an issue.

25 He recalled that there was a young boy, 9 or 10

1 years old, who lived on the street with his mother and his
2 sister. The boy had seen Robert Bragg walk up the street at
3 a time where Bragg would have had to have seen -- and would
4 have been indicative that Bragg had participated in the
5 crime.

6 He recalled that the killing was brutal in the
7 sense that a trailer hitch was wrapped in a sock and that
8 the victim had multiple head injuries.

9 He stated that the theory of their case was that
10 it was a robbery.

11 Q Did Mr. Rusher tell you anything about gifts that
12 were given to the Nelsons?

13 A He did.

14 Q And do you have the transcript of the interview
15 with Mr. Rusher?

16 A We do.

17 Q Can you please read for the commissioners from
18 page 11, line 11, to page 14, line 3.

19 (Read by Ms. Stellato:)

20 "A I was asked the question whether I had given
21 a gift to, you know, a young boy. And I did not, but I
22 will tell you the circumstances of that.

23 "Q Is this something you've heard?

24 "A Well, after the trial was over, there was --
25 Armfield Coffey was the publisher of the *Watauga*

1 *Democrat, and he was a prominent and -- well-known and*
2 *a friend of mine. But I -- on Saturday, certainly*
3 *after the trial was over, I met him at the post office.*
4 *And it seems like he and I had the same schedule on*
5 *Saturday mornings because I often met him there.*

6 "But he said to me, 'I need to talk to you.
7 I've been charged with driving while impaired.' Well,
8 you know, when a DA is told that, somebody wants out.

9 "And I said, 'Well, Armfield, you've never
10 been convicted before; you'll get a limited driving
11 privilege, in all probability.'

12 "And then he said, 'I'm not going to the
13 Charlotte Hornets basketball game. Would you like to
14 have tickets?'

15 "Now, you know, he has told me he's been
16 charged with impaired driving and he won't be needing
17 the ticket. And I knew he had season tickets. And he
18 knew that I had taken my son several times to see the
19 games. And the game was the Orlando Magic game, which
20 I think was the last game of that season. And
21 Charlotte had been competitive, trying to get into the
22 playoffs up until that time. I was not about to take
23 his tickets after he told me he had been charged with
24 impaired driving. But I said -- he said he wasn't
25 going and he wanted to give them to me.

1 "And I said, 'Armfield, we just had a murder
2 trial, and there's a young boy who has never had the
3 opportunity to go see the Charlotte Hornets, and I bet
4 he would just love to have those tickets.'

5 "And he said, 'Well, I'm not going.'

6 "And I said, 'I'm not going to take your
7 tickets. My son and I actually have tickets to the
8 game, but if you want to, I will see to it that the --
9 Jeffrey Nelson was his name -- gets the tickets.'

10 "So he gave me the tickets.

11 "Now, after -- after the trial was over, you
12 know, somebody came up to me and asked me about a gift
13 that I had given. I didn't give him any gift. I made
14 Armfield aware that I was not going to do anything for
15 him in terms of the DUI charge and that he was not
16 giving me the tickets, but he was giving them to
17 Jeffrey Nelson.

18 "I asked Jeffrey Nelson if he could go -- I
19 asked Jeffrey Nelson's mother if he could go and if she
20 had anyone who would take him. And she was excited
21 that he could go, but she really didn't know anyone who
22 would take him. And I had a student intern at the time
23 who took him. And they had seats. They were wonderful
24 seats apparently, but my son and I were way up in the
25 nosebleed. The intern told me he talked with the kid.

1 He said the kid loved it. And he bought the kid a
2 hotdog. And he would not accept any reimbursement
3 because he said 'Those were the best seats I've ever
4 had at any' -- but I remember that well because it came
5 up after trial.

6 "And I may have known somebody thinks this is
7 important. I don't know what happened to Armfield
8 Coffey's case. I never had any involvement with him
9 after that. And I don't -- you know, he was a good man
10 that had -- and I don't know what he had in his heart.
11 But that was very suspicious, that he would tell me was
12 charged and then want to give me that gift."

13 Q And he indicated to you that this was recently,
14 after the trial was over?

15 A Correct.

16 Q Was the Commission able to determine the date that
17 the Charlotte Hornets played the Orlando Magic in 1996?

18 A It was April 21, 1996.

19 Q And what date was Mr. Bragg convicted?

20 A February 26, 1996.

21 Q What else did Mr. Rusher say?

22 A He stated that he remembered Jeffrey Nelson
23 testifying, that Jeffrey was a young kid who was
24 intimidated. Mr. Rusher believed that Jeffrey Nelson told
25 the truth.

1 He stated that, since the trials, he believed that
2 he'd received communication from Kenneth Coffey but he could
3 not recall specifics of it. He did remember that Coffey's
4 credibility was in question.

5 When asked if there was anything important that he
6 thought the Commission should know, he stated that what he
7 did at the time was unusual in that giving Coffey
8 credibility, use immunity, he could not remember ever doing
9 anything like that in the past.

10 He stated it was very unique in his experience and
11 that he had never used use immunity when one of his cases
12 was on appeal.

13 Q And was Mr. Coffey's case on appeal at the time
14 that Mr. Bragg was tried?

15 A It was.

16 MS. SMITH: Commissioners, do you have any
17 questions for Ms. Stellato about the interviews that the
18 Commission staff conducted with the prosecutors in this
19 case?

20 (No response.)

21 MS. SMITH: Commissioners, I am going to pass
22 around the criminal record of Nancy Horton.

23 At this time, Commissioners, we are going to turn
24 our attention to the witnesses in this case.

25 BY MS. SMITH:

1 **Q** Ms. Stellato, can you tell the Commissioners who
2 Nancy Horton is?

3 **A** Nancy Horton was a neighbor of the victim. She is
4 the first person who was interviewed by law enforcement at
5 approximately 8:14 p.m. on the night of the crime, 12/8/94.

6 **Q** And can you tell us about Ms. Horton's interviews
7 that were conducted by law enforcement at the time?

8 **A** Sure. The first time she's interviewed, she
9 states that, at 4:10 p.m., she saw the victim walking out of
10 the trailer park. She then saw him return between 5:25 p.m.
11 and 5:30 p.m., that he was going back to his trailer.

12 She also states that she saw a white man going to
13 the victim's trailer at 4:45 p.m. She described this man as
14 6'1 or 6'2, with bushy hair, brown in color. He had a hat
15 on, a faded jean jacket, and was carrying a very small brown
16 bag. He had no facial hair and ruddy looking skin. She
17 stated she had never seen this man before.

18 **Q** Was Ms. Horton interviewed again by law
19 enforcement?

20 **A** She was. She was interviewed again on 12/16/1994.

21 **Q** Can you tell us about that interview.

22 **A** She is consistent in that she states she saw the
23 victim at 4:10 or 4:15. She then states 10 to 15 minutes
24 later, while she was cooking supper, she saw a man walking
25 up Winter Drive toward the victim's residence, that she had

1 seen on numerous occasions.

2 She described the man as a white male, late 30s,
3 rough looking, dark skin, about 6 feet tall, medium build,
4 black and gray hair, his hair is real thick looking.

5 She stated she thought the person was carrying a
6 brown paper bag and had a cap on. She then states that,
7 while she was in her trailer cooking, Rene Nelson came over
8 and wanted Ms. Horton to drive her to the Rainbow Day Care
9 to pick up their children. She loaded up her children, they
10 went to the Rainbow Day Care and returned approximately 20
11 minutes later.

12 At 5:10, she sees the victim walking back to his
13 trailer. She also states that, during the day on
14 December 8, she saw Coffey during that day, and that he was
15 saying rude things to her.

16 Horton states that she knew Robert Bragg, that she
17 had known him from numerous places during the past five
18 years, that she even had a picture of him -- he had been to
19 her house one time.

20 She stated that on Wednesday, 12/14/1994, she
21 bought a newspaper and came back home. She was with her
22 friend Shannon Decker. And when they looked at the
23 newspaper, Robert Bragg was on the cover, and she stated,
24 "That's the son of a bitch that killed Coy."

25 Ms. Horton stated that she would swear in a court

1 of law that the person on the front page of the *Watauga*
2 *Democrat* was the same person that walked by her trailer on
3 the evening of December 8th.

4 Q And did she testify at trial?

5 A No.

6 Q So just to clarify, in her original statement with
7 law enforcement, she indicated that she did not know the
8 person that walked by her home?

9 A Correct.

10 Q And in her second statement, she indicated that it
11 was Bobby Bragg and she knew that it was him?

12 A Correct.

13 Q Was Ms. Horton interviewed by anyone else prior to
14 the trial?

15 A Yes, she was.

16 Q Can you tell us who interviewed her and the
17 circumstances of that.

18 A On February 16, 1995, she was interviewed by the
19 private investigator who was hired by the defense attorneys
20 in the case, Jerry Vaughn.

21 She again stated that she arrived home between
22 4:05 and 4:10 p.m., on 12/8. She stated that she took Rene
23 Nelson to the Rainbow Day Care at about 4:50 to 5:00. She
24 arrived back at her trailer between 5:15 and 5:20. Her
25 times are no longer consistent.

1 She stated that she had seen Coffey that day in
2 the trailer park two to three times but that he was alone
3 all day.

4 She also stated that she did not see Jeffrey nor
5 did she see Bragg or the victim together with Coffey.

6 Q When you say "Jeffrey," is she referring to
7 Jeffrey Nelson?

8 A She is. She stated that shortly after the police
9 arrived that night -- and ambulance -- to the victim's
10 trailer, that Rene and Jeffrey Nelson came out of their
11 trailer and came down to her yard asking what had happened.

12 Q Was Ms. Horton interviewed by anyone else after
13 the trial but prior to the Commission's involvement in the
14 case?

15 A Not that is reflected in the documents we have.

16 Q And did the Commission locate and interview
17 Ms. Horton?

18 A No. She is deceased.

19 Q Did the Commission locate and --

20 JUDGE LOCK: Excuse me. Who is deceased?

21 THE WITNESS: Nancy Horton.

22 Q Did the Commission locate and interview Shannon
23 Decker who was mentioned by Ms. Horton in her second
24 statement to law enforcement?

25 A We spoke to Ms. Decker's mother to determine if

1 **Ms. Decker could recall being there when Nancy Horton saw**
2 **the newspaper and identified Robert Bragg. Her mother**
3 **indicates that Ms. Decker has significant medical issues.**
4 **She spoke to her. She could not recall this happening.**

5 **MS. SMITH:** Commissioners, do you have any
6 questions for Ms. Stellato about Nancy Horton?

7 **MR. FRYE:** The interview with the private
8 investigator, were those notes relayed by the private
9 investigator, I'm assuming?

10 **THE WITNESS:** No, sir. They are notes -- they are
11 handwritten notes by him of interviews that he did. So
12 we're only -- we are only saying exactly what the notes say.
13 We do not have the tapes of the interviews that he did so we
14 are just relaying them exactly as they read.

15 **MR. FRYE:** Right.

16 **THE WITNESS:** We don't have the additional
17 information so we don't know what else she may have or may
18 not have said. We are only putting exactly what the notes
19 say.

20 **MR. FRYE:** The notes of the private investigator?

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

22 **MS. SURGEON:** What was the date of the interview
23 by the private investigator?

24 **THE WITNESS:** February 16, 1995.

25 **MS. SURGEON:** Thank you.

1 **MR. EDWARDS:** In the second statement that she
2 gave to law enforcement where she named Bobby Bragg, I
3 believe you said --

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

5 **MR. EDWARDS:** -- is that -- was that before or
6 after she supposedly had the newspaper and said that's the
7 SOB that killed him?

8 **THE WITNESS:** She reads the newspaper on
9 Wednesday, December 14th, and she gives the statement on
10 December 16th.

11 **MR. EDWARDS:** Okay.

12 **MS. SMITH:** Thank you, Ms. Stellato. You may step
13 down.

14 (Witness stands down.)

15 **MS. SMITH:** Judge Wagoner, this would be an
16 appropriate time for a break.

17 **JUDGE WAGONER:** We will have a 15-minute break.

18 (Recess taken, 10:41 to 10:59 a.m.)

19 **MS. SMITH:** The Commission calls staff attorney
20 Catherine Matoian.

21 **JUDGE WAGONER:** Would you please come around and
22 be sworn.

23 Thereupon, CATHERINE MATOIAN, having been sworn, was
24 examined and testified as follows on EXAMINATION BY

25 **MS. SMITH:** (10:59 a.m.)

1 **Q** Ms. Matoian, will you please state your full name.

2 **A** Catherine Matoian.

3 **Q** And how are you employed?

4 **A** I'm a staff attorney with the Innocence Inquiry
5 Commission.

6 **Q** And how long have you been employed at the
7 Commission?

8 **A** Three years and eight months.

9 **Q** And were you assigned to work on the Bragg case?

10 **A** Yes.

11 **Q** In the course of your investigation, did you
12 conduct interviews with witnesses in the case?

13 **A** Yes, I did.

14 **Q** Can you tell the Commissioners who Cherie Gray is?

15 **A** Cherie Gray was a neighbor of the victim.

16 **Q** Was Ms. Gray interviewed by law enforcement?

17 **A** Yes, she was interviewed twice.

18 In her first interview with police, she told law
19 enforcement, on December 8, that she came home from work at
20 5:10 p.m. When she got out of her car, she saw the victim
21 going up the stairs to his trailer. He was carrying either
22 his walking stick or something with a brown handle.

23 She also stated that when she left her home
24 between 6:20 and 6:30 p.m. to take her daughter to the
25 skating rink, she saw bright lights coming from the victim's

1 trailer.

2 Ms. Gray saw a couple of guys walking in and out
3 of the trailer park, one of them had dirty blonde hair with
4 a leather jacket with things hanging off of it and this man
5 was walking by himself.

6 JUDGE WAGONER: Excuse me, you said what was
7 hanging off of his leather jacket?

8 THE WITNESS: Things.

9 A In October of 1995, at the request of the district
10 attorney's office, Ms. Gray was interviewed by law
11 enforcement again.

12 According to the Boone Police Department's file,
13 they are interviewing her about seeing two men walking out
14 of the trailer park. Ms. Gray clarifies that she did not
15 see the two men together.

16 She stated that when she looked out her kitchen
17 window, she saw a white male with collar-length blond hair,
18 maybe 5'10", not heavy, walking down the street to the
19 highway.

20 He was wearing a black leather jacket with chains
21 and doodads hanging off of it. Gray could not remember
22 anything about the other person.

23 Q And was Ms. Gray interviewed by anyone else prior
24 to trial?

25 A Not that I'm aware of.

1 **Q** And did Ms. Gray testify at trial?

2 **A** No.

3 **Q** Was Ms. Gray interviewed by anyone else after the
4 trial but prior to the Commission's involvement in the case?

5 **A** Not that I am aware of.

6 **Q** Did the Commission locate and interview Ms. Gray?

7 **A** Yes. She stated all she really remembered about
8 the day of the crime was that her neighbors from across the
9 street found the victim.

10 Ms. Gray was asked, "I think you said in your" --
11 quote -- "I think you said in your original statement you
12 had saw a man with kind of dirty blonde hair leaving the
13 victim's trailer at 6:20 or 6:30?"

14 Ms. Gray responded, "Yeah. He was like kind of
15 tallish dressed in leather, kind of, you know."

16 **Q** And did Ms. Gray say in her original statement
17 that she had seen a man leaving the victim's house at 6:20
18 or 6:30?

19 **A** No. Ms. Gray said in her original statement that
20 she saw this man walking by himself and he was walking
21 either in or out of the trailer park.

22 She did not place this man at the victim's
23 trailer. I incorrectly stated this to her during her
24 interview and I did not realize this until later.

25 She did independently state that the man was

1 **tallish and dressed in leather.**

2 **Q** And were you able to follow up with Ms. Gray to
3 clarify what she recalled?

4 **A** **I made several attempts to contact Ms. Gray again;**
5 **however, I was unable to reach her.**

6 **JUDGE WAGONER:** The day of the interview of Ms.
7 Gray was when?

8 **THE WITNESS:** March 16th, 2015.

9 **JUDGE WAGONER:** Thank you.

10 **Q** And can you tell the Commission who Steve Combs
11 is?

12 **A.** **Steve Combs worked at the ABC store in Boone,**
13 **North Carolina, at the time of the crime.**

14 **Q** Was Mr. Combs interviewed by law enforcement?

15 **A** **Yes. He was interviewed twice.**

16 **He stated that, on the day of the murder, Kenneth**
17 **Coffey came into the store and asked what kind of liquor the**
18 **victim drank.**

19 **Mr. Coffey then purchased Popov vodka for the**
20 **victim.**

21 **Q** And was Mr. Combs interviewed by anyone else prior
22 to trial?

23 **A** **Not that I'm aware of.**

24 **Q** Did he testify at the trial?

25 **A** **Yes, he did. He testified at both the Coffey and**

1 **Bragg trials.**

2 **MS. SMITH:** Commissioners, a summary of his
3 testimony at Coffey's trial is found on page 198 through 199
4 of your brief. His testimony from Mr. Bragg's trial is not
5 resummarized in this brief as it is consistent with the
6 exception of the time of the purchase of the vodka.

7 A footnote regarding that inconsistency is found
8 on page 204 of the brief.

9 According to the register tapes and Mr. Combs's
10 statements, Mr. Coffey made the purchase at either 3:38 or
11 3:46 p.m.

12 **Q** Was Mr. Combs interviewed by anyone else after the
13 trial but prior to the Commission's involvement in the case?

14 **A** Not that I'm aware of.

15 **Q** And was the Commission able to locate and
16 interview Steve Combs?

17 **A** Yes.

18 He stated that he did not testify at the trial of
19 Robert --

20 **JUDGE WAGONER:** Again, the date of your interview?

21 **THE WITNESS:** March 3rd, 2016.

22 **JUDGE WAGONER:** March 3rd. Thank you.

23 **A** Excuse me.

24 He stated he did testify at Kenneth Coffey's
25 trial. He stated that he remembers like it was yesterday.

1 He stated that Coffey came in around 5:00 p.m. and
2 asked what kind of booze the victim drank. They told him
3 what kind, he bought it, and he took it back to the trailer
4 park.

5 He doesn't remember Coffey being with anyone that
6 day. He remembers it being the day -- that day because it
7 wasn't long after that that the victim was dead.

8 Q Ms. Matoian, just to clarify, the -- Mr. Combs
9 testified that the -- I'm sorry.

10 Mr. Combs testified and stated to you that the
11 time was around 5:00 that Mr. Coffey was in the store.
12 However, the register tapes and his original statements say
13 that the purchase was either at 3:38 or 3:46 p.m.; is this
14 correct?

15 A Yes.

16 Q Can you tell the Commission who Bo Tugman is.

17 A Bo Tugman was a regular ABC store customer.

18 Q And was Mr. Tugman interviewed by law enforcement?

19 A Yes, he was. Mr. Tugman was interviewed three
20 times by police. In all three interviews he stated that on
21 December 8, 1994, between 5:00 and 5:30 p.m., he saw the
22 victim and held the door open for him at the liquor store.

23 The victim was alone and stood in line behind
24 Mr. Tugman. He noticed that the victim had a pint-sized
25 bottle with a clear liquid in it. Tugman purchased his

1 **items and left the liquor store.**

2 **Q** And was Mr. Tugman interviewed by anyone else
3 prior to trial?

4 **A** **Not that I'm aware of.**

5 **Q** And did he testify at the trial?

6 **A** **No, he did not.**

7 **JUDGE WAGONER:** Hold up. We have a question.

8 **MR. LONG:** You said that he saw the victim in the
9 liquor store?

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

11 **MR. LONG:** Thank you.

12 **JUDGE WAGONER:** And what time was that?

13 **THE WITNESS:** Between 5:00 and 5:30 p.m.

14 **Q** And, Ms. Matoian, to clarify, was that the day of
15 the murder?

16 **A** **It was.**

17 **Q** Did he say this in all three interviews?

18 **A** **He did.**

19 **Q** Was Mr. Tugman interviewed by the Commission?

20 **A** **He was; on March 22, 2016.**

21 **Mr. Tugman stated that the murder -- that after**
22 **the murder happened, he told a retired Boone police officer**
23 **that he had seen the victim at the ABC store.**

24 **He stated that now he can't recall whether he was**
25 **walking in or out or whether the victim was walking in or**

1 out, but does remember seeing the victim there.

2 He stated that it was in the afternoon between
3 5:00 and 6:00 and he could not recall the date.

4 MS. SMITH: Commissioners, do you-all have any
5 additional questions for Ms. Matoian about any of these
6 three individuals and interviews conducted?

7 MR. EDWARDS: Was there surveillance tapes of the
8 ABC store?

9 THE WITNESS: Not that we are aware of.

10 MR. EDWARDS: And so the 3:38 and 3:46 timestamp,
11 that was on the registers; is that correct?

12 THE WITNESS: The register tape.

13 MR. EDWARDS: All right.

14 MR. FRYE: The initial interview with Cherie Gray,
15 she said that at first she saw two men. They weren't
16 together; is that correct?

17 THE WITNESS: She said that one man was walking by
18 himself.

19 MR. FRYE: But did she see two men at the trailer
20 park?

21 THE WITNESS: She did.

22 MR. FRYE: But she was unable to give a
23 description of the second one?

24 THE WITNESS: Not as described in the first
25 interview.

1 **MR. FRYE:** Okay. And when you interviewed her,
2 did she say that she saw a second man in the trailer park?

3 **THE WITNESS:** She did not.

4 **MR. FRYE:** So she just said she saw one?

5 **THE WITNESS:** Yes.

6 **JUDGE LOCK:** Were the notes of the interview with
7 Cherie Gray contained in the files of the prosecutor?

8 And do you know whether or not Bragg's trial
9 attorneys were at that interview?

10 **THE WITNESS:** Can we check on that and get back to
11 you?

12 **JUDGE WAGONER:** Is that all right?

13 **MR. EDWARDS:** Sure.

14 **MS. SMITH:** I'm going to call Sharon to testify
15 about that in just a moment.

16 **JUDGE WAGONER:** Thank you.

17 **MS. SMITH:** Any other questions for Ms. Matoian?

18 (No response.)

19 **MS. SMITH:** You may step down, Ms. Matoian.

20 (Witness stands down.)

21 **JUDGE WAGONER:** And you are still under oath.

22 (Witness recalled, Sharon Stellato)

23 BY MS. SMITH: (11:09 a.m.)

24 **Q** Ms. Stellato, can you clarify the Sheriff's
25 question about Ms. Gray?

1 A In her original statement -- so she was
2 interviewed twice by law enforcement -- in her original
3 statement on 12/9/1994 --

4 JUDGE WAGONER: 12/9/94? Is that what you said?

5 THE WITNESS: Uh-huh.

6 A -- she states that, when she left her home between
7 6:20 and 6:30 to take her daughter to the skating rink, she
8 saw a couple of guys walking in and out of the trailer park.
9 One of them had dirty blond hair with a leather jacket with
10 things hanging off of it. And she recalls seeing the other
11 guy walking by himself.

12 Then, at the request of the district attorney, she
13 is reinterviewed on 10/11/1995. The DA requests this
14 because he wants clarification about the statement that she
15 gave concerning two people in the trailer park.

16 Her statement at that time is she was getting
17 ready to take her daughter to the skating rink and she
18 looked out of her kitchen window and saw a white male with
19 collar-length blond hair, maybe 5'10", not heavy, walking
20 down the street toward the highway.

21 She said that he had on a black leather jacket
22 with chains and doodads hanging off of it. And that was the
23 only thing that really caught her attention. And he may
24 have had on blue jeans.

25 She states she cannot really remember anything

1 about the other person. Both guys were walking down the
2 street, but they were not walking together.

3 The first statement does not put the two men
4 together.

5 Q Ms. Stellato, one follow-up, has the Commission
6 been able to identify anyone who wore a leather jacket with
7 doodads or things hanging off it?

8 A Henryk Ossowski.

9 JUDGE WAGONER: Spell that for the court reporter.

10 THE WITNESS: O-s-s-o-w-s-k-i.

11 Q Regarding Mr. Long's question, related to notes,
12 there are no notes in the district attorney's file.

13 JUDGE WAGONER: I think it was Judge Lock's
14 question.

15 THE WITNESS: Excuse me. I'm sorry.

16 When you sit over there, you can't really see that
17 side of the room. Excuse me.

18 A. The notes from both of these interviews were taken
19 down by law enforcement officers and this is verbatim what
20 the notes read.

21 JUDGE LOCK: They were not in the prosecutor's
22 file?

23 THE WITNESS: No, sir. The prosecutor's file did
24 not contain these specific notes, but they did contain these
25 interview reports. And that is how or why the ADA asked

1 that they go back and interview Ms. Gray again.

2 **JUDGE LOCK:** To your knowledge, were they in the
3 trial attorneys' file?

4 **THE WITNESS:** I can't speak to that because we
5 don't have the trial attorneys' files.

6 **JUDGE LOCK:** Right.

7 **THE WITNESS:** So the Commission is not going to
8 say what the trial attorneys had or didn't have, and I can't
9 speak to that.

10 **JUDGE LOCK:** Neither the trial attorneys and/or
11 interviews or affidavits make reference to --

12 **THE WITNESS:** -- the PI reports -- if I may grab
13 something. One moment.

14 The PI notes that we have do not make reference.

15 **JUDGE WAGONER:** Just to clarify, who is the PI?
16 The original PI or recent PI?

17 **THE WITNESS:** I'm sorry. There is no recent PI.

18 **JUDGE WAGONER:** I thought we had an investigator?

19 **THE WITNESS:** I'm sorry, Judge Wagoner. That's
20 just someone to transport.

21 **JUDGE WAGONER:** I gotcha.

22 **THE WITNESS:** The private investigator's reports
23 that we have -- so we know we only have part of those so I
24 just want to clarify that -- make reference that they had
25 read a report about Cherie Gray, but they do not make

1 reference that they ever spoke to Cherie Gray.

2 So I can't tell you what reports they read, if
3 they read both of the reports; I just don't know.

4 **MS. SMITH:** Okay.

5 **JUDGE WAGONER:** Okay.

6 **MS. SURGEON:** Who interviewed Ms. Gray first, that
7 initial interview?

8 **THE WITNESS:** Her first interview was Detective
9 Harrison in March.

10 **MS. SURGEON:** Where was that interview?

11 **THE WITNESS:** It was at her place of employment,
12 which was Kmart.

13 **MS. SURGEON:** And that was when?

14 **THE WITNESS:** It was on 12/9/94 at 8:50 a.m.

15 **MS. SURGEON:** Thank you.

16 **MS. BELLE:** May I ask just for clarity, the first
17 time she was interviewed, she, in summary, said she saw two
18 men walking in and out of the victim's trailer? Or the
19 trailer park?

20 **THE WITNESS:** She says she saw a couple of guys
21 walking in and out of the trailer park.

22 **MS. BELLE:** The trailer park?

23 **THE WITNESS:** Yes, ma'am.

24 And then the second time, she saw two guys, but it
25 seems we are not able to connect them as being together.

1 So let me just clarify that first statement. She
2 says she saw two guys walking in and out of the trailer park
3 and she recalls seeing one of them walking by himself.

4 **MS. BELLE:** And that was -- the one walking by
5 himself, was that at the first interview?

6 **THE WITNESS:** Uh-huh.

7 And then the second interview she describes the
8 one in detail. Then she states she can't remember anything
9 about the other person but both guys were walking down the
10 street, but they were not walking together.

11 Again, this is at 6:20 to 6:30 p.m., and the
12 Commission can certainly make copies of these and provide
13 them to the Commissioners.

14 **MS. SMITH:** Would you like those?

15 **JUDGE WAGONER:** That would be helpful. Thank you.
16 We can do it over the lunch break.

17 **MS. SMITH:** Okay.

18 **JUDGE WAGONER:** Maybe just one more. In both of
19 her statements, I know the second statement was -- Ms. Gray
20 referenced a leather jacket with doodads. Did she also
21 reference a leather jacket in the first statement?

22 **THE WITNESS:** She references a leather jacket in
23 both of the police statements and also independently in her
24 Commission interview, yes, ma'am.

25 **JUDGE WAGONER:** Thank you.

1 **Q** Ms. Stellato, you can stay there. We are going to
2 turn our attention now to Rene Nelson.

3 **MS. SMITH:** Commissioners, I am going to pass
4 around the criminal record of Ms. Nelson.

5 **Q** Ms. Stellato, can you please tell the
6 Commissioners who Rene Nelson is?

7 **A** Rene Nelson lived in the trailer park where the
8 victim lived and provided testimony in both cases.

9 **Q** And was she interviewed by law enforcement?

10 **A** She was. She was first interviewed the day after
11 the crime, on December 9, 1994.

12 **Q** What did she tell law enforcement on that day?

13 **A** In that statement, she told law enforcement that,
14 on December 8th, sometime after 3:00 p.m., but prior to
15 5:15 p.m. when she left to go to day care, she saw Kenneth
16 Coffey come out of the victim's yard. He was walking fast
17 and looking wild, but he did not say anything, and he was
18 possibly wearing a dark-colored flannel shirt or jacket.

19 **Q** And was Ms. Nelson interviewed by law enforcement
20 again after that?

21 **A** Yes. She was interviewed again on December 15,
22 1994, after law enforcement interviewed her son Jeffrey
23 Nelson. This was at the Boone Police Department at the
24 request of law enforcement.

25 **Q** And what did she say during that interview?

1 A She stated that she remembered December 8, that
2 she takes every Thursday off. That on that day, she went to
3 the day care between 4:50 and 5:00 p.m. and she was gone
4 maybe ten minutes and she was back home.

5 A A few minutes later, Jeffrey called her outside.
6 He told her that he wanted to know why that damned old
7 Kenneth Coffey and Big Bob were following Coy up the road.

8 A Jeffrey wouldn't shut up about it until she came
9 outside. When she went outside, she saw Kenneth Coffey and
10 Robert Bragg. At that time, the victim was almost at his
11 trailer, and Bragg was saying, "Ain't that right? Ain't
12 that right, you son of a bitch, Coy?"

13 A Coffey was laughing, and you could tell that they
14 were drunk. She stated that Jeffrey then got on his bike
15 and Jeffrey told her that he saw them all go into the house.

16 A Nelson stated that she saw Robert Bragg swinging
17 something in his right hand. It had something round in it.
18 The sock was dark in color.

19 Q Did she say anything else?

20 A She described that Bragg had on some kind of coat
21 that came past his waist. It was tannish green in color.
22 And that Coffey was wearing something like a dark flannel
23 shirt and a thermal shirt which was white in color.

24 Q Did Ms. Nelson say anything about her prior
25 interview with law enforcement?

1 **A** She stated that, when she was interviewed by
2 police on that Friday, December 9th, she had told them that
3 she saw Kenneth Coffey but that she was too scared to say
4 anything else.

5 **Q** Did she say anything about what she had seen more
6 recently than that?

7 **A** She stated that she had seen yesterday's newspaper
8 with Robert Bragg in it and that she had previously seen
9 Robert Bragg walking back and forth from the victim's
10 trailer.

11 **JUDGE WAGONER:** Ms. Smith, I have a question.

12 Do you know if Ms. Nelson was present when her son
13 was interviewed the first time?

14 Did she sit in the room since he was a minor?

15 **THE WITNESS:** They were at the police department
16 all together. The notes do not indicate if she was present
17 in the room.

18 **JUDGE WAGONER:** All right.

19 **THE WITNESS:** We do know that they went there
20 together and they were all there, but I don't know.

21 **Q** Do you know, Ms. Stellato, whether Jeffrey was
22 interviewed first?

23 **A** Jeffrey was interviewed first.

24 **Q** Was Ms. Nelson's mother, Linda Wilcox, also
25 interviewed by law enforcement?

1 A Yes. Linda Wilcox was interviewed on 12/16/1994.

2 Q And what did she say?

3 A She also lived in the trailer park and she was
4 home all day on the day of the murder, 12/8.

5 She stated that she did not notice anything or
6 anyone that was out of the ordinary.

7 She stated that she had seen Kenneth Coffey that
8 day around 3:30 p.m. and that he was going up the street.
9 She said he had on a white shirt, blue jeans, and was
10 carrying a can of beer. She was not able to say for sure
11 that he went to the victim's home, but he was headed in that
12 direction.

13 She did see the victim that day but did not
14 provide a time. Ms. Wilcox also stated that her grandson
15 Jeffrey had told her in the past that she had -- that he had
16 heard the victim and Kenneth Coffey arguing one time.

17 Linda Wilcox stated that she had seen Bragg before
18 but that it had been one time before Thanksgiving.

19 She indicated in that report that she had also
20 been interviewed on that Friday, 12/8, but there is no
21 notation of this interview in the file.

22 And there is nothing in her interview about
23 Jeffrey or Rene ever speaking to her about this crime.

24 Q And when you just said she said that she was
25 interviewed on Friday, 12/8, did you mean Friday, 12/9?

1 **A I did. Thank you.**

2 **Q And this interview that you just testified about**
3 **that Ms. Wilcox did with the Boone Police Department, that**
4 **was on December 16; is that correct?**

5 **A Yes. It was on December 16th.**

6 **Q And was that before or after the date of Jeffrey**
7 **and Rene's interviews with law enforcement?**

8 **A It was the day after. They were interviewed on**
9 **December 15th.**

10 **Q Okay. Did Ms. Wilcox testify at trial?**

11 **A She did testify. She was called -- Ms. Wilcox was**
12 **called by the defense. She testified consistent with the**
13 **statement that she gave to law enforcement on December 16th.**
14 **A summary of her testimony is in your brief on page 460.**

15 **Q Did anyone else testify at trial with respect to**
16 **statements that Rene Nelson had made regarding the crime?**

17 **A Yes. Shawn Valdez.**

18 **MS. SMITH:** Commissioners, I am passing around the
19 criminal record of Shawn Valdez.

20 **MR. FRYE:** Can we infer that Ms. Linda Wilcox --
21 if you don't pass around a criminal record, they don't have
22 one? Can we infer that?

23 **MS. SMITH:** You cannot infer that. Typically, if
24 we did not have an opportunity to speak with an individual,
25 we are not providing their record.

1 **MR. FRYE:** Okay.

2 **Q** Ms. Stellato, did we attempt to interview
3 Ms. Wilcox?

4 **A** We did, but she is deceased. We can certainly
5 provide a criminal record for her if you would like.

6 **MR. FRYE:** That's okay.

7 **Q** Ms. Stellato, can you tell us who Shawn Valdez
8 is.

9 **A** He was Rene Nelson's boyfriend around the time of
10 the murder.

11 **Q** And was Mr. Valdez interviewed by law enforcement?

12 **A** No.

13 **Q** Was he interviewed by anyone else prior to the
14 trial?

15 **A** He was interviewed by the private investigator
16 that was hired by the defense attorneys. This interview
17 took place on June 22, 1995.

18 **Q** And what did that -- the notes from that interview
19 indicate that he said?

20 **A** According to the private investigator's notes,
21 about a week after the murder, Mr. Valdez saw Rene Nelson
22 and she told him that she didn't know anything about the
23 murder of the victim.

24 **Q** Did he testify at the trial?

25 **A** He did.

1 **Q** He was called by the defense to impeach Rene
2 Nelson. He was then later called -- recalled regarding the
3 statements that Rene Nelson had made to him.

4 He testified that, on the Saturday after the
5 crime, he asked Rene Nelson if she knew anything about the
6 crime. On that Saturday, she told him she didn't know
7 anything about it, that Jeffrey had seen two people walking
8 up through the trailer park on Tuesday, and that the police
9 had used him for questioning, had already drug him in for
10 questioning, and this was on a Saturday -- or were going to
11 be using for questioning, one of the two.

12 **MS. SMITH:** Commissioners, a summary of that
13 testimony is located on page 464 to 465 of your brief.

14 **Q** Ms. Stellato, was Mr. Valdez interviewed by anyone
15 else after the trial but prior to the Commission's
16 involvement in the case?

17 **A** **Yes. He was interviewed by the North Carolina**
18 **Center on Actual Innocence on March 5, 2010.**

19 **Q** What can you tell us about that interview?

20 **A** **That interview is not recorded. The Center staff**
21 **members interviewed him and drafted a memo about the**
22 **interview. There are no handwritten notes.**

23 According to the memo, Mr. Valdez stated that he
24 saw Rene Nelson the day after the crime, that Rene told him
25 that the crime happened on a different day than it had

1 actually happened.

2 She told him the crime happened on a Friday when
3 it really occurred on a Thursday, and that this is how he
4 knows Rene is not telling the truth.

5 Mr. Valdez stated that he thought that Rene lied
6 on the stand for Crimestoppers money.

7 Q And was the Commission able to locate and
8 interview Mr. Valdez?

9 A We were.

10 Q Can you tell us about that interview?

11 A Mr. Valdez stated that he saw Mr. Bragg when he
12 was in jail and that Mr. Bragg told Mr. Valdez --

13 JUDGE WAGONER: Could you tell me which "he" was
14 jailed? Mr. Valdez or Mr. Bragg?

15 THE WITNESS: Both.

16 JUDGE WAGONER: They were in jail together?

17 A Mr. Valdez saw Mr. Bragg when they were in jail
18 together, and that Mr. Bragg told Mr. Valdez that Mr. Bragg
19 was in Tennessee during the time of the crime.

20 Valdez does not know the day of the murder, that
21 it occurred, but he states that when Rene Nelson told him
22 about the murder, the day that she told him the murder
23 happened and the day of the murder were different days.

24 Q I want to turn your attention now back to Rene
25 Nelson.

1 Does the police file indicate any additional
2 contact that law enforcement had with Ms. Nelson?

3 A Yes. After the interviews, police contact Rene
4 Nelson on two additional dates. And they were questioning
5 her about seeing a woman or seeing Rene Carson -- Rhonda
6 Carson on the porch at the victim's trailer at the time of
7 the murder on December 8th.

8 When they asked her about this, Nelson tells the
9 police that she did not see a woman on this date.

10 Q Ms. Stellato, do you know why law enforcement was
11 asking about a woman on the porch -- or Rhonda Carson on the
12 porch?

13 A Because Coffey implicates Rhonda Carson in the
14 murder and police are going back to Ms. Nelson to ask if she
15 saw a woman, if she knows Rhonda Carson, and if Rhonda
16 Carson was on the porch.

17 Q What else did -- what other interaction does
18 Ms. Nelson have with law enforcement?

19 A Ms. Nelson contacts the police when the landlord
20 of the victim's trailer cleans out the trailer.

21 When he cleans out the trailer, he finds two
22 Bibles that belong to the victim. He gives those Bibles to
23 Rene Nelson and Rene Nelson contacts law enforcement to give
24 them to law enforcement.

25 Q Is there any other indication in the file of

1 additional contact?

2 **A** **Not in the law enforcement file. But in the**
3 **district attorney's file, there are notes that Ms. Nelson**
4 **contacted the district attorney when the private**
5 **investigator that was hired by the defense counsel was**
6 **attempting to interview her and her mother.**

7 **Q** And did that private investigator ever interview
8 Ms. Nelson?

9 **A** **No.**

10 **Q** Did Ms. Nelson testify at trial?

11 **A** **She did. She testified at both Coffey and Bragg's**
12 **trial.**

13 **MS. SMITH:** Commissioners, Ms. Nelson -- Rene
14 Nelson's entire testimony from both trials was provided in
15 your briefs. For Coffey's trial, it was on pages 174 to 194
16 of your brief, and for Bragg's trial it was on pages 369 to
17 403 of the brief.

18 **Q** Was Ms. Nelson interviewed by anyone else after
19 the trial?

20 **A** **She was. She was interviewed by an investigator**
21 **who worked with Prisoner Legal Services in February of 1999.**

22 **Q** And what did she tell that investigator?

23 **A** **We don't have a recording of this interview. I**
24 **don't know if there was one. We don't have any notes. We**
25 **just have a memo.**

1 According to the memo, Ms. Nelson spoke to the
2 investigator at her own home for about 10 minutes, that Rene
3 Nelson stated she remembered seeing Robert Bragg walk down
4 the street with Kenneth Coffey, that Bragg was wearing a
5 fatigue jacket and swinging something in a sock.

6 At that time, Rene Nelson told this investigator
7 she was going to call the district attorney and tell the
8 district attorney that the investigator had come by, and, if
9 necessary, she would arrange a meeting to speak with both
10 the investigator and the district attorney.

11 Q And as far as you know, was there ever another
12 meeting between the investigator and Ms. Nelson?

13 A There's nothing in the district attorney's file to
14 indicate that there was.

15 Q Did the Commission interview Ms. Nelson?

16 A We interviewed Ms. Nelson and we deposed her as
17 well.

18 Q Can you please tell the commissioners about the
19 interview of Ms. Nelson.

20 A We made several attempts to contact Ms. Nelson,
21 and she did agree to be interviewed by the Commission in
22 September of 2014.

23 Q And what did she state during that interview?

24 A She stated that she specifically recalls the date
25 of the crime, December 8th, because that is the day that her

1 nephew was born. She stated on that day she went to work at
2 the Holiday Inn Express.

3 Q Is the information about the Holiday Inn Express
4 consistent with the information that Ms. Nelson provided at
5 the time of her interview with law enforcement?

6 A No. Ms. Nelson was employed by Burger King at
7 that time and she had Thursdays off.

8 Q And did she tell law enforcement whether or not
9 she was off on the day of the crime, Thursday, December 8th?

10 A Yes. She told law enforcement that she was off on
11 the day of the crime.

12 Q What else did Ms. Nelson tell the Commission
13 during her interview?

14 A During the Commission interview in 2014, she
15 stated that she usually got home from work between 2:00 and
16 3:00 p.m.

17 She stated that, on that day, she had seen the
18 victim had been to his mailbox and that Bragg and Coffey
19 were following him up the road and taunting him, that this
20 wasn't unusual or unnormal because always, at the first week
21 of every month, every drunk in the county was going to the
22 victim's home.

23 She stated that Jeffrey called for her to come
24 outside because they were harassing the victim; so she went
25 out there and watched and that Jeffrey followed them on his

1 bicycle.

2 She stated that they did go inside, but she
3 doesn't know what happened when they were in there.

4 She stated that the she saw the two gentlemen
5 leave from the residence and come back down the road.

6 She stated she couldn't see the door of the
7 residence, but she saw Robert Bragg leave. He was 30 to 40
8 seconds ahead of Kenneth Coffey and then here came Kenneth
9 Coffey. They were walking back down the street.

10 She also stated she was not the only adult out
11 there to see this, that there were probably eight or nine
12 others there who saw it.

13 Q Ms. Stellato, is that information consistent with
14 what Ms. Nelson had said before?

15 A No. Ms. Nelson has never said in her previous
16 statements to law enforcement or in either trial testimony
17 that she saw Mr. Bragg or Mr. Coffey leave the victim's home
18 and come back down the street.

19 Q What else did Ms. Nelson tell the Commission
20 during that interview?

21 A She stated that they were swinging something in a
22 sock or something brown. She stated, "I don't know what the
23 object was but whatever it was that was in it, it was brown,
24 and they were handing it back and forth so it could have
25 been liquor."

1 **Q** Is this consistent with that what Ms. Nelson has
2 said before to law enforcement and at trial?

3 **A** No.

4 **Q** Please continue.

5 **A** Ms. Nelson started to talk about the day of the
6 murder. She stated, "I mean, like, like I said, the first
7 week of every month, it's like every drunk in town was
8 there. But then there was no fence here. Someone could
9 have walked in from God knows where up to here, and I didn't
10 see them nor would I have seen them leave."

11 Nelson said that drunks could have come in from
12 all directions because there was no fence. I was trying to
13 determine what Rene Nelson was meaning. She was saying that
14 she doesn't know who was in the trailer, that a lot of
15 people could come in there and drink whatever he bought on
16 the first of the month, that it was a known fact that
17 everyone would come there and that people randomly showed
18 up.

19 She kept saying that she didn't know who was there
20 before she saw Bragg and Coffey showed up, that it was a
21 full house and the President could have been in there.

22 **Q** What else did she tell the Commission?

23 **A** She stated that her friend Wanda would always take
24 her up to the day care.

25 **Q** The police report indicates who drove Ms. Nelson

1 to the day care on that particular day?

2 **A Nancy Horton.**

3 **Q** What else did she say?

4 **A She stated that the time that she saw Bragg and**
5 **Coffey swinging something was not when they were following**
6 **the victim to the trailer but when they were coming back**
7 **down the street together.**

8 **Q** Is this consistent with what Ms. Nelson has said
9 before to either law enforcement or at trial?

10 **A No. Ms. Nelson has always stated that she saw**
11 **them swinging something when they were following the victim.**

12 **Q** What else did she say?

13 **A She stated that when she was interviewed by law**
14 **enforcement, she told law enforcement that they could have**
15 **been carrying a bottle of liquor because they took turns and**
16 **they could have been swigging something.**

17 **Q** And is this information reflected in the Boone
18 Police Department file?

19 **A No.**

20 **Q** What else did she say?

21 **A When asked if she saw Mr. Bragg or Mr. Coffey go**
22 **into the victim's trailer, Mr. Nelson -- Ms. Nelson stated**
23 **that she could not see the victim's door, that she saw them**
24 **go into the victim's yard.**

25 **Q** Did she say anything else?

1 A She was asked if she previously knew Mr. Bragg or
2 Mr. Coffey or if she had ever had any prior dealings with
3 them, and she stated that she had not.

4 Q And is that consistent with her prior statements
5 to law enforcement or her testimony at trial?

6 A No.

7 Q You can continue.

8 A Ms. Nelson was asked if she had ever received any
9 money for her testimony. She stated, "Never. Not one time.
10 We were not promised anything. We weren't given anything
11 and I did not ask. We were never given nothing. I don't
12 know where that came from. We weren't given anything. We
13 were just asked for what we knew, which all the neighbors
14 were but no one wanted to say anything."

15 She also stated that her children didn't have any
16 brand-new bicycles and they didn't get any that year.

17 Q Can you put into context for the Commissioners why
18 she was talking about bicycles?

19 A She was asked -- there were statements made by
20 other individuals that Jeffrey Nelson had received a new
21 bicycle and a basketball hoop. And she was asked -- excuse
22 me -- she was not asked; she started talking about knowing
23 that and stating that Jeffrey had not received a new
24 bicycle.

25 Q What else did she say?

1 **A** She stated that the victim was a nasty old drunk
2 who was a vulgar man. And that she had called the cops on
3 him.

4 **Q** Did the Commission try to determine from
5 Ms. Nelson where Jeffrey Nelson was located at the time?

6 **A** We did. We were trying to locate Jeffrey Nelson
7 at that time to interview him, and she stated that Jeffrey
8 Nelson was living in New Jersey with his girlfriend and
9 children.

10 **Q** And did you also ask Ms. Nelson if she knew what
11 Jeffrey remembered about the crime?

12 **A** We did. She stated that she didn't know, that he
13 was 8 or 9 years old at the time of the crime, and it had
14 been a long time and she didn't know what he would remember.

15 **Q** Can I refer you to page 20 of the transcript of
16 your interview with Ms. Nelson. Can you read lines 2
17 through 9.

18 **A** Ms. Nelson stated "I don't know what happened in
19 that trailer because I could not see in it, but if these men
20 did murder Mr. Hartley, I would like to see them stay where
21 they are. If they didn't, then they don't deserve to be
22 there. I didn't sentence them. I simply stated what I was
23 asked, what I saw."

24 **Q** And did the Commission later depose Ms. Nelson?

25 **A** We did.

1 Q Can you tell me about that deposition.

2 A In that deposition, Ms. Nelson stated that she
3 would tell us everything she could remember just like she
4 did the last time.

5 Q And what did she tell you she recalled?

6 A She again stated that it was on December 8th and
7 that she knew that because it was the day that her nephew
8 was born.

9 She stated that, in December it isn't quite winter
10 yet in Boone, that it was a mild day outside, and Jeffrey
11 and some other neighbor boys were playing outside. That
12 Jeffrey was yelling for her and that he wanted her to come
13 outside because Robert Bragg and Kenneth Coffey were
14 taunting and cursing the victim.

15 They followed the victim to his trailer. Rene
16 Nelson said she could not see if they went in the trailer or
17 who did but that Robert Bragg and Kenneth Coffey came back
18 down the road not too long after.

19 Robert Bragg came first. He was swinging some
20 kind of sock or a sack, and that, 40 to 45 seconds later,
21 here came Kenneth Coffey. They were switching back and
22 forth. She stated that, in her opinion, it was probably
23 liquor, that they were saying things back and forth to each
24 other. She doesn't know what they said. They walked down
25 the street and they were gone.

1 She stated they were walking back toward the end
2 where she lived. The only thing they had in their hands was
3 the thing that they kept exchanging between them.

4 Q Was Ms. Nelson provided her first statement to
5 police?

6 A Yes. We provided her her statement from
7 December 9th.

8 MS. SMITH: Commissioners, for your information,
9 that statement is located on page 101 of your brief.

10 Q After looking at that statement, what did she say?

11 A She read her statement. She stated that she was
12 scared and didn't know what they were talking about.

13 Q Was Ms. Nelson's deposition transcribed?

14 A It was.

15 Q Can you refer to page 12 of the deposition and
16 read lines 6 to 7?

17 A About her statement, she said, "Some of that would
18 be right; some of that's not right."

19 Q What else did she say?

20 A She was asked what is inaccurate about her
21 statement. She stated she could not have seen who went in
22 the trailer from where she lived.

23 She also stated that that statement is not written
24 correctly.

25 Q Did you ask her anything else?

1 A She was repeatedly asked why she didn't mention
2 Robert Bragg in her December 9th statement. She gave
3 multiple answers for this, none of which were responsive to
4 the question.

5 But her final answer was, "I don't know why. The
6 law enforcement asked me about each man individually and I
7 was never asked about both of them."

8 Q Did you ask if she knew Bragg or Coffey and had
9 any dealings with them?

10 A We did. We asked her if she knew them or had any
11 past dealings with them. And she stated, "Yes, they were
12 common drunks in our neighborhood. I didn't like them. I
13 didn't like anything about them."

14 Q What else did you ask?

15 A She was asked if she recalled that when she saw
16 Robert Bragg and Kenneth Coffey following the victim, that
17 she had previously told us that they didn't have anything in
18 their hands. And she stated, "Yes, they didn't have
19 anything in their hands when they were following the victim.
20 But when they came back down the street, they did have
21 something in their hands."

22 Q Did she state anything about the trial?

23 A She stated that when she was at trial, that the
24 State kept confusing her and switching the questions on her.

25 Q And did you then give her or read to her the

1 December 15th, 1994, statement that she made to law
2 enforcement?

3 **A Yes, we did.**

4 **MS. SMITH:** Commissioners, this interview is on
5 pages 98 to 99 in your brief.

6 **Q** After hearing her statement, did she say anything
7 about that statement?

8 **A** She said that this statement wasn't right, that
9 the part about the object -- that they had the object in
10 their hands when they were coming back down the road from
11 the victim's trailer. She stated that -- she did state
12 there was something round in that bottle. She didn't say it
13 was small or large. In her opinion, it was probably liquor.

14 **Q** Did Ms. Nelson make any additional statements?

15 **A** She did.

16 **Q** I will refer you to page 19 of the transcript of
17 the deposition and ask you to read lines 9 through 17.

18 (Read by Ms. Stellato:)

19 **A** She stated, "I do remember that it's when they
20 come back down from the yard. Like I said, I could not see
21 who went in that trailer or who was coming out. I explained
22 to you that there used to not be a fence there, that someone
23 could have come in and out the other way, but I was never
24 asked those questions before. You didn't ask me these
25 questions, now. I wasn't allowed to say that before even

1 **though it was obvious."**

2 **She repeatedly stated, "I saw them go up to the**
3 **trailer and I saw them come back down from the trailer."**
4 **And she said that this is what she had told people before.**

5 **Q** Did she recall anything else about the
6 neighborhood that day?

7 **A** **She said that there had been numerous adults and**
8 **children outside and that they had all seen the same thing.**
9 **She would not provide their names to the Commission because**
10 **she stated she didn't want to involve anyone.**

11 **Q** And did you ask her about whether or not she told
12 anyone that they -- Mr. Bragg and Mr. Coffey -- had passed
13 the object back and forth?

14 **A** **Yes. She stated that when she was at Bragg's**
15 **trial, she was only asked if Bragg was carrying an object so**
16 **she testified, "yes," but when she was asked at Coffey's**
17 **trial if someone was carrying it, she said, "yes," but she**
18 **was never asked if they were passing it back and forth so**
19 **she didn't answer that question because she wasn't asked**
20 **that question.**

21 **Q** And did she say at Coffey's trial she was only
22 asked if Coffey was carrying it?

23 **A** **Yes.**

24 **MS. SMITH:** Commissioners, if you will turn to
25 page 182 in your brief.

1 **Q** Ms. Stellato, if you will, read what Rene
2 testified to at Mr. Coffey's trial regarding what Mr. Coffey
3 and where Mr. Bragg was carrying.

4 (Read by Ms. Stellato:)

5 **"Q** *Did you see anything in either of their*
6 *hands?*

7 **"A** **Yes.**

8 **"Q** *What did you see?*

9 **"A** **I saw it in Bobby's hand. He had a long dark**
10 **object kind of like a sock, and it had something heavy**
11 **in it because the sock was dragging."**

12 **Q** And, Ms. Stellato, was that from Mr. Coffey's
13 trial?

14 **A** **It was.**

15 **MS. SMITH:** Commissioners, if you will now turn to
16 page 378 to 379 in your brief.

17 **Q** Ms. Stellato, what did Rene Nelson testify to at
18 Mr. Bragg's trial regarding what Mr. Coffey and/or Mr. Bragg
19 was carrying?

20 (Read by Ms. Stellato:)

21 **"Q** *As you saw them, did either of them have*
22 *anything in their hands?*

23 **"A** **Yes.**

24 **"Q** *What and who?*

25 **"A** **Bobby had something that looked like a dark**

1 **sock with something round in the bottom of it because**
2 **it was dragging. So I know that something was in it.**
3 **It was, like, sagging."**

4 **Q** So, Ms. Stellato, when Ms. Nelson stated in her
5 deposition that at Bragg's trial she was only asked if Bragg
6 was carrying it and she said "yes," and at Coffey's trial
7 she was only asked if Coffey was carrying it, and she said
8 "yes"; is that accurate?

9 **A** **No.**

10 **Q** Okay. Can you tell us what else she said in that
11 deposition?

12 **A** **She was then asked who used the word "sock." And**
13 **she stated that it was police that had used the word "sack"**
14 **and that she had always used the word "something brown."**

15 **Q** Are the statements that Ms. Nelson made in her
16 interview and deposition with the Commission consistent with
17 her prior statements and testimony?

18 **A** **No.**

19 **Q** Did you have any further contact with Ms. Nelson?

20 **A** **Yes. Ms. Nelson contacted the Commission in both**
21 **January and February of 2015, when she learned of the**
22 **Commission's attempts to contact Jeffrey Nelson, her son.**

23 **She also contacted the Commission in August of**
24 **2016 after she received a subpoena to attend this hearing.**

25 **Q** And what did she say in that August 2016 phone

1 call?

2 **A** She stated that she had testified against this man
3 20 years ago and that she didn't remember much of that day.

4 She stated that she's done this twice already,
5 that she didn't have a car or a way to get here.

6 The Commission then agreed to provide her
7 transportation.

8 She stated that she would do this one last time
9 and didn't want to hear about it anymore. The Commission
10 stated at that time that we would not make that guarantee.

11 And she stated, well, she was telling us she
12 didn't ever want to hear another word about this.

13 **Q** Was Rene Nelson subpoenaed here to testify today?

14 **A** Yes.

15 **Q** And do you anticipate that she will be here after
16 lunch today?

17 **A** I do.

18 **MS. SMITH:** Commissioners, do you have any
19 questions for Ms. Stellato regarding Rene Nelson?

20 **MR. EDWARDS:** I do. I believe you stated that
21 your interview of Ms. Nelson was September 2014? Was that
22 right?

23 **THE WITNESS:** That is correct.

24 **MR. EDWARDS:** When was the deposition?

25 **THE WITNESS:** October 6, 2014.

1 **MR. EDWARDS:** This may be an insignificant
2 question, but I believe you stated that when Mr. Hartley's
3 landlord was cleaning out his trailer, that he found a
4 couple of Bibles; is that right?

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

6 **MR. EDWARDS:** And the landlord gave them to Rene
7 Nelson?

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

9 **MR. EDWARDS:** I don't think this question is
10 asking for an opinion, but did you ever uncover any reason
11 why the landlord would have given the victim's Bibles to
12 Rene Nelson?

13 **THE WITNESS:** No, sir.

14 **JUDGE WAGONER:** Are there other questions?

15 **MR. FRYE:** I'm sorry. I'm kind of a visual
16 person. On the map of the trailer park --

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

18 **MR. FRYE:** -- could you identify -- you have
19 identified for us the victim's trailer.

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

21 **MR. FRYE:** Could you identify Cherie Gray's, Rene
22 Nelson's, and Linda Wilcox's trailers?

23 **THE WITNESS:** I can.

24 **JUDGE WAGONER:** And if you could put it on the
25 screen. Can you do that?

1 **THE WITNESS:** Judge Wagoner, if you wouldn't mind
2 letting me do that over lunch, I can actually put all of the
3 witnesses that we will be discussing after lunch on that
4 map.

5 **MR. FRYE:** That would be great. That's awesome.

6 **THE WITNESS:** Okay. Thank you.

7 **JUDGE WAGONER:** Thank you. Other questions?

8 **MS. SMITH:** Ms. Stellato, you may step down.

9 (Witness stands down.)

10 **MS. SMITH:** Judge Wagoner, at this time, it would
11 be appropriate for us to take a lunch break.

12 **JUDGE WAGONER:** Let me ask you this before we go.
13 I don't know that it needs to be on the record.

14 (Discussion off the record.)

15 **JUDGE WAGONER:** We'll be at recess until 1:30.

16 (Recess taken, 11:59 a.m. to 1:34 p.m.)

17 **JUDGE WAGONER:** Yes, ma'am.

18 **MS. SMITH:** Thank you.

19 Commissioners, I am going to pass around
20 interviews of Cherie Gray by law enforcement that you had
21 requested prior to our lunch break. Those are coming
22 around. And if you'd like, we can take time to review them
23 now.

24 **JUDGE WAGONER:** What is the pleasure? Now or
25 later? Do y'all want to look at these now or later about

1 Ms. Gray?

2 **MS. SMITH:** That would up to the Commissioners.
3 Whatever you-all prefer.

4 **MS. SURGEON:** Later.

5 **JUDGE WAGONER:** Later? Since we've got a live
6 witness -- she's here; right?

7 **MS. SMITH:** She is.

8 **JUDGE WAGONER:** -- we will just do this later.

9 **MS. SMITH:** Okay. I am going to recall
10 Ms. Stellato for just a moment.

11 I am going to now pass around the map that Sheriff
12 Frye requested with the labels of each neighbor's name for
13 the trailer park.

14 (Witness recalled, Sharon Stellato.)

15 BY MS. SMITH: (1:37 p.m.)

16 **Q** Ms. Stellato, are you familiar with the map that I
17 have just handed to the Commissioners?

18 **A** I am.

19 **Q** And do you have a copy of that?

20 **A** I do.

21 **Q** Okay. You also have some photographs that were
22 recently taken of the neighborhood with the trailer park.

23 **A** I do.

24 **Q** And would those help you illustrate for the
25 Commissioners the relationship of the victim's trailer to

1 others in the neighborhood?

2 **A** **It would. Vaguely.**

3 **Q** Okay. I put up a photograph on a screen. If you
4 could describe for the Commissioners what that is.

5 **JUDGE WAGONER:** You want to stand up -- could you
6 stand up and do that?

7 **THE WITNESS:** Sure.

8 If you wouldn't mind, could you actually come back
9 to that photo?

10 **MS. SMITH:** Which one would you like to start
11 with?

12 **A** **So this photo is taken -- you would be in front of**
13 **what was the Nelsons' trailer -- what is the Nelsons'**
14 **trailer, although they don't live there anymore.**

15 So if you look on the map that we handed out,
16 you'll see it's the third one down on the left. And so it's
17 right in front of Nelsons' trailer, which is right here
18 (indicating), and then you're looking down toward the
19 victim's home. You can't see the victim's home because, as
20 you can see on the map, it's tucked back.

21 **THE WITNESS:** So, Lindsey, if you will go back to
22 the slide we were just at.

23 **A** **This is the trailer right before the victim's**
24 **home. Again, you can't see the victim's home because it's**
25 **tucked back in there.**

1 **JUDGE WAGONER:** So would the Nelsons' house be
2 across and down the street --

3 **THE WITNESS:** Uh-huh.

4 **JUDGE WAGONER:** -- if you were going down the
5 street?

6 **THE WITNESS:** Uh-huh. It's the third one when you
7 come into the trailer park.

8 And there is one more photo.

9 **A** **This is if you're right in front of the victim's**
10 **home. So you're at the very end of the street right in**
11 **front of his home and you're looking back out.**

12 **JUDGE WAGONER:** Where would his front door be?
13 Facing which way?

14 **THE WITNESS:** His front door is -- if you remember
15 in your brief, you'll see a photo of it. So his front door
16 is actually facing the side. So he walks out his front
17 door, he has to turn out and walk toward the road like this
18 (indicating).

19 **JUDGE WAGONER:** Okay.

20 **THE WITNESS:** Does that make sense?

21 **A** **If you look at this photo, you can barely see the**
22 **red car way up (indicating). That is approximately where**
23 **the victim's house is.**

24 **Q** Do you mean Ms. Nelson's trailer?

25 **JUDGE WAGONER:** You mean Nelson's?

1 **THE WITNESS:** Sorry.

2 **A** **Ms. Nelson's trailer. I'm sorry.**

3 So if you look at -- if you look at this map where
4 the names are, these are the names that were given at the
5 time -- the address list that the Town of Boone had -- this
6 complete address report that law enforcement used when they
7 went and did their interviews.

8 You'll see Bennett. The one that says Bennett is
9 actually where Nancy Horton lived.

10 **JUDGE WAGONER:** Where is it?

11 **THE WITNESS:** Bennett is going to be four up from
12 the victim.

13 **JUDGE WAGONER:** Okay. And that's where --

14 **THE WITNESS:** -- Horton lived.

15 **JUDGE WAGONER:** Okay.

16 **Q** Ms. Stellato, the map that you're looking at, is
17 this a map that was created by the GIS Department in Boone
18 from the time of the crime?

19 **A** **Correct. This is from 1994, the trailers that are**
20 **in there at the time of the crime and who the trailers were**
21 **registered to, who lived there -- not registered to; they**
22 **were landlords that owned them -- but who rented the**
23 **trailers at the time of the crime.**

24 **MS. SMITH:** Commissioners, do you have any
25 questions about the map or the photographs?

1 **JUDGE WAGONER:** Questions?

2 **MS. PICKENS:** Sharon, the Gray, is that Ms. Gray
3 that --

4 **THE WITNESS:** That's Cherie Gray. Yes, ma'am.

5 **MS. PICKENS:** And Rene's mother lived in --

6 **THE WITNESS:** One moment. She is in 120. So the
7 Nelsons are in 123. So she is going to be in the -- Linda
8 Wilcox is going to be in the trailer that says D. Jones.

9 **MS. PICKENS:** Okay. Thank you.

10 **MS. SMITH:** Commissioners, throughout the
11 remainder of the hearing, you may hear names -- other
12 neighbors' names so I would encourage you to hold on to that
13 map and refer to it throughout as we do mention other folks.

14 If there are no other questions, you may step
15 down, Ms. Stellato.

16 (Witness stands down.)

17 **MS. SMITH:** The Commission will now call Linda
18 Rene Nelson. She goes by Rene. Her mother's name is also
19 Linda so we will refer to her as Rene.

20 She will be in momentarily; staff has stepped out
21 to go and get her.

22 Thereupon, RENE NELSON, having been sworn, was examined and
23 testified as follows on EXAMINATION

24 BY MS. SMITH: (1:43 p.m.)

25 **Q** Good afternoon, Ms. Nelson.

1 Will you please state your full name for the
2 record.

3 **A Linda Rene Wilcox Nelson.**

4 **Q** And what is your date of birth?

5 **A 11/14/69.**

6 **Q** And what is your current address?

7 **A 520 Winklers Creek Road.**

8 **Q** Do you recall being interviewed by Sharon and
9 Catherine?

10 **A And Catherine. Yeah.**

11 **Q** And can you please tell us in your own -- do you
12 previously recall giving statements and testifying in the
13 case of *State versus Bragg*?

14 **A I remember some of it.**

15 **Q** Can you tell us in your own words what you
16 remember about the day that Coy Hartley was murdered.

17 **A I can tell you it was in -- in December 8. And I**
18 **can tell you how I remember the date. My nephew was born**
19 **that day.**

20 **I remember -- first of all, I remember seeing**
21 **Mr. Hartley, of course. I was outside for a minute. He had**
22 **walked down to the end of our street to check his mail. And**
23 **I know that because I seen him with mail when he was coming**
24 **back up.**

25 **But Mr. Bragg and Mr. Coffey were cussing him -- I**

1 guess they met him at the bottom of the road -- all the way
2 up to his trailer. And I don't know -- I honestly could not
3 tell you if they went in or not. From where I lived,
4 there -- I couldn't see.

5 And Jeffrey had come -- in the process, it upset
6 Jeffrey. He was little. And he knocked on -- I don't
7 remember if Jeffrey knocked on the door or if I went out.
8 And I really can't remember the actual time. It was between
9 3:30 -- more like 3:00 and 3:45. I know it was before
10 5:00 because I always picked up my younger kids from day
11 care before then.

12 Then they were coming back down a little later and
13 they were slinging something in their hand. I don't know
14 what was in it. It could have been a liquor bottle for all
15 I know.

16 JUDGE WAGONER: Okay. Ma'am, when you say "they,"
17 say who you are speaking of.

18 THE WITNESS: Mr. Coffey and Mr. Bragg.

19 JUDGE WAGONER: Both of them had things in their
20 hand? Both of them had one thing?

21 THE WITNESS: No. They were switching what they
22 had, one person back to the other.

23 JUDGE WAGONER: Thank you.

24 THE WITNESS: And cursing.

25 JUDGE WAGONER: Okay.

1 Q And can you describe what that looked like?

2 A Well, it looked like two drunks to me. It could
3 have been liquor in that bottle for all I know. I mean, I
4 don't know what was in there.

5 Q Did it look like a bottle?

6 A It could have been, but it wasn't actually a bag.
7 I mean, it wasn't like a store bag. It wasn't like a brown
8 bag. I don't know what they were carrying.

9 Q Did it look like some kind of bag?

10 A It could have been a sock, for all I know.

11 Q Okay. And when you say they were switching it
12 back and forth, what do you mean by that?

13 A Like one had it -- I -- one had it and then the
14 other had it. I chose not to even pay attention, got back
15 in my house because, I mean, I don't -- I don't know. They
16 were always -- always drunk.

17 With that being said, at the first of every month,
18 for the first week or so, Mr. Hartley had all kinds of
19 "friends." Everybody was up there for liquor and this,
20 that, and the other. And all the neighbors knew it.

21 Q Do you remember anything else about that day?

22 A I can't remember.

23 Q Okay. Do you remember when police first
24 interviewed you on the day after the murder?

25 A Somewhat. I told them that I didn't know what

1 they were talking about pretty much, but I did. And when I
2 saw Mr. Bragg's picture in the newspaper, I called
3 Crimestoppers.

4 Q You called Crimestoppers?

5 A Because I -- I knew that he had been in my
6 neighborhood.

7 Q And when was that that you called Crimestoppers?

8 A I don't know. It was after -- it was days after,
9 maybe a week. I don't remember.

10 Q And you said that was after you saw the picture in
11 the paper?

12 A Yes.

13 Q And did you call right away after that or was it
14 sometime after that?

15 A I can't remember.

16 Q Did you receive any money from Crimestoppers?

17 A I didn't receive anything, not anything. I didn't
18 receive anything or a gift of any kind.

19 Q Who did you talk to?

20 A I don't remember who I talked to at Crimestoppers,
21 but the detectives were -- oh, my goodness -- Mark Shook and
22 the other one -- oh, mercy. I can't even think. It's on
23 the tip of my tongue. I can't remember what the other one's
24 name is.

25 Q Okay. What did you tell them when you called

1 Crimestoppers?

2 **A** **That -- well, pretty much what I had told you. I**
3 **mean, I really can't remember in detail. That's been a long**
4 **time ago.**

5 **Q** Okay. Do you recall if they immediately came to
6 interview you after you called Crimestoppers or if it was
7 sometime later that you spoke with them?

8 **A** **No. I believe that it may have even been the same**
9 **day. I can't remember anymore.**

10 **Q** The same day that you called?

11 **A** **Yeah. See, first I was going report it just**
12 **anonymously. Then I felt that, okay, they're going to know**
13 **that I called; so I told them who I was, where I was, and**
14 **where I lived.**

15 **Q** Okay. I am going to hand you both of the
16 statements that you gave to law enforcement. These are
17 typed statements.

18 **A** **Uh-huh.**

19 **Q** This is the first one, from December 9; and this
20 is the second one, from December 15. If you could please
21 read those out loud starting with this one.

22 **A** **All of it?**

23 **Q** Yes, ma'am.

24 **A** **Oh, boy.**

25 **It says "Interview with Linda Rene Nelson."**

1 Do you want me to read all of that also?

2 Q Just from where the statement starts, please.

3 A Okay. It says "She saw a different -- a lot of
4 different kinds of people up at Coy Hartley's trailer."

5 And that is -- that is true. I saw -- I did not
6 see them at it because I could not see his yard, but I
7 didn't see a lot of people go up into his yard. But as far
8 as going into his house, I couldn't tell you. I never saw
9 that. I couldn't see it.

10 "Yesterday, sometime after 3:00 p.m. but before
11 she left to go to the day care at about 5:15" -- which
12 5:00 was usually when I went -- "it was before dark, she saw
13 Kenneth Coffey come out of Hartley's yard."

14 And that is true.

15 "He was walking fast toward Greenway Drive looking
16 wild."

17 And that is true.

18 "He did not say anything. He knows not to say
19 anything to her. She does not like him and she thinks he is
20 trash. Kenneth was wearing possibly a dark color flannel
21 shirt or jacket. She does not recall any other of his
22 clothing."

23 And I did say all of this.

24 Q Okay. And can you explain why that statement that
25 you gave differs from what you remember today and what

1 you've testified about today?

2 **A** That was 20-some years ago, lady. I don't know
3 what I personally did 20-some years ago. I'm not trying to
4 be rude; I just don't remember.

5 **Q** Okay. That second statement there. Will you
6 please read it aloud.

7 **A** The bottom one? The last one?

8 **Q** I'm sorry. I'm sorry. I thought you were
9 finished with that. If there's more to that, please
10 continue.

11 **A** No. I read all of this one.

12 **Q** Okay. Then read the one sitting on the table.

13 **A** Okay. "Linda said that she remembers Thursday and
14 she takes every Thursday off. When Jeffrey comes in from
15 school, she has to do -- he has to do his homework. Mom" --
16 I can't see it.

17 "He has to do his homework first, or he don't go
18 out and play. Linda walked up to her mom's and got her
19 sister Beverly, age 21. She got Beverly to come down to the
20 trailer while she went to the day care."

21 That's true.

22 "Linda states that she was gone maybe ten minutes
23 and when she got back home a few minutes later, Jeffrey --
24 Linda stated that Jeffrey had called her outside and Jeffrey
25 told her that he wanted to know why" -- do I have to say it?

1 The curse word?

2 Q Yes, ma'am.

3 A Okay. Let me find it again. It will take me a
4 minute to find it again.

5 Q Okay. Take your time.

6 A Okay. "... why that damned old Kenneth Coffey and
7 Big Bob" -- which they -- the kids and everybody called
8 Bobby Big Bob; that's the name the boys used in the
9 neighborhood.

10 "Linda said Coy was almost at his trailer and
11 Bobby was saying something 'Ain't that right? Ain't that
12 right?' And you could tell they were drunk."

13 Yes, that is true. That is true.

14 "Linda said that Jeffrey got his bike and he
15 (Jeffrey) told her that he saw them go into the house."

16 Now, whether Jeffrey can remember that anymore or
17 not -- he was 8, 9, 10 years old -- I honestly don't know.

18 Q I'm not asking you right now what Jeffrey knows or
19 remembers.

20 A I'm just telling you what I recall. You wanted to
21 know what I recall.

22 Q I want you to read that statement, please.

23 A "Linda states that she also saw Big Bob swinging
24 something in his right hand, it had something round in it
25 and the sock was dark in color, and he had some kind of coat

1 on that came past his waist and that the color was
2 tannish-green. Kenneth was wearing something like a dark
3 flannel shirt and the flannel shirt was tied around his
4 waist and Kenneth was wearing a thermal shirt which was
5 white in color.

6 "Linda states that she later saw the police cars
7 go up to Coy's and her mother told her that Coy either had
8 had a heart attack or a stroke and that someone from the SBI
9 and states" -- I can't even. I don't know where --

10 "Mr. Steve Wilson came by the trailer and he was from the
11 SBI and Linda states that she told Mr. Wilson that she saw
12 Kenneth Coffey but when Mr. Wilson told her that there had
13 been a murder, she was too scared to say anything else.

14 "Linda states that she has known Kenneth Coffey
15 about two years and Kenneth and his girlfriend named Rhonda
16 got evicted by Mike Garlock. Kenneth thought that she had
17 said something to Mike, and at that time was -- was around
18 this past July, and Kenneth came over to her trailer,
19 banging on it, and said he knew that she called Mike and
20 that he would beat her GD brains out of her head and that if
21 she didn't stop effing with them" -- I just don't like
22 saying those words.

23 Q Continue.

24 A Where am I here?

25 "They were run out of the trailer park within a

1 couple of weeks. Linda said that she saw yesterday's
2 newspaper, *Watauga Democrat*, and it was Big Bob. Linda said
3 that she saw Bob walking back and forth up to Coy's before.

4 "I have read this statement and it is true to the
5 best of my knowledge."

6 And it still is.

7 Q Is that a statement that you gave after you called
8 Crimestoppers?

9 A Yes.

10 Q Okay. Can you explain why that statement differs
11 from what you told us earlier in your testimony today?

12 A No. Like I said, that was over 20 years ago. I
13 remember the gentleman following Mr. Hartley up the road. I
14 remember -- and they were cursing him. I remember that they
15 alone come back down the road swinging something. And like
16 I said to you a minute ago, I don't know whether it was a
17 bag or a sock or whatever. Okay. There I said it was a
18 sock.

19 I don't know who killed Mr. Hartley. All I
20 know -- and I've told that repeatedly. I have never said
21 these gentlemen killed Mr. Hartley. I know that somebody
22 did. I have also said time and time again I don't even know
23 whether they were in his home or not.

24 Q Do you recall telling Commission staff,
25 Ms. Stellato and Ms. Matoian, that they were swigging from

1 something?

2 **A Swinging? I don't remember. I can't remember.**

3 **Q You don't recall they were swigging?**

4 **A Swigging off whatever was in this bottle. That's**
5 **what I'm saying. I don't know what was in the bottle.**

6 **Q Okay.**

7 **A I don't know what was in the -- in the sock.**

8 **Q Do you recall what you testified to at trial?**

9 **A No.**

10 **Q Do you recall testifying at both Mr. Coffey and**
11 **Mr. Bragg's trial?**

12 **A Yes.**

13 **Q So if I told you that some of the things you**
14 **testified to were inconsistent with what you said today, do**
15 **you know why that would be?**

16 **A Because I can't remember 20 years ago.**

17 **Q Can you explain to the Commission why your**
18 **subsequent interviews and testimony do not say that you only**
19 **saw Mr. Coffey leave Mr. Hartley's trailer and not**
20 **Mr. Bragg?**

21 **A I saw -- I did not see either one of them leave**
22 **Mr. Coffey's home [sic]. I saw both of them, together, walk**
23 **down the street.**

24 **Q Do you know who killed Coy Hartley?**

25 **A No, I don't. I have no idea.**

1 **MS. SMITH:** Commissioners, do you have questions
2 for Ms. Nelson?

3 **JUDGE WAGONER:** Yes, ma'am.

4 Ms. Nelson, I believe you stated a few moments ago
5 that you were in your yard.

6 **THE WITNESS:** Uh-huh.

7 **JUDGE WAGONER:** And they were -- the two men were
8 walking down the street close to Coy's house.

9 And are you saying that you could hear what they
10 were saying?

11 **THE WITNESS:** Who couldn't?

12 **JUDGE WAGONER:** Were they yelling?

13 **THE WITNESS:** Yes.

14 **JUDGE WAGONER:** How far is that from your house?

15 **THE WITNESS:** From where I lived at that time?

16 **JUDGE WAGONER:** Uh-huh.

17 **THE WITNESS:** Okay. I lived in a trailer park.
18 And I was not in my yard, I was actually like in the street
19 but it was next to my yard. I lived on the entrance --
20 like, the third trailer from the right, and Mr. Hartley's
21 trailer was at the end on the left.

22 **JUDGE WAGONER:** One block?

23 **THE WITNESS:** No.

24 **JUDGE WAGONER:** Half a block?

25 **THE WITNESS:** No.

1 **JUDGE WAGONER:** Closer than that?

2 **THE WITNESS:** Yeah.

3 **JUDGE WAGONER:** Closer than half of a block?

4 **THE WITNESS:** I'm pretty sure. I mean, I'm not
5 that graced with -- I'm not that -- I couldn't tell you. I
6 live close to Walmart and I could get you lost from where I
7 live to Walmart.

8 **JUDGE WAGONER:** All right. Did you see either of
9 these two men, Mr. Bragg or Mr. -- what was the other one's
10 name? -- the other man, did you ever see them in Coy's yard?

11 **THE WITNESS:** I had, but not that day. I seen
12 them walk into the yard. I did not see them --

13 **JUDGE WAGONER:** You saw them walk into the yard.

14 **THE WITNESS:** But I did not see them walk into
15 Mr. Hartley's mobile home. There's no way I could have seen
16 that from where I lived.

17 **JUDGE WAGONER:** So you don't know if they went
18 into his home or not?

19 **THE WITNESS:** No. And I've said that repeatedly.
20 I don't.

21 **JUDGE WAGONER:** Okay. Yes, ma'am.

22 **MS. SURGEON:** Ms. Nelson, when you first spoke to
23 someone about Mr. Hartley, was it the day that he died?

24 **THE WITNESS:** The first gentleman that had come
25 and talked to me, I believe it was the day that he had been

1 murdered. And I just chose not to speak to him. I lived in
2 a trailer park. I was a single mom. You know, I really
3 just didn't want to ...

4 **MS. SURGEON:** So who approached you?

5 **THE WITNESS:** I can't remember what his name is,
6 but I think it was in here (indicating).

7 **MS. SURGEON:** And where did he go to talk to you?

8 **THE WITNESS:** He knocked on my door.

9 **MS. SURGEON:** Okay. Do you know why he came to
10 your door?

11 **THE WITNESS:** I think it may have been the same
12 day that I had called Crimestoppers. Lady, it's so long
13 ago, I don't -- I don't -- I don't remember.

14 I know that they talked to a lot of people in the
15 neighborhood, and every one of us was too afraid or did not
16 even want to get involved with it.

17 **MS. SURGEON:** Okay. So when you saw something in
18 the paper -- what paper was this?

19 **THE WITNESS:** The *Watauga Democrat*.

20 **MS. SURGEON:** And what was it that you saw?

21 **THE WITNESS:** That Mr. Bragg had been arrested for
22 Mr. Hartley's murder -- or he had done something other.
23 Right now, I could not remember what he had done. But he
24 was in the newspaper.

25 **MS. SURGEON:** And so seeing that in the newspaper

1 prompted you to call Crimestoppers?

2 **THE WITNESS:** Yeah. Because he had done
3 something, and they wanted to know -- that -- they started
4 explaining to me about Mr. Hartley.

5 **MS. SURGEON:** "They" who?

6 **THE WITNESS:** Crimestoppers. And I told -- at
7 first, I wasn't even going to tell them who I am. And I
8 knew they would figure it out anyway; so I told them exactly
9 who I was. And they wanted to know if they sent somebody
10 out to talk to me, if I would be willing to talk to them.
11 And they sent Officer Shook and I cannot remember the other
12 officer's name.

13 **MS. SURGEON:** So there was something in the paper
14 that prompted you that you had information that would be
15 important to the officers?

16 **THE WITNESS:** That I thought that would be
17 important, yes.

18 **MS. SURGEON:** And what was that?

19 **THE WITNESS:** That I had seen him and Mr. Coffey
20 in the neighborhood and what I had saw, that they were
21 following the old man up the road, they were cussing, they
22 were tantalizing him, that they did -- they walked into his
23 yard, but I never, ever said they walked into his trailer.

24 **MS. SURGEON:** And you actually saw them walk into
25 his yard?

1 **THE WITNESS:** To his yard. I could see that from
2 where I was easy.

3 **MS. SURGEON:** Where were you?

4 **THE WITNESS:** Right outside of my yard, like, in
5 the street. It's a trailer park. It's not that big.

6 **MS. SURGEON:** And you said you saw someone with a
7 bag?

8 **THE WITNESS:** Some -- they both -- both gentlemen
9 had a bag. Like I said, I could not explain to you what it
10 was. I have just told you that I didn't know whether it was
11 a bag. It wasn't a liquor store bag. It could have been a
12 sock.

13 And right there (indicating) it says I told him it
14 was a sock.

15 **MS. SURGEON:** Excuse me.

16 **THE WITNESS:** That is the first time I seen a bag.

17 **MS. SURGEON:** Did both of them have a bag?

18 **THE WITNESS:** No. They were handing it back and
19 forth.

20 **MS. SURGEON:** Okay. So there was one bag?

21 **THE WITNESS:** Bag -- well, sock.

22 **MS. SURGEON:** I'm sorry?

23 **THE WITNESS:** Well, it was a sock.

24 **MS. SURGEON:** Okay. Was it a bag or was it a
25 sock?

1 **THE WITNESS:** It was a sock. It was dark colored.
2 I could tell that it wasn't a bag, but -- I mean -- I don't
3 know.

4 **MS. SURGEON:** Well, where did the idea that it was
5 a bag come from?

6 **THE WITNESS:** Because I couldn't remember what --
7 that it was -- then. I mean, I could not remember what it
8 was now, but then I knew what it was. I knew for sure that
9 it was a sock. This is the first time I've seen this since
10 '97.

11 **MS. SURGEON:** Did you ever say that it was a bag?

12 **THE WITNESS:** I said it was a bag and then I said
13 it could have been a sock for all I know.

14 I was also asked by the officers -- the
15 detectives -- if I thought that it could be a trailer ball
16 hitch.

17 I have no idea what that looks like.

18 **MS. SURGEON:** So the officer asked you that?

19 **THE WITNESS:** Yes. Both of them.

20 **MS. SURGEON:** And what did you say?

21 **THE WITNESS:** That, to me, it was round. That I
22 honestly thought that it was alcohol of some kind because
23 they were passing it back and forth. I mean, why -- but
24 yes, I was asked that.

25 **MS. SURGEON:** Well, did you say that you saw them

1 swinging something?

2 **THE WITNESS:** A bag in their hand.

3 **MS. SURGEON:** Swinging a bag?

4 **THE WITNESS:** The bag -- sock, whatever it was --
5 back and forth and swinging their arms wildly. I don't
6 know -- I mean, they were drunk. It was obvious they were
7 drunk.

8 **MS. SURGEON:** And so a bag is something different
9 than a sock?

10 **THE WITNESS:** Well, I mean, I see all kinds of
11 bags.

12 **MS. SURGEON:** You've seen a bag that looks like a
13 sock?

14 **THE WITNESS:** Lady, anymore, you can see anything.
15 I told you-all today that I could not remember if
16 it was a store bag, I didn't know if it was a liquor bag, or
17 a sock. And in my original statement from 19 -- from then,
18 it was a sock.

19 You're asking me something that happened over
20 20 years ago. I don't remember all of it.

21 **MS. SURGEON:** So when you --

22 **THE WITNESS:** And it's not something that I sit
23 and talk about in my ladies' group. It's not a conversation
24 I have with my kids.

25 **MS. SURGEON:** So when you talked with the officer

1 initially when you called Crimestoppers to tell them what
2 you knew, did you then have the idea in your mind from what
3 you knew then that it was a paper bag?

4 **THE WITNESS:** No.

5 **MS. SURGEON:** What did you have in your mind when
6 you called Crimestoppers?

7 **THE WITNESS:** I mean, it could have been a liquor
8 bag. I mean, it was so long ago, I -- I mean, I don't know
9 how to answer that to you.

10 **MS. SURGEON:** Well, what did you say to them then?

11 **THE WITNESS:** According to my statement here, I
12 told them it was a sock.

13 **MS. SURGEON:** And you said the officer told you
14 something about --

15 **THE WITNESS:** -- did I think it could be a trailer
16 hitch that was in that. I mean, I don't know what that is.

17 **MS. SURGEON:** So the officer asked you that?

18 **THE WITNESS:** The officer asked me that, both of
19 them.

20 **MS. SURGEON:** And you didn't know what it was?

21 **THE WITNESS:** I didn't know what was in it.

22 **MS. SURGEON:** But, I mean, did you know what a
23 trailer hitch was?

24 **THE WITNESS:** I did not actually know what one was
25 until about ten years ago.

1 **MS. SURGEON:** And so when the officer asked you
2 could it have been that, what did you say?

3 **THE WITNESS:** I didn't know what he was talking
4 about.

5 **MS. SURGEON:** But what did you say to them?

6 **THE WITNESS:** I can't remember if I told -- I
7 think I told them maybe it could have been. I didn't know
8 what was in it. I did not say yes that was what was in it
9 because I didn't know it was in it.

10 **MS. SURGEON:** But did you tell them that it could
11 have been?

12 **THE WITNESS:** I said it could have been, but I
13 don't know what was in it.

14 So there was no yes-or-no answer to that. I mean,
15 I told him I don't know what was in it. It could have been.
16 It could have been anything.

17 **MS. SURGEON:** Do you know how many trailers are
18 between your trailer and Mr. Hartley's?

19 **THE WITNESS:** Let's see. I lived on the right.
20 He lived on the left.

21 Not a lot. Let's see. One, two -- one, two,
22 three -- maybe eight or nine, if that many, but I would say
23 at least.

24 **MS. SURGEON:** All right. Thank you.

25 **THE WITNESS:** Thank you.

1 **JUDGE WAGONER:** Yes, sir.

2 **MR. EDWARDS:** Ms. Nelson, my name is Seth Edwards.
3 Good afternoon. I appreciate -- I know we all appreciate
4 you coming in today, although you'd rather be somewhere
5 else, I'm sure.

6 You said a couple of times today that you're
7 really having a hard time remembering some things. And it
8 is almost 22 years ago that this crime occurred; is that
9 right?

10 **THE WITNESS:** Yes.

11 **MR. EDWARDS:** All right. And the day after this
12 crime occurred, the week after this crime occurred, you
13 talked with a number of law enforcement officers; is that
14 right?

15 **THE WITNESS:** Yes.

16 **MR. EDWARDS:** And you gave statements to them
17 about what you knew at that time; is that right?

18 **THE WITNESS:** Yes.

19 **MR. EDWARDS:** So within a day, a week or so of the
20 crime, would it be fair to say that, at that time, your
21 memory was a little more clear than it is here, sitting here
22 today, August 31, 2016?

23 **THE WITNESS:** 100 percent, yes.

24 **MR. EDWARDS:** All right. In your first statement,
25 which I believe you have sitting before you, you did not

1 mention the name of Mr. Bragg.

2 **THE WITNESS:** I was not asked what he was doing.

3 **MR. EDWARDS:** Okay. But you --

4 **THE WITNESS:** In my first statement, I was asked
5 what Mr. Coffey was doing. The next time the officers
6 talked to me, they wanted to know what Mr. Bragg was doing.
7 There was maybe one or two conversations that I had with the
8 officers about both of them at the same time, and they were
9 both short and limited.

10 **MR. EDWARDS:** I know that you have received a
11 number of questions about Crimestoppers and whether you got
12 paid any type of money or gifts; is that right?

13 **THE WITNESS:** I -- I have been asked that, but I
14 swear to you I have never been given or offered anything --
15 anything.

16 **MR. EDWARDS:** Now, is it true, Ms. Nelson, that,
17 after the crime occurred, you and your son talked, felt it
18 was the right thing to do to tell somebody what you knew,
19 and then that's when you called?

20 **THE WITNESS:** That -- that is correct.

21 **MR. EDWARDS:** All right. Now, Ms. Nelson, not
22 only did you give several statements to numerous law
23 enforcement officers, but you also testified to that not in
24 one trial, but two trials; is that right?

25 **THE WITNESS:** Correct.

1 **MR. EDWARDS:** So you testified in the trial
2 against Mr. Coffey; correct?

3 **THE WITNESS:** Yes.

4 **MR. EDWARDS:** And then also against Mr. Bragg; is
5 that right?

6 **THE WITNESS:** Yes. I believe that Mr. Coffey also
7 testified against Mr. Bragg.

8 **MR. EDWARDS:** Right. He did. But I'm just
9 talking about you. You've testified in two different trials
10 about this case; is that right?

11 **THE WITNESS:** Yes. And inbetween them, I had
12 many more conversations with officers.

13 **MR. EDWARDS:** Okay. And when you went to court to
14 testify, that was before a jury; is that right?

15 **THE WITNESS:** Yes. Both times.

16 **MR. EDWARDS:** And did you put your hand on the
17 Bible and swear to tell the truth before that jury?

18 **THE WITNESS:** Yes, I did.

19 **MR. EDWARDS:** Both times?

20 **THE WITNESS:** Both times.

21 **MR. EDWARDS:** All right. And is it -- as you are
22 here today, are you saying to us that, when you testified
23 before, you know, two different juries, that you told the
24 truth?

25 **THE WITNESS:** Yes.

1 **MR. EDWARDS:** All right. And if those jury
2 trials and your testimony were in 1995-1996 time frame, was
3 your memory more clear back then than it is today?

4 **THE WITNESS:** Very much so.

5 And I am on a lot of medications also.

6 **MR. EDWARDS:** All right. Well, in those two
7 trials, do you recall -- in response to either the District
8 Attorney's questions or the defense attorneys' questions, do
9 you recall stating that you saw Mr. Coffey and Mr. Bragg
10 walking up the street behind Coy?

11 **THE WITNESS:** Yes.

12 **MR. EDWARDS:** All right. Do you recall, in both
13 trials, testifying that you heard one of them cussing at --
14 apparently at Coy?

15 **THE WITNESS:** Yes.

16 **MR. EDWARDS:** All right. Do you recall testifying
17 that you saw something in Bobby Bragg's hand kind of like a
18 sock, something heavy in it because the sock was dragging?

19 **THE WITNESS:** Yes.

20 **MR. EDWARDS:** Was that true?

21 **THE WITNESS:** Yes.

22 **MR. EDWARDS:** Do you recall testifying to that in
23 both trials?

24 **THE WITNESS:** I can't remember.

25 **MR. EDWARDS:** Okay. All right. If I were to say

1 that I've got a written transcript -- just like the court
2 reporter here is taking down every word that you and I are
3 saying -- if I were to tell you that I had a transcript of
4 that trial and your testimony both times, would you believe
5 me?

6 **THE WITNESS:** Yeah. Because last summer, I was
7 given that.

8 **MR. EDWARDS:** Okay. So you've been able to see
9 that before?

10 **THE WITNESS:** Uh-huh.

11 **MR. EDWARDS:** All right. Okay. Just one more
12 question, Ms. Nelson.

13 Is there any reason whatsoever that you would have
14 appeared before two juries and before us today and just
15 totally made up this story about either Mr. Coffey or
16 Mr. Bragg?

17 **THE WITNESS:** Absolutely not.

18 **MR. EDWARDS:** Those are my questions.

19 **JUDGE WAGONER:** Thank you.

20 Judge Lock?

21 **JUDGE LOCK:** Good afternoon, Ms. Nelson. I've got
22 a few questions that, first, pertain to your ability to
23 recall or remember certain things. And please understand, I
24 am not trying to embarrass you by asking you these
25 questions. I hope you fully appreciate the fact that you

1 may have been one of the very last people to see Mr. Hartley
2 alive; so that's one of the reasons you are such an
3 important witness in these proceedings.

4 Okay?

5 **THE WITNESS:** Uh-huh.

6 **JUDGE LOCK:** All right. First of all, on that
7 day, December 8, had you had anything at all to drink? Any
8 alcoholic beverage?

9 **THE WITNESS:** Not then.

10 **JUDGE LOCK:** That --

11 **THE WITNESS:** I used to not drink, and then I went
12 through a period where I stayed drunk, and now I stopped
13 again.

14 **JUDGE LOCK:** All right. Had you taken any sort of
15 other impairing substance, either legal or illegal, on
16 December 8, 1994?

17 **THE WITNESS:** Absolutely not. I've never used a
18 drug of any kind in my life.

19 **JUDGE LOCK:** All right. Now, you mentioned just a
20 few minutes ago that you're on all sorts of medication; is
21 that correct?

22 **THE WITNESS:** Uh-huh.

23 **JUDGE LOCK:** All right. And, again, I don't mean
24 to embarrass you, but can you tell us what medications you
25 do take?

1 **THE WITNESS:** I take a whole list of them. Do you
2 want me to include the inhalers or just the other?

3 **JUDGE LOCK:** I want you to tell us any medication
4 that you take that might in any way at all affect your
5 mental processes. Okay?

6 **THE WITNESS:** That I'm on now?

7 **JUDGE LOCK:** Yes, ma'am.

8 **THE WITNESS:** Klonopin. I take prescription
9 ibuprofen. I take doxepin. I take Seroquel and trazodone.

10 **JUDGE LOCK:** All right. Why do you take Klonopin?

11 **THE WITNESS:** Because I -- since my mother died --
12 my mother and my younger sister died in 2013, and I have
13 severe panic and anxiety attacks.

14 **JUDGE LOCK:** I see. And what were the other
15 medications you take?

16 **THE WITNESS:** Doxepin, Seroquel, and trazodone.
17 Those are supposed to help me sleep, but they really don't.

18 **JUDGE LOCK:** Okay. Why do you take those
19 medications?

20 **THE WITNESS:** Because I don't sleep. I can't
21 unwind and sleep.

22 **JUDGE LOCK:** Are you taking all those medications
23 under a doctor's prescription?

24 **THE WITNESS:** Yes.

25 **JUDGE LOCK:** Are you taking all of them within the

1 dosage limits prescribed by the doctor?

2 **THE WITNESS:** Yes. Sometimes I don't take all of
3 them every night.

4 **JUDGE LOCK:** When was the last time you may have
5 taken any of them?

6 **THE WITNESS:** Last night.

7 **JUDGE LOCK:** Have you taken any of them today?

8 **THE WITNESS:** No.

9 **JUDGE LOCK:** All right. Have you had any alcohol
10 in the past 24 hours?

11 **THE WITNESS:** I have not had any alcohol in about
12 two and a half weeks, honestly.

13 **JUDGE LOCK:** Okay. Now, I believe you stated in
14 the past that on that date, December 8, you did not work --
15 that you were off; is that correct?

16 **THE WITNESS:** I was off that day.

17 **JUDGE LOCK:** All right. Where were you employed
18 at that time?

19 **THE WITNESS:** That's been so long ago, I cannot
20 remember. I could have been working out at the old Holiday
21 Inn Express. I could have been working at Burger King. I
22 could have been working at KFC. I cannot remember which one
23 at this time.

24 **JUDGE LOCK:** Okay. Are you employed at this
25 moment?

1 **THE WITNESS:** No. I'm disabled.

2 **JUDGE LOCK:** Now, how old is your son now?

3 **THE WITNESS:** Jeffrey? 31.

4 **JUDGE LOCK:** And does he still live in Boone?

5 **THE WITNESS:** He lives in Blowing Rock.

6 **JUDGE LOCK:** Blowing Rock.

7 What is your relationship with him like at this
8 time?

9 **THE WITNESS:** Not good. I have had a rocky
10 relationship with Jeffrey since he was 14 or 15.

11 **JUDGE LOCK:** How often do you see him now?

12 **THE WITNESS:** At least once a week sometimes.

13 **JUDGE LOCK:** All right. Did you come -- you still
14 live in Boone; is that correct?

15 **THE WITNESS:** Uh-huh.

16 **JUDGE LOCK:** Did you come from Boone to Raleigh
17 with him?

18 **THE WITNESS:** Yes.

19 **JUDGE LOCK:** All right. Did you talk about this
20 case while you were en route?

21 **THE WITNESS:** No.

22 **JUDGE LOCK:** When was last time you've talked with
23 Jeffrey about this matter -- about this case?

24 **THE WITNESS:** Last summer. It was last summer,
25 but we really didn't talk about it. Or was it last summer?

1 Yeah, it was last summer. Or was it the summer before?

2 I think I had an interview with these ladies last
3 summer. I can't remember. It might have been the summer
4 before.

5 But I had not saw Jeffrey for months because he'd
6 went to New Jersey. I did not know that he didn't stay,
7 that he come back down here. I had not talked to him in
8 months.

9 When these ladies found him and give him the
10 interview at the courthouse that we had, that made him angry
11 at me all over again; so I didn't see him months and months
12 and months. My son blames me for everything wrong in his
13 life. I mean, he does love me he tells me, but he just
14 blames me for everything.

15 **JUDGE LOCK:** When you last talked with Jeffrey
16 about this case, what did he tell you about his memory of
17 his observations on December 8, 1994?

18 **THE WITNESS:** Honestly, since this happened, me
19 and Jeffrey have never, ever had a conversation in detail.
20 He was just pissed off at these ladies that he had to go up
21 to the courthouse and talk to them.

22 **JUDGE LOCK:** So did he tell you anything about his
23 memories of that date?

24 **THE WITNESS:** No. We don't talk about it. We
25 have never talked about it.

1 **JUDGE LOCK:** All right. When law enforcement
2 first talked with him about this matter, the very first time
3 they talked with him, were you present during that
4 interview?

5 **THE WITNESS:** Yes. I was present during, I think,
6 only one.

7 **JUDGE LOCK:** Which one was that?

8 **THE WITNESS:** The first initial one, I believe.

9 **JUDGE LOCK:** And had you talked with him about
10 what he had seen before that interview?

11 **THE WITNESS:** Only -- only on the initial day that
12 it happened because it upset Jeffrey that he -- he -- I
13 know -- let me put it this way. I know that Mr. Hartley was
14 just an old drunk. Everyone knew that he was just an old
15 drunk. But Jeffrey and the neighborhood boys, they liked
16 him. He came and he was really upset that these men were
17 following Mr. Hartley, drunk, and they were cussing and
18 being mean. But that is the only actual real conversation
19 that Jeffrey and I have ever had.

20 **JUDGE LOCK:** All right. How well did you know
21 Mr. Hartley?

22 **THE WITNESS:** I knew him pretty good. I knew he
23 was an old drunk. I called the cops on him once, though.

24 **JUDGE LOCK:** Had you ever visited in his home?

25 **THE WITNESS:** I've -- not even until the date that

1 he died have never -- I was never, ever in that home.

2 **JUDGE LOCK:** Okay. Had you ever dated him?

3 **THE WITNESS:** Absolutely not.

4 **JUDGE LOCK:** How well did you know Mr. Coffey?

5 **THE WITNESS:** I knew -- I knew him and Mr. Bragg
6 from the neighborhood. I know that they used to go see
7 Rhonda. Rhonda lived, like, kind of like across from me. I
8 know there was always a party and something going on over
9 there and the cops were there. And -- I can't remember what
10 her last name was.

11 **JUDGE LOCK:** Had you ever dated Mr. Coffey?

12 **THE WITNESS:** No.

13 **JUDGE LOCK:** Had you ever partied with Mr. Coffey?

14 **THE WITNESS:** I never partied with either one of
15 them ever.

16 **JUDGE LOCK:** All right. Well, that was my next
17 question.

18 How well did you know Mr. Bragg?

19 **THE WITNESS:** I didn't -- I didn't -- no, I didn't
20 even really know either one of them good. I just know they
21 hung out in the neighborhood, they were always partying, and
22 wherever they were, that the cops would come in and ...

23 **JUDGE LOCK:** So had you ever dated Mr. Bragg?

24 **THE WITNESS:** No.

25 **JUDGE LOCK:** Had you ever partied with Mr. Bragg?

1 **THE WITNESS:** Neither one of them, no, sir.
2 Absolutely not.

3 **JUDGE LOCK:** All right. I want to ask about a man
4 named Henry -- I may be mispronouncing his last name --
5 Ossowski? Am I pronouncing that correctly?

6 **THE WITNESS:** Who?

7 **JUDGE LOCK:** Do you know him?

8 A man named Henry or Henryk, perhaps, Ossowski?

9 **THE WITNESS:** No.

10 **JUDGE LOCK:** Do you know him at all?

11 **THE WITNESS:** No. I don't know who that is.

12 **JUDGE LOCK:** Had you ever seen a man in that area
13 at about that time wearing a long leather coat wrapped with
14 things hanging on it, pins or medallions or anything of that
15 sort?

16 **THE WITNESS:** I honestly -- I honestly do not
17 remember. I couldn't tell you.

18 **JUDGE LOCK:** What was the last time you had seen
19 Mr. Hartley prior to December 8?

20 **THE WITNESS:** About every day he would walk down
21 to check his mail. I mean, it could have been the day
22 before. It could be two days before. It could have been
23 one.

24 **JUDGE LOCK:** Were you aware of any enemies he may
25 have had? Anybody who didn't like him?

1 **THE WITNESS:** Well, I didn't like him, but I
2 wasn't his enemy.

3 So the answer to that would be no. I have no -- I
4 have no idea.

5 **JUDGE LOCK:** All right. Thank you very much.

6 **JUDGE WAGONER:** I'll let him go, then you.

7 Mr. Frye?

8 **MR. FRYE:** Ms. Nelson, I'm going to kind of follow
9 up on some things that Mr. Edwards was talking about.

10 The thing that I am trying to wrap my head
11 around -- and I understand it's been 22 years ago -- but
12 when you were first interviewed by these ladies, and then
13 today, you stated both times that they were handing this
14 whatever this object was -- bag, sock, whatever -- and at
15 some point in time, you even said you thought they might
16 have been drinking out of it.

17 **THE WITNESS:** Yes.

18 **MR. FRYE:** But in all of the interviews that you
19 had with the police officers and all the interviews you had
20 with the SBI and in both trials, you were asked specifically
21 whose hand did you see that in, and you said it was --

22 **THE WITNESS:** And most of the time it was
23 Mr. Coffey.

24 **MR. FRYE:** In both trials, you said it was
25 Mr. Bragg.

1 **THE WITNESS:** No, I don't -- I believe that's not
2 true. It may -- that may have been right. It was one. I
3 mean, I don't remember. One of them had it more than the
4 other.

5 **MR. FRYE:** You --

6 **THE WITNESS:** I'm going to tell you something.
7 All them detectives had me so upset that I -- at that time,
8 I probably couldn't have told you my mother's name.

9 **MR. FRYE:** Well, I want to read just a little
10 portion here.

11 **THE WITNESS:** Okay.

12 **MR. FRYE:** Okay? And this is in Mr. Bragg's
13 trial.

14 The defense attorney was asking: "Did any of them
15 have anything in their hands?"

16 You said yes.

17 They said: "What? And who?"

18 **THE WITNESS:** Uh-huh.

19 **MR. FRYE:** So they opened the door for you to say
20 both of them had something; they were switching it back and
21 forth.

22 And you said "Bobby had something that looked like
23 a dark sock with something round in the bottom of it because
24 it was dragging."

25 **THE WITNESS:** Yes.

1 **MR. FRYE:** You never said anything about anybody
2 else.

3 Can you explain why now you are saying that they
4 switched it back and forth and in two trials and in multiple
5 interviews that never, ever came out?

6 **THE WITNESS:** It was both of them. I told the
7 officers that. I told the gentleman from the SBI that. I
8 think maybe at one time when Jerry Vaughn, I think is his
9 name, come to my house back in 2008, and I believe that I
10 told him that also.

11 **MR. FRYE:** Did you look over and sign any of the
12 interviews that you had with law enforcement?

13 **THE WITNESS:** I believe so.

14 **MR. FRYE:** So --

15 **THE WITNESS:** Some of them I just signed.

16 **MR. FRYE:** You didn't read them over?

17 **THE WITNESS:** Not all of them. I just figured
18 they were the same thing, to be honest. So all -- I cannot
19 honestly tell you that I read all of them because I didn't.

20 **MR. FRYE:** Okay.

21 **JUDGE WAGONER:** Ms. Surgeon?

22 **MS. SURGEON:** Yes.

23 Ms. Nelson, when you first spoke to the law
24 enforcement officers, you said that they talked to you about
25 Mr. Coffey.

1 **THE WITNESS:** Mr. Coffey and they talked to me
2 about Mr. Bragg.

3 Mr. Bragg's picture being in the paper was the
4 only reason I called Crimestoppers because I knew right then
5 that I knew something about this even though I wanted to be
6 in denial and I wanted to ignore it, the fact that my other
7 neighbors, some of them also saw this, and they just didn't
8 care. They didn't care because Mr. Hartley was just the
9 neighborhood drunk.

10 **MS. SURGEON:** But you spoke to the officers before
11 you saw the article in the paper; is that correct?

12 **THE WITNESS:** I spoke with them once before that.

13 **MS. SURGEON:** And the first time you spoke to them
14 before you saw the article in the paper --

15 **THE WITNESS:** Yes.

16 **MS. SURGEON:** -- you talked with them about
17 Mr. Coffey.

18 **THE WITNESS:** Uh-huh.

19 **MS. SURGEON:** There was no mention of Mr. Bragg at
20 that time.

21 **THE WITNESS:** I can't remember. I can't remember.

22 **MS. SURGEON:** Right. But when you talked with
23 them the first time about what you saw, what you knew, you
24 talked to them about Mr. Coffey.

25 What did you say about Mr. Coffey?

1 **THE WITNESS:** I honestly can't remember. But I
2 can -- I can tell you this: My first interview with them
3 was both gentlemen were mentioned. But the first interview
4 was only Mr. Coffey. The second one was only Mr. Bragg.

5 **MS. SURGEON:** Okay. So the first interview was --
6 you talked about Mr. Coffey.

7 **THE WITNESS:** That he is the only person I was
8 asked about. The second interview --

9 **MS. SURGEON:** Excuse me. Let me ask you a
10 question.

11 What were you asked about?

12 **THE WITNESS:** I honestly can't remember that far
13 back anymore. I told you what I remember.

14 **MS. SURGEON:** But you were talking about what you
15 knew at that time.

16 **THE WITNESS:** Yes.

17 **MS. SURGEON:** And what you knew involved two
18 people passing something back and forth between them; is
19 that correct?

20 **THE WITNESS:** Yes.

21 **MS. SURGEON:** But yet you talked about one?

22 **THE WITNESS:** I wasn't asked about the other.
23 That's what I'm telling you.

24 **MS. SURGEON:** But you were asked about --

25 **THE WITNESS:** When I had the interview about --

1 (Reporter requests single speaker.)

2 **THE WITNESS:** When I had the interview about
3 Mr. Bragg, we only talked about him.

4 And then the third interview we talked about both
5 of them.

6 **MS. SURGEON:** You were talking about what you
7 knew, what you had seen.

8 **THE WITNESS:** What I had seen.

9 **MS. SURGEON:** And you were talking about
10 Mr. Coffey and Mr. Bragg passing something back and forth.

11 **THE WITNESS:** Uh-huh.

12 **MS. SURGEON:** How are you going to talk about just
13 one?

14 **THE WITNESS:** Because at the first interview, I
15 was only asked about Mr. Coffey, Kenneth Coffey. At the
16 second interview, it -- I'm telling you. I answered their
17 questions, but they only wanted to talk, in the first
18 interview, about Mr. Coffey. In the second one, they didn't
19 care about Mr. Coffey. They only wanted to talk about
20 Mr. Bragg.

21 **MS. SURGEON:** Fine. But you were supposed to be
22 answering about what you knew; is that correct?

23 **THE WITNESS:** Yes. But I was only asked about one
24 and then the other.

25 **MS. SURGEON:** But if you were asked what

1 Mr. Coffey was doing when you were talking about Mr. Coffey,
2 if he was passing something to Mr. Bragg, how did you
3 respond to that?

4 **THE WITNESS:** I told him what I thought that it
5 could have been. That is --

6 **MS. SURGEON:** Well, who is he passing it to?

7 **THE WITNESS:** To Mr. Bragg.

8 **MS. SURGEON:** And you mentioned that?

9 **THE WITNESS:** Yes.

10 **MS. SURGEON:** In the first interview?

11 **THE WITNESS:** Yes. Part of the interview I had
12 with them, it was like 30 minutes into it when they started
13 the interview over and told me that it was being recorded.

14 **MS. SURGEON:** Thank you.

15 **JUDGE WAGONER:** Yes, sir, Mr. Long.

16 **MR. LONG:** Ms. Nelson, I am David Long. And I
17 wanted to just ask you a few questions.

18 How is it that you knew Mr. Bragg prior to
19 December 8?

20 **THE WITNESS:** I knew them. I had -- he -- okay.
21 I never really -- I don't know -- I didn't know him. We
22 weren't friends. I knew him because he was one of the
23 people that would come in there drunk, visit Mr. Coffey
24 [sic].

25 He did -- on one occasion, he was angry -- I

1 cannot remember what he was angry for -- and he punched a
2 dent in the side of my mobile home. That dent is still
3 there.

4 **MR. LONG:** So this is Mr. Bragg that punched your
5 mobile home?

6 **THE WITNESS:** Yes. Yes. Yes.

7 **MR. LONG:** Okay. Now, you said you had seen him
8 in the neighborhood ten times, maybe, with Mr. Coffey?

9 **THE WITNESS:** More than that.

10 **MR. LONG:** 20?

11 **THE WITNESS:** More than that.

12 **MR. LONG:** Okay.

13 **THE WITNESS:** I couldn't put a number on it.
14 Quite a bit.

15 **MR. LONG:** Would it be safe to say that Mr. Bragg
16 and Mr. Coffey were regulars in the neighborhood going to
17 see Mr. Hartley?

18 **THE WITNESS:** Yes. But Mr. Coffey more so.

19 **MR. LONG:** Okay. But multiple times Mr. Bragg and
20 Mr. Coffey were together.

21 **THE WITNESS:** Mr. Hartley had a lot of company --

22 **MR. LONG:** Right.

23 **THE WITNESS:** -- especially the first week or so
24 of the month. You know, he got his check. Everybody knew
25 that.

1 **MR. LONG:** Sure.

2 **THE WITNESS:** And they wanted to go party. And
3 everybody knew that too.

4 **MR. LONG:** Okay. But anyway, Mr. Bragg, on
5 December 8, 1994, you had seen him many times in the
6 neighborhood?

7 **THE WITNESS:** Before that?

8 **MR. LONG:** Yeah. With Mr. Coffey, with
9 Mr. Hartley; you've seen him with both of them?

10 **THE WITNESS:** Yes.

11 **MR. LONG:** Okay. And they -- typically, to get
12 there, they went right up the street past your mobile home.

13 **THE WITNESS:** No. Not always.

14 **MR. LONG:** Well --

15 **THE WITNESS:** There's times when they were there
16 that Mr. Hartley had company, not just including them, but I
17 wouldn't have known because I am not like -- wasn't out
18 there looking for people.

19 **MR. LONG:** Sure.

20 **THE WITNESS:** But the way that trailer park is
21 made, it has two dead-end streets and one small street that
22 goes up past the trailer park and the road behind.

23 It is possible that somebody could have walked up
24 the first street all the way up and went through the other
25 way to Mr. Hartley's trailer. And I have also stated that.

1 **MR. LONG:** Right. Right.

2 Let me give you a name -- and I'm going to try to
3 pronounce it. Maybe we'll do it a little different here.

4 The name would be Henryk Ostrowski.

5 **THE WITNESS:** I don't -- do not for the life of me
6 know who that is.

7 **MR. LONG:** Okay. I just wanted to check.

8 **THE WITNESS:** I have no idea.

9 **MR. LONG:** Okay. I thank you.

10 **JUDGE WAGONER:** Yes, sir. Mr. Barrow?

11 **MR. BARROW:** I'm getting a little old and don't
12 hear quite as well as I used to.

13 Do you ever use the term "swig"? Not "swing," but
14 "swig"? Like I say, "Give me a swig of water" or "Give me a
15 swig of your drink"?

16 **THE WITNESS:** A swig? A snort? Yeah.

17 **MR. BARROW:** Okay. I am trying to determine when
18 you said you saw them, did you say you saw them "swigging"
19 back and forth?

20 **THE WITNESS:** I don't -- I don't know. I mean, I
21 don't -- I know they were handing whatever they had back and
22 forth.

23 **MR. BARROW:** But --

24 **THE WITNESS:** Whatever was in the sock, dark color
25 bag, whatever they were handing back and forth. I didn't

1 stand out there and watch them. I didn't want to be out
2 there.

3 **MR. BARROW:** Right. But would you ever use the
4 term "swig" to talk about them passing a bottle back and
5 forth and taking a little drink out of it?

6 **THE WITNESS:** Yeah. To get a swig, a swig of
7 liquor. I've done it. I mean -- I'm telling you honestly
8 I've called it that for myself.

9 **MR. BARROW:** Okay. When I was hearing you say
10 that earlier, I couldn't tell whether you were saying
11 "swigging" or "swinging."

12 **THE WITNESS:** I said both.

13 **MR. BARROW:** You said both?

14 **THE WITNESS:** Yes.

15 **MR. BARROW:** Okay.

16 **THE WITNESS:** I believe I said both.

17 **MR. BARROW:** Do you now remember in whatever
18 memory is still there -- and 22 years later is a long time.

19 Do you remember whether you first told the
20 officers that they were "swigging" or did you first tell the
21 officers that they were "swinging"?

22 **THE WITNESS:** I believe that I told the officers
23 they were swinging, which meant passing whatever was in that
24 dark-colored sock -- bag, whatever -- back and forth. And
25 they were. They were swinging and they were passing it and

1 they were -- I don't know what they were doing. Like I
2 said, I didn't stand out there too long. I wanted to hurry
3 up and get back in to my kids.

4 **MR. BARROW:** So you think you used both words when
5 you were talking to the officers?

6 **THE WITNESS:** It's -- it's possible. I know I
7 told them that they were swinging the object. And they want
8 to know what I thought they were doing with it, and I said
9 they could have been swigging something. They could have
10 been drinking liquor. And that was after they had asked me
11 if I thought that there could be a trailer hitch in there.
12 And I had no idea. I didn't know what it was. I don't know
13 what was in that sock.

14 **MR. BARROW:** Thank you.

15 **JUDGE WAGONER:** Further questions?

16 Ma'am, just let me just ask you one question. I
17 understand that it's been a long time and you've had
18 difficulty remembering all of these things that happened or
19 didn't happen.

20 And I believe you said that in between the two
21 trials -- that, in between those trials, that you talked to
22 law enforcement a lot.

23 **THE WITNESS:** Yes.

24 **JUDGE WAGONER:** Some of the police officers.

25 **THE WITNESS:** Yes.

1 **JUDGE WAGONER:** Were you having trouble then sort
2 of remembering what had happened?

3 **THE WITNESS:** Not really -- not really. It's just
4 like I was, like, bombarded so much by so many people that I
5 got confused easily with it. I really didn't want to do it
6 at all. I didn't want to go to court. I didn't want to
7 deal with it, period.

8 **JUDGE WAGONER:** So the officers you were talking
9 to in between the trials, would they sort of help you
10 remember things? Would they say, "Oh, now, wait a minute.
11 You told us this"?

12 Do you remember that?

13 **THE WITNESS:** You might say yeah to a certain
14 extent.

15 **JUDGE WAGONER:** Okay.

16 **THE WITNESS:** Honestly, yeah.

17 **JUDGE WAGONER:** So if they heard you say something
18 that they thought maybe wasn't right --

19 **THE WITNESS:** It's possible.

20 **JUDGE WAGONER:** -- they would tell you that?

21 **THE WITNESS:** That's possible.

22 **JUDGE WAGONER:** Okay. Thank you.

23 **MS. SMITH:** I have another question.

24 **JUDGE WAGONER:** Yes, ma'am.

25 ///

1 BY MS. SMITH: (2:38 p.m.)

2 Q Ms. Nelson, you've spoken about a lot of neighbors
3 that saw what was going on that day.

4 Could you please tell us who those neighbors were?

5 A No, ma'am, I will not.

6 MS. SMITH: Your Honor, I would ask that you --

7 JUDGE WAGONER: If you'd please answer the
8 question, ma'am, to the best of your ability.

9 Whatever happens here is confidential.

10 THE WITNESS: My son told someone something
11 confidential, meaning these ladies, and they went to that
12 little boy -- this grown man.

13 JUDGE WAGONER: Okay. Well, he had testified at
14 the trial.

15 THE WITNESS: Nick Gray did not.

16 JUDGE WAGONER: If you would just answer this
17 question, ma'am.

18 Would you repeat the question, please.

19 MS. SMITH: Yes.

20 Q You mentioned that there were neighbors who were
21 outside and saw these same things that day.

22 Can you please tell us those neighbors are.

23 A Well, two of them can't help you; that would be my
24 mother and younger sister. They are passed away.

25 Harold Jones. Cherie Gray. I believe that

1 **Mr. Doss also was out there.**

2 **Q** Anyone else?

3 **A** I can't remember.

4 **Q** Ms. Nelson, in your deposition, you told us that
5 there were at least eight to nine people out there.

6 **A** Including children.

7 **Q** And who were those children?

8 **A** That would be these people's children. Some --
9 some of them, I can't remember the names.

10 **Q** Do you recall any of their names?

11 **A** I remember Nick Gray.

12 **Q** Nick Gray? Anyone else?

13 **A** I can't remember.

14 **Q** Thank you, Ms. Nelson. You may step down.

15 **THE WITNESS:** Am I finished?

16 **JUDGE WAGONER:** I think. Let me just be sure.

17 Any other questions from any commissioners?

18 (No response.)

19 **JUDGE WAGONER:** Okay. Yes, ma'am, you're done.

20 Thank you very much.

21 (Witness stands down.)

22 (Discussion off the record.)

23 **MS. SMITH:** All right. I am going to briefly
24 recall Ms. Stellato.

25 (Witness recalled, Sharon Stellato.)

1 **JUDGE WAGONER:** Yes, ma'am. And you are still
2 under oath.

3 BY MS. SMITH: (2:41 p.m.)

4 **Q** Ms. Stellato, you heard Ms. Nelson's testimony
5 today?

6 **A** I have.

7 **Q** And you were present at the deposition of
8 Ms. Nelson?

9 **A** I was.

10 **Q** And you were also present at the Commission's
11 interview with Ms. Nelson?

12 **A** Correct.

13 **Q** And you have reviewed the Boone Police Department
14 file as well as the private investigator's file in this
15 case?

16 **A** Correct.

17 **Q** And the trial testimony of Ms. Nelson at both the
18 Coffey and Bragg trials?

19 **A** Yes, I have.

20 **Q** Okay. When Ms. Nelson said today that she saw the
21 victim, Mr. Hartley, at the mailbox and with mail in his
22 hand, is that something that you've heard her say before?

23 **A** No.

24 **Q** When Ms. Nelson said today that the first time she
25 saw the victim and Mr. Bragg and Mr. Coffey following the

1 victim between -- was between 3:00 at 3:45 on the day, is
2 that something that you had heard before?

3 **A No.**

4 **Q** When Ms. Nelson said today that she had called
5 Crimestoppers, is that something that you had heard before?

6 **A No. She has always denied contacting**
7 **Crimestoppers.**

8 **Q** And is there anything in the law enforcement file
9 related to a Crimestoppers report for Ms. Nelson?

10 **A There are no -- there are Crimestoppers reports,**
11 **but there are no Crimestoppers reports related to Rene**
12 **Nelson.**

13 **Q** In the course of your investigation and in
14 reviewing files, have you seen other individuals who have
15 indicated that Ms. Nelson contacted Crimestoppers and/or got
16 a Crimestoppers reward?

17 **A Several individuals have made statements that Rene**
18 **Nelson contacted Crimestoppers and received a reward.**

19 **Q** Has Ms. Nelson ever used vulgar language with you?

20 **A She has.**

21 **Q** Has she cussed you?

22 **A She has.**

23 **Q** Could you describe for the Commissioners
24 Mr. Hartley, the victim's, yard and that area?

25 **A Mr. Hartley's yard is -- if you recall the map,**

1 you can't see it from Ms. Nelson's trailer. But the way
2 that his yard is, there is no fence on the back of the
3 trailer park so if you were looking down the road to see --
4 to say that you see someone walk into his yard, you'd
5 actually be seeing them at the end of the trailer park. A
6 lot of individuals went to that area to cut over to the A&P
7 at the time -- or the shopping center; they would use it as
8 a cut-through area.

9 Q So you're saying if Ms. Nelson saw someone up at
10 that end of the road where the victim's home was, that she
11 wasn't necessarily seeing them in his yard but at the back
12 of the trailer park?

13 A Correct. You couldn't see his home or his yard
14 from that part of the road. You would just see that they
15 turned off. And they could be going into his yard. They
16 could be going into the woods. They could be cutting
17 through. You wouldn't know.

18 Q In reviewing the law enforcement file and hearing
19 testimony today from Ms. Nelson, is what she's saying today
20 and in your interviews with her more than she said to law
21 enforcement or in her testimony at trial?

22 A It is more. Yes.

23 Q In particular, based on the statements that she
24 read aloud to the Commissioners, did she ever say that she
25 saw Mr. Bragg or Mr. Coffey coming back down the road with

1 something in their hands in her initial statements to law
2 enforcement or her testimony?

3 **A She's never -- she never said that in her initial**
4 **statements or either trial testimony.**

5 **Q** What did she tell law enforcement and testify to
6 at trial about when she saw Mr. Bragg with something in his
7 hands?

8 **A When they were following the victim toward his**
9 **trailer.**

10 **Q** What did Ms. Nelson -- you heard her testify today
11 that Mr. Hartley was nice and that the children liked him.

12 What did she tell Commission staff in her
13 interview or deposition about Mr. Hartley?

14 **A That is not what Ms. Nelson has previously stated**
15 **about the victim. Although we have heard many kind things**
16 **about the victim, Ms. Nelson in particular stated that the**
17 **victim used very vulgar language toward her children and was**
18 **very mean to them and that she had called the police on him**
19 **for that reason.**

20 **Q** Ms. Nelson testified today that she had spoken
21 with law enforcement on several occasions. She mentioned
22 three interviews with them, and she also said that she had
23 talked to them between the trials of Mr. Coffey and
24 Mr. Bragg.

25 Is there any documentation in the law enforcement

1 file or the District Attorney's file about any interviews of
2 Ms. Nelson other than the two that she read aloud to the
3 Commissioners?

4 **A** **No. We have -- not only do we have all of the law**
5 **enforcement statements that they actually took, we also have**
6 **their actual notes and their -- what's called contact**
7 **sheets, which is what they do from the moment they start an**
8 **investigation until the moment they finish. So it's a log.**
9 **And we have Detective Shook and Detective Harrison, and you**
10 **can literally see what they're doing every single day, hour**
11 **by hour, when they are investigating the case. And there is**
12 **no break in those chains. So it's from when they start all**
13 **the way through trial and sometimes a little bit after.**

14 **There are no indications -- other than what I**
15 **testified to earlier, which is a couple of contacts that**
16 **they had with Rene Nelson to ask her about Rhonda Carson and**
17 **then the Bibles, there's no indication that they conducted**
18 **other interviews with Rene Nelson in the file.**

19 **Q** **And is there any indication in the file that any**
20 **of the interviews they did conduct with Rene Nelson were**
21 **recorded?**

22 **A** **None of their interviews were noted as ever being**
23 **recorded. The Boone Police Department states that they**
24 **didn't use recording devices at that time, and there is no**
25 **indication that any interview they did was recorded.**

1 **Q** Ms. Stellato, I am going to refer you to the
2 Commission's September 24, 2014, interview with Ms. Nelson.

3 **A** Okay.

4 **Q** Do you have a transcript of that there?

5 **A** I do.

6 **Q** On page -- at the bottom of page 9, that will be
7 line 24, if you could read line 24 on 9 through page 10,
8 line 3.

9 **"A But like I told law enforcement, it could**
10 **have been a bottle of liquor -- it looked like it**
11 **was -- like it was brown -- that they were both**
12 **swigging. They took turns. Which they both could have**
13 **been swigging. I don't know."**

14 **Q** Okay. And if you would also turn to the trial
15 transcript -- Mr. Bragg's trial transcript, page 598 -- and
16 tell us -- read to us what Ms. Nelson -- she testified today
17 that she had been bombarded by law enforcement and harassed
18 by them.

19 Can you read to us what she testified to regarding
20 that in Mr. Bragg's trial.

21 **A** The question was actually:

22 **"Q Did you ever discuss a Crimestoppers reward**
23 **with anyone?"**

24 And she answered:

25 **"A I have never been badgered or harassed by any**

1 *of them. I never been forced to do any or say*
2 *anything, no.*

3 *"Q My question is did you ever discuss with them*
4 *anything about a Crimestoppers reward at all?*

5 *"A No, sir, I have not."*

6 **MS. SMITH:** Commissioners, do you have any
7 questions for Ms. Stellato?

8 **MR. EDWARDS:** Ms. Stellato, would it be fair to
9 say that, even if a person got paid a Crimestoppers award
10 after a trial, it doesn't necessarily mean that person lied
11 at trial, does it?

12 **THE WITNESS:** No.

13 **MS. PICKENS:** By the same token, it would not
14 preclude them from admitting to having received an award,
15 would it?

16 **THE WITNESS:** No, ma'am.

17 Our interest was in determining if there was a
18 Crimestoppers reward and obtaining that information.

19 Sir?

20 **MR. FRYE:** Other than her boyfriend -- Valdez;
21 correct?

22 **THE WITNESS:** Mm-hmm.

23 **MR. FRYE:** -- who else said that she got a
24 Crimestoppers reward?

25 **THE WITNESS:** Law enforcement.

1 **MR. FRYE:** When Detective Harrison was asked, he
2 said that she may have; and then yes, she did; and then she
3 may have.

4 **THE WITNESS:** And ADA Wilson. The defense
5 attorneys stated that "Ms. Nelson indicates that she
6 contacted Crimestoppers." Now, she does say that she did
7 not receive a reward.

8 Jeffrey Nelson -- you will hear from him --
9 related -- and we can discuss that as we get to it. And
10 then there are several other individuals that we'll discuss
11 who were in the area in the neighborhood that will testify
12 about related to that.

13 **MR. FRYE:** (Moves head up and down.)

14 **JUDGE WAGONER:** Further questions? Yes, ma'am.

15 **MS. SURGEON:** I want to know where her first
16 statement is.

17 **THE WITNESS:** Her first statement is December 9.
18 It is in your brief.

19 Lindsey, can you please refer them to the page?

20 **MR. FRYE:** It's on page 101, I think.

21 **JUDGE WAGONER:** 101.

22 **THE WITNESS:** Ms. Surgeon, this was on a canvass
23 of the neighborhood, and this statement was taken by Agent
24 Wilson at the SBI.

25 **MS. SURGEON:** Thank you.

1 **JUDGE WAGONER:** Anything further?

2 (No response.)

3 **JUDGE WAGONER:** Thank you.

4 **MS. SMITH:** You can step down.

5 (Witness stands down.)

6 **JUDGE WAGONER:** Is everybody okay to keep going?

7 Does anyone need a break right now?

8 (No response.)

9 **JUDGE WAGONER:** All right. Next witness.

10 **MS. SMITH:** The Commission will recall staff

11 Attorney Catherine Matoian.

12 (Witness recalled, Catherine Matoian.)

13 BY MS. SMITH: (2:53 p.m.)

14 **Q** Ms. Matoian, based on Rene Nelson's interview and
15 deposition, did the Commission conduct interviews of
16 residents of the trailer park from the time of the victim's
17 murder?

18 **A** We did.

19 **Q** And why did you do this?

20 **A** Ms. Nelson indicated that there were several
21 neighbors who were also outside on December 8, 1994, and
22 witnessed the events and that they did not report this to
23 the police, and she later had discussions with them about
24 this.

25 We wanted to conduct interviews of neighbors to

1 see if they had seen anything that they had not disclosed to
2 the police. Since Ms. Nelson would not provide a list of
3 those individuals at the time of our interviews and the
4 deposition, we attempted to interview all residents that we
5 could locate.

6 Q And based on those interviews, tell us about the
7 individuals that you interviewed and whether anyone
8 indicated that they witnessed events that they did not
9 report to police or discussed these events with Ms. Nelson.

10 A We interviewed 13 neighbors of the victim who said
11 they did not see what Rene Nelson saw.

12 Q Will you tell us who they were.

13 A The neighbors were Betty Grimes, Amos Johnson,
14 Patricia Shore, Gloria Parlier, Gerald Brown, Lisa Rivera
15 Miller, Julie White, Gladys Shull, Larry Grimes, Deborah
16 Grimes, Cherie Gray, Olen Humphrey, and David Presnell.

17 Q And did you interview anyone who provided new
18 information to the Commission that they did not provide to
19 law enforcement?

20 A We did. We interviewed one individual, Jerry
21 Shull, who provided new information to the Commission which
22 he did not provide to law enforcement at the time.

23 Q And tell the Commission what Mr. Shull told law
24 enforcement at the time of the crime.

25 A At the time of the crime, Mr. Shull and his wife

1 were interviewed on December 21, 1994, by Detective Mark
2 Shook. Mr. Shull told law enforcement that he had arrived
3 home on 5:10 p.m. on 12/8/1994. He stated that he never saw
4 anyone on the street. The last time he saw the victim was
5 on December 7, 1994, near the A&P.

6 On December 8, 1994, he saw the ambulance come in,
7 and Joe Grimes told him that the victim was dead. Both
8 Jerry and Gladys had never seen the man who was in the paper
9 in the trailer park. Jerry stated that he knew who Kenneth
10 Coffey was and that he last saw Mr. Coffey in the summer.
11 At that time, Coffey and another man were walking down
12 Winter Drive. The man was really tall and he could not
13 describe him.

14 Q And who was the man in the newspaper that
15 Mr. Shull says he has never seen?

16 A Robert Bragg.

17 Q Were there any additional interviews? Or did
18 Mr. Shull ever testify in the case?

19 A I am not aware of any other interviews conducted
20 with Mr. Shull. And he did not testify at the trial.

21 Q What did Mr. Shull tell the Commission when he was
22 interviewed?

23 JUDGE WAGONER: Could you give us a date when you
24 interviewed him, please?

25 MS. SMITH: Sure.

1 **THE WITNESS:** His first interview with the
2 Commission was March 16, 2015.

3 **A** And in this interview, Mr. Shull stated that, at
4 about 5:30 on the day of the murder, he saw Robert Bragg and
5 Kenneth Coffey walking in the trailer park.

6 In his second interview with the Commission, on
7 August 26, 2016, Mr. Shull said that he was outside and he
8 saw them -- meaning Robert Bragg and Kenneth Coffey --
9 walking up Winter Drive.

10 Mr. Shull was read his original statement to law
11 enforcement about not seeing anyone on the day of the
12 murder.

13 He stated "Well, I mean, I seen them that day. I
14 seen -- I forgot if that's the -- was that in the day? I
15 believe that was in the evening when I got home from work
16 that they come a-walking through there and went up Winter
17 Drive there. It's been so long, I don't remember nothing
18 about it much."

19 He was then asked if he was sure he saw them
20 walking on the day of the murder, and he stated "Yeah, I'd
21 say it was. I don't know. The only thing I know is that
22 they said the old man was killed there, robbed or something.
23 I don't know."

24 Mr. Shull was asked which statement would be more
25 accurate, the statement he made to the Commission or the

1 statement to law enforcement, and he said the statement that
2 I read to him, which was his statement to law enforcement.

3 Q Has Mr. Shull been subpoenaed here to testify
4 today?

5 A He has.

6 Q And is he here?

7 A Yes.

8 MS. SMITH: Commissioners, do you have any
9 questions for Ms. Matoian regarding these interviews before
10 we call Mr. Shull?

11 JUDGE WAGONER: I just had a clarification.

12 You said you interviewed 13 neighbors and that
13 they did not see what Ms. Nelson saw.

14 So the question is did they say they didn't see
15 anything? Or they didn't see them in the street, these two
16 men? Or what do you mean when you say that these 13
17 neighbors did not see what Ms. Nelson saw that day?

18 THE WITNESS: I asked the neighbors if they had
19 seen Robert Bragg and Kenneth Coffey following or taunting
20 and cussing at the victim.

21 JUDGE WAGONER: Okay. And they all answered no?

22 THE WITNESS: Correct.

23 JUDGE WAGONER: Thank you.

24 MS. BELLE: I also was going to ask just for
25 clarity.

1 **JUDGE WAGONER:** Yes.

2 **MS. BELLE:** Was there evidence that there was a
3 robbery? Or that it was -- you know, that his murder was
4 around literally taking his money? Do you know that? Or
5 was money found? Or was anything indicated that it was a
6 robbery?

7 **THE WITNESS:** The law enforcement investigation
8 and the trial presented evidence regarding where the victim
9 kept his money and times that he had shown people his money.

10 BY MS. SMITH: (2:59 p.m.)

11 **Q** Ms. Matoian, was there a second search of the
12 victim's home for money?

13 **A** There was.

14 **Q** And was any found?

15 **A** None.

16 **MR. EDWARDS:** Well, and also, Mr. Coffey, in his
17 statement, admitted that they took money. And he testified
18 to that against Bragg; is that right?

19 **THE WITNESS:** Correct.

20 **JUDGE WAGONER:** Further?

21 (No response.)

22 **JUDGE WAGONER:** Okay. Thank you, ma'am.

23 (Witness stands down.)

24 **MS. SMITH:** The Commission calls Jerry Shull.
25 Staff will step out and grab him.

1 **MS. SMITH:** Commissioners, Mr. Shull does not have
2 a criminal record.

3 Thereupon, JERRY SHULL, having been sworn, was examined and
4 testified as follows on EXAMINATION BY MS. SMITH:

5 **JUDGE WAGONER:** If everyone would speak up.

6 **THE WITNESS:** Speak loudly. I can't hear.

7 **JUDGE WAGONER:** Okay. We'll do that. She's going
8 to ask you questions first.

9 BY MS. SMITH: (3:02 p.m.)

10 **Q** I'm going to ask the questions first. Can you
11 hear me?

12 **A** Yeah. Go ahead.

13 **Q** Okay. Will you please state your full name for
14 the record.

15 **A** Jerry William Shull.

16 **Q** And what is your date of birth?

17 **A** April 19, '36 -- '35 -- no, '36.

18 **Q** April 19, 1936?

19 **A** Yeah.

20 **Q** 1936?

21 **A** Yeah.

22 **Q** Okay. And where do you live?

23 **A** I live up there in Boone, North Carolina.

24 **Q** Do you remember when police interviewed you the
25 day after the murder? That would have been December 9,

1 1994.

2 **A** **Somebody interviewed me that day. I don't know**
3 **who it was.**

4 **Q** Okay. I'm going to hand you that statement.

5 **A** **Okay.**

6 **Q** If you will please look at that, read through
7 it -- Mr. Shull, would it help if I read that for you?

8 **A** **Yeah. You better because I can't see it.**

9 **Q** Okay. It says "Jerry got home around 1710 hours
10 on 12/8/94." That would be 5:10 p.m.

11 **A** **Okay.**

12 **Q** "He never saw anyone on the street. The last time
13 he saw Coy was 12/7/94 near the A&P.

14 "On 12/8/94, he saw the ambulance come in. He
15 then saw Joe Grimes, and Joe told him that Coy was dead.
16 Jerry and Gladys said that they never saw the man who was in
17 the paper in the trailer park.

18 "Jerry knows who Kenneth Coffey is. He last saw
19 Kenneth back during the summer. Kenneth and a man were
20 walking down Winter Drive. The man with Kenneth was real
21 tall. He couldn't describe the man.

22 "Gladys said that she hadn't seen anyone that day
23 and the last time she saw Coy was a couple of days before he
24 died. Coy told Jerry one day that someone had taken his oil
25 money off him. This was last year during the winter."

1 Is that familiar to you?

2 **A Yeah. That's all right. Yeah. Yeah.**

3 **Q And is that statement accurate?**

4 **A Yeah. Yeah.**

5 **Q That's what you remember?**

6 **A That's what I remember. Yeah. I remember that**
7 **old man telling me about that, taking his oil money or**
8 **something like that.**

9 **Q Okay. Do you remember the part about getting home**
10 **around 5:10 p.m. on December 8, 1994?**

11 **A I guess so, yeah.**

12 **Q And do you remember that you didn't see anyone in**
13 **the street that day?**

14 **A If that's what this paper says, that's what --**
15 **that's what it was.**

16 **Q Okay. So your memory back then would have been**
17 **accurate?**

18 **A That's been a long time ago. I don't remember**
19 **nothing about it. I had never thought nothing about this**
20 **until I got a phone call.**

21 **Q Okay. This statement right here that I just read**
22 **to you, it says you didn't see Bragg or Coffey on the day of**
23 **the murder.**

24 **A No, I didn't do that.**

25 **Q And that you had never even seen Bragg in the**

1 trailer park.

2 A Brad?

3 Q Bragg. That would be Robert Bragg. Do you --

4 A I seen -- I don't know if that was him or not. I
5 seen them two guys walking up that street there one day, and
6 that's on up going towards old man Hartley's trailer up
7 there.

8 Q One day?

9 A One time. I don't know -- I can't tell you when
10 it was.

11 Q You don't know what day it was?

12 A No. No. No.

13 Q And so if you said that you didn't see them on the
14 day of the crime, would that be accurate?

15 A Yeah. That's accurate. I didn't see nobody that
16 day, I don't reckon.

17 Q Okay.

18 A Because I go to work at 5:00 of a morning and I
19 don't get home before 5:00 or 6:00. So I didn't see any --
20 I don't reckon I did. I didn't know this man was murdered
21 until the next day. I seen the ambulance go up in there,
22 and that was it.

23 Q Now, Mr. Shull, you told Ms. Catherine Matoian,
24 who called you from our staff -- you told her that you did
25 see Mr. Coffey and Mr. Bragg on that day, walking up the

1 street.

2 Do you remember saying that to her?

3 **A Yeah. Yeah, I guess it was. I guess so. I don't**
4 **know.**

5 **Q** But do you know whether it was the day of the
6 crime or just another day?

7 **A No, I don't know if it was the day of the crime or**
8 **not. I don't know.**

9 **Q** Okay. Thank you.

10 **MS. SMITH:** Commissioners, do you-all have any
11 questions?

12 **JUDGE WAGONER:** I don't have any questions.

13 Do y'all have any questions?

14 (No response.)

15 **JUDGE WAGONER:** Okay. Thank you, sir. You're
16 free to go.

17 (Discussion off the record.)

18 (Witness stands down.)

19 **MS. SMITH:** If you would like to take an afternoon
20 break, now would probably be a good time.

21 **JUDGE WAGONER:** Okay. We have one more witness?

22 **MS. SMITH:** We have another witness for today,
23 and, depending on time, we may have one more after.

24 **JUDGE WAGONER:** All right. Y'all want to take a
25 quick ten-minute break or something since we had a long

1 lunch break?

2 (Recess taken, 3:08 to 3:22 p.m.)

3 **JUDGE WAGONER:** Next witness.

4 **MS. SMITH:** I am going to recall Associate
5 Director Sharon Stellato.

6 (Witness recalled, Sharon Stellato.)

7 **JUDGE WAGONER:** And you're still under oath.

8 Yes, ma'am.

9 **MS. SMITH:** Commissioners, before we begin, there
10 was testimony earlier about Linda Wilcox, who was Rene
11 Nelson's mother. And Sheriff Frye had asked if she -- if --
12 was it correct to assume that she did not have a criminal
13 record if we did not pass one out.

14 She does not have a criminal record.

15 Commissioners, I am passing around Jeffrey
16 Nelson's criminal record.

17 BY MS. SMITH: (3:24 p.m.)

18 **Q** Ms. Stellato, if you could tell the Commissioners
19 who Jeffrey Nelson is.

20 **A** **Mr. Nelson lived in the trailer park. He is the**
21 **son of Rene Nelson.**

22 **Q** Was Jeffrey Nelson interviewed by law enforcement?

23 **A** **He was. He was interviewed on December 15, 1994.**
24 **He was interviewed at the Boone Police Department at the**
25 **request of law enforcement.**

1 Q What did he tell law enforcement during that
2 interview?

3 A At the beginning of the interview, he tells law
4 enforcement that, on December 8, he came home from school
5 and was outside playing. He saw an ambulance and a police
6 car go up the road to where the victim lived and he watched
7 for a while. Then he went inside, took a bath, and then
8 went outside with his grandmother, Linda Wilcox, to watch.

9 He then told law enforcement that he remembers
10 coming home from school, and that he generally got home from
11 school between 3:12 and 3:15 p.m., that he went into the
12 house to do math and reading. He stated that on that day,
13 he didn't have to change his clothes.

14 He went outside with some of his friends -- Eddie
15 Jones, Nick Gray, Steve Jones, and Thomas Pope. They were
16 all outside playing soccer in Jeffrey's yard. He saw the
17 victim walking up the road with his cane in his right hand.
18 He stated the cane looked like a wooden stick.

19 He stated two men came walking by when the victim
20 was about halfway to his trailer. He knew their names
21 because they go to the victim's trailer all the time. Their
22 names are Kenneth Coffey and Bobby Bragg. He's not sure
23 what they were wearing but Bragg had something hanging out
24 of his pants in the front that looked kind of like a stick.

25 Jeffrey stated he saw them go up Coy's steps, open

1 the screen door. And then he went back down the road.

2 Jeffrey stated he never saw them leave the victim's trailer.

3 Q Was Jeffrey interviewed by anyone else prior to
4 trial?

5 A No.

6 Q Did he testify at trial?

7 A He did. He testified at both Coffey and Bragg's
8 trial.

9 MS. SMITH: Commissioners, Jeffrey Nelson entire
10 testimony for both trials was provided in your brief.

11 For Coffey's trial, it's on pages 157 to 172. And
12 for Bragg's trial it is on pages 405 to 450.

13 Q Was Jeffrey interviewed by anyone else after the
14 trial?

15 A In 2008, the North Carolina Center on Actual
16 Innocence attempted to interview Jeffrey Nelson when he was
17 incarcerated. According to the memo, this interview was
18 very brief. Upon learning why the Center was there, Jeffrey
19 refused to speak with them.

20 As he was leaving, he stated, "I was very young."

21 Q Did the Center have any further communication with
22 Mr. Nelson?

23 A Yes. Chris Mumma, the executive director of the
24 Center, sent two follow-up letters to Mr. Nelson after that
25 interview. The letters stated that she believed that

1 **Mr. Bragg was serving a life sentence for a murder that he**
2 **did not commit and that Jeffrey Nelson had information.**

3 **MS. SMITH:** Commissioners, at this time, I am
4 passing around those two letters, and I would ask that you
5 read those.

6 **Q** Ms. Stellato, as far as you know, was Jeffrey ever
7 interviewed by the Center after these letters were sent to
8 him?

9 **A No.**

10 **Q** Did the Commission have the opportunity to
11 interview or depose Jeffrey Nelson?

12 **A Yes. We deposed Jeffrey.**

13 **Q** Please tell the Commissioners about the deposition
14 of Jeffrey.

15 **A He was deposed on July 13, 2015. Jeffrey stated**
16 **that he was a child and was always told not to talk about**
17 **it. He stated that he was told not to speak to anyone about**
18 **anything. Jeffrey stated he knew the victim but did not**
19 **know how long he had known him, that the victim lived up the**
20 **street. The victim was an old man and all of the kids used**
21 **to talk to him.**

22 **He stated the victim had one eye and the kids**
23 **would call him "One-Eyed Willy." He stated that the victim**
24 **was a nice man.**

25 **The Commission asked Jeffrey to tell us in his own**

1 words what he remembered about the day of the murder. He
2 stated, "I don't remember anything."

3 We asked him if he remembered what he testified to
4 at trial.

5 He stated, "No. That's what I'm saying. I don't
6 know, remember anything."

7 Jeffrey stated that he was told as a kid that he
8 would never have to deal with this again.

9 We provided his statement from December 15, 1994,
10 and asked him to read it. After reading it, he said he does
11 not remember any of it.

12 We asked if he knew Robert Bragg or Kenneth
13 Coffey. Jeffrey stated he didn't know, that he did not
14 remember them. He then stated that he remembered Kenneth
15 Coffey one time being in the trailer park and that Coffey
16 had a kid on his shoulders.

17 Jeffrey stated he recalled a little bit about
18 going to court.

19 After Jeffrey read his statement, he stated "Hell,
20 I never even thought I played soccer. I mean, I never liked
21 it. Why would I play soccer?"

22 When we asked whether he or his mother had
23 received anything for speaking to police for testifying,
24 Jeffrey stated, "I don't know if my mother received
25 anything. I don't know. I mean, I really don't get along

1 with my mother. I don't really know. I didn't even know
2 she came and talked to you guys until -- because she's like
3 a habitual, pathological liar and so I don't -- I don't
4 really get along with her too well."

5 Q What else did he say?

6 A We asked Jeffrey if he believed that his mother
7 would get into any trouble if he were to change his
8 testimony. He responded, "I don't know. There's nothing to
9 change. I don't know anything." He stated, "I was a child
10 and I didn't do anything wrong. I don't have nothing to
11 change."

12 Jeffrey then stated that he remembered some things
13 that happened right around or right after this. He stated
14 that he remembered that "they" took him to a professional
15 basketball game, Carowinds, and a water park thing.

16 We asked Jeffrey who "they" was, and he stated he
17 really didn't know who it was. He stated that it wasn't law
18 enforcement or a cop. He stated one time it was a younger
19 lady and two times it was a gentleman. He remembered that
20 he had front row seats and he had pictures from a basketball
21 game. He stated he had no idea why they took him, but it
22 was fun so he didn't care.

23 Q At the time that he told you about the basketball
24 game, Carowinds, and the water park, is that something that
25 you had heard from anyone before?

1 **A No.**

2 **Q**When you spoke with -- when Commission staff spoke
3 with Mr. Rusher, was that after Mr. Nelson had already told
4 you about this?

5 **A Yes.**

6 **Q**And when you spoke with Mr. Rusher, did he
7 initiate the conversation about the basketball game on his
8 own or did you prompt him about that and ask specifically
9 about that?

10 **A Mr. Rusher initiated that conversation.**

11 **Q**Did you ask Jeffrey during the deposition anything
12 else related to things he may have received?

13 **A He was asked if he recalled receiving a new bike**
14 **or a basketball hoop around this time period.**

15 **He stated, "I have no idea. Did I?"**

16 **MS. SMITH:** Commissioners, I am now going to play
17 two audio clips from the Commission's deposition of Jeffrey
18 Nelson.

19 (Audio clip of Jeffrey Nelson played.)

20 **MS. SMITH:** Commissioners, I will say I know that
21 that's a little bit difficult to hear. We do have full
22 transcriptions of the deposition of Jeffrey Nelson. If
23 you-all want those to read over the evening recess, we can
24 certainly make those available to you, and the same goes for
25 the interview and deposition of Rene Nelson as well.

1 Here is the second clip.

2 (Audio clip of Jeffrey Nelson played.)

3 **Q** Ms. Stellato, there has been mention of a trip to
4 New Jersey.

5 Can you explain why the Commission went to New
6 Jersey to interview Jeffrey Nelson.

7 **A** **Ms. Nelson told us under oath during her**
8 **deposition that Jeffrey was living in New Jersey, that she**
9 **was going there for the holidays to visit him, that he lived**
10 **there with the mother of his children.**

11 And we went to New Jersey and spoke with the
12 mother of his children. He did not live there. He's never
13 lived there. As he said in the deposition, he went there
14 for less than a week one time.

15 When the mother of his children contacted him --
16 she was very nice -- when she contacted him to let him know
17 that we had been there, both Mr. Nelson and Ms. Nelson
18 called the Commission. And in this phone call, Rene Nelson
19 said she had never provided that information to us. Jeffrey
20 was extremely angry at her for that.

21 **Q** Has Jeffrey been -- did he say anything else in
22 that phone call?

23 **A** **Just that Rene Nelson, his mother, lies all of the**
24 **time, her whole life. That -- in that phone call and in his**
25 **deposition, that she steals and lies to him.**

1 **Q** And has Jeffrey been subpoenaed to testify here
2 today?

3 **A** **He has.**

4 **Q** And is he here?

5 **A** **He is.**

6 **MS. SMITH:** Commissioners, before I call
7 Mr. Nelson, do you have any questions for Ms. Stellato
8 regarding her testimony about Jeffrey Nelson?

9 **JUDGE WAGONER:** (Moves head side to side.)

10 **MS. SMITH:** Okay. If not, step down.

11 (Witness stands down.)

12 **MS. SMITH:** The Commission calls Jeffrey Nelson.
13 Commissioners, do you know if you would like the
14 transcripts --

15 **JUDGE WAGONER:** I do.

16 **MS. SMITH:** Okay. It will go to everyone if one
17 of you wants it.

18 Do you want Jeffrey and Rene's deposition? Do you
19 want Rene's interview as well.

20 **JUDGE WAGONER:** What do y'all want?

21 I think his.

22 **MS. SMITH:** Okay.

23 Thereupon, JEFFREY NELSON, having been sworn, was examined
24 and testified as follows on EXAMINATION

25 BY MS. SMITH: (3:49 p.m.)

1 **Q** Hi, Mr. Nelson.

2 **A** Hey.

3 **Q** Can you please state your full name for the
4 Commissioners.

5 **A** **Jeffrey Everet Nelson.**

6 **Q** Can you spell Everet.

7 **A** **E-v-e-r-e-t.**

8 **Q** And what is your date of birth?

9 **A** **7/22/85.**

10 **Q** And your current address?

11 **A** **520 Winklers Creek Road. It's in Boone.**

12 **Q** Do you recall being deposed by Catherine Matoian?
13 And Mrs. Stellato was there as well?

14 **A** **Yeah.**

15 **Q** Okay. Do you recall previously giving statements
16 and testifying in the case of *State versus Robert Bragg*?

17 **A** **Yeah. It was a long time ago, though.**

18 **Q** Can you please tell us in your own words what you
19 remember from the day of December 8, 1994.

20 **A** **Like I told them, I really don't remember**
21 **anything. I mean, honestly, I -- I don't remember anything.**

22 **Q** Okay. Do you remember when police interviewed you
23 on December 15, 1994?

24 **A** **No.**

25 **Q** You don't remember them interviewing you at all?

1 **A** **I mean, yeah, vaguely. But like I said, I was**
2 **9 years old.**

3 **Q** Okay. I am going to hand you that statement and
4 ask you to read that, please.

5 **A** **Yeah.**

6 **Q** Okay. Do you recall giving that statement?

7 **A** **No.**

8 **Q** Do you recall anything in it?

9 **A** **Not really. I mean, these kids I grew up with,**
10 **but other than that, no.**

11 **Q** And who are the kids?

12 **A** **Nick Gray, Stephen Jones, Thomas Pope, and Eddie**
13 **Jones.**

14 **Q** And it says that you played with them that day.
15 Do you recall that?

16 **A** **I mean, they lived -- I guess. I don't know.**

17 **Q** Is that something you did regularly?

18 **A** **Yeah.**

19 **Q** Just something you would do?

20 **A** **Every day after school, yeah.**

21 **Q** And do you recall that you normally got home
22 between 3:12 and 3:15 p.m.?

23 **A** **Like I said, I was 9 years old. I guess. I mean,**
24 **I don't know.**

25 **Q** If you told law enforcement this at the time,

1 would that have been, your statement then, something you
2 remembered then?

3 **A** Like I said, I don't remember any of this. I told
4 them that too. I don't remember any of this.

5 **Q** So you don't remember giving this statement?

6 **A** No, ma'am.

7 **Q** Do you recall testifying?

8 **A** Vaguely.

9 **Q** Physically going there and testifying?

10 **A** Yeah.

11 **Q** Okay. But do you recall what you testified to?

12 **A** No.

13 **Q** Okay. Do you recall, during your deposition with
14 the Commission on July 13, 2015, that you told them you
15 remembered being taken to a basketball game?

16 **A** Yeah.

17 **Q** Can you tell us what you remember about that.

18 **A** I just know it was -- the person that took me was
19 from, like -- he wasn't anyone from the police department.
20 I guess it was someone that they knew. Could be. Like I
21 said, I was little. I have pictures still to this day.

22 They took me to a Charlotte Hornets game. They
23 took me to a water park in Charlotte. And they took me to
24 Carowinds. They said something about I got a new basketball
25 goal. I do remember that. And a bike. But my mother

1 would -- when she got her taxes every year, she would
2 usually buy the kids something. So I don't know if that
3 came from that too. I don't know.

4 Q Okay. When you say that you went to Carowinds and
5 a basketball game and the water park, did that all occur on
6 one trip or was that multiple trips?

7 A No. It was multiple trips.

8 Q Okay. So they would just take you to Charlotte?

9 A Yeah.

10 Q Do you know if those occurred before or after the
11 trial?

12 A It was after.

13 Q After?

14 A Uh-huh.

15 Q And when you talked to Ms. Matoian and
16 Ms. Stellato, do you remember saying anything about bribery?

17 A Yeah. I felt like it -- that's sort of what it
18 was, in a way. Yeah.

19 Q Can you explain what you mean by that.

20 A I mean, they just -- Mark Shook, you know -- I
21 knew Mark, you know. It just felt like they were trying to
22 buy me things to get me to say stuff. I mean, I don't
23 remember anything that happened. I told them that too when
24 I talked to them. I don't remember any of this. I remember
25 Coy. And I remembered Kenneth. But I don't know this man.

1 I've never seen him before. And -- I don't know.

2 Q You've never seen Robert Bragg before?

3 A No.

4 MS. SMITH: Commissioners, do you have any
5 questions for Mr. Nelson?

6 JUDGE WAGONER: Yes, sir.

7 MR. FRYE: You don't remember when you was young
8 and living there and playing with the kids somebody that you
9 called "Big Bob"?

10 THE WITNESS: No, sir. I remember Kenneth. He
11 had a -- he had a daughter that was maybe, like, 3 or 4 at
12 the time. And I was probably about 10, I guess. And she
13 used to play in the neighborhood too with my brothers and
14 sisters. They were, like, a lot younger than I was. But I
15 never seen this guy.

16 MR. FRYE: All this happened about the same time,
17 the basketball trips, water park --

18 THE WITNESS: Yes, sir.

19 MR. FRYE: -- and the trial, all this stuff.

20 THE WITNESS: Yes.

21 MR. FRYE: The trial was first, and then all this
22 other stuff?

23 THE WITNESS: I mean, I still have pictures of the
24 games.

25 MR. FRYE: You remember those things.

1 **THE WITNESS:** I mean, I have pictures of those.

2 **MR. FRYE:** Okay. I've got children. Okay? And
3 they are about grown now. But a nine-year-old -- a
4 nine-year-old young man, if you told police what is on your
5 statement there, that was -- you actually saw that; you
6 wouldn't have just made it up out of the clear blue?

7 **THE WITNESS:** I -- like I said, I never seen this
8 guy before. Never. I don't know what he looks like now. I
9 never talked to him. I don't know who he is.

10 Coy lived at the top of the road, and he was kind
11 of like a drunk. And he really didn't care for kids too
12 much. But -- I never seen, you know, like I said, I -- I've
13 seen Kenneth, but I've never seen this guy Bobby or Robert
14 or whatever his name is. I don't remember.

15 **MR. FRYE:** If you talked to the police that --
16 whatever -- week or so after this happened, and you told
17 them what is on that statement there that you give when you
18 were 9 year old, there would be no reason for -- would there
19 be any reason for you to have lied to police then and just
20 made up the story?

21 **THE WITNESS:** No, sir. What I was telling them, I
22 feel like I was being bribed, like, to say --

23 **MR. FRYE:** But they didn't give you anything
24 before then.

25 **THE WITNESS:** No. But like -- I don't know, my

1 mom and my grandmother, like I told them two, I don't know,
2 like, I felt like I was being pressured to say something
3 that I didn't want to say.

4 **MR. FRYE:** By who?

5 **THE WITNESS:** The law. I mean, I didn't know any
6 better at the time. I mean, I told them the same thing when
7 I talked to them. I -- I don't know.

8 **MR. FRYE:** But who made -- you're the one that
9 told that story; correct?

10 **THE WITNESS:** I guess. I mean, I don't know.

11 **MR. FRYE:** Did anyone tell you to tell that story?

12 **THE WITNESS:** I mean, like I said, man, I -- I
13 don't remember any of this. I mean, those are things that
14 we would do when I came home from school. You know, we'd
15 play basketball, throw the football. I did grow up with
16 these kids. I do know them by name. I still -- a couple of
17 them are still good friends of mine.

18 But other than that, I don't remember any of this,
19 no. I mean, it's -- over the years, three or four years
20 would go by and this would get brought up again, you know,
21 and it was like they told me that I would never have to
22 worry about any of this again as I got older, and it just
23 keeps coming up. And -- I don't know.

24 **JUDGE WAGONER:** I think -- did you have a
25 question?

1 **MS. SURGEON:** Yes, ma'am.

2 **JUDGE WAGONER:** Okay.

3 **MS. SURGEON:** Do you remember going to the police
4 department with your mom to talk to the officers?

5 **THE WITNESS:** I remember my mom and grandmother
6 were, like, talking to me. I don't remember what about,
7 though. Like I said, I was -- I was young.

8 I do remember going to the amusement park and
9 things like that because that's something fun that I
10 remember, you know. I'm not going to try to remember
11 something that happened that was bad in my life, like that.
12 You know?

13 But like I said, I still have the pictures. It
14 wasn't anyone from that office. I don't know if it was
15 someone that they knew. But it was, like, you know, within,
16 like, a month after this happened, I went to all of these
17 places, like, in a short period of time.

18 **MS. SURGEON:** A month after the trials?

19 **THE WITNESS:** Yeah. Couple months, something
20 like. I mean, it was pretty fast.

21 **MS. SURGEON:** And so the people that took you to
22 the amusement parks in Charlotte were not the people that
23 talked to you at the police department?

24 **THE WITNESS:** No. But they told me that, you
25 know -- I don't know how it got set up, like I said. But

1 they had something to do with it. I don't know -- I don't
2 remember the people's names. Like -- like I said, I still
3 have the pictures. They are in the pictures too.

4 **MS. SURGEON:** Why do you think they had something
5 to do with you being able to go?

6 **THE WITNESS:** I grew up in a trailer park. I was
7 poor. I mean, these random people aren't going to just come
8 up and start taking me places for no reason.

9 **MS. SURGEON:** So what do you think the reason was?

10 **THE WITNESS:** I don't know.

11 **MS. SURGEON:** Nobody ever said?

12 **THE WITNESS:** No.

13 **MS. SURGEON:** That hadn't happened to you before
14 this murder happened and you testified at the trials?

15 **THE WITNESS:** No, ma'am.

16 **MS. SURGEON:** Nobody had ever taken you anywhere
17 like that before?

18 **THE WITNESS:** I grew up really poor.

19 **MS. SURGEON:** And so you went to Charlotte about
20 three times, you said.

21 **THE WITNESS:** I went to a water park. They took
22 me to Carowinds once. And they took me to a Hornets game,
23 you know. And that was it.

24 **MS. SURGEON:** And then after those three times,
25 did you ever see or talk to the people that took you to

1 these places?

2 **THE WITNESS:** No.

3 **MS. SURGEON:** Never had any more contact with them
4 at all?

5 **THE WITNESS:** No. I mean, but I would have
6 contact with Mark. You know, he would come by. Jim
7 Harrison would come by. But I never -- I don't know who
8 these people were.

9 **MS. SURGEON:** Did your mom ever go?

10 **THE WITNESS:** No. She didn't go with me neither
11 time, no.

12 **MS. SURGEON:** All right. Thank you.

13 **THE WITNESS:** I don't think she would just let me
14 go with some random person, you know. So, I mean, she -- I
15 don't know if she knew what was going on, the whole deal,
16 but ...

17 **MS. SURGEON:** You just went.

18 **THE WITNESS:** I just went. It was something fun.

19 **MS. SURGEON:** Thank you.

20 **JUDGE WAGONER:** Yes, sir.

21 **MR. EDWARDS:** Mr. Nelson, good afternoon.

22 We all know that it's been a long time. It's been
23 almost 22 years since this crime occurred. I can remember
24 one thing from 1994, and it happened on March 23 when I had
25 a child born that day. And I don't remember anything else

1 about that year. Okay? So we're not expecting you to
2 remember every single detail.

3 I would like to ask you, though, do you remember
4 actually going to court and getting up on the witness stand
5 and testifying?

6 **THE WITNESS:** Kind of.

7 **MR. EDWARDS:** Do you remember doing it more than
8 once?

9 **THE WITNESS:** No. I do remember I cried when I
10 was -- I do remember that part. I was scared.

11 **MR. EDWARDS:** Well, you were 9 or 10 years old at
12 the time; is that right?

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

14 **MR. EDWARDS:** I guess by the time the trial came
15 around you were --

16 **THE WITNESS:** Yeah. I was 9 or 10 or something
17 like that.

18 **MR. EDWARDS:** All right. You do remember, looking
19 back, that you were scared and you cried and it was
20 traumatic.

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

22 **MR. EDWARDS:** Prior to you going to court and
23 testifying, you know, in front of a jury, do you remember
24 anybody coming to you -- whether it was your mother, your
25 grandmother, law enforcement, a neighbor -- did anybody come

1 to you and say, "Now, look, Jeff, this is what you need to
2 say and -- this is what you need to say and what happened
3 that day"?

4 **THE WITNESS:** In a way, yeah.

5 **MR. EDWARDS:** Well, did anybody come to you and
6 tell you to say something that was not the truth?

7 Do you remember anything like that?

8 **THE WITNESS:** I just felt like -- like I was
9 telling them, you know -- Mark, Mark Shook -- at the time I
10 guess he was a detective or whatever he was -- I felt like I
11 was being coached in a way, yeah.

12 **MR. EDWARDS:** How about since the trial? Since
13 you testified, in all of these many years, has your mother
14 or any one of those folks I've named, anyone, come to you
15 and say -- and encouraged you to lie, to not tell the truth
16 about this particular case?

17 **THE WITNESS:** No. No. But, like, I -- my mother
18 really doesn't talk about it.

19 No. I mean, it was something that, you know,
20 they -- when I was little, they said that I would never have
21 to -- you know, it'd never be brought up again. I would
22 never have to worry about it. Not to worry, he's gone for a
23 long time, that type deal, you know. And that was it.

24 **MR. EDWARDS:** Well, since then, since you
25 testified at the trial, and -- whoever told you that, I'm

1 not sure if it was the District Attorney or one of the
2 officers or could have been the judge, whoever -- have you
3 just tried to block that part of life out of your mind?

4 **THE WITNESS:** Yeah. Yeah, I have. I mean, I
5 really don't want to sit here and think about it all the
6 time, you know.

7 And it just pretty much left my mind for several
8 years. And then something happens where, you know, I had
9 a -- I've been to prison twice myself, you know. I was in
10 prison one time and they came and tried to talk to me about
11 it. Hell, I wanted to tell them right then what I'm telling
12 now, but I was sort of scared to, I guess.

13 **JUDGE WAGONER:** Let me -- I think you said,
14 Mr. Nelson, earlier today, that you felt pressured to say
15 something that you didn't want to say.

16 **THE WITNESS:** Yeah. I felt like they were just --

17 **JUDGE WAGONER:** Now, I'm curious, who is the
18 "they"? Is it Shook?

19 **THE WITNESS:** The two detectives that talked to
20 me. I mean, they would come by quite often. I don't
21 remember exactly when they came by or whatever --

22 **JUDGE WAGONER:** Yeah.

23 **THE WITNESS:** -- but I remember the two detectives
24 would come by. And I asked them to stop, say how to answer
25 one thing -- like, are you sure you didn't whatever, you

1 know.

2 **JUDGE WAGONER:** That's just from -- you know, like
3 you might give them an answer that they didn't really like
4 and switch it around?

5 **THE WITNESS:** Yeah. "Are you sure? Are you
6 sure?"

7 I'm like, "Yeah. Okay. Well, this is what
8 happened."

9 You know, just sitting here now with you guys,
10 starting to think a little bit about it. But, yeah.

11 **JUDGE WAGONER:** So you did feel like, at times,
12 police officers were trying to coach you to say what they
13 wanted to hear?

14 **THE WITNESS:** Exactly.

15 **JUDGE WAGONER:** Okay. We'll let Sheriff Pickens
16 go.

17 **MS. PICKENS:** Jeffrey, you said that -- you were
18 talking about the victim, Coy Hartley, that lived up the
19 street from you and that you knew when you were a little
20 boy.

21 Did you say that you knew that he drank too much?

22 **THE WITNESS:** Yeah. He was a drunk. All of us
23 kids knew. He -- he was mean sometimes. He had this gun he
24 would pull out on us. We knew it wasn't real. It had the
25 orange thing on the tip of it, you know. He'd threaten us

1 sometimes with it. But we all knew it was fake even though
2 we were little.

3 **MS. PICKENS:** Were you scared of him or --

4 **THE WITNESS:** No.

5 **MS. PICKENS:** No?

6 Did he ever give you things like baseballs or
7 basketballs and gloves to play with?

8 **THE WITNESS:** Yeah, he did, actually. Yeah.

9 **MS. PICKENS:** So he did do things like that for
10 you kids.

11 **THE WITNESS:** Yeah. For Halloween, he'd only give
12 candy out to, like, a few of us, and then he'd shut his door
13 and turn the lights off. He was mean but, I mean --

14 **MS. PICKENS:** He wasn't mean to you kids?

15 **THE WITNESS:** Yeah.

16 **MS. PICKENS:** Okay. Thank you.

17 **JUDGE WAGONER:** Yes, ma'am.

18 **MS. SURGEON:** Thank you.

19 Mr. Nelson, the day that Mr. Hartley died, did you
20 go to his trailer?

21 **THE WITNESS:** My friend Nick, one of the people
22 that's in this whatever, he lived at the very end, like,
23 pretty much right across from Coy. Actually, after he got
24 killed, I was afraid to go up that way for quite some time.
25 But -- you mean the night it happened?

1 **MS. SURGEON:** Yes.

2 **THE WITNESS:** I don't remember. I don't remember.

3 **MS. SURGEON:** Were you actually ever in the home
4 when he -- go ahead.

5 **THE WITNESS:** I've never been in his house.
6 Period. Ever.

7 **MS. SURGEON:** Ever?

8 **THE WITNESS:** No. We were always told not to go
9 inside.

10 **MS. SURGEON:** So you didn't see anything happen to
11 him that night?

12 **THE WITNESS:** No, ma'am.

13 **MS. SURGEON:** At all?

14 **THE WITNESS:** No.

15 **MS. SURGEON:** And the statements from the law
16 enforcement officers that, you know, you wouldn't have to
17 talk about this anymore, you know, you would be able to
18 forget it, wasn't that you would not have to talk about what
19 you saw because you didn't see him actually --

20 **THE WITNESS:** Exactly. So, you know, it's just
21 the whole deal, I guess, with me having to go to court and
22 all of that, like, I would never have to deal with it
23 anymore. That's what it was.

24 **MS. SURGEON:** And you were dealing with telling
25 them what happened.

1 **THE WITNESS:** Telling them -- I don't know -- I
2 didn't see anything then.

3 **MS. SURGEON:** Right.

4 **THE WITNESS:** So I was telling them what they
5 wanted to hear, I guess. I don't know.

6 **MS. SURGEON:** How did you know what they wanted to
7 hear?

8 **THE WITNESS:** Like I said, they would ask me
9 something and I would give them an answer and then they
10 would sort of coach me to say what, I guess, they wanted me
11 to say. I don't know, you know. I was a child.

12 **MS. SURGEON:** Okay.

13 **JUDGE WAGONER:** Do you remember when you were in
14 court, which I'm sure was scary -- it's scary whether you're
15 9 years old or a grownup.

16 But do you remember when you were in court and
17 sitting on that witness stand, probably, and do you remember
18 looking at that Mr. Bragg person and thinking, "I don't know
19 who this man is"?

20 Didn't -- didn't one of the lawyers say, "Can you
21 show us what man you saw walking down the drive -- or that
22 street that day?"

23 **THE WITNESS:** Yeah. Mark had a picture that he
24 showed me of a man --

25 **JUDGE WAGONER:** Mark had a picture?

1 **THE WITNESS:** Yes, ma'am. Before that, I had
2 never -- I would see Kenneth, you know. I would see him at
3 Coy's place and them walking together, but I'd never even
4 seen that guy even walking in the neighborhood before.
5 So -- but I knew what he looked like before I went in there
6 because I saw a picture of the guy.

7 **JUDGE WAGONER:** And do you remember what Mark told
8 you about that -- the picture where he showed you the
9 picture?

10 **THE WITNESS:** Not really.

11 **JUDGE WAGONER:** Did he say, like, "This is the
12 guy -- isn't this the guy you saw walking down the road?"

13 **THE WITNESS:** Yeah, pretty much like coaching me
14 to say things.

15 **JUDGE WAGONER:** So when you identified the man in
16 court -- Mr. Bragg in court, you were identifying him really
17 from the picture, not from your memory.

18 Is that what you're saying?

19 **THE WITNESS:** Yeah.

20 **JUDGE WAGONER:** You were identifying him from the
21 picture that Mark had shown you?

22 **THE WITNESS:** Yeah.

23 **JUDGE WAGONER:** Not from the memory of seeing him,
24 walking down --

25 **THE WITNESS:** Well, like I said, I'd never

1 really -- like, I couldn't tell you what Kenneth looked like
2 back then. I couldn't tell you what this man -- I mean, it
3 was a long time ago. I couldn't tell you what some of my
4 friends looked like back then, but yeah.

5 **JUDGE WAGONER:** You're saying you never knew what
6 Bragg looked like because you had never seen him?

7 **THE WITNESS:** I never seen him, no.

8 **JUDGE WAGONER:** Ever?

9 **THE WITNESS:** Never.

10 **JUDGE WAGONER:** Okay.

11 **MR. EDWARDS:** Mr. Nelson, again, this was December
12 15, 1994. I don't really expect you to remember this. But
13 the officer took down a statement from you. "Jeffrey said
14 that he saw two men coming -- come walking by when Coy was
15 about halfway to his trailer. Jeffrey said that he knows
16 their names because they go up to Coy's trailer all the time
17 and their names are Kenneth Coffey and Bobby Bragg, and
18 everyone calls Bobby 'Big Bob'."

19 Do you have any memory of that?

20 **THE WITNESS:** No. These ladies -- I don't know if
21 it was you that I talked to last year -- she had asked the
22 same thing. I told her no.

23 **MR. EDWARDS:** But as you sit here today --

24 **THE WITNESS:** No.

25 **MR. EDWARDS:** -- you don't remember that.

1 **THE WITNESS:** No.

2 **MR. EDWARDS:** Okay.

3 **JUDGE WAGONER:** I'm just curious today, did they
4 give you this to read, your statement, after the police
5 wrote it down? Or did they read it to you? Since you were
6 9, you probably couldn't read that well.

7 **THE WITNESS:** I don't remember.

8 **JUDGE WAGONER:** Okay.

9 **MR. FRYE:** Excuse me.

10 **JUDGE WAGONER:** Sure.

11 **MR. FRYE:** So when the police -- when -- you said
12 they would come by and they would talk to you often; is that
13 correct?

14 **THE WITNESS:** I don't mean, like, all the time,
15 maybe not; they would come by quite a bit, yeah.

16 **MR. FRYE:** Before the trial?

17 **THE WITNESS:** Yes.

18 **MR. FRYE:** Okay.

19 **THE WITNESS:** After was when, well, the whole
20 event started happening, you know, going to Carowinds, this,
21 that, the other.

22 **MR. FRYE:** After the second trial?

23 **THE WITNESS:** I don't know which trial. I didn't
24 know there were two trials.

25 **MR. FRYE:** Okay. So it's not unusual for district

1 attorneys and law enforcement, if we've got a young child,
2 to tell them what it's going to be like to testify, but the
3 words that you use should be your own words.

4 Are you saying now that you believe that they told
5 you pretty much what to say?

6 **THE WITNESS:** Yeah. I mean, some things that day
7 happened. You know, I would go to school, get off the bus,
8 me and my friends would play. I mean, that's -- and she
9 gave me this (indicating). You know, that's usually things
10 that would happen. I don't remember the times we would get
11 home.

12 But all the other things, I -- I mean, I don't
13 recall any of it. I don't recall really giving a statement
14 or whatever. I mean, like I said, I would talk to them and
15 they would ask me things. I would give them answers. I
16 would give them the same answer, like, ten times. Finally,
17 one time, they would ask me, "Are you sure?" And I would
18 just, I guess, change what I said to make them happy. I
19 don't know.

20 **MR. FRYE:** So -- but your mom testified that you
21 had talked to her or you were upset and she went out. So --

22 **THE WITNESS:** My mother is a pathological liar.
23 So -- grandmother too. She's passed away but ...

24 Yeah.

25 **MR. FRYE:** But it was basically the same story

1 that you said; so --

2 **THE WITNESS:** I don't know if she's been reading
3 this or whatever. But like I said, man, I'm telling you the
4 truth. I was a child. I don't remember anything that
5 happened. Things -- reading this you would think would jog
6 my memory a little bit. But so many things that you read in
7 this are true because it was something I would do every day,
8 you know. But I don't recall seeing Bobby or whatever his
9 name is. I don't know.

10 **JUDGE WAGONER:** Is that it?

11 **MS. SURGEON:** One more question.

12 **JUDGE WAGONER:** Yes, ma'am.

13 **MS. SURGEON:** So after the trials, you had this
14 opportunity to go to Charlotte three times with some fun
15 things.

16 **THE WITNESS:** Yes.

17 **MS. SURGEON:** Do you know if your mom had an
18 opportunity to do something new and different after the
19 trial?

20 **THE WITNESS:** I don't know.

21 **MS. SURGEON:** Not sure?

22 **THE WITNESS:** Not sure. They asked me, you know,
23 did I get a new basketball goal and a bike. And I did, but,
24 you know, my mother would try to buy us kids things when she
25 got her taxes back. This was around tax time; so I don't

1 know if that came from that or not, you know. Yeah.

2 **JUDGE WAGONER:** Yes, ma'am.

3 **MS. BELLE:** Based on your knowledge of Mr. Hartley
4 in the community, would you have been inclined to tell your
5 mom that two guys were walking behind him, fussing and
6 cussing and "Let's go up and see what's up"? Would that be
7 something you would do?

8 **THE WITNESS:** If I was outside with my friends
9 like that, I mean, I might just kind of take off by myself.
10 We'd usually stick together. So I'm sure if I saw
11 something, they would've saw it too, you know.

12 So ...

13 **MS. SMITH:** That's all.

14 **JUDGE WAGONER:** That's it. Okay. Thank you.
15 You're free to go, sir. You have a good day.

16 (Witness stands down.)

17 **MS. SMITH:** The Commission will call Staff
18 Attorney Catherine Matoian.

19 (Witness recalled, Catherine Matoian.)

20 **JUDGE WAGONER:** You are still under oath as well.

21 BY MS. SMITH: (4:20 p.m.)

22 **Q** Ms. Matoian, did you do any investigation related
23 to Jeffrey's original statement to law enforcement?

24 **A** Yes. Jeffrey Nelson indicated in his original
25 statement to law enforcement that he was playing soccer on

1 **December 8, 1994, with Nick Gray, Thomas Pope, Eddie Jones,**
2 **and Steve Jones. The Commission attempted to locate and**
3 **interview these boys regarding the case.**

4 **Q** And who is Nick Gray?

5 **A** Nick Gray lived in the trailer park where the
6 **victim lived. According to -- again, according to Jeffrey**
7 **Nelson's original law enforcement statement, he was playing**
8 **soccer with Jeffrey Nelson on the day of the murder.**

9 **Q** And was Mr. Gray actually interviewed by law
10 enforcement?

11 **A** Not that I'm aware of.

12 **Q** Was he interviewed by anyone else prior to trial?

13 **A** Not that I'm aware of.

14 **Q** Did he testify at trial?

15 **A** No.

16 **Q** Was he interviewed after the trial but prior to
17 the Commission's involvement in the case by anyone?

18 **A** Not that I am aware of.

19 **Q** And when you say "not that I'm aware of," is that
20 because we have no record of that in the files that we have
21 reviewed?

22 **A** That's correct.

23 **Q** Did the Commission locate and interview Nick Gray?

24 **A** Yes.

25 **Mr. Gray recalled the murder, but he did not**

1 remember seeing any men following the victim. He stated
2 that they used to call the victim One-Eyed Willy and stated
3 that he had never had any problems with the victim.

4 He did not remember Jeffrey getting on his bike
5 and following the victim or two men. He stated that he did
6 not know Robert Bragg or Kenneth Coffey.

7 Q And, Ms. Matoian, who is Eddie Jones?

8 A Eddie Jones also lived in the trailer park where
9 the victim lived. And according to Jeffrey Nelson's law
10 enforcement statement -- original law enforcement statement,
11 was also playing soccer on the day of the murder.

12 Q And was Mr. Jones interviewed by law enforcement?

13 A We have no record of Mr. Jones being interviewed
14 by law enforcement.

15 Q Was he interviewed by anyone else prior to trial?

16 A We have no record of him being interviewed by
17 anybody prior to the trial.

18 Q Did he testify at trial?

19 A No.

20 Q Was Mr. Jones interviewed by anyone else after the
21 trial but prior to the Commission's involvement in the case?

22 A We don't have any record of Mr. Jones being
23 interviewed after the trial or prior to the Commission's
24 involvement.

25 Q And was the Commission able to locate and

1 interview Eddie Jones?

2 A Yes.

3 Mr. Jones -- we asked if he remembered the victim,
4 and Mr. Jones stated, "Yes. He got beat with a hammer or
5 something."

6 He stated that he remembered Jeffrey. When told
7 about Jeffrey's statement to law enforcement, Jones stated
8 that Jeffrey had a better memory than him and that he didn't
9 remember.

10 He also stated that he thinks Jeffrey is lying.
11 He stated that they used to play basketball but that he
12 doesn't think that they were playing basketball that day.
13 He then stated that he didn't remember it.

14 He also stated that his brother, Stephen Jones,
15 was only about 5 or 6 at the time and wouldn't remember.

16 Q And was Stephen another individual who was listed
17 in the law enforcement report of Mr. Nelson's statement as
18 playing with him that day?

19 A Yes, he was.

20 Q Based on his age at the time of the crime, did the
21 Commission attempt to locate or interview Steve Jones?

22 A No, we did not.

23 Q And who is Thomas Pope?

24 A Thomas Pope also lived in the trailer park where
25 the victim lived. According to Jeffrey Nelson's law

1 enforcement statement, he was also playing soccer with them
2 that day.

3 Q Was he interviewed by law enforcement?

4 A We do not have any record of Mr. Pope being
5 interviewed by law enforcement.

6 Q Was he interviewed by anyone else prior to trial?

7 A Not that we have a record of.

8 Q Did he testify at trial?

9 A No.

10 Q Was Mr. Pope interviewed by anyone else after the
11 trial but prior to the Commission's involvement in the case?

12 A We have no record of Mr. Pope being interviewed
13 after the trial or prior to the Commission's involvement.

14 Q Did the Commission locate and interview Mr. Pope?

15 A Yes.

16 Q And what did he say?

17 A Mr. Pope stated that he had had a traumatic brain
18 injury in 2010. He does recall playing with Jeffrey Nelson
19 and the other boys in general. He did not specifically
20 recall the victim.

21 MS. SMITH: Commissioners, the four individuals
22 that we just testified -- that Ms. Matoian just testified
23 about -- sorry, three -- Nick Gray, Eddie Jones, and Thomas
24 Pope, of those, only Nick Gray has a criminal record. I'm
25 going to go ahead and pass that around.

Commissioners, right behind that, I'm also going to go ahead and pass around the criminal record of Shawn Delp.

Q Ms. Matoian, can you tell us who Shawn Delp is?

A **Shawn Delp was a friend of Jeffrey Nelson.**

MS. SMITH: I'm going to let that go around and then we can continue.

Q Okay. Ms. Matoian, was Mr. Delp interviewed by law enforcement?

A **We have no record of Mr. Delp being interviewed by law enforcement.**

Q And was he interviewed by anyone else prior to the trial?

A **There are handwritten notes in private investigator Vaughn's file that indicate that Vaughn and Vince Gable met with Mr. Delp in jail on February 1, 1996.**

The notes state "\$1000 to Nelson, Crimestoppers. Jeff's mom lies. Jeff lies. Jeff and Shawn played ball at Greenway. Jeff and Linda lied on Shawn reference bus to Hardin Park school."

Q And did Mr. Delp testify at trial?

A **Yes, he did. He was called by the defense and testified about conversations that he had with Jeffrey Nelson related to receiving Crimestoppers money.**

MS. SMITH: Commissioners, a summary of that

1 testimony is located on pages 465 to 466 of your brief, and
2 I would ask that you turn to that and review that now.

3 **Q** Ms. Matoian, was Mr. Delp interviewed by anyone
4 else after the trial but prior to the Commission's
5 involvement in the case?

6 **A** **Not that the Commission has a record of.**

7 **Q** Was the Commission able to locate and interview
8 Shawn Delp?

9 **A** **Yes.**

10 **Q** Can you tell us what he said?

11 **A** **Mr. Delp stated that he knew the victim in his --**
12 **meaning Mr. Delp's -- teenage years. The victim lived in**
13 **the trailer park that Delp grew up around. He stated that**
14 **he also knew Jeffrey Nelson. Nelson was a little bit --**
15 **Jeffrey Nelson was a little bit younger than him and was a**
16 **friend in the neighborhood.**

17 **He also recalled that Jeffrey testified at trial**
18 **about seeing Robert Bragg and Kenneth Coffey. He stated,**
19 **"Me knowing Jeffrey and his upbringing and parental**
20 **background, I just don't see him as a solid witness even at**
21 **the age that he was."**

22 **He recalled that Jeffrey and his mom were getting**
23 **Crimestoppers money. He recalled something about a bike and**
24 **a basketball goal.**

25 **He stated that he couldn't remember it being his**

1 testimony, but -- being for his testimony, but recalled
2 Jeffrey getting things like that as part of the
3 Crimestoppers money. He stated that he saw the bike and the
4 basketball goal. He stated that he knew they were getting
5 money but did not know how much.

6 He also stated that he knew Rene Nelson very well.

7 Q Ms. Matoian, can you tell the Commission who Tom
8 Peluso is.

9 A Tom Peluso dated Rene Nelson around the time of
10 the crime.

11 Q And was Mr. Peluso interviewed by law enforcement?

12 A Not that we have a record of.

13 Q Was he interviewed by anyone else prior to trial?

14 A Not that we have a record of.

15 Q Did he testify at trial?

16 A No.

17 Q Was Mr. Peluso interviewed by anyone else after
18 the trial but prior to the Commission's involvement in the
19 case?

20 A Not that we have a record of.

21 Q Did the Commission locate and interview Tom
22 Peluso?

23 A Yes, we did.

24 Q And what did he say?

25 A Mr. Peluso stated that he recalled the detectives

1 talking to Jeffrey Nelson a lot. He stated that Rene Nelson
2 was a crazy woman. He stated --

3 JUDGE WAGONER: I'm sorry. Stated Rene Nelson was
4 what?

5 THE WITNESS: A crazy woman.

6 JUDGE WAGONER: Okay. Thank you.

7 A He also stated that Rene Nelson said she saw
8 Kenneth Coffey or that Kenneth Coffey came by and threatened
9 her once.

10 Mr. Peluso also remembered them taking Jeffrey to
11 a basketball game in Charlotte and them taking him out to
12 eat. He stated that he thought that Jeffrey got to be
13 friends with one of the detectives' sons.

14 Mr. Peluso also stated that Rene Nelson was scared
15 of Kenneth Coffey and that he, Mr. Peluso, told Rene after
16 Coffey went to jail that if she knows something, to help.

17 MS. SMITH: Commissioners, do you have any
18 questions for Ms. Matoian about these interviews she has
19 just testified about?

20 MR. BARROW: I'm sorry. Could you repeat what you
21 just said?

22 THE WITNESS: The last part? Sure.

23 Mr. Peluso stated that Rene Nelson was scared of
24 Kenneth Coffey and that Mr. Peluso had told Rene Nelson
25 after Kenneth Coffey went to jail that, if she knows

1 something, to help.

2 **JUDGE WAGONER:** Do you have any idea what that
3 means?

4 **THE WITNESS:** I do not.

5 **MR. FRYE:** How old is Peluso?

6 **THE WITNESS:** He was 17 at the time of the crime.

7 **MR. FRYE:** And he was friends with a nine-year-old
8 boy?

9 **THE WITNESS:** Mr. Peluso dated Rene Nelson around
10 the time of the crime.

11 **MR. FRYE:** Oh, okay.

12 **JUDGE WAGONER:** He was 17 years old and dating the
13 mother?

14 **THE WITNESS:** Yes.

15 **JUDGE WAGONER:** Okay.

16 **MR. FRYE:** I was confused.

17 **JUDGE WAGONER:** Yes.

18 **MS. SURGEON:** When you spoke with the witnesses
19 that were playing, did anybody ever say they played soccer?

20 **THE WITNESS:** None of the witnesses I spoke to
21 mentioned soccer.

22 **MS. SURGEON:** And Jeffrey said specifically on the
23 audio that he didn't play soccer; is that right?

24 **THE WITNESS:** Are you speaking about his
25 deposition with the Commission?

1 **MS. SURGEON:** Yeah.

2 **THE WITNESS:** Yes, ma'am.

3 **MS. SURGEON:** Thank you.

4 **MR. FRYE:** Okay. So how old was Shawn Delp then?

5 **THE WITNESS:** I cannot -- one second while we
6 check.

7 **MS. SMITH:** Sheriff Frye, that is back in our
8 office, and I will be happy to get you an answer to that,
9 but I don't have it right now.

10 **MR. FRYE:** Okay. The reason I was asking is
11 because Delp apparently, by his statement, was in jail with
12 Coffey at one point in time, yet he is the one that said he
13 was friends with the young boy; correct? With Jeffrey?

14 **THE WITNESS:** He did say that Jeffrey was a
15 younger boy in the neighborhood but that they were friends.

16 **MR. FRYE:** He had to be quite a bit older to be in
17 jail with Coffey at the --

18 **THE WITNESS:** We will get that answer to you in
19 just a second.

20 **MR. FRYE:** Okay.

21 One other question. Nick Gray's testimony, at one
22 point he says, if I heard you correctly -- he said something
23 to the fact of -- that Mr. Nelson's memory must be better
24 than his. And then later on he says that he thinks he's
25 lying.

1 Why? Why the inconsistency there?

2 **THE WITNESS:** Nick Gray stated that he did not
3 remember seeing any men following the victim.

4 Are you speaking about Eddie Jones? Eddie Jones
5 stated that -- is he the one you meant?

6 **MR. FRYE:** Yes. Excuse me. I got my notes mixed
7 up.

8 **THE WITNESS:** I cannot answer to that
9 inconsistency.

10 **JUDGE WAGONER:** Other questions of this witness?

11 **MS. SMITH:** If I may have just a moment.

12 (At ease, 4:37 to 4:41 p.m.)

13 **JUDGE WAGONER:** Are we ready to resume?

14 **MS. SMITH:** We are. May I continue?

15 **JUDGE WAGONER:** Uh-huh.

16 BY MS. SMITH: (4:42 p.m.)

17 **Q** Ms. Matoian, turning your attention back to
18 Sheriff Frye's question about how old Shawn Delp was in
19 1994.

20 Can you tell us how old Shawn Delp was then.

21 **A** **Mr. Delp was 15 years old.**

22 **Q** An earlier a question was asked about the age of
23 Tom Peluso. And you responded that he was 17 at the time
24 and that he was dating Rene Nelson at that time.

25 How old was Rene Nelson in 1994 at the time of the

1 crime?

2 **A** **Rene Nelson was 24 years old.**

3 **JUDGE LOCK:** 24?

4 **MS. SMITH:** Yes.

5 **JUDGE WAGONER:** 24.

6 **Q** Also, Sheriff Frye had just asked you a question
7 about Eddie Jones' interview that you did with him.

8 Was that interview recorded and transcribed?

9 **A** **It was.**

10 **Q** And do you have that transcript in front of you?

11 **A** **I do.**

12 **Q** And can you just go ahead and read in that
13 transcript page 3, line 23, through page 4, line 12.

14 **A** **Sure. The Commission said "Jeffrey had testified**
15 **that you-all were playing that day and he saw two men**
16 **taunting and following Mr. Hartley up towards his trailer."**

17 **Mr. Jones said "He's got better memory than I do."**

18 **The Commission said "Okay."**

19 **Mr. Jones said "I don't remember."**

20 **The Commission said "You would remember if you had**
21 **seen something like that?"**

22 **And Mr. Jones responded "I don't remember**
23 **anything, no."**

24 **Q** Please continue through line 12.

25 **A** **Mr. Jones said "To tell you the truth, I**

1 wouldn't."

2 The Commission said "Sure."

3 Mr. Jones said "Yeah."

4 The Commission said "I understand."

5 Mr. Jones said "I don't even remember -- I don't
6 even think -- I think Jeffrey is lying. I don't even
7 think -- we used to play basketball up there but I don't
8 think we were playing basketball that day."

9 MR. FRYE: (Moves head up and down.)

10 MS. SMITH: Thank you.

11 Does anyone have any further questions for
12 Ms. Matoian?

13 JUDGE WAGONER: We do have one.

14 MR. BARROW: Did you ever confirm any friendship
15 between Jeffrey and one of the officers' sons?

16 THE WITNESS: Other than what Mr. Peluso said in
17 his statement, no.

18 JUDGE WAGONER: All right.

19 You may step down. Thank you.

20 (Witness stands down.)

21 MS. SMITH: Commissioners, Tom Peluso does not
22 have a criminal record.

23 During the investigation, the Commission conducted
24 numerous witness interviews and extensive field
25 investigation.

1 The Commission staff has testified about many of
2 these interviews which have elicited new information or
3 relevant -- or are relevant to this hearing, and we will
4 continue to testify about more of those interviews tomorrow.

5 However, many of the witnesses in this case were
6 deceased, some could not be located, and other witnesses did
7 not elicit new or additional information.

8 And in the interest of time, we will not go
9 through listing out every single one of those witnesses that
10 we tried to make contact with and couldn't or who could not
11 provide any additional information. Where appropriate, we
12 will summarize those into a group much like we did with the
13 13 neighbors.

14 It's about quarter til 5:00, but I do have our DNA
15 expert here. I do not anticipate that her testimony will
16 take long. We just have a little bit of Ms. Stellato before
17 and then her as well.

18 Could we go ahead and do that today?

19 **JUDGE WAGONER:** How long do you think it's going
20 to take?

21 **MS. SMITH:** 30 minutes.

22 **JUDGE WAGONER:** I've got to meet with Judge Warren
23 at 5:00. Who is it to testify?

24 **MS. SMITH:** It's Meghan Clement from Bode Cellmark
25 in Lorton, Virginia.

1 **JUDGE LOCK:** Is she spending the night anyway?

2 **JUDGE WAGONER:** She lives here, doesn't she? In
3 Raleigh?

4 **THE WITNESS:** She lives -- I do not know when she
5 plans to go back. She lives in Virginia. She does have a
6 home in Raleigh, but I do not know when she plans to go
7 back.

8 (Logistical discussion off the record.)

9 **JUDGE WAGONER:** Everybody be ready to go, in your
10 seats, at 9:00 a.m. tomorrow morning.

11 **MS. SMITH:** Before you leave, I do want to pass
12 around the transcript of Jeffrey Nelson. You-all have a
13 little bit of homework this evening.

14 (Discussion off the record.)

15 **JUDGE WAGONER:** So we'll adjourn for the day, I
16 guess. 9:00.

17 (Overnight recess taken, 4:49 p.m.)

18 (Volume II begins on page 221.)

19 (REMAINDER OF PAGE INTENTIONALLY BLANK.)

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1 STATE OF NORTH CAROLINA IN THE GENERAL COURT OF JUSTICE
2 COUNTY OF WATAUGA SUPERIOR COURT DIVISION 94 CRS 4929

3
4 STATE OF NORTH CAROLINA,)
Plaintiff,)
5 v)
ROBERT CHARLES BRAGG,)
6 Defendant.)

7
8
9 HEARING BEFORE THE
10 NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

11 VOLUME II

12 Judge Anna Mills Wagoner, Chair
13 Judge Thomas H. Lock (alternate)
14 Mr. Seth Edwards
15 Mr. David Long
16 Ms. Barbara Pickens
17 Mr. Kevin Frye
18 Ms. T. Diane Surgeon
19 Ms. Aurelia Sands Belle
20 Mr. Nigle "Tex" Barrow (alternate)
21 Ms. Camilla Cover

22 September 1-2, 2016

23 Reported by: Victoria L. Pittman, CVR-CM-M
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LINDSEY GUICE SMITH

NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

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PRESENTATION BY THE COMMISSION

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1 THURSDAY, SEPTEMBER 1, 2016 (9:05 a.m.)

2 MS. SMITH: Good morning. I will recall staff
3 attorney Catherine Matoian.

4 JUDGE WAGONER: Yes, ma'am.

5 (Witness recalled, Catherine Matoian.)
6 Thereupon, CATHERINE MATOIAN, having been sworn, was
7 examined and testified EXAMINATION BY MS. SMITH:

8 MS. SMITH: Commissioners, we had a couple of
9 follow-up things from yesterday that I am going to ask
10 Ms. Matoian to testify about now.

11 BY MS. SMITH: (9:06 a.m.)

12 Q Ms. Matoian, yesterday there was testimony that
13 Linda Wilcox, the mother of Rene Nelson, lived in a trailer
14 across from Rene Nelson that was labeled on the
15 Commissioner's map as that of D. Jones.

16 Are you aware that Ms. Wilcox lived in multiple
17 trailers while she lived in that trailer park?

18 A Yes.

19 Q And can you tell us which trailer she actually
20 lived in at the time of the crime?

21 A Ms. Wilcox actually lived in trailer 134. That is
22 the trailer marked Kim Wilson on the map.

23 MS. SMITH: Commissioners, the map that we are
24 referring to is the one we handed out after lunch yesterday,
25 if you would like to take a look at that.

1 **Q** Ms. Matoian, were you present yesterday afternoon
2 for Rene Nelson's testimony?

3 **A** **Yes.**

4 **Q** And did you hear her give the names of a few
5 neighbors who she said saw the same things that she saw on
6 the day of the crime?

7 **A** **Yes.**

8 **Q** And can you tell us what the Commission has done
9 with respect to Rene Nelson's mother?

10 **A** **Rene Nelson's mother, Linda Wilcox, is deceased.**

11 **Q** So we were unable to speak with her?

12 **A** **Yes.**

13 **Q** And what about her sister?

14 **A** **Her sister is also deceased.**

15 **Q** And we were unable to speak with her?

16 **A** **Yes.**

17 **Q** And what has the Commission done with respect to
18 Cherie Gray?

19 **A** **Cherie Gray was testified about yesterday. Cherie**
20 **Gray did not see Robert Bragg or Kenneth Coffey following**
21 **and taunting the victim.**

22 **Q** And what did the Commission do with respect to
23 Nick Gray?

24 **A** **Nick Gray was also testified about yesterday. He**
25 **does not remember seeing Kenneth Coffey or Robert Bragg**

1 following and taunting the victim.

2 Q Did the Commission do anything with respect to
3 Harold Jones?

4 A Harold Jones is deceased.

5 Q So we were unable to interview him?

6 A No.

7 Q Can you tell the Commission -- Commissioners what
8 the Commission did with respect to David Doss?

9 A The Commission spoke to David Doss this morning.
10 David Doss, in his original statement to police, he was
11 Cherie Gray's boyfriend, and lived in a trailer on the same
12 side as the victim's. It is also marked on your map.

13 In his original statement to police, Mr. Doss
14 mentioned that when he had come home, he saw a tall man
15 walking up towards the end of the street towards Cherie's
16 car, and he walked to the left towards Coy's trailer, and he
17 had a dark colored coat and blue jeans on.

18 Mr. Doss did not know what trailer this person
19 went into.

20 Q What did he tell you when you spoke with him this
21 morning?

22 A Mr. Doss remembered coming home at around dusk on
23 the day of the murder from cutting wood all day. He saw a
24 man wearing Army khaki walking on the side of the road. He
25 did not see the man's face.

1 He was asked if he knew Robert Bragg or Kenneth
2 Coffey. He said he did not know Bragg, but he did know
3 Kenneth Coffey.

4 He was asked if the man in the Army khaki was
5 Kenneth Coffey and he said again that he couldn't put a face
6 to the man because his head was tilted down.

7 Mr. Doss again said he was out cutting wood all
8 day and wasn't in until dusk. He was asked specifically if
9 he had -- that -- excuse me. He was told that neighbors had
10 testified to seeing Robert Bragg and Kenneth Coffey
11 following and taunting the victim. He said he did not see
12 that and again said he did not come home until dusk that
13 day.

14 Mr. Doss was then told that Ms. Nelson had named
15 him as someone who saw the same thing she saw and did not
16 come forward about it. And he again said that was untrue.

17 He was not in the trailer park until dusk that
18 day.

19 Q Thank you, Ms. Matoian.

20 MS. SMITH: Commissioners, do you have any other
21 questions about this follow-up information?

22 MR. FRYE: One question. Nick Gray's interview,
23 and I'm trying to recollect. I was trying to go through my
24 notes last night -- did he say he knew Robert Bragg at all?

25 THE WITNESS: May I grab my binder?

1 **JUDGE WAGONER:** Yes, ma'am.

2 **THE WITNESS:** Mr. Gray was asked if he knew who
3 Robert Bragg was and he said he did not.

4 **MR. FRYE:** I couldn't remember when I took my
5 notes.

6 **JUDGE WAGONER:** I have a question based on some
7 stuff I read last night with the transcript of Jeffrey
8 Nelson. And you might not know the answer to this.

9 Did Shook get fired or let go from -- it was
10 referred to -- sexual harassment from Boone PD? Do you
11 know?

12 **THE WITNESS:** The Commission did not follow up on
13 that information.

14 **JUDGE WAGONER:** And Mr. Long doesn't know either?
15 Or does he know if he is still with the department?

16 **THE WITNESS:** Mr. Shook is currently with the
17 Caldwell County Sheriff's Office -- or Captain Shook, I
18 guess.

19 **MR. FRYE:** I can tell you.

20 **JUDGE WAGONER:** You can't testify. Okay. Thank
21 you.

22 **MS. SMITH:** All right. You may step down.

23 (Witness stands down.)

24 **MS. SMITH:** Recall Sharon Stellato.

25 (Witness recalled, Sharon Stellato.)

1 Thereupon, SHARON STELLATO, having been sworn, was examined
2 and testified as follows on EXAMINATION

3 BY MS. SMITH: (9:12 a.m.)

4 **Q** Ms. Stellato, do you have an answer to Judge
5 Wagoner's question about Detective Shook's employment?

6 **A** Detective Shook stated that he started at the
7 Boone Police Department. He had been there for many years.
8 And then he left to go to the Sheriff's office from there.

9 He does not indicate whether he was fired, but he
10 was with the Watauga County Sheriff's office up until 2006
11 when he ran for sheriff and lost by a very few votes and
12 went to Catawba County.

13 **Q** You mean Caldwell County?

14 **A** Catawba. Catawba and then Caldwell. But in law
15 enforcement first.

16 **JUDGE WAGONER:** First he went -- left Watauga for
17 some reason or another, and then went to Caldwell County?

18 **THE WITNESS:** Then he went to Watauga County
19 Sheriff's Office. He has been in quite a few places in law
20 enforcement.

21 **JUDGE WAGONER:** Okay.

22 **MS. SMITH:** Commissioners, we are going to turn
23 our attention now to the physical evidence in this case.

24 BY MS. SMITH: (9:14 a.m.)

25 **Q** Ms. Stellato, can you tell the Commissioners,

1 where law enforcement collected evidence in this case?

2 **A** **Evidence was collected from the crime scene, which**
3 **is the victim's home. It was collected from the victim**
4 **himself during the autopsy; from the home of Shirley**
5 **Faircloth, which is where Kenneth Coffey was interviewed by**
6 **police, and where he had left some clothing; from the home**
7 **of Judy Thomas, which is in Mountain City, that was where**
8 **Bragg was; and also items that were located inside of**
9 **Mr. Bragg's clothing.**

10 **Q** **Were there any items that were collected after the**
11 **crime -- the initial crime scene search?**

12 **A** **Yes. Other items were collected after the crime**
13 **including a sock from a field next to the A&P store and a**
14 **knife from another witness.**

15 **An entire inventory of the items that were**
16 **collected is on page 123 and 124 in your brief.**

17 **Q** **Are you aware of any documents in this case that**
18 **required agencies to maintain the evidence for this case?**

19 **A** **Yes. There was a court order dated June 8, 1995,**
20 **that required the agencies to preserve all evidence related**
21 **to both the Bragg and the Coffey cases.**

22 **The DA then sent out a memo that was dated June 9,**
23 **1995. It was sent to all investigators and the defense**
24 **attorneys in the case.**

25 **This stated that they were required to maintain**

1 all physical evidence, notes, diagrams, and documents in the
2 case and that nothing in the case should be destroyed or
3 disposed of without consulting the DA's office.

4 MS. SMITH: Commissioners, I am going to pass
5 around now that June 8, 1995 order, and the June 9, 1995,
6 memo. If you all will take some time to review those.

7 Q Ms. Stellato, can you tell the Commissioners what
8 efforts the Commission undertook to locate evidence in this
9 case.

10 A The Boone Police Department is one of the first
11 places that we looked. We've also looked at the Watauga
12 County Clerk's office, the Watauga County Sheriff's
13 Department, in attempts to locate evidence at all of those
14 locations.

15 Q Can you describe the efforts the Commission took
16 with respect to the Boone Police Department.

17 A The Boone Police Department was responsible for
18 retaining all evidence that was not entered at trial. Much
19 of that evidence could not be located, and the Boone Police
20 Department was unable to produce destruction records.

21 The Commission obtained an affidavit from the
22 Boone Police Department stating that no additional evidence
23 or documentation of destruction could be located at their
24 department.

25 MS. SMITH: Commissioners, I am passing around the

1 affidavit from the Boone Police Department. If you would
2 please take a few minutes to review that.

3 **Q** Ms. Stellato, can you tell the Commissioners what
4 items the Commission was able to collect from the Boone
5 Police Department?

6 **A** The victim's clothing, Kenneth Coffey's clothing,
7 the knife that was provided to law enforcement by Cora
8 Teague, hair and fingernail samples from the victim,
9 cigarette butts from the victim's home, a sock from the
10 field by the A&P, letters written to Bragg and letters from
11 Bragg, a bloodstain standards from the victim, also from
12 Bragg and Coffey, latent lifts from the vodka bottle at the
13 home, and latent print standards from Barry Horton and Steve
14 Combs -- they were employees of the ABC liquor store.

15 **Q** And has that evidence been evaluated and DNA
16 testing been conducted on some items?

17 **A** Yes, by the Commission.

18 **Q** Will there be an expert here to testify about that
19 later?

20 **A** There will be.

21 **Q** Can you please describe the efforts the Commission
22 made it to locate evidence at the Watauga County Clerk's
23 Office.

24 **A** The Clerk's Office was responsible for maintaining
25 all of the physical evidence that was entered at the trials

1 of both Coffey and Bragg.

2 There was a destruction order dated March 2, 2005.
3 It was signed by Judge Guice.

4 On it, the order notes destruction of photos,
5 papers, police reports, a knife, matchbooks, and a trailer
6 hitch ball. It notes that the paper items were shredded by
7 the Clerk.

8 The order indicates that the other items were
9 delivered to the Sheriff to be disposed of. However, the
10 order is not signed by the Clerk to indicate that the items
11 were actually shredded or that the other items were
12 transferred to the Sheriff's office.

13 Q And was this court order issued subsequent to the
14 court order you just testified about that required all items
15 to be preserved?

16 A It was.

17 Q And does the destruction order cover all of the
18 items of physical evidence that were -- that were introduced
19 at trial?

20 A No.

21 Q Or collected in the case?

22 A No. It only covers the items listed on it -- the
23 photos, papers, police reports, knife, matchbooks, and
24 trailer ball hitch. These items were entered at trial.

25 It does not list Bragg's clothing, which was also

1 entered at trial, and it does not include the other items of
2 evidence that were not entered at the trial.

3 Q Thank you.

4 MS. SMITH: Commissioners, I'm now passing around
5 the order for destruction from the -- for March 2, 2005. If
6 you will please take a few moments to look at that.

7 Q Ms. Stellato, did the Commission do anything else
8 with respect to searching for evidence at the Clerk's
9 office?

10 A Based on the fact that the court order was not
11 signed indicating a transfer of the items or that the items
12 were actually signed by the Clerk, on May 2, 2014, the
13 Commission requested and conducted a search of the Watauga
14 County Clerk's Office.

15 The Commission staff located evidence for a total
16 of only eight criminal cases at the Clerk's office. All of
17 the evidence in the Clerk's office was labeled and there was
18 no evidence related to the Bragg or Coffey cases.

19 Q Did the Commission make any efforts to locate
20 evidence at the Watauga County Sheriff's Office?

21 A We did. Based on the fact that the order stated
22 the other remaining items would have gone to the Watauga
23 County Sheriff's office for destruction, and based on the
24 fact that the Boone Police Department could not locate the
25 items that would have been returned from court, we contacted

1 the Sheriff's office in an effort to make sure that nothing
2 had been sent there.

3 We requested that they search for any records and
4 evidence. They indicated that they had received no evidence
5 in the case and they had no records of ever being involved
6 or receiving any evidence, and they provided an affidavit to
7 that effect.

8 MS. SMITH: Commissioners, I am passing around a
9 affidavit from the Watauga County Sheriff's office. If you
10 will take a few moments to review that.

11 Q Ms. Stellato, or any other efforts made to locate
12 evidence related to this case?

13 A The Commission contacted the North Carolina State
14 Crime Lab. We were aware that they had done testing in the
15 case and wanted to determine if they had retained any
16 evidence.

17 They had retained bloodstains in the case, but
18 they had returned them to the submitting agency in 2010.

19 Q So to summarize, the Commission staff has been
20 unable to locate all of the physical evidence in this case;
21 is that correct?

22 A That's correct.

23 Q With respect to the physical evidence that the
24 Commission was able to locate, was that evidence -- some of
25 that evidence evaluated by a latent print examiner and

1 submitted for DNA testing?

2 **A It was.**

3 **Q** Can you please summarize the findings of the
4 latent print examiner.

5 **JUDGE WAGONER:** Before she does that, could she
6 say exactly what it was that this person examined? What
7 items?

8 **MS. SMITH:** She's going to do that. Yes, ma'am.

9 **JUDGE WAGONER:** All right.

10 **A** Originally there were nine latent lifts from the
11 vodka bottle at the victim's home. Of those nine prints, we
12 asked the latent print examiner to look at the eight lifts
13 that were previously determined to be unidentifiable. He
14 did so.

15 He determined that none of those lifts were
16 suitable for comparison to the known ink standards. He
17 could not use them for inclusion or exclusion purposes.

18 If you will remember, of those nine, only one of
19 those latent lifts was determined to be identifiable.

20 It was compared to the two employees from the ABC
21 store who had touched the vodka bottle that day as well as
22 Coffey, Bragg, and the victim. And it did not match any of
23 them.

24 **Q** Did the Commission follow up with the latent print
25 examiner?

1 **A** We did. We followed up with him on the eight
2 lifts. We wanted to determine more information. He
3 explained that he was seeing first joints on all eight
4 lifts.

5 He described this as a portion of the fingertip
6 directly opposite of the fingernail.

7 He stated he could tell he was looking at the very
8 tip of the fingers and that it was a small portion of the
9 fingertip that would normally not be captured on a standard
10 print card.

11 He stated that if it was -- it was as if the
12 prints would have been made by a person who was just
13 slightly touching the bottle.

14 Given the limited nature of the print, he could
15 not determine if they were made by fingers on the right or
16 left hand and he could not tell from the information he had
17 whether the prints were made by a single hand.

18 **Q** And do you know whether the bottle was handled by
19 anyone else after or while it was collected?

20 **A** We do not.

21 **MS. SMITH:** Commissioners, do you have any
22 questions for Ms. Stellato?

23 **MR. EDWARDS:** I have a couple related to the
24 evidence, not to the fingerprints that you were talking
25 about.

1 **THE WITNESS:** Okay.

2 **MR. EDWARDS:** So if I understand exactly -- as I
3 understand it correctly, in 1995, Gerald Wilson, who was the
4 assistant district attorney, sent a memo to his
5 investigators instructing them not to destroy anything;
6 right?

7 **THE WITNESS:** Correct.

8 **MR. EDWARDS:** It looks like it was served and
9 accepted by several members of the Boone Police Department,
10 SBI, as well as, it looks like some of the attorneys for the
11 defendant.

12 Does that sound about right?

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

14 **MR. EDWARDS:** So that's in 1995.

15 Then in 2005, ten years later, a different judge
16 signs an order of destruction of certain items of physical
17 evidence including the trailer hitch ball; is that right?

18 **THE WITNESS:** Related to the Clerk's office?

19 **MR. EDWARDS:** Relating to the Clerk's office.

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

21 **MR. EDWARDS:** And the order says it's to be
22 delivered to the Sheriff to be destroyed; is that right?

23 **THE WITNESS:** The order is saying that the Clerk
24 will shred the paper documents; essentially, all of the
25 paper items.

1 If you look at Number 5, the paper items will be
2 shredded by the Clerk and all other items will be destroyed
3 by the Sheriff.

4 **MR. EDWARDS:** Okay. So that would be the knife,
5 matchbook, and trailer hitch ball; is that right?

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

7 **MR. EDWARDS:** So that was in 2005. And then
8 there's an affidavit from the Sheriff's office saying that
9 "We never received anything from the Clerk's Office to
10 destroy"?

11 **THE WITNESS:** Yes, sir. And just to -- although
12 the order is signed by the judge, underneath it says to be
13 completed when evidence is turned over to someone else.
14 That portion of the order is not completed.

15 So it was not completed to be turned over and it
16 was not completed underneath that if the Clerk disposes of
17 the evidence. So both of those boxes were not completed
18 when the documents were shredded, if they were, and were not
19 completed when they were turned over to the Sheriff, if they
20 were.

21 **MR. EDWARDS:** So the Commission was not able to
22 determine really what happened to the matchbook or
23 specifically the trailer hitch ball?

24 **THE WITNESS:** Correct. According to the Clerk's
25 office, they were turned over to the Sheriff's Department.

1 According to the Sheriff's Department, they were not turned
2 over to the Sheriff's Department.

3 **MR. EDWARDS:** And the trailer hitch ball has never
4 been located as of today?

5 **THE WITNESS:** No, sir.

6 **MR. EDWARDS:** Thank you.

7 **JUDGE WAGONER:** Yes, sir.

8 **MR. FRYE:** Going back to something that you
9 testified to at the very beginning when I started taking
10 notes, Jeff Hedrick -- who was the attorney for Bragg;
11 correct? -- and Vince Gable, Jeff Hedrick made notes about
12 the phone records for Bragg? Are they in evidence anywhere?

13 **THE WITNESS:** They are. And we will be discussing
14 them and showing them to you.

15 **MR. FRYE:** Okay. And Vince Gable made a note
16 about a hammer that was there, but I do not see it ever
17 being labeled as evidence or picked up or anything.

18 **THE WITNESS:** It was not collected. The physical
19 items that were collected from the victim's home are on the
20 list that I referred the Commissioners to on page 123 and
21 124. Those are the only items of evidence that were
22 collected from the home -- that were collected from the
23 entire case.

24 **MR. FRYE:** Did the Commission ever find that there
25 was such a hammer?

1 **THE WITNESS:** The testimony in court from the
2 detective states that they did see a hammer on the counter
3 of the victim's home, but it was not collected and that
4 there -- they did not see blood on the hammer.

5 **MR. FRYE:** Okay.

6 **MS. SURGEON:** So, the Clerk -- you said according
7 to the Clerk, the items were -- paper items were destroyed
8 and items were -- other items submitted to the Sheriff.

9 Is that written somewhere?

10 **THE WITNESS:** Well, on the actual order that you
11 are reading, ma'am, it says -- number 5 it says "shredded by
12 the Clerk (paper items)," that checkbox.

13 **MS. SURGEON:** Does that indicate that that
14 happened? I thought that it indicated that it was to
15 happen.

16 **THE WITNESS:** That indicates that it was to
17 happen. That's correct. But the judge signs that order and
18 that's to happen. And then in the boxes below it are
19 supposed to be signed when it does happen. That's accurate.

20 But when we spoke to the Clerk's office, they
21 indicate that they are aware that it was not signed.
22 However, that was an error, and they believe that it
23 happened because -- and the reason that they are saying that
24 that happened is because they don't have the evidence in
25 their office.

1 **JUDGE WAGONER:** Yes, sir?

2 **JUDGE LOCK:** Am I correct in concluding, based
3 upon my review of the file, that the trailer hitch ball was
4 never subjected to any sort of forensic testing? Even
5 something as elementary as phenolphthalein testing prior to
6 trial?

7 **THE WITNESS:** That's correct. Detective Harrison,
8 when he obtains the trailer hitch ball from Mr. Bragg's
9 jacket, views the trailer hitch ball and states that there
10 was no blood -- that he saw no blood on it, and -- as well
11 as Mr. Bragg's jacket -- and that he viewed the inside of
12 the pocket of Mr. Bragg's jacket where he located the
13 trailer hitch ball and did not view blood.

14 **JUDGE LOCK:** That was it? A visual examination
15 was all that was ever conducted on the trailer hitch ball?

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

17 **JUDGE WAGONER:** So, therefore, he deemed it not
18 important enough to be tested? Well, it's a conclusion.
19 Never mind. Strike that.

20 Other questions?

21 **MR. LONG:** Madam, your request is granted. Strike
22 it.

23 **JUDGE WAGONER:** Okay.

24 **MS. SMITH:** Okay. If there are no other
25 questions, you can step down.

1 **THE WITNESS:** Ms. Surgeon, did I answer your
2 question?

3 **MS. SURGEON:** Yes, you did.

4 (Witness stands down.)

5 **MS. SMITH:** Commissioners, we are now going to
6 move on to the DNA testing that the Commission has conducted
7 in this case.

8 The Commission had testing conducted at Cellmark
9 Forensics which is located in Dallas, Texas. And we're
10 going to have an expert testify about it in just a moment.

11 As Ms. Stellato described during her testimony
12 about the Commission's efforts to locate evidence in this
13 case, much of the evidence collected, including Mr. Bragg's
14 clothing, was subject to a 2005 -- sorry, his clothing was
15 not subject to the 2005 court order for destruction but
16 other items were. And all of those items have not been
17 located.

18 As you recall from page 106 of your brief, the
19 North Carolina State Crime Laboratory conducted testing on
20 both Mr. Coffey and Mr. Bragg's clothing.

21 They first conducted serology on both Mr. Coffey
22 and Mr. Bragg's clothing. Mr. Bragg's clothing failed to
23 reveal indications for the presence of blood and no further
24 testing was conducted.

25 These items cannot be located by the Commission,

1 and therefore DNA testing has not been conducted on them.

2 Two items belonging to Mr. Coffey, his jacket and
3 his jeans, revealed human blood and were sent for DNA
4 testing.

5 The results of that testing revealed that no DNA
6 banding pattern other than that of Mr. Coffey was obtained
7 from the cutting from his jacket and from his jeans. Our
8 DNA expert will describe to you and explain to you what that
9 means.

10 The Commission was able to have testing on some --
11 conducted on some items. This includes additional testing
12 of Mr. Coffey's jacket and Mr. Coffey's jeans, the victim's
13 pants pockets, the victim's fingernail scrapings, and the
14 sock located in the field by the A&P, which was near the
15 victim's trailer.

16 I am now going to call Meghan Clement to testify
17 about the DNA testing that was conducted at Cellmark
18 Forensics as well as the other testing conducted by the
19 crime lab.

20 The Commission calls Meghan Clement.
21 Thereupon, MEGHAN CLEMENT, having been sworn, was examined
22 and testified as follows on EXAMINATION

23 BY MS. SMITH: (9:47 a.m.)

24 Q Good morning.

25 A Good morning.

1 **Q** Can you please state your full name for the
2 record.

3 **A** My name is Meghan Clement.

4 **Q** And where are you employed?

5 **A** I am employed at Bode Cellmark Forensics in
6 Lorton, Virginia.

7 **Q** And what is your title?

8 **A** I am the director of operations and acting
9 laboratory director.

10 **Q** And did you recently provide the Commission with
11 your CV.

12 **A** I did, yes.

13 **Q** I am going to hand you this and just ask if you'll
14 look at it and tell if it is the most recent version of your
15 CV?

16 **A** Yes, it is.

17 **MS. SMITH:** Commissioners, I'm going to pass
18 around the CV of Meghan Clement.

19 **Q** Ms. Clement, how many times have you testified,
20 approximately, as an expert.

21 **A** Approximately 363 times, I believe.

22 **Q** Have you testified for both the prosecution and
23 for the defense?

24 **A** Yes, I have.

25 **Q** And have you previously testified before the

1 Commission?

2 **A I have, yes.**

3 **Q Will you tell us about your educational**
4 **background.**

5 **A Yes. I have a bachelor of science in biology from**
6 **Westfield State College in Massachusetts and a master of**
7 **science in forensic sciences from the University of New**
8 **Haven in Connecticut.**

9 **I've also obtained graduate-level credits from the**
10 **University of Virginia through courses that I took at the**
11 **FBI Academy in Quantico and also obtained graduate-level**
12 **credits from the University of New Mexico, which is located**
13 **in Albuquerque, New Mexico.**

14 **Q And how long have you been working in the fields**
15 **of serology and DNA testing?**

16 **A Since March of 1985; so over 30 years.**

17 **Q And your CV indicates that you have worked at**
18 **LabCorp, Cellmark, and Bode Cellmark. Can you briefly**
19 **explain how those labs are connected.**

20 **A Yes. I worked at LabCorp in Research Triangle**
21 **Park for just -- almost 18 years, slightly less than 18**
22 **years.**

23 **LabCorp purchased a company in Texas called Orchid**
24 **Cellmark and they decided to shut down the laboratory in**
25 **Research Triangle Park.**

1 **They rebranded Orchid Cellmark to be Cellmark**
2 **Forensics. I was employed there until LabCorp purchased**
3 **another laboratory in Lorton, Virginia. It was originally**
4 **called The Bode Technology Group.**

5 **LabCorp rebranded that as Bode Cellmark Forensics**
6 **and then they shut down the Dallas lab at the end of last**
7 **year, in 2015. So they have all been owned by LabCorp; they**
8 **have all been subsidiary of LabCorp and they have always**
9 **been the parent company.**

10 **Q** And, Ms. Clement, do you have any board
11 certifications?

12 **A** I do. I am board certified by the American Board
13 of Criminalistics in molecular biology.

14 **MS. SMITH:** Judge Wagoner, at this time, I would
15 ask to qualify Ms. Clement as an expert in serology, DNA
16 testing and technology.

17 **JUDGE WAGONER:** Allowed.

18 **MS. SMITH:** Thank you.

19 **Q** Has Cellmark Forensics conducted DNA testing in
20 the case of *State versus Robert Bragg*?

21 **A** **Yes.**

22 **Q** And have you had an opportunity to review all of
23 the testing conducted by Cellmark?

24 **A** **I have, yes.**

25 **Q** Are you comfortable testifying about that testing?

1 **A Yes. Absolutely.**

2 **Q**Has the North Carolina Crime Laboratory also
3 conducted serology and DNA testing in the case of *State*
4 *versus Robert Bragg*?

5 **A They have.**

6 **Q**And have you reviewed the relevant reports and
7 bench notes for that testing?

8 **A I have. Yes.**

9 **Q**And are you comfortable testifying about that?

10 **A I am.**

11 **Q**I am handing you several reports. I am going to
12 ask if you recognize these as the reports of the testing
13 conducted by the crime laboratory in -- the North Carolina
14 State Crime Laboratory and Cellmark Forensics.

15 **A Yes.**

16 **Q**And have you seen all of those reports before?

17 **A I have. Yes.**

18 **Q**And you have reviewed them prior to today?

19 **A I have.**

20 **Q**Will you briefly describe for the Commissioners
21 what STR DNA testing is.

22 **A Yes.**

23 **STR DNA testing is the common type of DNA analysis**
24 **which is performed in most crime laboratories today. It is**
25 **a methodology that can obtain DNA profiles in very small**

1 **amounts of DNA and also degraded DNA.**

2 **Q** And is that the type of testing that the
3 Commission had conducted in this case?

4 **A** **Yes. That's correct; at Cellmark Forensics.**

5 **Q** If you can go through the testing item by item and
6 briefly explain what the results are and what they mean --
7 and this includes testing from the crime lab if they did any
8 and then testing from Cellmark. I just ask you start with
9 Mr. Coffey's jacket.

10 **A** **Okay. Mr. Coffey's jacket was tested at the State**
11 **Bureau of Investigation State Crime Lab, originally.**

12 It was -- there was staining on the arm and they
13 performed what was called an RFLP test. That stands for
14 restriction fragment length polymorphism. It is the
15 original type of DNA analysis that was performed in forensic
16 casework.

17 With RFLP, you had to have a large quantity of DNA
18 and it had to be of high quality; it could not be degraded
19 or you would not get a result.

20 So using the old type of RFLP testing, the State
21 Laboratory obtained results on the jacket that were
22 consistent with Mr. Coffey, and that was the only result of
23 that they had obtained on that.

24 In the testing that Cellmark Forensics did, we
25 employed the PCR technology or the STR technology, the more

1 common, where you can get results with smaller quantities
2 and more degraded samples.

3 And when we tested a separate stain -- because
4 once the State Lab took the sample and processed it, that
5 was basically consumed. So we took a separate stain but
6 also from the sleeve area. And we obtained a mixture of DNA
7 which was consistent with both Mr. Coffey, but also from
8 Mr. Hartley.

9 Q And Ms. Clement, was that still the same -- from
10 the same area of the jacket that the crime lab and tested?

11 A Yes. They had actually cut a portion of the
12 sleeve, and so we did take a sample from that sleeve
13 portion.

14 Q Okay. And can you explain for the Commissioners
15 why the crime lab might have gotten a single-source profile
16 back in 1994 using the RFLP method, and when Cellmark is
17 testing in 2014, that you saw a mixture.

18 A There are a couple of different possible reasons
19 for why that could be.

20 One is that, as I stated, we actually tested two
21 different stains. So it very well could be that the stain
22 the crime lab took was a single source of blood from Coffey
23 and that what we tested was simply a mixture of blood and/or
24 blood and skin cells.

25 As I stated, the STR testing is essentially a more

1 sensitive testing so we can pick up a pair of minor mixtures
2 more easily using STR than you could have using the RFLP
3 method.

4 So the RFLP method may have just picked up the
5 major source and you may not see any mixture because you had
6 to have so much of the DNA to visualize it.

7 But with the PCR, you definitely do see the
8 mixture in the testing that we performed.

9 Q And when you say it was a "mixture," can you tell
10 us who that mixture included.

11 A Yes. That mixture included Marvin "Coy" Hartley
12 and Kenneth Eugene Coffey.

13 Q Okay. So are you saying that the victim, Marvin
14 "Coy" Hartley's, DNA was located on Kenneth Coffey's jacket?

15 A Based on the -- we could not exclude him as being
16 a source on the jacket, yes.

17 We followed the characteristics that were found in
18 his reference profile were also found on the jacket.

19 Q Okay. Turn your attention now to Mr. Coffey's
20 jeans. And if you could tell us what the crime lab did with
21 respect to testing on Mr. Coffey's jeans.

22 A Yes. The State Crime Lab performed RFLP testing
23 on the jeans. And the profile that they obtained was a
24 single source which was consistent with Kenneth Eugene
25 Coffey. So, again, they only found Mr. Coffey's DNA on his

1 jeans.

2 Q Could you tell where they took that cutting from?

3 A Yes. They took the cutting -- well, actually,
4 they took more than one cutting. On the back of the jeans
5 left pocket, there were two spots of blood that they had cut
6 and combined and tested. And so they had combined a couple
7 of stains in order to obtain a result.

8 Q And at the request of the Commission, did Cellmark
9 Forensic also conduct testing on Mr. Coffey's jeans?

10 A Yes. We did. We took a separate stain. There
11 was a small stain at the bottom of the back left pocket.
12 And we tested that stain and we obtained again a mixture of
13 DNA. However, it was -- the profile was -- clearly had a
14 major component and a minor component.

15 The major component was consistent with Marvin
16 "Coy" Hartley and we could not exclude Coffey as being a
17 minor component.

18 Q Can you tell us what you mean by a "major
19 component" versus a "minor component."

20 A Yes. Whenever you have a mixture of DNA, you can
21 have different concentrations of the two contributors. And
22 in this case, what we found was the most DNA came from
23 Marvin "Coy" Hartley and there was a smaller quantity of DNA
24 that came from Eugene Coffey -- Kenneth Eugene Coffey -- I'm
25 sorry.

1 **Q** And can you, again, explain why the crime lab
2 would have gotten a profile that was consistent just with
3 Mr. Coffey, but Cellmark Forensics, in 2014, got a profile
4 where the major contributor was the victim, Marvin "Coy"
5 Hartley, and the minor contributor was Mr. Coffey.

6 **A** Certainly. Again, it could be that there were
7 just multiple bloodstains from different individuals on the
8 stain and because the state lab tested two different stains
9 than Cellmark Forensics; that could be one explanation.

10 Another explanation is when somebody wears items
11 of clothing, we are shedding our skin cells on our clothing
12 constantly. And so it could be that what the State Crime
13 Lab was picking up was more of the fact that there were
14 cells from the person who was wearing them.

15 What we found was the bloodstain that we took had
16 a major component consistent with Mr. Hartley.

17 **Q** And that was on Mr. Coffey's jeans?

18 **A** Yes. That was on Mr. Coffey's jeans. So it's not
19 unusual to find the wearer's own DNA on their own clothing.

20 **Q** I want to turn your attention now to the victim's,
21 Marvin "Coy" Hartley's, jeans.

22 Did the Commission also request testing on his
23 jeans?

24 **A** They did. Yes.

25 **Q** Can you tell us what was tested.

1 **A** On Mr. Hartley's jeans, we tested the pockets of
2 the jeans, both the -- the inner left back pocket, the inner
3 right back pocket, the inner right front pocket, and the
4 inner left front pocket.

5 **Q** Okay. Can you tell us what the results on those
6 four pockets were?

7 **A** All of those revealed profiles that were
8 consistent with Mr. Hartley; so his own DNA on his jeans.

9 **Q** And was that a single-source profile?

10 **A** Yes, it was.

11 **Q** Turn your attention now to the victim,
12 Mr. Hartley's, fingernail clippings.

13 **A** Yes.

14 **Q** Did the Commission request testing on those?

15 **A** They did, yes.

16 **Q** And can you describe the testing conducted,
17 please, and the results.

18 **A** Yes. We tested the left-hand fingernail clippings
19 and the right-hand fingernail clippings as two separate
20 samples, and in both of those we obtained partial profiles
21 that were consistent with Mr. Hartley, and they were single
22 source.

23 **Q** Did Cellmark Forensics also test a sock?

24 **A** Yes, we did.

25 **Q** And can you tell us what testing was conducted on

1 that sock.

2 **A Yes. We tested the sock to determine whether**
3 **there was any bloodstain on it, and we obtained negative**
4 **results so we stopped testing at that point.**

5 **Q** Ms. Clement, do you have anything else to add that
6 I didn't ask, anything that you would like to add to help
7 the Commissioners understand the testing that Cellmark
8 Forensics conducted?

9 **A No, other than we had also tested the stains on**
10 **the jacket and the jeans to verify that it was blood that we**
11 **were testing.**

12 **Q** And were those positive results?

13 **A They were.**

14 **MS. SMITH:** Commissioners, do you-all have
15 questions for Ms. Clement?

16 (No response.)

17 **MS. SMITH:** Okay. You may step down.

18 (Witness stands down.)

19 **MS. SMITH:** The Commission recalls Associate
20 Director Sharon Stellato.

21 (Witness recalled, Sharon Stellato.)

22 **MS. SMITH:** While Ms. Stellato is making her way,
23 I am going to pass out the criminal record of Kenneth
24 Coffey, the codefendant in this case.

25 **BY MS. SMITH:** (10:04 a.m.)

1 **Q** Ms. Stellato, can you please tell the
2 Commissioners how law enforcement came to Bragg and Coffey
3 as suspects in this case.

4 **A** When Detective Shook and Detective Harrison
5 arrived on the scene, they began their investigation on
6 12/8/94. They process the crime scene. They take
7 photographs, prepare measurements. At 9:14 p.m., they
8 interviewed Nancy Horton, which we discussed yesterday, and
9 she provides the description of seeing one white male at
10 4:45 p.m.

11 They also interview one other neighbor named Judy
12 Wobler. She had just arrived home from work. She had not
13 seen anything on that day.

14 The detectives continue to process the scene.
15 They then attend the autopsy of the victim. They arrive
16 back at the Boone Police Department, and, at 4:35 a.m., they
17 note the description given by the interview of Nancy Horton
18 matched the description of Bobby Bragg.

19 At 5:11 a.m., Detective Shook called the Watauga
20 County Jail looking for a photograph of Robert Bragg.
21 Between 5:11 a.m. and 5:55 a.m., they look for photographs
22 of Bobby Bragg and Kenneth Coffey at the jail. They get
23 those photographs.

24 At 7:30 a.m., they begin searching the hotels in
25 the area for Kenneth Coffey and Bobby Bragg. At 7:40 a.m.,

1 they go to the Longvue Motel to see if Coffey and Bragg are
2 staying there. They go door-to-door and they do not find
3 them there.

4 At 11:24 a.m., they enlist a detective from the
5 Watauga County Sheriff's Office to go out in the county to
6 Kenneth Coffey's home to see if he is there.

7 They go out there. He is not home. But on the
8 way back, they stop by a location that his father, Jack
9 Coffey, works at to ask if he knows where Kenneth Coffey is
10 at.

11 Jack Coffey states that he is at Shirley
12 Faircloth's home. So the detectives then go to Shirley
13 Faircloth's home. They find Kenneth Coffey there. They ask
14 him to come to the police department, and they begin their
15 interview of Kenneth Coffey at 1:48 p.m. on 12/9/1994.

16 It was at that time that Kenneth Coffey provides
17 his first interview implicating himself and others in the
18 murder.

19 Q Okay. Can you tell us about that first interview
20 by law enforcement.

21 A It was the day after the crime, and it is written
22 by the law enforcement agents.

23 He stated that he could not read and write. In
24 that statement, he implicates Robert Bragg. He states that
25 he was there when Robert Bragg beat the victim.

1 He also implicates Joe Cothren in that statement,
2 although he originally calls him "Joe Cochran" and "Joe last
3 name unknown." He ultimately calls him Joe Cothren. He
4 details his activities before and after the crime.

5 After the interview, he leaves the police station
6 and he's picked up by his father. And then, shortly after
7 that interview, an arrest warrant is issued for Robert
8 Bragg.

9 Q Is an arrest warrant issued for Kenneth Coffey
10 that day?

11 A No, not until January 6th.

12 MS. SMITH: Commissioners, I am passing around the
13 criminal record of Joe Cothren.

14 Q Ms. Stellato, was Mr. Cothren interviewed by law
15 enforcement?

16 A He was. He was interviewed by law enforcement on
17 December 29, 1994.

18 Q What did he say?

19 A He stated that he knew the victim. That on the
20 night of the murder, he was in Ashe County at his sister's
21 house.

22 He stated that when he had come to Boone -- in to
23 Boone to get his food stamps, someone had told him that
24 police were looking for him and that they wanted to
25 interview him. So at that time, he contacted the Boone

1 Police Department and set up a meeting with the detectives.

2 Cothren knew Robert Bragg from the Hospitality
3 House -- the Hospitality House is a shelter of sorts -- but
4 he stated that he had not seen Robert Bragg since it had
5 been warm outside.

6 Cothren stated that he had been introduced to
7 Kenneth Coffey only one time and he would not know Kenneth
8 Coffey if he walked into the room.

9 Q And was Mr. Cothren interviewed by anyone else
10 prior to the trial?

11 A No.

12 Q Did he testify at trial?

13 A No.

14 Q Was he interviewed by anyone else after the trial
15 but prior to the Commission's involvement in the case?

16 A No.

17 Q Did the Commission locate and interview
18 Mr. Cothren?

19 A We did.

20 Q Can you tell us about that interview.

21 A He again stated that he knew the victim and Robert
22 Bragg and he remembered them. He stated that he did not
23 know Kenneth Coffey. He recalled his interview with law
24 enforcement and telling them that he was somewhere else.

25 He recalled that that was in Ashe County at the

1 time, with his sister. He stated that he believed police
2 had checked that out, that he believed that his sister had
3 been contacted by the police and that they had talked to
4 her.

5 He also stated that he never knew Bragg to be
6 violent.

7 Q Is there anything in the police file that
8 indicates his sister was contacted?

9 A No.

10 Q Turning your attention now back to Kenneth Coffey.
11 When was Mr. Coffey next interviewed?

12 A January 6, 1995.

13 Q Can you tell us about that interview.

14 A In this interview, he implicated a Joe Cocker and
15 Robert Bragg as committing the murder.

16 Coffey stated that, at the time, he was in the
17 house and he became scared and left, that Mr. Bragg followed
18 him out of the house and down to the A&P store, and that
19 Mr. Bragg gave him money that had been taken from the
20 victim. Coffey details the activities for the remainder of
21 the night.

22 Q Does anything else happen on that day?

23 A Mr. Coffey was arrested on this date and charged
24 with the murder.

25 Q Was he interviewed again?

1 **A He was interviewed on March 21, 1995.**

2 **Q What happened on that day?**

3 **A On this date, he was taken to Hickory and was**
4 **there for a polygraph examination.**

5 **Q And was he given a polygraph that day?**

6 **A He was. He was given a polygraph with negative**
7 **results. He was interviewed both prior to the polygraph**
8 **examination and after.**

9 **Q And what did he say?**

10 **A His version of the murder and events surrounding**
11 **it changes, but he provides law enforcement with a statement**
12 **indicating that he and Robert Bragg went into the victim's**
13 **trailer and that Mr. Bragg killed the victim. And Coffey**
14 **stated he received some of the money.**

15 **Q Now, during his interviews, who did Mr. Coffey**
16 **tell investigators he was with on the night of December 8,**
17 **1994?**

18 **A He stated that, after the murders, he was with**
19 **Shirley Faircloth.**

20 **Q And was Shirley Faircloth interviewed by law**
21 **enforcement?**

22 **A She was. She was interviewed by law enforcement**
23 **three times.**

24 **Q Can you tell us about the first interview.**

25 **A She was interviewed on 12/9/1994. She stated that**

1 she had received a call from Mr. Coffey on the day of the
2 murder, 12/8, between 3:00 and 4:00 p.m., that he had asked
3 her to pick him up. He was at the Pantry convenience store.
4 And that he stated he was on his way to the victim's house,
5 that he had picked up some liquor for the victim.

6 Coffey told Ms. Shirley Faircloth not to pick him
7 up right then as he had to take some liquor to the victim.
8 Ms. Faircloth told him to call her back in 20 minutes. He
9 did not call her back then, but he called back around 4:30,
10 5:00 p.m., or later. She said it was dark outside when she
11 picked him up from the A&P and that he was alone.

12 When he got into her car, he stated he wanted to
13 take her out and have a Merry Christmas and that he wanted
14 to get his daughter, Crystal, a baby doll. She asked
15 Mr. Coffey if he had money and he stated that he did.

16 They sat in the A&P parking lot for about 20
17 minutes and then they went to Woodlands, which is an upscale
18 restaurant in Boone. He gave a guitar player \$7 to play a
19 song and they had dinner there.

20 She stated the last time she had seen Robert Bragg
21 was a week prior.

22 Q And was she interviewed again by law enforcement?

23 A She was. She was interviewed on December 10,
24 1994.

25 Q Will you tell us what she said during that

1 interview.

2 A She stated that on the morning of that Friday,
3 12/9, that her friend, Hazel Byers, had called to tell her
4 that the victim was dead. She stated when that phone call
5 happened, Coffey said, "They found him already."

6 She asked Mr. Coffey if he had killed the victim
7 and Coffey said something like, "Why would I kill him?"

8 She stated that when police arrived at her home on
9 12/9, Coffey told her to give him his other pants, and he
10 changed his pants, putting the original pants in a clothes
11 hamper that was in her bathroom.

12 He told her not to go to the door and asked her to
13 go to Charlotte.

14 Q Did she say anything else?

15 A She talked about her phone call with Coffey that
16 happened on the day of the murder, 12/8. This time she
17 stated it was 5:30 when she woke up and she went to pick up
18 Coffey at the A&P.

19 She does not recall what time they went to eat at
20 Woodlands. She does remember that Coffey bought beer for
21 people who were sitting at the bar. She saw four \$100 bills
22 in his sock and he gave her a \$20 bill.

23 After they left Woodlands, they went to Ichabod's
24 to play pool. And on the way home, they stopped at the
25 Pantry convenience store. At this time, she only saw two

1 \$100 bills in his sock.

2 When they got home, she heard Coffey place a phone
3 call to his father, and she overheard him on the phone
4 telling his father, "I'll pay you that \$126 I owe you. Me
5 and Bobby Bragg did something to get money."

6 Q Was she interviewed a third time?

7 A She was. She was interviewed on February 13,
8 1995.

9 Q And can you tell us about that interview?

10 A It was generally consistent with her prior
11 interview on December 10. However, she added several things
12 to the statement.

13 She stated that when they had stopped at the
14 Pantry on the way home to get beer, Coffey returned to the
15 car and asked her for the \$20 bill that he gave her back
16 because they weren't able to give him change inside of the
17 store for the bill that he had.

18 She also stated that, when Coffey was on the phone
19 speaking to his father at her house, that he had some
20 hundred dollar bills and she saw them.

21 And she stated that, on the morning of 12/9, that
22 Friday, Junior Coffey, his brother, had called the house
23 stating that the police had been to his home looking for
24 Kenneth Coffey. And he told him, "Why are they looking for
25 me? I was with Shirley."

1 She stated that when she heard the knock at the
2 door and it was the police, he went into a panic and told
3 her to "give me those other pants" and he gave her the green
4 jeans he had been wearing.

5 Q Did Ms. Faircloth testify at trial?

6 A No.

7 Q Was she interviewed by anyone else after the trial
8 but prior to the Commission's involvement in the case?

9 A The North Carolina Center on Actual Innocence sent
10 a letter to Ms. Faircloth. She responded to that letter
11 that she did not want -- wish to discuss the case. And she
12 added to the bottom of the letter "I know nothing about this
13 case."

14 Q Did the Commission attempt to locate and interview
15 Ms. Faircloth?

16 A She is deceased.

17 Q I'm going to turn your attention now back to
18 Kenneth Coffey.

19 Does the law enforcement file indicate that
20 Mr. Coffey spoke with anyone else?

21 A There is an interview with Randy Townsend. He was
22 Coffey's probation officer. Coffey was on probation at the
23 time that the murder took place.

24 The interview with Mr. Townsend does not take
25 place until March 28, 1995.

1 According to the interview, Kenneth Coffey came to
2 the probation office shortly after the murder and told Randy
3 Townsend that he had gone to the liquor store to get the
4 victim some liquor. He came back to the victim's trailer
5 and Bragg came in. Bragg and the victim started arguing and
6 Bragg started hitting the victim. Coffey said he got scared
7 and ran away.

8 Q Did the Commission speak with this probation
9 officer?

10 A We did.

11 Q And did he recall anything?

12 A He stated he vaguely recalls Coffey making some
13 statements about the murder, but he could not remember the
14 details of them. And he recalled that he told police about
15 the statements.

16 Q Okay. Did Mr. Coffey testify at trial?

17 A He did. He received use immunity and testified
18 against Mr. Bragg at trial.

19 Q Did he testify in his own trial?

20 A I'm sorry. No, he did not.

21 Q But he did testify at Mr. Bragg's trial?

22 A He did.

23 Q And that was under immunity?

24 A It was.

25 Q Was Mr. Coffey offered anything for his testimony?

1 **A He was offered the use immunity. The file**
2 **indicates that there were discussions with the district**
3 **attorney consenting to a reduction in Coffey's sentence.**

4 **However, he was not promised anything by the**
5 **district attorney. The testimony related to use immunity is**
6 **in your briefs on page 206 to 211.**

7 **The DA's file contains a handwritten note**
8 **referencing any future agreements for Mr. Coffey's**
9 **testimony.**

10 **MS. SMITH:** Commissioners, I am passing around a
11 packet of information.

12 It includes -- it includes a court order for use
13 immunity; a letter from District Attorney Tom Rusher to the
14 Department of Justice regarding immunity for Mr. Coffey, a
15 memo of the conversation from the Clerk's file -- a memo of
16 conversation from the Clerk's file, handwritten notes from
17 the district attorney's file regarding any promises to
18 Kenneth Coffey for his cooperation, and a letter from
19 Coffey's attorney, Gail Fannon, regarding discussions of a
20 deal for Mr. Coffey's testimony.

21 I am going to ask that you take a few minutes --
22 it may take several minutes to review that packet of
23 information.

24 Ms. Stellato, I'm going to hand you a copy of this
25 information as well.

1 **Q** Ms. Stellato, did the Commission receive any
2 evidence from Mr. Coffey that indicates that he changed his
3 statement after the trial?

4 **A** On November 4, 1996, Mr. Coffey wrote a notarized
5 letter that was sent to the judge recanting his testimony
6 against Bragg and stating that Mr. Bragg and Mr. Coffey
7 himself were not involved in the murder. At the time,
8 Coffey's case was on appeal and this letter was treated as a
9 motion for appropriate relief by the judge. It was denied
10 on December 11, 1996.

11 **MS. SMITH:** Commissioners, this letter is located
12 in your briefs on pages 468 to 471. That includes the
13 corresponding order and I just ask that you flip to that and
14 take a look at it.

15 **Q** Ms. Stellato, is there anything else in
16 Mr. Coffey's court file that is related to this letter?

17 **A** Yes. In a subsequent motion that was filed in
18 2000 -- an attorney for Mr. Coffey filed this motion -- and
19 there is an affidavit attached to it as an exhibit.

20 In this affidavit, Mr. Coffey recants his recant
21 from 1996. In this affidavit signed by Mr. Coffey, it
22 states that there were two inmates who told Mr. Coffey that
23 they would kill him if he did not write that letter to the
24 district attorney exonerating Robert Bragg.

25 It states that he wrote the letter under the

1 **threat and duress and that this letter was false.**

2 **MS. SMITH:** Commissioners, I am now passing out
3 that affidavit of Mr. Kenneth Coffey. Ask that you take a
4 few minutes to review it.

5 **Q** Did you ask Mr. Bragg about the two inmates listed
6 in the affidavit as threatening to kill Mr. Coffey if he did
7 not write a letter from Mr. Bragg?

8 **A** We did. We did not tell him why we are asking but
9 we asked him if he knew both of the inmates. He stated he
10 did not know them.

11 Without telling him why, we also asked Mr. Bragg
12 if he had ever had any inmates threaten Mr. Coffey or induce
13 them -- induce him, Mr. Coffey, to write a statement, and he
14 denied this.

15 **Q** Did the Commission do anything further to follow
16 up on the two individuals listed in the affidavit?

17 **A** The Commission contacted DPS, the Department of
18 Public Safety, with the name Jimmy McCrey and they were
19 unable to locate an inmate by that name or any similar name
20 in Marion Correctional at or around that time.

21 **Q** Did the Commission do anything further?

22 **A** We also contacted DPS about Wallace Jones.
23 According to DPS records, there are several Wallace Jones
24 who were in DPS, but there was only one who was housed at
25 Marion Correctional at the time of the notarized letter.

1 Q Did the Commission interview this Wallace Jones?

2 A Yes, we did.

3 Q Can you tell us what he said.

4 A According to Mr. Jones, he has never met Mr. Bragg
5 and he does not know him. He did recall being in prison
6 with Kenneth Coffey twice.

7 He stated that the last time that he recalled
8 being in prison with Mr. Coffey was either in 1996 or 1997.
9 He stated that he and Mr. Coffey were friends and that they
10 had shared a cell together.

11 Q Did he say anything else?

12 A According to him, Kenneth Coffey had told him
13 about the case. Coffey had stated that police had forced
14 him to say that he and another guy had killed somebody.

15 Mr. Jones stated that he believed Coffey had told
16 him at the time that Mr. Coffey wasn't supposed to get any
17 time or hardly any time if he would say this but he ended up
18 getting a life sentence.

19 Q Did the Commission show the letter to
20 Mr. Wallace -- Mr. Jones?

21 A He was shown the letter. He stated that he may
22 have actually written this letter for Coffey. He couldn't
23 remember if it was this letter or another letter. He stated
24 this could be his handwriting, but it had been a long time.

25 Mr. Jones stated that he had only written one

1 letter for Coffey, but he had remembered writing it and that
2 the letter he wrote was to Prison Legal Service.

3 Q Did the Commission show Mr. Jones the affidavit of
4 Mr. Coffey?

5 A We did. He was shown the affidavit about
6 threatening Mr. Coffey. Mr. Jones stated, "None of it is
7 true." Mr. Jones stated that as far as he was concerned, he
8 and Mr. Coffey were friends.

9 He stated that, although he didn't know them, he
10 had sent Christmas cards to Mr. Coffey's family.

11 Mr. Jones stated that he was pretty shocked by the
12 affidavit and that it was a lie, that he had never
13 threatened Mr. Coffey. Mr. Jones stated that all he had
14 done was try to help Mr. Coffey and he didn't know why
15 Mr. Coffey was saying this.

16 He also stated that he did not know or could not
17 remember a Jimmy McCrey.

18 Q Turning your attention now back to Mr. Coffey once
19 again, was he interviewed by anyone else after trial but
20 prior to Commission's involvement in the case?

21 A Yes. Mr. Coffey had previously filed an innocence
22 claim with the North Carolina Center on Actual Innocence.

23 When we interviewed Chris Mumma about this case,
24 she stated that during -- she stated during her interview
25 with the Commission that Mr. Coffey wrote "crazy" letters.

1 The Commission did not obtain Mr. Coffey's Center file.

2 The North Carolina Center on Actual Innocence
3 later interviewed Mr. Coffey twice related to Mr. Bragg's
4 case, because Mr. Bragg filed a case with the North Carolina
5 Center on Actual Innocence.

6 Q Can you tell us about those interviews.

7 A The file indicates that the UNC Wrongful
8 Convictions Clinic interviewed Kenneth Coffey on
9 December 14, 2006.

10 There are no notes or memos provided about this
11 interview. There is just an e-mail from the students in the
12 class that they sent to Chris Mumma about the interview.

13 Q Can you read the portions of that e-mail that are
14 relevant to the interview with Mr. Coffey?

15 (Read by Ms. Stellato:)

16 "A The interview went fairly well. Coffey says
17 that he hears voices. He also said that he was hearing
18 voices at the time of his arrest and the giving of his
19 statements. He maintains that he implicated Bragg
20 because the voices told him to, that Bobby was going to
21 put him in jail. When asked why Bobby, he responded
22 that he didn't really know Bragg that well, but he had
23 been drinking with him the few days prior. He pretty
24 much said that Bobby was in his head so he gave the
25 police his name.

1 *"Also, he says he can't read and write. He*
2 *says that the statements that were taken by Shook and*
3 *Harrison were inaccurate but that they had told him to*
4 *sign them. He agreed to meet with us again. He also*
5 *agreed to sign an affidavit next time and he would be*
6 *willing to testify at a hearing that he gave false*
7 *testimony in Bragg's trial, but he is really unstable.*
8 *He also gave us some contacts including his father. We*
9 *plan to follow up with them and see if Coffey might*
10 *have talked to any of them.*

11 Q Can you tell us about the second interview that
12 the Center on Actual Innocence had with Mr. Coffey.

13 A The Center conducted another interview on April 6,
14 2010. A memo of this interview was provided in the file.
15 The memo details students' impressions, strategies and
16 opinions.

17 Q Can you tell us about what Mr. Coffey said during
18 that interview according to the memo.

19 (Read by Ms. Stellato:)

20 *"A Coffey stated that he was not there and he*
21 *does not know whether Bragg was there. Coffey stated*
22 *that he had heard in the neighborhood that the victim*
23 *was found face-down in his trailer and was dead.*
24 *Coffey stated that he had -- has no idea where Bragg*
25 *was that day. He stated that he did know Bragg before*

1 *they were arrested, but he has never hung around him.*
2 *Coffey stated he stayed off the streets and he was*
3 *never in the trailer park. Coffey recalled testifying*
4 *at Bragg's trial that Bragg committed the murder. He*
5 *stated that he did this because he was told that Bragg*
6 *was saying that Coffey did the murder. Coffey stated*
7 *that the year after the trial he wrote the court and*
8 *said that Bragg did not commit the murder. Coffey then*
9 *stated that the entire trailer park was guilty. Coffey*
10 *also said that maybe his brother, Larry, committed the*
11 *murder.*

12 **Q** Did Mr. Coffey ever apply to the Commission?

13 **A** No.

14 **Q** Did the Commission obtain DPS or Department of
15 Public Safety records for Mr. Coffey?

16 **A** We did.

17 **Q** And why has the Commission obtained these records?

18 **A** For various reasons, including any statements that
19 were made related to the crime.

20 **MS. SMITH:** Commissioners, I'm going to pass
21 around a DPS record summary for Mr. Coffey, that was
22 prepared by the Commission from those DPS records.

23 Judge Wagoner, I would request that you order that
24 the document I am passing around not become public record as
25 it contains sensitive information that was provided to the

1 Commission pursuant to a court order from DPS.

2 **JUDGE WAGONER:** So ordered.

3 So after we look at it, do you want us to pass it
4 back?

5 **MS. SMITH:** Yes, ma'am.

6 Before we move on to the Commission's interviews
7 with Mr. Coffey, I'm going to ask if the Commissioners have
8 any questions at this point about what Ms. Stellato has
9 testified about.

10 **MR. EDWARDS:** I would.

11 **THE WITNESS:** Okay.

12 **MR. EDWARDS:** So would it be fair to say that
13 since this crime occurred in 1994, Mr. Coffey has given
14 numerous statements that, at a minimum, will be considered
15 inconsistent? Would that be fair to say?

16 **THE WITNESS:** I can't characterize it that way. I
17 can tell you that, factually, Mr. Coffey has given
18 inconsistent statements.

19 **MR. EDWARDS:** And he has given statements since
20 1994 going from: "I had nothing to do with it" to "I had
21 minimal involvement" to "I was there when the crime
22 occurred, but I am not the one that hit him with the trailer
23 ball" -- the victim that is.

24 **THE WITNESS:** To implicating additional people;
25 correct.

1 **MR. EDWARDS:** However, as we heard today from
2 Ms. Clement, DNA evidence of the victim was found on
3 Coffey's clothing based on the additional testing that the
4 Commission requested; is that right?

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

6 **MR. EDWARDS:** All right.

7 **MR. FRYE:** In the third interview where he went to
8 take a polygraph, could you give us the results of that
9 polygraph test one more time so I make sure that I
10 understand it.

11 **THE WITNESS:** They are negative. And the
12 polygraph examination is in your brief. I can give you the
13 page number.

14 **MR. FRYE:** I looked at it. "Negative" meaning ...

15 **JUDGE WAGONER:** Negative for deception or negative
16 for?

17 **MS. PICKENS:** Negative for truth or negative --

18 **THE WITNESS:** It revealed deception. I'm sorry.
19 Yes.

20 **JUDGE WAGONER:** Just clarifying for the record
21 that the polygraph revealed deception. Thank you.

22 **MS. SMITH:** Are there any other questions from
23 Commissioners?

24 **MR. BARROW:** I'm sorry. Did you indicate earlier
25 that Mr. Bragg had become the focus of the investigation

1 before Coffey identified him as being there?

2 **THE WITNESS:** Yes, sir. Mr. Bragg became the
3 focus of the investigation at 4:35 a.m. according to the
4 police -- Detective Shook's notes. It says "Note: the
5 description given by the interview of Nancy Horton matched
6 the description of Bobby Bragg."

7 So it may be that he became the focus at 9:14 p.m.
8 based on her description, but the file doesn't indicate that
9 until 4:35 a.m., when they actually use his name in the
10 file.

11 **MR. BARROW:** And it was later that morning when
12 they picked up Coffey?

13 **THE WITNESS:** Uh-huh. They begin getting the
14 photographs of both Bragg and Coffey. And then they get
15 Coffey at 1:00 in the afternoon, interview him for six-some
16 hours, and then, when that interview is over -- they had a
17 Be On The Lookout for Bragg, already, that morning.

18 And then after the interview of Coffey, that is
19 when they issued the arrest warrant for Mr. Bragg.

20 **JUDGE WAGONER:** And Mr. Coffey was allowed to go
21 after the first interview; correct?

22 **THE WITNESS:** Yes, ma'am.

23 **JUDGE WAGONER:** And he was not arrested for about
24 three weeks later, maybe?

25 **THE WITNESS:** Almost one month. There were

1 several conversations between law enforcement and the DA in
2 between the time that are noted in the file where the law
3 enforcement would check back with the DA and the DA would
4 say, "I don't want him arrested at this time."

5 And then it wasn't until January 6th that the DA
6 said, "Issue a warrant," and that was based on the fact
7 that -- and we'll get into that a little bit -- that
8 Mr. Coffey refused the polygraph -- the first scheduled
9 polygraph.

10 **JUDGE WAGONER:** I have one more question.

11 **THE WITNESS:** Okay.

12 **JUDGE WAGONER:** Mr. Bragg has applied to this
13 Commission?

14 **THE WITNESS:** Yes, ma'am.

15 **JUDGE WAGONER:** Mr. Coffey has not?

16 **THE WITNESS:** No, ma'am.

17 **JUDGE WAGONER:** But Mr. Bragg and Mr. Coffey are
18 both represented at this time by the Center?

19 **THE WITNESS:** The Center has closed Mr. Coffey's
20 case.

21 **JUDGE WAGONER:** Okay. All right. Thank you.

22 **MS. BELLE:** Going back to the description given by
23 Nancy Horton.

24 **THE WITNESS:** Yes, ma'am.

25 **MS. BELLE:** And it was just -- from my

1 understanding, it was a white male that fit the description
2 of either Coffey or Bragg?

3 **THE WITNESS:** The descriptions change. The first
4 description that she provides at 9:14 p.m. on 12/8 is a
5 white male, 6'1" or 6'2", bushy hair, brown in color, he had
6 a hat on, a jean jacket faded, was carrying a brown bag,
7 very small, no facial hair, ruddy-looking skin.

8 In her follow-up interview, the day after Rene
9 Nelson and Jeffrey give their information, she is
10 interviewed again, and her description of the male changes.

11 Would you like me to give you that description?

12 **MS. BELLE:** No. It's broad enough that it could
13 have been either of those two guys or ...

14 **THE WITNESS:** I can give you -- when we come back
15 on the screen, but what we have is booking photos of
16 Mr. Bragg at his arrest.

17 And then we have a photograph -- there is no
18 booking photo of Mr. Coffey, but we have a photograph of
19 Mr. Coffey, I believe it is two years, and so I can show you
20 what they looked like at the time.

21 Would you like those?

22 **MS. BELLE:** We can do this whenever.

23 **THE WITNESS:** Okay.

24 **MS. SMITH:** I think now would be an appropriate
25 time for the morning break.

1 **JUDGE WAGONER:** We'll take our morning recess, 15
2 minutes, until 11:15.

3 (Recess taken, 10:59 to 11:18 a.m.)

4 **JUDGE WAGONER:** We're ready whenever you're ready.

5 **MS. SMITH:** Just one moment.

6 **JUDGE WAGONER:** May I ask a question? Do we have
7 a photograph of Mr. Bragg that appeared on the front page of
8 the Watauga newspaper?

9 **THE WITNESS:** We have copies of the newspaper
10 articles, and I can get those newspaper articles at lunch.

11 **JUDGE WAGONER:** Okay. And I guess we have his
12 booking photo as well?

13 **THE WITNESS:** Yes, ma'am. We're about to show
14 those.

15 **JUDGE WAGONER:** And what about the copy of a
16 booking photo?

17 **THE WITNESS:** The Sheriff's Department does not
18 have the booking photo for that arrest, but we have one
19 prior and one after that we are going to show you.

20 **JUDGE WAGONER:** Okay. Thank you.

21 **MS. SMITH:** All right.

22 BY MS. SMITH: (11:19 a.m.)

23 **Q** Ms. Stellato, I am going to turn your attention to
24 the screen, if you can tell us what this photo is.

25 **A** This is Mr. Bragg's booking photo for when he was

1 taken to Boone and arrested for the crime.

2 Q And on what day was he arrested?

3 A He was -- I think that they book him in on the
4 12th in Boone, but he was arrested on the 10th.

5 Q And that is December 1994?

6 A Yes.

7 Q And can you describe what this is a photo of?

8 A This is Kenneth Coffey's booking photo from an
9 arrest in 1991. It's July 27, 1991.

10 This is the only booking photo that is on file at
11 the Watauga County Sheriff's Department.

12 This is a DOC photo of what Kenneth Coffey looks
13 like -- looked like in 1997. And those are the closest in
14 time photographs that we have been able to obtain. There
15 were no photographs that we can find of Kenneth Coffey
16 relative to that time.

17 JUDGE WAGONER: Thank you.

18 MR. FRYE: Can you go back to the first two
19 booking photos just one second.

20 MS. SMITH: Of Mr. Coffey? Or Mr. Bragg?

21 MR. FRYE: Both. That one. Okay.

22 MS. SMITH: Are there any more questions about the
23 booking photos?

24 JUDGE WAGONER: (Moves head side to side.)

25 Q I am going to turn your attention now,

1 Ms. Stellato, back to Mr. Coffey.

2 Did the Commission interview Mr. Coffey?

3 A We did. We interviewed Mr. Coffey two times.

4 Q And can you tell the Commissioners about the first
5 interview with Mr. Coffey.

6 A Sure. That interview took place on October 20,
7 2011. Mr. Coffey stated that he had known the victim since
8 Mr. Coffey was a little boy. He stated that he had stayed
9 at the victim's home before.

10 On the day of the murder, he saw Bragg about
11 1:00 p.m. at the A&P drinking a bottle of wine.

12 Mr. Coffey asked how many people were out in the
13 world and if there were a lot of people living out in the
14 world these days.

15 He stated that he had been telling people that he
16 was innocent of the crime. Mr. Coffey stated that Lamont
17 Underwood said that Coffey did the crime and that Lamont
18 Underwood is Bragg's best friend.

19 Lamont Underwood was someone who was in jail with
20 Bragg and Coffey. And we will discuss him a little further
21 in a few moments.

22 When Mr. Coffey was asked about being given the
23 polygraph, he stated that they had cut the polygraph off and
24 would not let him take it.

25 Mr. Coffey stated that, at the time, they didn't

1 have any proof on him and that all of the evidence had
2 pointed at Mr. Bragg.

3 When asked if he remembered testifying against
4 Mr. Bragg, he stated, "Yeah. I went back to court, yeah, I
5 did it. I seen him hit that man. That's all I said."

6 Mr. Coffey was asked if he did see Mr. Bragg hit
7 the man and he responded, "I ain't going to say if I did or
8 not. I ain't going to say."

9 Mr. Coffey stated that he had his head knocked off
10 one time and died and then he came back.

11 Mr. Coffey also stated that Mr. Bragg had hurt too
12 many children a long time ago but that he didn't want to
13 talk about it.

14 Q Ms. Stellato, if I can turn your attention to
15 page 9 of the transcript of that interview.

16 Will you read for the Commissioners lines 5
17 through 10.

18 (Read by Ms. Stellato:)

19
20 A Mr. Coffey stated,

21 "A You people are all made up. Do you know the
22 President -- do you know who the President is? Bev
23 Perdue and all of them? They done pardoned me. I
24 don't mind. I'm already a citizen. They pardoned me
25 from that, from that charge, what they did. I'm a

1 *citizen of the United States of America. I'm on TV.*
2 *I've been on TV for the last year."*

3 Q Did Mr. Coffey say anything with respect to his
4 involvement in the murder?

5 A Mr. Coffey denied the murder -- denied involvement
6 in the crime.

7 Q What else did he say?

8 A When he was asked if he knew who committed the
9 crime, he stated that he didn't know who had done it. When
10 asked if he had ever told his father that Mr. Bragg was
11 innocent, Mr. Coffey stated, "I told him. I went to court,
12 and I said that both of us was innocent."

13 Mr. Coffey stated that Mr. Bragg had never given
14 him any money after the crime or after the murder. He did
15 recall that Mr. Bragg carried a trailer hitch ball with him.

16 Mr. Coffey stated that it is hard to come back
17 from blunt trauma but that he is coming back from it. He
18 doesn't know how he got through it but he has come back from
19 trauma and he died.

20 Q Did he say anything else?

21 A He stated he knew that Mr. Bragg said that he,
22 Mr. Coffey, had committed the crime. Mr. Coffey stated that
23 he did not say anything to law enforcement. When they tried
24 to get him to say something, he would not talk to them and
25 that he pled the Fifth.

1 **Q** Ms. Stellato, just let me stop you.

2 To clarify, has Mr. Bragg, as far you are aware,
3 ever said in law enforcement reports or interviews to the
4 Commission that Mr. Coffey committed the crime?

5 **A** No. He -- Mr. Bragg -- has stated that he does
6 not know who committed the crime.

7 **Q** Okay. You may continue.

8 **A** Mr. Coffey stated that the day before the murder
9 that he went over to Jeffrey and Rene's house and he gave
10 Rene some candy but that Mr. Bragg wasn't with him at the
11 time.

12 **Q** And did he state anything else?

13 **A** He was asked again if Mr. Bragg committed the
14 murder, and he stated, "I ain't going to say. I don't know
15 if he did it or he didn't."

16 He stated that Gorbachev wasn't going to help
17 Mr. Bragg and that Bev Perdue was going to pardon him,
18 Mr. Coffey.

19 **Q** Did the Commission obtain a release from
20 Mr. Coffey for his attorney files?

21 **A** Early in the interview, Mr. Coffey was asked if he
22 would sign a release for his attorney files and he stated
23 that he would not.

24 Later in the interview he agreed to sign, and he
25 did sign a release for his attorney files. But given the

1 **circumstances of that interview, the Commission did not**
2 **attempt to obtain his files.**

3 **Q** Did the Commission do anything else with respect
4 to Mr. Coffey related to obtaining his files?

5 **A** **We did. We contacted IDS, Indigent Defense**
6 **Services, to determine if they could appoint counsel for**
7 **Mr. Coffey because the Commission did not believe that we**
8 **should use the release we obtained based on Mr. Coffey's**
9 **interview. IDS would not appoint counsel for Mr. Coffey.**

10 **Q** Did the Commission have an opportunity to
11 reinterview Mr. Coffey?

12 **A** **Yes.**

13 **Q** And why did we do that?

14 **A** **Because at this time, we had obtained DNA evidence**
15 **that implicated Mr. Coffey in the crime, and, in addition,**
16 **Mr. Coffey had been moved to Central Prison and had been**
17 **there for some time. He had been moved there for treatment.**

18 **Q** Can you tell the Commissioners about that second
19 interview with Mr. Coffey.

20 **A** **Uh-huh. The second interview was on August 11,**
21 **2016.**

22 **Q** And what did he say during that interview?

23 **A** **Upon walking in, Mr. Coffey was already in the**
24 **room and he stated, "I am supposed to go home today. I am**
25 **out of prison. They turned me loose."**

1 The staff explained to Mr. Coffey why we were
2 there and spoke with Mr. Coffey about his background.

3 Again, when asked if he remembered the victim, he
4 stated that he remembered him but he only remembered him
5 briefly, but it was his dad that knew the victim.

6 He stated that he and Mr. Coffey had a
7 friendship -- excuse me -- had a friendship with the victim
8 and that he, Mr. Coffey, would buy the victim things.

9 He stated, though, that he wasn't around the
10 victim very often, that the victim had a lot of street
11 people who came in and out of his house and so he wasn't
12 there very much.

13 Q Did Mr. Coffey say anything regarding other
14 individuals who committed the crime?

15 A He stated that Shirley Faircloth had killed the
16 victim, that Shirley Faircloth had stabbed the victim to
17 death, that she had beat the victim for an hour with a
18 skillet, and then put the victim into a washing machine and
19 that Mr. Coffey's daughter knew about this.

20 Q What else did he say?

21 A Mr. Coffey stated that Cora Teague started all of
22 this when she buried a tire tool and put his name in this
23 case by saying that he did it.

24 Q Did you ask Mr. Coffey about giving a knife to
25 Cora Teague?

1 **A** We did. The file indicates that Cora Teague gave
2 a knife to law enforcement and that this knife -- she stated
3 this knife, she believed, belonged to the victim.

4 When asked about this, Mr. Coffey stated that he
5 did give a knife to her around Christmastime but that he had
6 received this knife from his brother, Junior Coffey, as a
7 Christmas present.

8 **Q** Did Mr. Coffey say anything with respect to
9 Mr. Bragg?

10 **A** When he was asked about Mr. Bragg and Mr. Bragg's
11 guilt or innocence, he stated, "If you see the tape, that
12 proves it wasn't him."

13 **Q** Did he give any indication as to what kind of tape
14 he was talking about?

15 **A** No.

16 **Q** What else did he state?

17 **A** He stated that Mr. Coffey had been killed with a
18 trailer ball hitch and a tire --

19 JUDGE WAGONER: Mr. Coffey?

20 **A** Mr. Coffey himself -- that he himself had been
21 killed with a trailer ball hitch and a tire tool, he
22 himself.

23 **Q** And did he say anything about his mental health
24 diagnoses?

25 **A** I asked Mr. Coffey what he had been diagnosed

1 with. He said he had been diagnosed paranoid schizophrenic.

2 Q Did he say anything with respect to the statements
3 that he gave to law enforcement?

4 A He stated that he didn't write any of those
5 statements, that he remembered they wanted him to sign them
6 and that he had initialed them.

7 Q And did he say anything related to the polygraph?

8 A He said he took a polygraph but that they had cut
9 it off.

10 Q Does he recall testifying at Mr. Bragg's trial?

11 A He remembers testifying at Bragg's trial.

12 Mr. Coffey said that he, Mr. Coffey, saw Bragg
13 beat the man with a trailer ball hitch, but it was not
14 Bragg, it was Larry Coffey, his brother, that he testified
15 against.

16 He stated that Larry Coffey had dyed his hair
17 black, he had on a raincoat; it wasn't Robert Bragg. Coffey
18 stated he does not know Robert Bragg and he has only seen
19 him one time.

20 Q Did you ask why he had given statements and
21 testified?

22 A I did. He stated, "Because he is the one that
23 done it."

24 Q What else did he say?

25 A Coffey stated, when he was asked how he knew

1 Robert Bragg did it, that he saw Robert Bragg in a truck
2 mirror, that he saw Robert Bragg and Jack Coffey, his
3 father, and that they are the ones who did it.

4 Q Did he say anything else with respect to his
5 father, Jack Coffey?

6 A That he had kept his father, Jack Coffey, out of
7 prison all of these years.

8 Q What else did he say?

9 A He stated that when they were at the hospital when
10 they took him to the hospital to get his blood, that they
11 poured it on his shoes and his clothes and that this had
12 been on the news.

13 Then he said that they poured the victim's blood
14 on him and that the clothes didn't exist anymore. He was
15 asked what he recalled wearing that day, and he said on that
16 day he had on a pair of green Levi pants, a red flannel top
17 shirt, shoes, and a red windbreaker.

18 Q Ms. Stellato, the clothing that's been testified
19 about today that Mr. Coffey was wearing on the date of the
20 crime, was that clothing found on Mr. Coffey's person or
21 somewhere else?

22 A It was found in Shirley Faircloth's hamper. After
23 the Coffey interview, they went back to her home and
24 collected the clothing from her home based on her statement
25 that that's what Mr. Coffey had been wearing.

1 Q Did you tell Mr. Coffey that the victim's blood
2 was on his clothing?

3 A We did. We had the reports and spoke to him about
4 that and tried to explain it. He stated that the clothes
5 didn't exist. He said, "I don't want to hear no lies from
6 you. Robert Bragg done told another lie or y'all have or
7 somebody has."

8 Q Did he say anything else?

9 A He stated that the blood on his pants was his
10 blood and that they had poured it on him at the hospital.
11 When he was asked who "they" was, he said Janet Dawson, and
12 that this had been on the news and even Hillary Clinton had
13 said it, that we needed to go and talk to her because it's
14 all over with and the charges are all over with.

15 Q Did you ask Mr. Coffey about purchasing vodka for
16 the victim on the day of the crime?

17 A I asked him if he went and bought the vodka for
18 the victim on that day. He stated he went and bought the
19 victim a pint of vodka and he had it on him. He stated that
20 he did not go back to the victim's house after that.

21 Q What did he say with respect to Rhonda Carson on
22 the day of the crime?

23 A He stated that he recalled seeing her, that she
24 was with a girl in a Ford Escort. He stated that Carson had
25 been with Bragg and that she had said she was going back to

1 the victim's house, that there had been some kind of fight
2 there.

3 Q Did you ask him about his interactions with
4 Shirley Faircloth on that day?

5 A We did. He stated that he was with Shirley
6 Faircloth that night and that is when he went to Ichabod's
7 in Blowing Rock, that it was Shirley Faircloth who called
8 him and asked him to go there. Then he said, "I called 911
9 and told them to go there, that there was a fight out there.
10 Someone is killing Marvin "Coy" Hartley. It was Rhonda
11 Carson, all of them, Jack Coffey, Robert Bragg, two others.
12 I forget who all it was."

13 Q Has there been any indication in the files you've
14 reviewed that that -- that happened?

15 A No. But Mr. Coffey stated that he saw it and that
16 those individuals were killing the victim.

17 Q What did Mr. Coffey say when you asked him who
18 committed the crime? If I can turn your attention to
19 page 23 of that transcript, lines 1 through 17.

20 (Read by Ms. Stellato:)

21 "A I don't know. My daddy says he done it. One
22 day he told me. I ain't never said nothing to him. He
23 kept on saying he done it. Cut his throat. He pulled
24 a knife on him and cut his throat and Daddy beat him to
25 death, was fighting with him and killed him in a fight.

1 *He'll probably say it was self-defense.*

2 *"He done -- we done -- he done been into it*
3 *with Marvin Hartley about that pickup truck running us*
4 *off the road, him and that old Chuckie Broomfield and*
5 *them in Lenoir, and Hugo would come. And that's when*
6 *all this stuff started, throwed my daddy out of the*
7 *pickup and about killed him, beat him to death.*

8 *"But they had all been into it two or three*
9 *times. Robert Bragg was into it with him a bunch of*
10 *times. I narely knew Robert -- Coy Hartley one time.*
11 *I wasn't up there about a week with him. And I was*
12 *behind McKato's then when all this mess started. They*
13 *all know Coy Hartley. They stole from him; took his*
14 *wallet and stole from him, stole from him, stole from*
15 *him, stole from him."*

16 **Q** Did you ask Mr. Coffey during that second
17 interview whether or not he would sign a release for his
18 attorney files?

19 **A** **No.**

20 **MS. SMITH:** Commissioners, both of those
21 interviews with Mr. Coffey were reported transcribed. If
22 you would like to read those, we will be happy to make those
23 copies for you, and you can read them over the lunch break
24 or some other time this afternoon.

25 **JUDGE WAGONER:** I think there are some takers,

1 yes.

2 **MS. SMITH:** Then we will make copies of those.

3 **Q** Ms. Stellato, the knife that you asked Mr. Coffey
4 about in his second interview with the Commission, can you
5 explain a little bit more about why you asked about that
6 knife.

7 **A** Cora Teague is Kenneth Coffey's second cousin.

8 On December 28, 1994, she went to police and told
9 them that she saw Coffey in a field beside the A&P.

10 Coffey told her that he, Bobby Bragg, and Joe went
11 to the victim's trailer and that Coffey saw Bragg hit the
12 victim.

13 He stated he tried to get Bragg off of the victim
14 but Bragg threw him against the wall and then Bragg and Joe
15 turned on the victim.

16 Coffey said he left and went to spend the night
17 with a girl named Chris and stayed there all night.

18 In a follow-up interview with police, Ms. Teague
19 then came to the police department with her boyfriend and
20 stated that, on 12/11, Coffey had given her a pearl handled
21 pocket knife as a Christmas present and that she had
22 recalled the victim having the same type of knife and
23 believed that this was the victim's knife.

24 So she went and got that knife and gave it to law
25 enforcement. It was tested and failed to reveal the

1 **presence of blood.**

2 **Q** And Mr. Coffey told you that he had received the
3 knife from his brother; is that correct?

4 **A** **Yes. He stated that he did give Cora Teague the**
5 **knife but that he had received it as a Christmas present**
6 **from his brother, Junior Coffey, and then given it to his**
7 **cousin as a Christmas present.**

8 **Q** And was a knife found during the victim's autopsy?

9 **A** **Yes. The victim did have a pocket knife, but the**
10 **pocket knife was found on him and removed from him during**
11 **his autopsy.**

12 **Q** Did the Commission attempt to follow up with Cora
13 Teague?

14 **A** **She is deceased.**

15 **MS. SMITH:** Commissioners, do you have any
16 additional questions for Ms. Stellato about her testimony
17 regarding Mr. Coffey?

18 **MS. COVER:** I just wanted to check, the Actual
19 Innocence Commission closed the file on Kenneth? Did they
20 make -- do we know why they closed it?

21 **THE WITNESS:** The Actual Innocence Commission?

22 **MS. COVER:** Yeah.

23 **THE WITNESS:** Do you mean the Center on Actual
24 Innocence?

25 **MS. COVER:** Yes. Going back to -- I am using the

1 wrong term.

2 **THE WITNESS:** Do you mean the Center on Actual
3 Innocence?

4 **MS. COVER:** Right.

5 **THE WITNESS:** I'm sorry. Can you repeat your
6 question?

7 **MS. COVER:** You said they -- the Commission closed
8 the file. So why did they close the file? Do we know that?

9 **THE WITNESS:** The Center closed the file and we do
10 not know why they closed the file, no ma'am.

11 **MS. COVER:** Thank you.

12 **MS. SURGEON:** So Mr. Coffey was transferred to
13 Central Prison for treatment, medical treatment?

14 **THE WITNESS:** Yes, ma'am.

15 **MS. SURGEON:** Mental health treatment?

16 **THE WITNESS:** Medical treatment. We just know
17 that it was medical treatment.

18 Ms. Surgeon, I would have to look back. I know
19 that it states medical treatment. I cannot recall if it
20 states mental health treatment.

21 **MS. SURGEON:** So was Mr. Coffey receiving
22 disability at the time of the offense?

23 **THE WITNESS:** He had, actually, on the day of the
24 offense, been to his attorney's office that morning related
25 to disability. So, yes, ma'am. But I don't know for what

1 reason. But he did receive disability.

2 **MS. SURGEON:** Okay. Thank you.

3 **MR. FRYE:** Between your first interview with
4 Mr. Coffey and your second interview, was there any change
5 in his mental status as far as the way he spoke? The way he
6 was able to communicate? Was it improved or declined?

7 **THE WITNESS:** I can't characterize it. What I can
8 say is, factually, the Commission believed that potentially
9 him being at Central Prison, receiving treatment, that that
10 was a possibility.

11 However, factually, Mr. Coffey communicates very
12 well. But as evident by the interviews, there did not
13 appear to be a change.

14 **MR. EDWARDS:** May I ask a question going back to
15 the forensic testing?

16 **THE WITNESS:** Uh-huh.

17 **MR. EDWARDS:** As you told us on page 123 of the
18 brief, the evidence that was collected from Bobby Bragg, the
19 first thing that is listed is a long tan raincoat; is that
20 right?

21 **THE WITNESS:** Uh-huh.

22 **MR. EDWARDS:** And then a steel trailer hitch ball,
23 a short tan coat, black sweatpants?

24 Prior to Mr. Bragg's trial, were any of those
25 clothing items ever submitted for any kind of forensic

1 testing at the State Crime Lab? I don't think they were
2 but --

3 **THE WITNESS:** I believe that serology is only done
4 on the tan coat that the trailer ball hitch is in, but let
5 me confirm that for you before I answer.

6 **MR. EDWARDS:** And while you're looking that up --
7 I am sorry to mix you up, but since the -- during your --
8 the Commission's investigation, if I understand it right,
9 maybe since Mr. Bragg's trial, these items of clothing of
10 Mr. Bragg's have not been located, and therefore, no
11 additional testing has been done to them; is that right?

12 **THE WITNESS:** Correct. They have not been
13 located.

14 **MR. EDWARDS:** Okay.

15 **MS. SURGEON:** Did the police department -- what
16 did they consider to be the weapon?

17 **THE WITNESS:** The Boone Police Department?

18 **MS. SURGEON:** Yes.

19 **THE WITNESS:** They considered the trailer ball
20 hitch to be the weapon.

21 **MS. SURGEON:** But never had it tested?

22 **THE WITNESS:** They did not have the trailer ball
23 hitch tested, no, ma'am. They -- Detective Harrison stated
24 that he examined the trailer ball hitch himself visually and
25 did not see blood.

1 **MR. EDWARDS:** In regard to the trailer ball hitch,
2 after the crime and before it was recovered, I mean, it's
3 possible it could have been washed off under soap and water
4 and removed any type of evidence; is that true? Is it
5 possible?

6 **THE WITNESS:** Is it possible? It's possible. The
7 trailer ball hitch, the way -- I don't know if you've seen
8 the pictures. The way that it was made, I think you may
9 still want to consider testing it.

10 **MR. EDWARDS:** I'm not disputing that.

11 **THE WITNESS:** Yes, sir. Absolutely. I think
12 anything is possible for you to wash any weapon and remove
13 the blood, yes, sir.

14 **MR. EDWARDS:** All right.

15 **JUDGE WAGONER:** And the sock was found in the lot
16 near the A&P?

17 **THE WITNESS:** The sock was found. They -- at the
18 time, they did not note any blood on it, and then of course
19 we had it tested. That was what Meghan talked about --
20 rescreened it and there was no blood.

21 **MS. SMITH:** If I may ...

22 **Q** Ms. Stellato, I am going to hand you the serology
23 report from the crime lab dated January 13th, 1995. If you
24 will take a look at that and answer Mr. Edwards' question
25 regarding whether all three coats were analyzed and the

1 results of that.

2 **A So --**

3 **MR. EDWARDS:** I think I just located, on 106 of
4 the brief, all items of clothing from Bragg failed to reveal
5 the presence of blood.

6 **THE WITNESS:** Correct. The raincoat, the jacket,
7 the coat. They just list them -- word them a little bit
8 different in the SBI report. But they all did fail to
9 reveal the presence of blood.

10 **MS. SURGEON:** I have a question. When was the
11 sock collected?

12 **THE WITNESS:** When?

13 **MS. SURGEON:** Yes.

14 **THE WITNESS:** December -- just one moment. I have
15 it right here -- it was some time after the crime --
16 December 22nd is when they conduct the search of the field
17 next to the A&P and they collect the sock.

18 The remainder of the search revealed negative
19 results. It's the only thing they collected from the field.

20 **MS. BELLE:** And that was based on Cora Teague's
21 testimony about seeing him in a field?

22 **THE WITNESS:** No. Ms. Teague didn't come forward
23 until 12/29 with that information.

24 The police had not searched any of the surrounding
25 areas in any way; so that was the first search that they had

1 done related to the crime.

2 It's not clear why they searched that field. It's
3 just noted in the report that they searched the field. That
4 field is a cut-through to get to that shopping center.

5 **MS. SURGEON:** Was the sock tested for anything
6 else other than blood?

7 **THE WITNESS:** No, ma'am.

8 **MS. PICKENS:** Sharon, is the sock relevant? Is
9 it -- was it ever proven that this belonged to Bragg,
10 Coffey, or Hartley?

11 **THE WITNESS:** No, ma'am. The sock is a white --
12 is a white sock with red stripes on it. It was not
13 identified in the case as belonging. It certainly did not
14 have blood on it that indicates it was used in the crime.
15 So no, ma'am. It does not appear, nor did it appear to
16 officers after the initial collection, to be relevant to the
17 case. It was not used later in the trials.

18 **JUDGE LOCK:** I have read the autopsy report
19 including the description of the injuries. Do you know
20 whether or not, at the trial, Dr. Hall was asked by the
21 prosecutor if the injuries to Hartley were consistent with
22 and could have been caused by the trailer hitch -- if he
23 were shown the trailer hitch, did you ask if that could have
24 caused a blunt force injuries?

25 **THE WITNESS:** He was. He was asked that by law

1 enforcement and he stated that they could have been. I
2 believe at trial -- and I want to get his wording exact --

3 **JUDGE LOCK:** Sure.

4 **THE WITNESS:** -- so I'll look that up for you.

5 **JUDGE LOCK:** I know the wording prosecutors would
6 typically use, but I'm wondering if -- on cross-examination,
7 if Bragg's attorney asked that the wounds could have been
8 caused by any other number of blunt objects.

9 **THE WITNESS:** I will have to find out for you,
10 Judge Lock. I believe that was brought up, but I would have
11 to find it for you.

12 **JUDGE LOCK:** I assume it was, but I'm just asking.
13 Okay.

14 **JUDGE WAGONER:** All right. Next question.

15 **MS. SMITH:** That is all the questions I have, but
16 I am going to get an answer to Judge Lock's question and
17 hand up the appropriate documentation for Ms. Stellato.

18 **JUDGE WAGONER:** Okay.

19 **MS. SURGEON:** May I ask a question?

20 **JUDGE WAGONER:** Yes, ma'am.

21 **MS. SURGEON:** When did the officers speak with
22 Ms. Rene Nelson and have a discussion about the trailer
23 hitch ball and what she said it could have been?

24 **THE WITNESS:** On December 15th.

25 To be clear, in that interview, she just is saying

1 that it was something in the sock. I understand her
2 testimony yesterday. However, she is just saying that she
3 saw something in a sock.

4 **MS. SURGEON:** Now, where did this statement that
5 it could have been something in a sock and that it was
6 swinging?

7 **THE WITNESS:** That is what she said, but your
8 question was the trailer hitch ball. Her statement is that
9 she sees them walking up the road and that Bragg is swinging
10 something.

11 **MS. SURGEON:** Where did the trailer hitch thing
12 come in? When she said -- the officer said that -- is it
13 could have been? Was that Officer Harrison?

14 **THE WITNESS:** That came in her testimony
15 yesterday.

16 **MS. SURGEON:** Was she talking with -- was Harrison
17 the one that interviewed her?

18 **THE WITNESS:** Harrison and Shook conducted the
19 interview.

20 **MS. SURGEON:** And when was it taken into evidence?

21 **THE WITNESS:** The trailer hitch ball?

22 **MS. SURGEON:** Yes.

23 **THE WITNESS:** When Mr. -- the Sheriff's office in
24 Mountain City, Tennessee, when they arrest Bragg, they
25 collect all of the evidence. And then when the officers

1 from Boone come, they transfer all of it to them. So it's
2 taken into evidence on December 10, 1994.

3 **MS. SURGEON:** Thank you.

4 **JUDGE WAGONER:** Yes, ma'am.

5 **MS. COVER:** So the trailer hitch comes into play
6 not because they are looking for it but because he has it in
7 his pocket when they arrest him?

8 **THE WITNESS:** No. Coffey says in his interview on
9 12/9 that it's a trailer hitch ball.

10 **MS. COVER:** Okay.

11 **MS. SMITH:** If I may?

12 **JUDGE WAGONER:** Yes, ma'am.

13 BY MS. SMITH: (11:56 a.m.)

14 **Q** Ms. Stellato, I am handing you the direct
15 examination -- a portion of the direct examination of
16 Mr. Hall and the cross-examination. If you'll just look at
17 that and see if there is anything there that is responsive
18 to Judge Lock's question.

19 **A** In direct, he's asked several questions. He
20 states that, in his opinion, the wounds could not have been
21 inflicted with a knife; that, in his opinion, the wounds
22 could not have been inflicted with just hands; that, in his
23 opinion, there is a very low likelihood that they were
24 inflicted by a stick.

25 He's then asked about the trailer hitch ball, and

1 he states the wounds may have been caused by a similar such
2 object.

3 On cross, he states that it is his testimony that
4 he does not know what caused these wounds, that he has no
5 way of determining that, that the laceration is caused by
6 blunt trauma and it could be caused by a jagged instrument,
7 anything that is not a sharp, bladed instrument.

8 He is asked if some of the injuries could have
9 been caused by the body falling, and he states that yes,
10 they could have been, and that a heavy glass bottle could
11 have also caused some of these injuries.

12 MS. SMITH: Anything further?

13 JUDGE WAGONER: (Moves head side to side.)

14 MS. SMITH: Okay. You may step down.

15 (Witness stands down.)

16 MS. SMITH: The Commission recalls staff attorney
17 Catherine Matoian.

18 (Witness recalled, Catherine Matoian.)

19 BY MS. SMITH: (12:01 p.m.)

20 Q Ms. Matoian, did the Commission conduct any
21 follow-up related to Mr. Coffey?

22 A Yes.

23 Q And can you tell us what you did to follow up.

24 A The Commission interviewed Lamont Underwood.

25 MS. SMITH: Commissioners, I am passing around the

1 criminal record of Lamont Underwood.

2 Q Can you tell us who Lamont Underwood is.

3 A. Lamont Underwood was incarcerated with Mr. Bragg
4 and Mr. Coffey in the Watauga County Jail after their arrest
5 for the murder. Coffey mentions Mr. Underwood in his trial
6 testimony.

7 MS. SMITH: Commissioners, that portion of
8 Mr. Coffey's testimony is included on pages 356 through 361
9 of your brief.

10 Q Can you tell us what Mr. Underwood told the
11 Commission.

12 A Mr. Underwood told the Commission that he did not
13 know Mr. Bragg or Mr. Coffey prior to them being
14 incarcerated together.

15 He stated that he thinks they were charged with
16 the same crime and he believed it was a murder. He recalled
17 Mr. Bragg and Mr. Coffey arguing sometimes but stated that
18 it had been a long time ago.

19 Mr. Underwood also stated that he knows Mr. Bragg
20 never said that he did it and kept saying that he did not do
21 it.

22 He stated that he thought Mr. Bragg had a bad
23 temper. Mr. Underwood told the Commission that he would not
24 describe him and Mr. Bragg as friends.

25 He also stated that Mr. Coffey was in a different

1 cell nowhere near where Mr. Underwood was, and that
2 Mr. Underwood did not speak to Mr. Coffey.

3 Q Ms. Matoian, is there any indication that
4 Mr. Bragg and Mr. Underwood were friends at the time of the
5 murder?

6 A No.

7 Q Is there any indication that Lamont Underwood was
8 ever a suspect in this case?

9 A No.

10 Q What else did the Commission do?

11 A The Commission also interviewed Shawn Delp.

12 MS. SMITH: Commissioners, I have already passed
13 around the criminal record for Shawn Delp earlier yesterday.

14 Q Remind us again who Shawn Delp is.

15 A Mr. Delp was a friend of Jeffrey Nelson and was
16 also in jail with Kenneth Coffey and Robert Bragg after
17 their arrest for the murder.

18 Q And did he testify at trial?

19 A He did.

20 Q And what did he testify to?

21 A He testified that he was in jail with Kenneth
22 Coffey in November of 1995, prior to Mr. Coffey's trial.

23 Mr. Delp testified that he overheard Kenneth
24 Coffey on the phone but did not know who Mr. Coffey was
25 speaking to.

1 Mr. Delp testified that Mr. Coffey told the person
2 on the phone that he "knows that Bobby didn't do this and
3 Bobby did not deserve what was going on, and whatever he
4 got, he deserved."

5 Q And what did Mr. Delp tell the Commission about
6 this?

7 A When interviewed by Commission staff, Mr. Delp
8 recalled that he was in the cell next to Coffey and that the
9 phones were right next to the doors.

10 He recalled Coffey saying something and he was
11 listening to Mr. Coffey's conversation. He cannot remember
12 the exact words that Mr. Coffey used, but he remembers
13 feeling bad for Bragg.

14 He does recall testifying at the trial.

15 Q Did anyone else say that they overheard Mr. Coffey
16 make any statements while they were in jail with him?

17 A Yes. Shawn Valdez stated that, on Saturday,
18 June 10, 1995, he was in jail with Kenneth Coffey and he
19 heard Mr. Coffey say that Robert Bragg was not with him when
20 Coy Hartley was killed.

21 Mr. Valdez also told this to private investigator
22 Vaughn -- I'm sorry -- Mr. Bragg -- excuse me -- Mr. Valdez
23 told this to private investigator Vaughn but was not allowed
24 to testify about what he heard Coffey say at the trial.

25 Q So that was not part of the trial testimony?

1 **A It was not.**

2 **Q Can you tell us what else the Commission did with**
3 **respect to following up -- follow-up with -- for Mr. Coffey.**

4 **A The Commission attempted to locate and interview**
5 **Jonathan Harmon.**

6 **Q Were we able to do that?**

7 **A No. Mr. Harmon is deceased.**

8 **Q Can you remind the Commissioners what Mr. Harmon**
9 **testified to at trial.**

10 **A Mr. Harmon testified at the trial that he was also**
11 **in the Watauga County Jail with Kenneth Coffey during August**
12 **of 1995.**

13 **Mr. Coffey told Jonathan Harmon that he went into**
14 **the trailer of a man named Corey or Coy; that he knew the**
15 **man had money; that he went to take the money; that when he**
16 **did, the man tried to stop him and that they wound up**
17 **getting in a fight and Coffey hit the man.**

18 **He further testified that Mr. Coffey said that**
19 **when he hit him, he got scared and didn't know what to do so**
20 **he got the money and left. Mr. Coffey told Mr. Harmon that**
21 **he didn't mean to kill him.**

22 **Coffey further said that he went home, got scared,**
23 **took a shower, and burned his clothes behind his house in**
24 **Sampson. Mr. Harmon testified that, the next day,**
25 **Mr. Harmon was talking to Dwayne Barksdale who had overheard**

1 some of that conversation. Mr. Coffey overheard Mr. Harmon
2 telling Mr. Barksdale about the conversation and got mad.
3 Mr. Coffey called Harmon a lying SOB.

4 Mr. Coffey then threatened Mr. Harmon and Harmon
5 reported this threat to the jailer. Harmon then gave a
6 statement to Detective Harrison, and Harmon testified that
7 he agreed to take a lie detector test but was never given
8 one.

9 Mr. Harmon also testified that Detective Harrison
10 asked him if Coffey mentioned anything about Mr. Bragg and
11 that Harmon told Detective Harrison that Coffey did not.

12 MS. SMITH: Commissioners, a summary of this can
13 be found on pages 463 to 464 of your brief.

14 Q Ms. Matoian, just to summarize, Shawn Delp, Shawn
15 Valdez, and Jonathan Harmon all on different occasions say
16 that they overheard Mr. Coffey tell someone or tell them
17 that Mr. Bragg was not involved in the crime.

18 Is that accurate?

19 A Correct.

20 Q Ms. Matoian, did the Commission -- you testified
21 about Mr. Harmon's statement and these names from other
22 individuals in that statement that -- of people who may have
23 overheard this or been involved with that as well.

24 Did the Commission do anything further to try to
25 speak with those individuals?

1 **A** **Yes. The Commission tried to locate the**
2 **individuals mentioned in Mr. Harmon's statement. However,**
3 **these individuals either could not be located or were unable**
4 **to provide additional information other than confirming that**
5 **Harmon and Coffey were in the Watauga County Jail together.**

6 **Q** **Can you tell the Commissioners what else the**
7 **Commission did with respect to following up on Mr. Coffey.**

8 **A** **The Commission interviewed David Brown.**

9 **Q** **And can you remind the Commissioners what David**
10 **Brown told law enforcement.**

11 **A** **Yes. There is a handwritten note in the Boone**
12 **Police Department file that states "Marie Brown said that**
13 **David Brown saw K. Coffey go to Coy's trailer Thursday**
14 **morning at 600 hours."**

15 **Q** **Was David Brown interviewed by anyone else prior**
16 **to the trial?**

17 **A** **Yes. On January 27, 1995, he was interviewed by**
18 **private investigator -- or he told private investigator**
19 **Vaughn that he had seen Kenneth Coffey going and coming from**
20 **the victim's trailer in the morning and afternoon on**
21 **December 8, 1994.**

22 **Mr. Bragg was not there nor was he with**
23 **Mr. Coffey.**

24 **Q** **And did David Brown testify at trial?**

25 **A** **Yes, he did.**

1 **MS. SMITH:** Commissioners, Mr. Brown's testimony
2 is summarized on page 460 of your brief.

3 **Q** Ms. Matoian, will you tell the Commissioners what
4 David Brown testified to.

5 **A** Mr. Brown testified that he lived in the Greenway
6 trailer park.

7 He testified that, on Thursday, December 8, 1994,
8 Mr. Brown did not see Robert Bragg. He did not recall ever
9 seeing Bragg before the trial.

10 Mr. Brown further testified that he did see
11 Kenneth Coffey on that day and that he had observed him
12 going up and down the road four or five times throughout the
13 day.

14 Mr. Coffey did not have anyone with him when
15 Mr. Brown saw him. And the last time he saw him on that day
16 was around 5:00 p.m. or a little after.

17 **Q** And was David Brown interviewed by anyone after
18 the trial but prior to the Commission's involvement in the
19 case?

20 **A** Not that I'm aware of.

21 **Q** Did the Commission interview David Brown?

22 **A** Yes.

23 **Q** Can you tell the Commissioners what Mr. Brown said
24 during that interview.

25 **A** During that interview, Mr. Brown stated that he

1 saw Coffey walking by himself. He saw him going and coming
2 and that Mr. Coffey was alone.

3 Q Okay. Did the Commission do anything else to
4 follow up with respect to Mr. Coffey?

5 A The Commission interviewed Bonnie Brumfield.

6 Q Can you remind the Commissioners who Bonnie
7 Brumfield is.

8 A Bonnie Brumfield is Kenneth Coffey's first cousin.
9 She was interviewed by the police and said that, on December
10 12, 1994, Mr. Coffey came to her house and brought the
11 newspaper with the article about the murder.

12 She asked Mr. Coffey who did it, and he said Bobby
13 Bragg. She asked Mr. Coffey when the last time he saw the
14 victim was, and Mr. Coffey told her that he went to the ABC
15 store and got the victim a bottle of liquor and that was the
16 last time he saw him.

17 On December -- excuse me -- on December 13, 1994,
18 Mr. Coffey came back to Bonnie's house and she asked him
19 what Mr. Bragg had killed the victim with. Coffey said, a
20 trailer hitch ball and a sock.

21 Mr. Coffey said, on the morning after the victim
22 was killed, that Coffey -- he had woken up with over \$600 on
23 him and didn't know where it came from. Mr. Coffey opened
24 his wallet and showed a lot of money. It was \$20 bills and
25 at least one \$50 bill.

1 **Q** And was Ms. Brumfield ever interviewed by anyone
2 else prior to the trial?

3 **A** The private investigator's file indicates that she
4 was interviewed, but there are no notes in the file provided
5 related to that interview.

6 **Q** Did she testify at trial?

7 **A** No.

8 **Q** Did the Commission interview Ms. Brumfield?

9 **A** We did.

10 **Q** Can you tell the Commissioners what Ms. Brumfield
11 said when interviewed by the Commission.

12 **A** Ms. Brumfield stated that Coffey was flashing
13 around money and he didn't work anywhere. They were
14 concerned about where he got the money.

15 Ms. Brumfield stated that Mr. Coffey told her that
16 Mr. Bragg was the one who did it, that Mr. Bragg had a sock
17 with a trailer ball in it, and that Bragg hit the victim in
18 the head but that Coffey took part of the money.

19 Ms. Brumfield stated that what she remembers most
20 was that Coffey had a bunch of money and didn't work. She
21 stated that Mr. Coffey drank a lot and would steal things.

22 She stated that Mr. Coffey had previously stolen a
23 lot of money from his father.

24 **Q** And what else did the Commission do with respect
25 to follow-up on Mr. Coffey?

1 **A** The Commission interviewed two of Mr. Coffey's
2 brothers, Gary and Junior; his father, Jack Coffey, is
3 deceased.

4 **Q** Did you ask them if Mr. Coffey had ever talked to
5 them about the case?

6 **A** We did. Junior Coffey stated, "Not really."
7 Junior said that Mr. Coffey had told him he was there but
8 that "Bragg boy was the one that hit the fellow with the
9 lock and killed him or something."

10 Junior Coffey further stated that Mr. Kenneth
11 Coffey has never been real smart, that he has had an alcohol
12 and drug problem since he was around 16 years old. He also
13 stated that Kenneth Coffey was pretty laid-back.

14 Gary Coffey stated that Kenneth Coffey told him he
15 didn't do it. Gary Coffey stated, "The only thing I know is
16 he told me Bobby was the one that done it." Gary also
17 stated that Mr. Coffey drank a lot and would get lost and
18 doesn't know what he is doing.

19 **MS. SMITH:** Commissioners, do you-all have any
20 questions for Ms. Matoian about the follow-up investigation
21 that the Commission did with respect to Mr. Coffey?

22 (No response.)

23 **MS. SMITH:** Judge Wagoner, I believe this would be
24 an appropriate time for the lunch recess.

25 **JUDGE WAGONER:** And we talked yesterday about

1 maybe trying to do a shorter one so we can keep going. 45
2 minutes be okay with y'all? Is that plenty of time?

3 **MS. SURGEON:** Do you want to go 30?

4 **JUDGE WAGONER:** Do you want to vote?

5 (Commissioners confer.)

6 **JUDGE WAGONER:** We will do a 40-minute.
7 40 minutes.

8 (Recess taken, 12:16 to 12:58 p.m.)

9 **JUDGE WAGONER:** All right. Next for the
10 Commission.

11 **MR. BARROW:** Commission calls Associate Director
12 Sharon Stellato.

13 **JUDGE WAGONER:** Okay.

14 **MS. SMITH:** Commissioners, before we get started,
15 I am going to pass around a copy of the newspaper article
16 that you-all asked for with Mr. Bragg's photo. It is as
17 good of a copy as we can provide for you.

18 (Witness recalled, Sharon Stellato.)

19 **JUDGE WAGONER:** You are still under oath.

20 **MS. SMITH:** Commissioners, I am also going to pass
21 around the criminal record of Rhonda Carson.

22 BY MS. SMITH: (12:59 p.m.)

23 **Q** Ms. Stellato, can you tell the Commissioners who
24 Rhonda Carson is.

25 **A** She was Kenneth Coffey's girlfriend around the

1 time of the crime.

2 Q And was Ms. Carson interviewed by law enforcement?

3 A She was interviewed three times -- approximately
4 three times by law enforcement.

5 Q Okay. Can you tell the commissioners about her
6 first interview with law enforcement?

7 A In her first statement, which was on December 15,
8 1994, she stated that she saw Kenneth Coffey at the A&P on
9 the day of the murder. This was after she had gotten off of
10 work. She saw him -- when he came to the A&P, he came
11 walking up from the field side. At the time, she was
12 waiting on a ride from her new landlord and she was sitting
13 in a girl's car.

14 She then saw Kenneth Coffey come back to the A&P
15 about 15, 20 minutes later to use the pay phone. She waited
16 at the A&P until 5:00, when she was picked up by her
17 landlord.

18 She said in that interview that the last time she
19 had seen Bragg was on 12/6/1994, that Tuesday.

20 She stated that she had heard about the victim's
21 death on Friday evening, 12/9, when her son TJ had called
22 her after she got off of work and told her about the murder.
23 He told her that the victim was dead and that Kenneth Coffey
24 and Robert Bragg had killed him.

25 Q Can you tell the Commissioners about her second

1 interview with law enforcement.

2 **A** Her second interview happened on January 9, 1995.
3 In that interview, she stated that at approximately
4 4:15 p.m. on the day of the murder, she was at the A&P and
5 Kenneth Coffey came walking up. She recalled that he had
6 greenish pants and a bluish colored vest jacket on.

7 She said they talked for a few moments and he
8 walked out of sight. She recalled that her friend, Christy,
9 drove up. Christy was underage and Carson went into the A&P
10 and bought some beer for Christy. She then sat in
11 Christie's car.

12 Law enforcement asked Rhonda Carson why Kenneth
13 Coffey had, by that time, signed a statement that implicated
14 Rhonda Carson in the crime. That statement had said that
15 Rhonda Carson was on the front porch when the murder
16 happened.

17 Rhonda Carson stated that he was out to get even
18 with her. And law enforcement asked her at that time if she
19 would be willing to take a polygraph and she agreed.

20 **Q** And did she take a polygraph?

21 **A** She was given a polygraph on January 26, 1995.

22 **Q** And do you know the results of the polygraph?

23 **A** They asked her three questions: "Were you there
24 when someone beat Coy? Did you see someone hurt Coy? Did
25 you tell even one lie about Coy's death?"

1 **She scored an evaluation of negative 4. The**
2 **opinion that is checked is "inconclusive."**

3 **Q** And is there anything in the file that indicates
4 that Ms. Carson was questioned about the results?

5 **A** **No.**

6 **Q** Did the Boone Police Department receive any other
7 information about Ms. Carson?

8 **A** **They did. They received two Crimestoppers phone**
9 **calls about Ms. Carson. One came in on February 27, 1995,**
10 **and one came in on February 28, 1995.**

11 **Q** Can you tell the Commissioners about the first
12 Crimestoppers call.

13 **A** **The first call that came in February 27 stated**
14 **that Rhonda Carson and Theresa Horton had said that they**
15 **witnessed the murder. And that caller said that they had**
16 **heard this "about a week ago."**

17 **Q** And can you tell the Commissioners about the
18 second Crimestoppers call.

19 **A** **The second call stated that Rhonda Carson had been**
20 **talking around some employees at her job, that Carson had**
21 **said she was at the victim's home, that "they" hit the**
22 **victim with a trailer hitch and blood splattered on the wall**
23 **and "they" took a bunch of money.**

24 **According to the caller, Carson went to the A&P**
25 **and the guys ran.**

1 Q Can you tell us about Ms. Carson's third interview
2 with law enforcement.

3 A She was interviewed a third time on March 22,
4 1995, and she was again asked about the day of the murder.

5 She provided law enforcement with her activities
6 on that day. Although the times differ between the three
7 statements, her activities are consistent.

8 She stated again that she was at the A&P on the
9 day of the murder and that she saw Kenneth Coffey there.

10 She said he reeked of alcohol. She talked about
11 seeing her friend named Christy who she bought beer for,
12 that Kenneth Coffey was on a pay phone while she was sitting
13 in Christie's car, that Kenneth Coffey hung up the phone and
14 went around the back side of the A&P.

15 She described Kenneth Coffey as wearing green
16 pants, tennis shoes, a coat, and a shirt which she was
17 unsure of the color.

18 She again stated that the last time she saw Bragg
19 was on that Tuesday, when Bragg and Coffey were both
20 arrested.

21 Carson says in this interview that she had called
22 the sheriff's department -- the sheriff's department, not
23 police department -- on Friday afternoon, 12/9, to tell them
24 that she knew where Kenneth Coffey was and that he could be
25 found at Shirley Faircloth's house.

1 During this interview, she was again confronted
2 with the fact that Kenneth Coffey had given a confession,
3 only this time it was on March 21, and that he had again
4 stated she was on the porch while Bragg was hitting the
5 victim. Carson once again denied this allegation.

6 By this time, law enforcement had conducted
7 several other interviews, and she was confronted with the
8 fact that, on the night of the murder, December 8, she had
9 talked to a coworker and told them details of the crime and
10 that on 12/9 she had talked to several coworkers and given
11 details of the crime.

12 Rhonda Carson denied these allegations and
13 maintained that she didn't know anything about the murder
14 until Friday afternoon when she was told about it by her son
15 TJ.

16 She admitted that she had called a coworker on the
17 night of the murder but denied telling her anything.

18 She again stated she was not at the victim's
19 trailer at the time of the crime.

20 Q Ms. Stellato, according to the Boone Police
21 Department file, what information did Rhonda Carson's
22 coworkers provide to law enforcement?

23 A On January 11, law enforcement interviewed
24 several -- first, law enforcement interviewed an individual
25 named Billie Green. Ms. Green worked with Rhonda Carson at

1 the Quality Inn motel. Billie Green stated that, on the
2 night of the murder, December 8, Rhonda Carson made a call
3 to her between 8:00 p.m. and 9:00 p.m. In that call, Rhonda
4 Carson stated, "You wouldn't believe what happened. A Bragg
5 boy and her boyfriend, Coffey, killed Coy." Rhonda Carson
6 stated they hit him once and blood went everywhere.

7 Carson also told Billie Green that if they tried
8 to talk to Billie Green, she should say that Carson was with
9 her. Carson said if they interviewed her -- meaning Rhonda
10 Carson -- that she would tell them they could call the A&P
11 manager because Carson had been pacing up and down in front
12 of the store that night.

13 On Friday, December 9, that morning between
14 8:00 a.m. and 8:30 a.m., Billie Green told law enforcement
15 officers that Rhonda Carson repeated the same thing she had
16 said the night before. Billie Green provided the name of
17 other employees who were there at the time. These names
18 were Kathy Martin, Laura Hicks, Betty Ann Houck, Florence
19 Beaver, and Seagle.

20 Q Did law enforcement interview the other women?

21 A They interviewed Kathy Martin, Beatrice Seagle,
22 and Laura Hicks. They did not interview Betty Ann Houck or
23 Florence Beaver.

24 Q And what did Hicks, Martin, and Seagle say?

25 A When law enforcement interviewed Laura Hicks,

1 Kathy Martin, and Beatrice Seagle, all three of them
2 confirmed that, on the morning of December 9, while they
3 were at work, Rhonda Carson was talking about details from
4 the murder and that the newspaper had not come out yet and
5 the details of the murder had not been released.

6 Q Did the Commission interview any of these women?

7 A We did.

8 Q Can you tell the Commissioners about those
9 interviews.

10 A The Commission interviewed Florence Beaver.
11 Ms. Beaver does not remember Rhonda Carson or the statement
12 that she provided to law enforcement.

13 Q Did the Commission interview Laura Hicks?

14 A We did. Ms. Hicks stated that it has been too
15 long and what she remembers from that time might not be
16 right. She was read her statement and she said that it did
17 sound right but, again, that it had been too long to
18 remember. However, she stated she would never lie about it.

19 Q And did the Commission interview Beatrice Seagle?

20 A We did. She stated that she does not remember
21 Rhonda Carson and she does not remember testifying in court.

22 Q Did the Commission interview Billie Green?

23 A We did. Billie Green stated that Carson had told
24 her that her boyfriend at the time and another guy had put
25 something -- she can't recall what -- into a pillow case and

1 hit the victim in the head and that they then took off to
2 Tennessee.

3 Billie Green stated that Rhonda Carson hadn't
4 worked on the day of the crime, but had told law enforcement
5 that she had.

6 Billie Green also stated that Rhonda Carson had
7 told her that Kenneth Coffey had all the money and that it
8 was \$27,000.

9 Billie Green stated that she thinks Rhonda Carson
10 told her she was on the porch or somewhere, but she didn't
11 go inside.

12 When asked about the phone call that was made on
13 the night of December 8, the night of the murder, Billie
14 Green stated that she remembers the phone call.

15 Q Did the Commission interview Kathy Martin?

16 A Yes, we did. She stated that she remembers
17 testifying at trial and she remembers the basics. She
18 stated that there was a lady that she worked with who came
19 in after the crime and started telling them that her
20 boyfriend had killed someone the night before.

21 She recalled the woman telling them how nasty the
22 crime scene was and she recalled that this was before
23 anything about the crime was on the news.

24 She recalled Rhonda Carson saying something about
25 a trailer hitch.

1 **Martin stated that her and the other employees got**
2 **the feeling that Rhonda Carson was there because it had not**
3 **come out in the newspaper yet.**

4 **Ms. Martin also stated that she did not know the**
5 **victim or Robert Bragg or Kenneth Coffey.**

6 **Q** Did the Commission interview Betty Ann Houck?

7 **A** **She is deceased.**

8 **Q** Turning your attention now back to Rhonda Carson,
9 did anyone else interview Ms. Carson prior to trial?

10 **A** **The private investigator that was hired by the**
11 **defense attorneys interviewed Rhonda Carson on January 19,**
12 **1995.**

13 **Q** What did she tell him?

14 **A** **She stated that she was not -- according to his**
15 **notes, she stated that she was not with Kenneth Coffey but**
16 **she had seen him at the A&P between 3:00 p.m. and 4:00 p.m.**
17 **on Thursday, December 8, 1994, and that she had not seen**
18 **Robert Bragg on that day.**

19 **Q** And did she testify at trial?

20 **A** **She did. She was called by the defense.**

21 **MS. SMITH:** Commissioners, her testimony is
22 summarized on page 461 of your brief.

23 **Q** Did the defense call anyone else related to Rhonda
24 Carson?

25 **A** **The defense called Kathy Martin, Beatrice Seagle,**

1 **and Laura Hicks to impeach Rhonda Carson's testimony.**

2 **MR. BARROW:** Commissioners, their testimony is all
3 summarized on pages 462 to 463 of your briefs.

4 **Q** Was Ms. Carson contacted by anyone else after the
5 trial but prior to the Commission's involvement in the case?

6 **A** The North Carolina Center on Actual Innocence file
7 indicates that letters were sent to individuals by the name
8 of Rhonda Carson but there is no indication that the correct
9 Rhonda Carson ever received or responded to their request.

10 **Q** And did the Commission interview Ms. Carson?

11 **A** We attempted to interview her when she was in
12 Illinois. She stated that she did not want to be involved
13 with that stuff anymore. And she is deceased.

14 **Q** Did law enforcement follow up with Ms. Carson's
15 son TJ?

16 **A** They did. On December 16, 1984 -- 1994, police
17 interviewed TJ Carson.

18 **Q** And what did he tell law enforcement?

19 **A** He told law enforcement that he had not heard of
20 the murder until a couple of days after the murder. He
21 heard that they were looking for Kenneth Coffey, stated that
22 he had contacted the Watauga County Sheriff's Department and
23 told them that Kenneth Coffey was at Shirley Faircloth's
24 house.

25 He also told them that he had seen Kenneth Coffey

1 on December 15, 1994. They were both at the courthouse. He
2 and Kenneth Coffey were outside smoking and he asked Coffey
3 if Coffey knew how the victim was beaten or if Coffey had
4 been there. At first, Coffey told TJ no. Coffey then said
5 that he saw blood and he had run behind the A&P. Coffey
6 said that Robert Bragg had told him that if he said
7 anything, Bragg would kill him. And Coffey told TJ that he
8 had proof he was with Shirley Faircloth when the murder
9 happened.

10 TJ told police that he saw Kenneth Coffey pull out
11 his wallet at the courthouse that day -- and there was a lot
12 of money in it -- and that Coffey shut his wallet very fast.

13 Coffey asked TJ why he was asking questions and
14 why he wanted to know about the murder, and Coffey also told
15 TJ to shut up about this.

16 After court, Coffey mentioned to TJ that the
17 detectives had been questioning his mother for about two
18 hours about the murder.

19 Q Was the Commission able to interview TJ?

20 A No. We made numerous attempts -- attempts to
21 contact TJ Carson who appears to live in Illinois, but those
22 attempts were unsuccessful. And we have also not been able
23 to reach him through his family members.

24 Q Did anyone else see Kenneth Coffey at the A&P on
25 the evening of December 8, 1994?

1 A In Rhonda's statements, she says in all three of
2 them that she was in a car and that she purchased alcohol
3 for a girl named Christy. According to law enforcement
4 files, the Boone Police Department interviewed Christy
5 Osborne and Kanessa Hamby. Christy Osborne was driving the
6 vehicle that stopped at the A&P parking lot. She knew
7 Rhonda Carson. According to her interview, she asked Carson
8 on that date to purchase beer for her. And she was with her
9 friend Kanessa Hamby.

10 According to interviews, after Carson purchased
11 the beer, Carson -- Rhonda Carson got into the backseat.
12 And while in the car, Rhonda Carson pointed out Kenneth
13 Coffey. Christy Osborne knew Kenneth Coffey from giving him
14 a previous ride.

15 Carson then told both Christy Osborne and Kanessa
16 Hamby, "That's my ex-boyfriend over there," and they saw him
17 on a pay phone in the parking lot. Kenneth Coffey was
18 alone.

19 Kanessa Hamby told law enforcement that this was
20 after 3:00 p.m. Christy Osborne told law enforcement that
21 it was maybe between 3:30 and 4:30 p.m. that this happened.

22 Q Did anyone else ever speak to Kanessa Hamby or
23 Christy Osborne before the trial?

24 A No.

25 Q Did either Christy Osborne or Kanessa Hamby

1 testify at trial?

2 **A No.**

3 **Q Has anyone contacted either Christy Osborne or**
4 **Kanessa Hamby after the trial but prior to the Commission's**
5 **involvement in the case?**

6 **A No.**

7 **Q Did the Commission interview either Christy**
8 **Osborne or Kanessa Hamby?**

9 **A They were both interviewed.**

10 **Q Can you tell the Commissioners what they recall.**

11 **A Neither recall knowing Rhonda Carson. When asked**
12 **specific about this and provided their statements, they**
13 **indicate several people bought beer for them while they were**
14 **underage, and they do not recall this specific event.**

15 **Q Did anyone else see Kenneth Coffey at the A&P on**
16 **December 8, 1994?**

17 **A The manager of the A&P. His name was Russell**
18 **Swift.**

19 **Q And was he interviewed by law enforcement?**

20 **A He was. He was interviewed by law enforcement and**
21 **asked if he recalled seeing either Rhonda Carson or Kenneth**
22 **Coffey around the store on December 8. He stated that he**
23 **had banned Kenneth Coffey from the store that day but he**
24 **stated that, between 4:00 p.m. and 5:00 p.m., Coffey had**
25 **come into the store and picked up a six-pack of beer. The**

1 manager, Mr. Swift, had approached him and told him to leave
2 or that he would call the police. He said Coffey put down
3 the beer, left, and went toward the pay phones.

4 When asked about Rhonda Carson, he didn't know
5 Carson by name, but he stated he recalled a woman walking in
6 and out of the store until about dark and he had seen that
7 woman in the store before, but she often had a teenage son
8 with her.

9 Q And do you know if Rhonda Carson's son TJ was a
10 teenager at the time?

11 A He was.

12 Q Did anyone else speak to Russell Swift before the
13 trial?

14 A No.

15 Q And did Mr. Swift testify at the trial?

16 A No.

17 Q As far as you're aware, has anyone contacted
18 Mr. Swift after the trial but prior to the Commission's
19 involvement in the case?

20 A No.

21 Q Did the Commission interview Mr. Swift?

22 A We did. When he was interviewed, he stated that
23 he did not know who Robert Bragg was, but he did know who
24 Kenneth Coffey was.

25 After having his statement read to him, he stated

1 that it sounded familiar but that he had had a stroke two
2 years prior to the interview and was unable to provide more
3 information.

4 MS. SMITH: Commissioners, do you have any
5 questions for Ms. Stellato about her testimony regarding
6 Rhonda Carson and the others involved with Rhonda Carson?

7 MS. BELLE: So based on what I have picked up,
8 Rhonda Carson and Coffey had a prior intimate relationship.

9 THE WITNESS: They had actually broken up that
10 week. That is correct. They lived together and they were
11 in a relationship and they had broken up earlier that week.

12 MS. BELLE: But he had gone to -- what's the other
13 lady's name?

14 THE WITNESS: Shirley Faircloth.

15 MS. BELLE: Thank you.

16 THE WITNESS: Yes, ma'am.

17 MS. BELLE: He had gone to her house because that
18 was his -- now his girlfriend? Or we don't know that?

19 THE WITNESS: No. We do. That was also someone
20 that he would -- I would not say "girlfriend," but that was
21 also someone he was in a relationship with.

22 MS. BELLE: Okay.

23 MR. EDWARDS: Okay. So regarding Ms. Carson, law
24 enforcement interviewed a number of people after the murder
25 that told law enforcement that Carson appeared to have

1 details about the crime shortly after the crime occurred and
2 the next morning when she went in to work; is that right?

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

4 **MR. EDWARDS:** And there were pretty specific
5 details, even including the trailer hitch and blood being
6 spattered -- or blood all over the place.

7 I tell you what, strike that question. That's --
8 you answered my first question. She appeared to have
9 knowledge of the crime shortly after the crime or maybe the
10 next morning.

11 **THE WITNESS:** She had knowledge of the crime, yes,
12 sir.

13 **MR. EDWARDS:** But when she testified, I believe,
14 in Mr. Bragg's trial, she did not testify -- I think you
15 said on page 461 -- she did not testify to any of those
16 details; is that right?

17 **JUDGE WAGONER:** 461?

18 **MR. EDWARDS:** Yes, ma'am.

19 **THE WITNESS:** That is correct.

20 **MR. EDWARDS:** All right. So she denied telling
21 anyone that there was blood in the victim's trailer, and she
22 testified she first found out about the victim's death after
23 work on Friday, December 9; is that right?

24 **THE WITNESS:** That is correct. She denied knowing
25 or telling anyone about the crime. Correct.

1 **MR. EDWARDS:** If she had testified in Bragg's
2 trial about knowledge -- you know, about being blood in the
3 victim's trailer, she would have either implicated herself,
4 meaning she was on the porch, or she must have talked to
5 whoever did commit the murder to get those details.

6 Is that a fair statement? If that's asking for an
7 opinion, I --

8 **THE WITNESS:** The statements that she provided to
9 the other individuals at the time -- law enforcement was
10 pursuing Ms. Carson.

11 **MR. EDWARDS:** Okay.

12 **THE WITNESS:** Whether she had testified to that or
13 not, law enforcement was pursuing Ms. Carson as a suspect.

14 **MR. EDWARDS:** Okay.

15 **MS. BELLE:** And was this from the private
16 investigator's --

17 **THE WITNESS:** No, ma'am. This is from the Boone
18 Police Department file.

19 **MS. BELLE:** Okay.

20 **THE WITNESS:** They were pursuing her based on
21 Kenneth Coffey's statements and the statements made to other
22 individuals. However, they did not ultimately file charges
23 against Ms. Carson.

24 **JUDGE WAGONER:** Anyone else?

25 (No response.)

1 **JUDGE WAGONER:** Thank you.

2 **MR. BARROW:** Commissioners, that concludes the
3 Commission's investigation related to Mr. Coffey.

4 We are going to turn our attention now to
5 Mr. Bragg and activities that he and others say occurred in
6 Mountain City, Tennessee.

7 BY MS. SMITH: (1:25 p.m.)

8 **Q** Ms. Stellato, did the Commission interview
9 individuals who were associated with Mr. Bragg's alibi?

10 **A** We did.

11 **Q** Who is Darlene Laney?

12 **A** Darlene Laney was a cashier who worked at the
13 Harris Teeter in Boone, North Carolina, and who stated that
14 she saw Robert Bragg on Wednesday, December 7, 1994, the day
15 prior to the murder.

16 **Q** And was she interviewed by law enforcement?

17 **A** No.

18 **Q** Was she interviewed by someone else?

19 **A** She was interviewed by the private investigator
20 who was hired by defense attorneys. That interview took
21 place on May 12, 1995.

22 **Q** And what did she tell the private investigator?

23 **A** She stated that two to three days before Mr. Bragg
24 was arrested, he had come into the Harris Teeter and that
25 Gary took Bobby to Mountain City and that, in the past, she

1 had given Bragg rides to Mountain City and Bristol.

2 Again, those are notes that are in the file, and
3 that's why they're read that way.

4 Q Did she testify at trial?

5 A Yes. She was called by the defense. Her
6 testimony is summarized on pages 452 and 453 of the brief.

7 Q Did the Commission interview Ms. Laney?

8 A Yes, we did.

9 Q Can you tell the Commissioners about that
10 interview.

11 A She recalled that she had been interviewed by the
12 private investigator. She recalled his name. She recalled
13 that Bragg came into the Harris Teeter where she worked.
14 She stated that her schedule at the Harris Teeter during
15 that time was either 8:00 to 3:00 p.m. or 8:00 to 2:30 p.m.
16 And she knew this because she had to get home to care for
17 her son.

18 She does not recall for certain what day of the
19 week she got paid. She stated it would not have been
20 unusual for Mr. Bragg to ask her for a ride, but she
21 believes that her car was in the shop and that's why Gary
22 Edwards was giving her a ride home from work on that day.

23 She recalled that Robert Bragg came through her
24 line where she was a cashier on that particular day.

25 MS. SMITH: Commissioners, I will refer you to

1 pages 452 to 453 in the brief and ask that you just scan
2 through that regarding Ms. Laney's testimony.

3 **Q** Ms. Stellato, who is Gary Edwards?

4 **A** Gary Edwards is an individual who saw -- gave a
5 statement that he saw Robert Bragg in the Harris Teeter
6 parking lot and gave him a ride to Mountain City, Tennessee,
7 on December 7, 1994, the day prior to the murder.

8 **Q** Did the Commission create a map to show the
9 distance between the Harris Teeter -- the old Harris Teeter
10 in Boone, North Carolina, and the location that Mr. Edwards
11 dropped Mr. Bragg off at in Mountain City, Tennessee?

12 **A** We did.

13 **Q** That map is on the screen now, Ms. Stellato. If
14 you can explain that to the Commissioners.

15 **A** It is approximately 24 miles, based on the route
16 they took. And according to what we looked up,
17 approximately a 35-minute drive.

18 **Q** And, of course, this map was created by the
19 Commission this week or last week and took into traffic at
20 the time it was created, not in December of 1994.

21 **A** Correct.

22 **Q** Was Gary Edwards interviewed by law enforcement?

23 **A** No.

24 **Q** Was he interviewed by anyone else?

25 **A** He was also interviewed by the private

1 investigator that was hired by the defense. He was
2 interviewed on May 12, 1995. He stated that, on December 7,
3 he had gone to the Harris Teeter to give Darlene Laney a
4 ride home. He stated that he recalled she received a
5 check -- her paycheck on Tuesday, December 6, and that she
6 always paid him for gas money for a ride to work and back.

7 He stated that he took Bragg to Mountain City on
8 Wednesday, December 7, at approximately 4:30 p.m.

9 He stated that he heard the following week, on
10 either Monday or Tuesday, that Bragg had been arrested.

11 Q And did Mr. Edwards testify at trial?

12 A He did. He was called by the defense.

13 MS. SMITH: Commissioners, a summary of his
14 testimony is located on page 450 to your brief. I would
15 just ask you to briefly review that.

16 Q Did the Commission interview Mr. Edwards?

17 A We did.

18 Q Tell the Commissioners about that interview.

19 A He recalled giving Robert Bragg a ride to Mountain
20 City. He stated that he met Robert Bragg on King Street,
21 which was where the grocery store was at that time, in 1994.

22 Q And is that the Harris Teeter?

23 A It is.

24 Q What else did he say in his interview?

25 A He stated that he knew Robert Bragg. He had met

1 him at the Hospitality House where Mr. Edwards had worked as
2 a house manager, that he knew a lot of street people.

3 He recalled Mr. Bragg asked him for a ride. He
4 also recalled that he saw Darlene Laney. He did not recall
5 the specifics of that day. He was asked about his trial
6 testimony, and Mr. Edwards stated it must've been between
7 3:00 p.m. and 5:00 p.m.

8 Mr. Edwards believes that Mr. Bragg wanted to go
9 to his brother's house.

10 Q And is his statement generally consistent with his
11 testimony at trial?

12 A Generally.

13 Q Does he recall all the details?

14 A No.

15 Q Can you tell the Commissioners who Bonnie Crawley
16 is.

17 A Bonnie Crawley is a witness who came forward in
18 February of 1996 with information about the case.

19 Q And was Ms. Crawley interviewed by law
20 enforcement?

21 A She was interviewed by law enforcement at the
22 District Attorney's office in February 1996, yes.

23 Q And was this at the time of Bragg's trial?

24 A It was.

25 Q Can you tell the Commissioners what she told law

1 enforcement at that time.

2 A Ms. Crawley stated that she knew Mr. Bragg,
3 Mr. Coffey, and the victim, and that she knew them as a
4 result of being a manager at the Hospitality House.

5 She stated that on the day she gave her statement,
6 February 6, 1996, she had been talking with the director at
7 Hospitality House. He was talking to her about the trial
8 and he told her that a number of people had been subpoenaed
9 in the Bragg murder trial. He told her that one of those
10 people was Gary Edwards. She asked him why Gary Edwards had
11 been subpoenaed, and he told her that Gary Edwards had taken
12 Bragg to Mountain City before the murder was committed.

13 Crawley said that she doesn't know -- Crawley said
14 in her statement that she didn't know when Edwards was
15 supposed to have taken Bragg to Tennessee, but she decided
16 she needed to come to the District Attorney's office and let
17 someone know what she remembered about the day before the
18 victim was killed, which was on Wednesday, in December of
19 1994.

20 Q What did she say about that day?

21 A She stated that, on that day, she had walked to
22 the grocery and returned on a path behind Pepper's
23 Restaurant a little after 5:00 p.m.

24 She stated it was getting dark and that Bragg
25 stepped out of the path, and Kenneth Coffey was sitting on

1 the ground with his back against the wall of Pepper's
2 Restaurant. They were both drinking liquor. Bragg gave her
3 a hug and she stepped back. Bragg asked her about getting a
4 haircut. She told Bragg to come by sometime on Friday. She
5 knew that Bragg didn't know where she lived.

6 Q Was Ms. Crawley interviewed by anyone else prior
7 to trial?

8 A No.

9 Q And did she testify at trial?

10 A She did. She testified -- her statement -- her
11 testimony was consistent with the statement that she gave to
12 law enforcement, and that is on page 368 of your brief.

13 MS. SMITH: Commissioners, if you will turn there
14 and briefly review that.

15 Q Ms. Stellato, did the Commission locate and
16 interview Bonnie Crawley?

17 A We did.

18 Q Can you tell the Commissioners about the
19 interviews.

20 A We interviewed her two times. In her first
21 interview, she stated that she will never forget it. She
22 recalled that Mr. Bragg said he was somewhere else when the
23 victim was murdered, that he was supposed to be in
24 Tennessee, but he was not. That she physically ran into him
25 behind a convenience store. That the day she ran into him,

1 he was drinking behind a convenience store. And she stated
2 that Darlene Laney took Bragg to Tennessee.

3 Q Did the Commission follow up with Bonnie Crawley
4 to clarify any of this information?

5 A We reinterviewed Ms. Crawley to see what day it
6 was she recalled Bragg -- seeing Bragg and Coffey. She
7 stated that it was on Wednesday, the day after the murder.

8 She was read her statement and was told that the
9 murder was on Thursday, December 8. She stated that she saw
10 Bragg the day after the murder and that Darlene Laney had
11 taken them to Mountain City and that they had hitchhiked
12 back to Boone and carried on as if nothing happened. That
13 they were supposed to be in Mountain City, Tennessee, but
14 that Ms. Crawley had saw them.

15 MS. SMITH: Commissioners, I am going to pass
16 around the criminal record of Jay Manuel.

17 Q Ms. Stellato, can you tell us who Jay Manuel is.

18 A He lived in Mountain City, Tennessee, at the time
19 of the murders, and he was a friend of Bragg's who Bragg
20 says that he visited from Wednesday, December 7, until his
21 arrest on December 10, 1994.

22 Q And was he interviewed by law enforcement?

23 A He was.

24 Q Can you tell the Commissioners what he told law
25 enforcement.

1 A He was interviewed on December 10, 1994. In that
2 interview, he stated that Bobby Bragg had been with him
3 since Tuesday, December 6. He was then asked by law
4 enforcement if he was sure that he wanted to make such a
5 statement because Bragg had been arrested by law enforcement
6 in Boone on that Tuesday and that law enforcement was
7 conducting a murder investigation.

8 They asked Jay Manuel if he would like to change
9 his story. At that time, Jay Manuel stated he wasn't sure
10 of the time, but that Bragg had been there "yesterday and
11 today" and that Bragg had spent the night Friday night and
12 that Bragg and Bragg's girlfriend, Judy Thomas, had slept in
13 Jay Manuel's bedroom.

14 Q Was Mr. Manuel interviewed by anyone else prior to
15 trial?

16 A He was interviewed by the private investigator
17 hired by the defense on a couple of occasions.

18 Q And what did he tell that private investigator?

19 A He was interviewed on April 26, 1995. In that
20 interview, he stated that Bragg actually arrived in Mountain
21 City, Tennessee, on Wednesday, December 7, 1994, around
22 5:00 p.m. He stated that they were drinking and that then
23 Jay Manuel got arrested and was put in jail on Wednesday
24 night.

25 He said he didn't know where Bragg stayed the

1 night on Wednesday night, but that Bragg was at his house
2 all day on Thursday, December 8, when he got out of jail at
3 11:00 a.m.

4 Jay Manuel stated that he, Bragg, and John played
5 poker with some blacks from the warehouse and that this was
6 before dark, until Bragg called his sister.

7 He also stated that Bragg and Judy slept in his
8 bedroom and that he slept on the couch that Thursday night.

9 He recalled that they went to get beer at the
10 24-hour store in Big Chief two to three times.

11 MS. SMITH: Commissioners, in your brief, the
12 interview of Jay Manuel by private investigator Vaughn is
13 listed as occurring on January 26, 1995. This is in the
14 private investigator time line of your brief, pages 125 to
15 129. However, April 26, 1995, is the correct date of that
16 interview.

17 Q Did Mr. Manuel testify at trial?

18 A Yes. He was called by the defense. He testified
19 that Bragg came to his home on December 7, 1994. The
20 testimony is summarized on page 456 and 457 of your brief.

21 Q And was the Commission able to confirm that Jay
22 Manuel was, in fact, in jail on December 7?

23 A The Boone Police Department file contains jail
24 records from the Johnson County Sheriff's Department in
25 Tennessee. This confirms that Jay Manuel was arrested on

1 Wednesday, December 7, 1994, and released on Thursday,
2 December 8, 1994. Those were provided in your brief on
3 pages 94 and 96 -- through 96.

4 Q Did the Commission interview Mr. Manuel?

5 A We did. We interviewed him two times.

6 Q Can you tell the Commissioners about the first
7 interview.

8 A He stated that Mr. Bragg was at his house on
9 Wayland Street in Mountain City, Tennessee, on the date that
10 the victim was killed. He stated that Mr. Bragg had come
11 there about a week and a half before Mr. Bragg had been
12 locked up. It was the middle of the week, either a Monday
13 or a Tuesday. And he stated that Mr. Bragg stayed with him
14 for nine days or something like that.

15 He stated that he and Mr. Bragg drank a lot of
16 beer and sat around. He stated that he lived in a trailer
17 park and that a man drove them back and forth to the Town
18 and Country every day.

19 Jay Manuel stated that he and Bragg were at the
20 Town and Country around 10:30 or 11:00 and Manuel was
21 intoxicated and he was caught and arrested, that Bragg
22 climbed a tree so that he would not be arrested.

23 Jay Manuel stated he got locked up that night and
24 when he got out the next morning, Robert Bragg was still at
25 his trailer.

1 Jay Manuel stated that the Shoemakes lived right
2 down the street from him, and he stated that Judy Thomas
3 lived a few trailers down.

4 Jay Manuel stated that he had seen Bragg with a
5 trailer hitch ball. He recalled that, the day before Robert
6 Bragg was arrested, that Bragg and called his sister, and
7 Jay Manuel was with them.

8 He was asked what time he recalled Robert Bragg
9 getting to his house, and he recalled that it was summertime
10 and it was in the evening.

11 Q Ms. Stellato, was this statement that he gave to
12 the Commission generally consistent with the information he
13 gave to law enforcement or his testimony at trial?

14 A No. It's consistent in that Bragg was with him in
15 Mountain City, Tennessee. However, the remaining --
16 remainder of his statement is inconsistent.

17 Q Did the Commission have follow-up questions for
18 Mr. Manuel?

19 A Yes.

20 Q And what did he say when the Commission staff
21 followed up with him?

22 A The Commission tried to determine if he knew the
23 names of the men that he and Mr. Bragg played poker with.
24 He did not.

25 Q Did the Commission also read him the statement

1 that he gave to law enforcement?

2 A We did. We asked him if the statement that he
3 provided to law enforcement was accurate, and he confirmed
4 that it was.

5 We also asked him, "Do you remember the first day
6 that week that you saw Bragg in Tennessee?"

7 And he said, "Not at this time, I don't."

8 We asked him, "Was the first night you saw him the
9 night that you were arrested for public intoxication," and
10 he said yes.

11 And we asked if Bragg and Jay Manuel were together
12 the next day, which is the day of the murder, and he
13 answered "partial."

14 Q Can you tell the Commissioners who Jim Bragg is.

15 A Jim Bragg is Robert Bragg's brother who lived in
16 Mountain City, Tennessee, at the time of the crime.

17 Q And was he interviewed by law enforcement?

18 A He -- there is no interview in the police files
19 that they specifically interviewed him. However, they
20 interview a Johnson County Sheriff's Department detective.
21 When law enforcement issued an arrest warrant for Robert
22 Bragg, they contacted Mountain City looking for Robert
23 Bragg, and one of the detectives there called Jim Bragg.

24 This interview took place with that detective.
25 That detective stated that, on December 10, Detective

1 Ainsworth called Jim Bragg and told Jim Bragg that the Boone
2 Police Department had a homicide warrant for Robert Bragg.
3 Jim Bragg stated he had not seen Robert Bragg for two or
4 three months.

5 That's the only notation in the file related to
6 any interviews.

7 Q Was Jim Bragg interviewed by anyone else prior to
8 trial?

9 A He was interviewed by the private investigator
10 that was hired by the defense attorney.

11 Q And when was that interview?

12 A That interview took place on May 11, 1995.

13 Q And do you have notes from that interview?

14 A The notes indicate that Jim Bragg stated Robert
15 Bragg had spent Wednesday, December 7, with him, that Robert
16 Bragg had slept downstairs. They watched an Eastwood movie.

17 On Thursday, December 8, between 5:30 and
18 6:00 a.m., Jim Bragg dropped Robert Bragg off at the 24-hour
19 store. He didn't see him after that but learned that he was
20 arrested.

21 Q And did Jim Bragg testify at the trial?

22 A He did. He was called by the defense.

23 MS. SMITH: Commissioners, his testimony is
24 summarized on page 453 of your brief, if you would like to
25 take a brief look at that.

1 **Q** Ms. Stellato, did the Commission interview Jim
2 Bragg?

3 **A** We did.

4 **Q** Can you tell the Commissioners about that
5 interview.

6 **A** He stated he did not remember many details.
7 However, he recalled that Robert Bragg stayed the night at
8 his home and that Jim Bragg's friend, Paul Price, was also
9 there.

10 He also recalled that Robert Bragg had called
11 their sister and that the time that the crime had happened
12 and that the time that Robert Bragg made that phone call
13 would have made it difficult for Robert Bragg to have
14 committed the crime.

15 **Q** Did the Commission follow up on any of the
16 information that was provided by Mr. Bragg?

17 **A** We made an effort to locate Paul Price but Jim
18 Bragg was unable to provide any additional identifying
19 information. We contacted several individuals named Paul
20 Price, but we were unable to locate the Paul Price to which
21 he was referring.

22 **MS. SMITH:** Commissioners, there are several more
23 alibi witnesses, but I'm going to pause here and see if
24 you-all have any questions Ms. Stellato at this point.

25 **MR. FRYE:** So it's correct that both Jay Manuel

1 and Jim Bragg said that Robert Bragg spent the night at
2 their house on December 7.

3 **THE WITNESS:** No, sir.

4 Jay Manuel says that Robert Bragg came there, that
5 they were together that night up until he gets arrested for
6 public intoxication at the Town and Country in Mountain
7 City. And then he -- then Jay Manuel doesn't know where he
8 goes. He says, "I don't know where he spent the night."
9 Robert Bragg --

10 **JUDGE WAGONER:** This is because Jay Manuel's in
11 jail.

12 **MR. FRYE:** Right.

13 **THE WITNESS:** Correct.

14 Robert Bragg and Jim Bragg say that he goes to Jim
15 Bragg's house, stays the night there, gives a ride back --
16 it's not back, it's into town -- in the morning, and that
17 when Jay Manuel gets released from jail that morning, he
18 returns to his house and Robert Bragg is there.

19 **MR. FRYE:** Okay.

20 **JUDGE WAGONER:** Yes, sir.

21 **MR. BARROW:** Could you discuss the physical
22 relationship between Jim Bragg's house and Jay Manuel's
23 house and particularly in relationship to Mountain City.

24 **THE WITNESS:** Sure. I can. I can provide you a
25 map of that and I can also tell you that when we get to

1 Robert Bragg's testimony -- I'm sorry, the interviews --
2 that Robert Bragg talks about a ride that he gets to Jim
3 Bragg's house. But I can provide you a map of all of the
4 locations in that area.

5 Would that be helpful?

6 **MR. BARROW:** Yes. But just generally, how far
7 apart are they, if you recall?

8 **THE WITNESS:** I'm actually going to have to look
9 that up. I know where all of the alibi witnesses live, but
10 I'm not sure where Mr. Jim Bragg lives in relationship to
11 Jay Manuel. But I will find out on break.

12 **MR. BARROW:** Okay.

13 **MS. SMITH:** Any other questions at this time?

14 **MR. BARROW:** No.

15 **MS. SMITH:** Okay.

16 BY MS. SMITH: (1:53 p.m.)

17 **Q** Ms. Stellato, who is Judy Thomas?

18 **A** **Judy Thomas was Robert Bragg's on-again/off-again**
19 **girlfriend in Mountain City, Tennessee, at the time of the**
20 **crime.**

21 **Q** And was she interviewed by law enforcement at the
22 time?

23 **A** **She was. She was interviewed three times by law**
24 **enforcement.**

25 **Q** Can you tell us what she told them.

1 A The first time that she's interviewed is on
2 Saturday, December 10, at the same time of Mr. Robert
3 Bragg's arrest -- or actually, at the same time as his
4 interviews.

5 She told law enforcement in that interview that
6 the first time she saw Robert Bragg in Mountain City was
7 after 8:00 a.m. on December 9, 1994. She saw him when she
8 went over to Jay Manuel's house to clean it. She comes to
9 Mountain City every Wednesday, and she had come to Mountain
10 City on that Wednesday. She had gone over to Jay Manuel's
11 house later in the week to clean his trailer, and she had
12 found Robert Bragg there.

13 She stated that Bragg told her that he had been
14 arrested earlier in the week for public intoxication and
15 that the Boone police had run him out of town.

16 She told police that on Friday, December 8, she
17 gave Bragg \$3 to get cigarettes and that Bragg had told her
18 he borrowed \$5 from Belinda at Human Services when he went
19 there to get Medicaid. Bragg had brought back papers when
20 he went to get Medicaid, and Thomas helped Bragg fill them
21 out and mail them back.

22 Judy Thomas stated that she had spent Friday night
23 with Bragg at Jay Manuel's trailer and then spent most of
24 Saturday with them.

25 Q Was she interviewed again by law enforcement?

1 A She was. She was reinterviewed -- it's the same
2 night but really the next morning. Her interview happens on
3 the evening of Saturday, December 10. They reinterview her
4 a few hours later. It's early morning hours of December 11
5 after Bragg's interview. They go back to her and -- as a
6 follow-up interview.

7 In that interview, she told the police that Bragg
8 put a trailer -- pulled a trailer hitch out of his pocket
9 and she had asked him what he was doing with it. Bragg told
10 her that he had been moving some trailers.

11 Q And did law enforcement interview Judy Thomas
12 again?

13 A They do. She is interviewed again on February 12,
14 1996, during the trial.

15 Q And what does she tell law enforcement then?

16 A She told law enforcement that she had seen Robert
17 Bragg on Friday morning, December 9; that she was not sure
18 of the exact time, but it was that morning; that Bragg had
19 brought her some papers for his Medicaid, that she had
20 filled out the papers for him; that he told her at that time
21 that prior to this, he had been staying at a homeless
22 shelter in Boone.

23 Sometime later that day, Geraldine Thomas, who
24 lived across the street, told Judy Thomas to come over
25 because Robert Bragg was there and she wanted to hear that

1 Bragg was playing a song.

2 Later that evening, Judy Thomas went over to Jay
3 Manuel's trailer, which is also down the street, she cleaned
4 the trailer, cooked supper for Jay and Robert Bragg and
5 herself. Robert Bragg and Jay Manuel had been drinking.
6 They all spent the night at Jay's trailer, and she and Bragg
7 slept in the back bedroom.

8 She states that the next day was a Saturday and
9 she went back to where she was staying. Later that day, she
10 stated, she went back to Jay Manuel's trailer and that
11 Robert Bragg was still there. He had his guitar out and
12 that they were playing and drinking beer, and she wasn't
13 there long before the sheriff's department came and arrested
14 Bragg for the murder that took place in Boone.

15 Before she left to go back to her house, a Johnson
16 County detective asked her to take Bragg's coat with her.
17 She carried a coat -- a long, beige thin coat -- but she did
18 not look at it. She laid it down in her house, and about an
19 hour later, the deputies came and picked up the coat.

20 As that interview continues, she states she
21 reflected back and states she was in Mountain City on
22 Wednesday, December 7, and that she had been going to
23 counseling for about six months. She states she is confused
24 and thinks she told the attorneys when she talked to them
25 that Bragg had been there on Wednesday, but now she's not

1 **sure what Wednesday she saw Bragg.**

2 **Q** Was Ms. Thomas interviewed by anyone else prior to
3 trial?

4 **A** She was. She was interviewed by the private
5 investigator who was hired by the defense attorneys. There
6 are several notes where -- in the private investigator file
7 where they attempted to make contact with Judy Thomas. Most
8 of these indicate that she did not want to talk to them,
9 that she did not want to testify, that she did not want to
10 come to court, and there are notes from only one interview
11 with Judy Thomas.

12 **Q** And what did she tell the private investigator in
13 that interview?

14 **A** And that interview, which is on February 7,
15 1995 -- so it's about five days before her last police
16 interview -- she told the private investigator that she had
17 been with Bragg on Wednesday, December 7; that she had
18 Wednesday night meetings. She told them that she was with
19 Bragg most of the day on Thursday, December 8, and that she
20 went with Joe and Deb to Johnson City to pay a bill.

21 She told the private investigator that she spent
22 the night with Bragg at Jay's trailer on Thursday
23 December 8, and Friday, December 9, and that she was with
24 Bragg on Saturday, December 10, when he was arrested.

25 She also told the private investigator that the

1 police had interviewed her two times, late Saturday night
2 and early Sunday morning, and that she had provided them
3 with Bragg's coats.

4 Q Did Judy Thomas testify at trial?

5 A She did. She was called by the defense.

6 Q What did she testify to?

7 A In her testimony at trial, she stated that she saw
8 Bragg on Wednesday, December 7, after her counseling
9 meeting. And she also details other times that she saw
10 Bragg between then and his arrest on December 10.

11 That's summarized on pages 454 to 455 in your
12 brief.

13 Q Did the Commission interview Ms. Thomas?

14 A Yes.

15 Q Can you tell the Commissioners about that
16 interview.

17 A Ms. Thomas confirmed that she had lived in
18 Mountain City, Tennessee. She denied ever knowing Robert
19 Bragg. She did not remember testifying at trial. And when
20 asked about other neighbors in that area, she did recognize
21 the name John Shoemake.

22 Q Have the statements provided by Judy Thomas been
23 consistent with one another?

24 A No.

25 Q Did the law enforcement file contain any

1 additional information related to Judy Thomas?

2 **A** After Mr. Bragg was arrested, there was a Johnson
3 County Sheriff's Department detective who requested that
4 Judy Thomas provide law enforcement with all letters that
5 were between her and Robert Bragg during his incarceration
6 prior to trial. Ms. Thomas did so.

7 In these letters, Ms. Thomas repeatedly asks
8 Robert Bragg about his involvement in the crime and asks
9 that he tell her about any details of the crime.

10 In these letters, Mr. Bragg denies any involvement
11 or any knowledge of the crime.

12 **MS. SMITH:** Commissioners, I am passing around the
13 criminal record of John Shoemake.

14 **Q** Ms. Stellato, can you tell us, who is John
15 Shoemake?

16 **A** John Shoemake lived in Mountain City, Tennessee,
17 at the time of the crime, and he lived in the same trailer
18 park as Jay Manuel.

19 **Q** Was he interviewed by law enforcement?

20 **A** No.

21 **Q** Was he interviewed by anyone else?

22 **A** He was interviewed by the private investigator
23 hired by the defense attorneys on April 26, 1995.

24 **Q** And what did he tell the private investigator?

25 **A** He stated that, on Thursday, December 8, the day

1 of the murder, that Bragg was there in Mountain City,
2 Tennessee; that Bragg was playing and drinking -- playing
3 music and drinking with him and his wife, Jackie; that they
4 played poker with black guys in the trailer park when the
5 guys got home from work. Bragg left two times to make phone
6 calls to his sister. Bragg and Judy stayed at Jay Manuel's.

7 Q And are those from the notes of that interview
8 with the PI?

9 A They are.

10 Q Did Mr. Shoemake provide an affidavit to the
11 private investigator?

12 A He did. That is on page 132 and 133 in your
13 brief.

14 MS. SMITH: Commissioners, if you would like to
15 take a moment to take a moment to turn to page 132 to 133
16 and review the affidavit.

17 Q Ms. Stellato, did John Shoemake testify at trial?

18 A He did. He was called by the defense.

19 Q What did he testify to?

20 A He testified that he first saw Robert Bragg on
21 Wednesday, December 7. He then testified about his
22 interactions with Bragg on Thursday, December 8, 1994.

23 MS. SMITH: Commissioners, his testimony is
24 summarized on page 456 of the brief, if you would like to
25 look at that.

1 **Q** Ms. Stellato, did the Commission interview
2 Mr. Shoemake?

3 **A** We did.

4 **Q** Can you tell the Commissioners about that
5 interview.

6 **A** He stated that he recalled testifying at Bragg's
7 trial and that he told the truth at trial. He recalled
8 Mr. Bragg being in Mountain City and that there were other
9 guys who were working in a tobacco house, that they were
10 there and they all played poker and drank together.

11 He stated that Mr. Bragg acted normal and never
12 said anything about a murder. He stated he didn't know
13 Mr. Bragg as a friend, he just knew Mr. Bragg to come around
14 every now and then.

15 Mr. Shoemake could not provide the specific days
16 that Mr. Bragg was there but did recall him being there.

17 **Q** And have the statements and testimony provided by
18 Mr. Shoemake been generally consistent?

19 **A** They have.

20 **MS. SMITH:** Commissioners, I am passing around the
21 criminal record of Jackie Shoemake.

22 **Q** Ms. Stellato, can you tell the Commissioners who
23 Jackie Shoemake is.

24 **A** Jackie Shoemake lived with John Shoemake in the
25 same trailer park as Jay Manuel in Mountain City, Tennessee.

1 **Q** And was she interviewed by law enforcement?

2 **A** No.

3 **Q** Was she interviewed by anyone else prior to trial?

4 **A** She was interviewed by the private investigator
5 who was hired by the defense attorneys on April 26, 1995.

6 The notes from the private investigator's file
7 indicate "same as above" underneath John Shoemake.

8 There is an additional line that states "Plus,
9 Jackie and Judy to Chicken House, got food, about 5:30 to
10 6:00 p.m."

11 **Q** And do the notes on that page where it says "same
12 as above," do those notes refer to his interview with John
13 Shoemake on the same day?

14 **A** They appear to.

15 **Q** Did Ms. Shoemake provide an affidavit to PI
16 Vaughn?

17 **A** She did. It is on pages 134 and 139.

18 **MS. SMITH:** Commissioners, if you will turn to
19 pages 134 and 135 in your brief and review that affidavit.

20 **Q** Ms. Stellato, did Ms. Shoemake testify at trial?

21 **A** She did. She was called by the defense and she
22 testified that she first saw Mr. Bragg on Wednesday,
23 December 7. She also testified about her interactions with
24 Bragg on Thursday, December 8.

25 **MS. SMITH:** Commissioners, her testimony is

1 summarized on page 455 of your brief.

2 Q Did the Commission interview Ms. Shoemake?

3 A We did.

4 Q Can you tell the Commissioners about that
5 interview, please.

6 A She stated that, on the day that the murder was
7 supposed to have taken place, she remembered that Bragg was
8 in Mountain City. She recalled that she and Bragg's
9 girlfriend went to go and get dinner.

10 She stated that she had heard about the murder
11 when a private investigator came and spoke to her about it.
12 She recalled that John Shoemake, Jay Manuel, and Robert
13 Bragg played poker that day with some guys who worked in the
14 tobacco houses.

15 She was provided her trial testimony at that point
16 and she reviewed it. She stated that the times and the
17 details from her testimony were accurate.

18 She further stated that the only time that she was
19 away from Bragg was when she went to get food with Judy
20 Thomas and that they were away for 10 to 15 minutes.

21 Q Did she tell you anything else?

22 A She stated that Judy Thomas later told her a rumor
23 about Kenneth Coffey and him bringing a bag of watches and
24 other things that belonged to the victim to Wayland Street
25 in Mountain City, and this occurred the day after the

1 **murder. She stated that the cops had found a bag of the**
2 **victim's things at Jay Manuel's trailer.**

3 **Q** Ms. Stellato, is there anything in the law
4 enforcement file to substantiate the rumor that the police
5 found a bag of items belonging to the victim which Coffey
6 brought to Mountain City?

7 **A No.**

8 **Q** Have the statements provided by Ms. Shoemake been
9 generally consistent?

10 **A With the exception of law enforcement ever finding**
11 **anything or Kenneth Coffey ever being in Mountain City,**
12 **Tennessee, related to this crime, yes.**

13 **Q** Can you tell the Commissioners who Edgar Osborne
14 is.

15 **A Edgar Osborne lived in Mountain City, Tennessee,**
16 **in the same trailer park as Jay Manuel at the time of the**
17 **crime.**

18 **MS. SMITH:** Commissioners, there is no criminal
19 record for Edgar Osborne.

20 **Q** Was Mr. Osborne interviewed by law enforcement?

21 **A No.**

22 **Q** Was he interviewed by anyone else prior to trial?

23 **A There are handwritten notes in the private**
24 **investigator's file that state "Edgar Osborne, 110 Wayland**
25 **Street, hung around with Bobby, Jay, John, most of Thursday**

1 12/8/94. Drove them to Big Chiefs to get beer."

2 It's unclear whether this information came from
3 Osborne or from someone else who may have provided it to the
4 private investigator.

5 Q Did Mr. Osborne testify at trial?

6 A No. The court file actually indicates that the
7 defense obtained an out-of-state material witness order for
8 him, but he was not called to testify.

9 Q Does anyone else related to the case make
10 statements regarding Mr. Osborne?

11 A Yes. Jay Manuel testified that, on the afternoon
12 of Thursday, December 8, 1994, he and Bragg hung out
13 together and they got Edgar Osborne to give them a ride to
14 the beer store. From the beer store, they went straight
15 back to Manuel's trailer.

16 Q Does anyone else make statements regarding
17 Mr. Osborne?

18 A Joe Shoemake, in his affidavit, stated that he was
19 with Bobby Bragg and Jay Manuel at Jay's trailer and that
20 Edgar Osborne took them to the store to get some beer. When
21 they returned, they drank and played music.

22 Q You just said Joe Shoemake. Do you mean John
23 Shoemake?

24 A I do. I apologize.

25 Q And does anyone else make statements regarding

1 Mr. Osborne?

2 A Robert Bragg stated in his interview with law
3 enforcement that, on that Thursday, December 8, he and Jay
4 Manuel got a ride from a guy next door. He said the guy
5 does not live there, but the guy's mother does. The guy
6 drives a big white Lincoln. He said the guy drove Jay and
7 Bragg to the Big Chief. Bragg bought two more 12-packs with
8 \$10 and they returned to Jay's.

9 Q And did the Commission interview Mr. Osborne?

10 A We did, on two occasions.

11 Q Can you tell the Commissioners what Mr. Osborne
12 said.

13 A Initially, Mr. Osborne did not remember people by
14 name. However, when he was provided with the locations and
15 the context, he did remember.

16 He recalled several of the residents in the
17 trailer park in 1994, including Jay Manuel. And he recalled
18 living next door to him.

19 He recalled that he used to take Jay Manuel and
20 Robert Bragg to the beer store and back. And he stated that
21 this was the Big Chief. He does not remember exactly when
22 this was. He did remember Robert Bragg. And he remembered
23 going to court with Judy Thomas in Boone, North Carolina.

24 Q Did Mr. Osborne say anything about the type of
25 cars that he has?

1 **A** He said, "I keep them Town Cars all the time.
2 That's the only kind I like."

3 He also discussed Ford and Buicks, and we observed
4 several vehicles in his yard, including Lincolns.

5 **Q** Who is Geraldine Thomas?

6 **A** Geraldine Thomas was another resident of the
7 trailer park in Mountain City, the same trailer park that
8 Jay Manuel lived in. And she was also known to be a
9 fortuneteller.

10 **Q** Was she interviewed by law enforcement?

11 **A** No.

12 **Q** Was she interviewed by anyone else?

13 **A** There are handwritten notes in the private
14 investigator's file that state "Geraldine Thomas.
15 Fortuneteller. Lived trailer on Wayland Street. Bobby to
16 her house Thursday a.m., 12/8/94. Maybe. She don't know."

17 **Q** Is it clear whether this information came directly
18 from Geraldine Thomas?

19 **A** It's not clear whether that's an interview with
20 her or from somebody else.

21 **Q** Did Geraldine Thomas testify at trial?

22 **A** No.

23 **Q** Does anyone else make any statements regarding
24 Geraldine Thomas?

25 **A** In his interview with law enforcement that Bragg

1 gives on December 10 when he is arrested, he states that he
2 changed his socks and he then went over to the lady across
3 the street from Judy's, and she tells him his fortune. He
4 had his guitar on him. A neighbor lady was also with him.
5 He played some songs and he and Judy walked back to Jay's
6 house.

7 Q Can you tell from this statement from law
8 enforcement exactly when this occurred?

9 A No.

10 Q Did anyone else make statements regarding
11 Geraldine Thomas?

12 A Judy Thomas also told law enforcement that, on
13 Friday, December 9, Geraldine Thomas, who lived across the
14 street, told her, Judy, to come over because Robert Bragg
15 was there and she wanted Judy to come over and hear a song
16 that Robert Bragg was playing on his guitar.

17 Q Did anyone else make statements with respect to
18 Geraldine Thomas?

19 A Jay Manuel testified at trial that, when he was
20 released from jail on Thursday, December 8, he went straight
21 to his house. He said the doors were locked so he went
22 three trailers down and saw Bragg at the neighbor's playing
23 guitar. He says in that statement Geraldine Thomas was
24 there and Bragg was sitting there, playing his guitar.

25 Q Did the Commission interview Geraldine Thomas?

1 **A She is deceased.**

2 **Q Who is Phyllis Smith?**

3 **A She is Bragg's sister, Robert Bragg's sister.**

4 **Q And was she interviewed by law enforcement?**

5 **A No.**

6 **Q Was she interviewed by anyone else prior to trial?**

7 **A The private investigator hired by the defense**
8 **attorneys spoke with her on the phone on January 27, 1995.**

9 **The notes indicate that he spoke with her about**
10 **talking to Bragg and he requested that she send a copy of**
11 **the phone bill.**

12 **Q And did Phyllis Smith send the phone bills?**

13 **A She did. She sent a letter dated January 30,**
14 **1995, with the phone bill enclosed.**

15 **Q Did she testify at trial?**

16 **A She did. She was called by the defense. And she**
17 **testified that Robert Bragg called her collect from Boone on**
18 **Wednesday, December 7, 1994, at 1:14 p.m.**

19 **She then further testified that Bragg called her**
20 **collect from Mountain City, Tennessee, on Thursday,**
21 **December 8, 1994, at 6:54 p.m.**

22 **MS. SMITH:** Commissioners, the summary of her
23 testimony can be found on page 457 to 458 of your brief.

24 The phone records were provided in your brief.
25 They were introduced at trial. And they are on page 130 of

1 the brief.

2 Commissioners, do note, however, that the brief
3 incorrectly identifies the time of the call from Mountain
4 City, Tennessee, as 6:45 p.m. rather than 6:54 p.m. The
5 correct time is 6:54 p.m. That is on page 458 of your brief
6 if you want to make the correction. It should be 6:54 p.m.

7 **Q** Ms. Stellato, did anyone else --

8 **JUDGE WAGONER:** May I ask a quick question? Where
9 does Phyllis Smith, the sister, live? Where does she live
10 at this time?

11 **THE WITNESS:** At this time?

12 **JUDGE WAGONER:** During all these phone calls.

13 **THE WITNESS:** Oh.

14 **JUDGE WAGONER:** He was calling her collect from
15 Boone.

16 **THE WITNESS:** Judge Wagoner, I believe that she
17 lived in Virginia, but I need to pull that. Just one
18 moment.

19 **JUDGE WAGONER:** Okay. That's fine. She lived out
20 of state, as far as you know.

21 **THE WITNESS:** Yes, ma'am.

22 **JUDGE WAGONER:** Okay.

23 **THE WITNESS:** Let me pull that information for
24 you. I do have it.

25 **JUDGE WAGONER:** That's fine.

1 **MR. EDWARDS:** While you're looking for that -- so
2 in 1994, this would have been before the cell phone -- cell
3 phones were really prevalent; correct?

4 **THE WITNESS:** Or they were very large.

5 **MR. EDWARDS:** Right. And the phone records that
6 you're talking about would be for a landline; correct?

7 **THE WITNESS:** Correct.

8 **MR. EDWARDS:** So Ms. Smith's landline phone
9 records would have shown that, at 6:54 p.m. on the night of
10 the murder, that she got a collect call from Mountain City,
11 Tennessee.

12 **THE WITNESS:** Uh-huh.

13 **MR. EDWARDS:** Is that right?

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

15 **MR. EDWARDS:** And she testified that her brother
16 called her collect at that time to let her know that he was
17 in Mountain City, Tennessee, at 6:54 p.m.

18 **THE WITNESS:** Correct.

19 **MR. EDWARDS:** Okay. And I think you stated that,
20 I guess, from Boone to Mountain City was about 24 miles or
21 approximately a 35-minute drive.

22 **THE WITNESS:** Correct.

23 I should add the private investigator goes to the
24 phone that is in Mountain City, Tennessee, that's at the
25 dairy place and takes a photograph of the phone to confirm

1 that it's that phone and that phone number that Bragg says
2 he was at and cross-references it with the bill.

3 So I'm not sure if that was clear in the brief,
4 but they are trying to confirm that it could not have come
5 from another phone in Mountain City, Tennessee.

6 So I can provide that information. We have a
7 photograph of that specific phone that he says he went to;
8 it ends up being the one that calls her phone. If you would
9 like, we can certainly get that.

10 **MR. EDWARDS:** So you're saying that your
11 investigation determined that -- or confirmed that that was
12 the phone that was, in fact, used to make a collect call?

13 **THE WITNESS:** The phone that Mr. Bragg says that
14 he went to, that he gives them initially, and then they
15 confirmed that that is the phone that calls -- that is
16 listed on her phone number. Yes, sir.

17 **MS. SURGEON:** Why was he calling her?

18 **THE WITNESS:** He calls her both times and asks her
19 for money to go to Bristol for a job. And he calls her for
20 that when he's in Boone and then he calls her for that when
21 he's in Mountain City, Tennessee.

22 Bragg states in his interviews that he is one of
23 several children and that Phyllis was the mother figure of
24 them and the only one that he called on a frequent basis.

25 She states that she would accept phone calls from

1 him. However, at the time, she did not have any money to
2 provide him.

3 **JUDGE WAGONER:** Yes, sir.

4 **MR. FRYE:** So he called from Boone on December 7
5 at 1:14 p.m.

6 **THE WITNESS:** Correct.

7 **MR. FRYE:** And then on December 8 at 6:54 p.m.

8 **THE WITNESS:** Correct.

9 **MR. FRYE:** The next day.

10 **THE WITNESS:** Correct.

11 BY MS. SMITH: (2:28 p.m.)

12 **Q** Ms. Stellato, I'm handing you some address records
13 for Phyllis Smith.

14 If you could review those and let the
15 Commissioners know the state that Ms. Smith has lived in
16 since at least 1984 when the records go back to.

17 **A** West Virginia.

18 **JUDGE WAGONER:** West Virginia. That's close
19 enough.

20 **MS. SMITH:** Thank you.

21 **JUDGE WAGONER:** Thank you.

22 **Q** Did anyone else interview Phyllis Smith
23 postconviction?

24 **A** There is a memo in the North Carolina Center on
25 Actual Innocence file from April 4, 2007. They contacted

1 Ms. Smith by telephone. She explained that she had had a
2 stroke five years prior to this phone call and she had
3 trouble remembering things.

4 However, she stated that she did recall Mr. Bragg
5 calling her, that Mr. Bragg asked her for money so he could
6 go to Bristol to get a job, that her husband was not working
7 at the time and they didn't have any money; so she could not
8 help him.

9 In that memo, she also stated that she and Bragg
10 come from a family of 11 brothers and sisters, that their
11 parents were both dead, and that she had assumed the mother
12 role over all of her siblings. She said when Bragg visited
13 her, that he didn't drink, he was polite, and that she
14 freely trusted him.

15 She stated that she was the only -- I believe she
16 was still writing him back and forth in jail at that time.

17 When the Commission interviewed or attempted to
18 interview Ms. Smith, the Commission learned from her
19 daughter that she had had the stroke in 2003 but that she
20 now has a Stage 6 dementia and onset Alzheimer's, which has
21 affected her long-term and short-term memory; so we did not
22 attempt to interview her directly.

23 Q Ms. Stellato, who is Thomas Horne?

24 A Thomas Horne worked at the pawn shop in Mountain
25 City in 1994.

1 **Q** And was he interviewed by law enforcement?

2 **A** No.

3 **Q** Was he interviewed by anyone else prior to trial?

4 **A** He was interviewed by the private investigator
5 that was hired by the defense attorneys on January 2, 1996.

6 **Q** What did he tell that private investigator?

7 **A** At that time, he stated that Mr. Bragg was in the
8 pawn shop on either Thursday or Friday, December 8 or
9 December 9. He stated that the pawn shop was closed on
10 Wednesdays, and he recalled that Mr. Bragg wanted to pawn a
11 guitar --

12 (Interruption.)

13 **MS. SMITH:** I apologize for the interruption, a
14 technical difficulty over the loudspeaker.

15 **A** Mr. Horne stated that he recalled Mr. Bragg coming
16 into the pawn shop and that he wanted to pawn a guitar, but
17 the guitar had no value and so Mr. Horne would not pawn it.

18 He stated Mr. Bragg was mad that he wouldn't pawn
19 the guitar, and Mr. Horne stated he heard the following week
20 that Bragg had been arrested.

21 **Q** And did Mr. Horne testify at trial?

22 **A** He did. He was called by the defense. He
23 testified that Mr. Bragg had pawned a Harmony guitar on
24 November 8, 1994, and that it was due to be picked up on
25 December 8, 1994.

1 He also testified that sometime during the week of
2 the murder, Bragg had come into the pawn shop and attempted
3 to pawn a Stella guitar.

4 The summary of that can be found at page 458 of
5 your brief.

6 Q Did Mr. Bragg make any statement regarding pawning
7 his guitar?

8 A In his interview with law enforcement, Mr. Bragg
9 stated that, on Thursday, December 8, "The man then drove
10 Bragg and Jay to the shopping center in Mountain City to
11 pawn his guitar. This was about 3:00 or 3:30 p.m. The pawn
12 shop refused, however, because they already had two of
13 Bobby's things. They left and returned to Jay's."

14 Q Did the Commission interview Thomas Horne?

15 A We did.

16 Q Can you tell the Commissioners what he said.

17 A He recalled testifying at Mr. Bragg's trial. He
18 stated that Mr. Bragg had been in his store sometime that
19 week, but he did not recall which day. He stated that the
20 pawn shop was busy and so he wouldn't pay attention to what
21 day it was when people were there unless he did business
22 with them and actually wrote them a pawn ticket.

23 He stated that he didn't testify in court that
24 Bragg was actually there to pick up the original guitar
25 because Bragg didn't tell him that that was what he wanted.

1 He said the pawn shop was closed on Wednesdays and Sundays
2 and he knew Bragg because Bragg and his uncle -- the pawn
3 shop owner's uncle -- were drinking buddies.

4 Q Have the statements provided by Mr. Horne
5 generally been consistent?

6 A They have.

7 Q Who is Belinda Reece?

8 A Belinda Reece was a secretary at the Department of
9 Human Services in Mountain City, Tennessee, at the time of
10 the crime.

11 Q And was she interviewed by law enforcement?

12 A She was. She was interviewed by law enforcement
13 on December 12, 1994. She stated that Mr. Bragg had come
14 into their office on either Thursday, December 8, or Friday,
15 December 9.

16 She stated that, after speaking with two other
17 secretaries in the office, that they believed Bragg had come
18 into the office on Friday, December 9, and that it was
19 around 8:30 a.m.

20 Bragg wanted to apply for TennCare, which is
21 Medicaid. And she gave Bragg the application. He took it
22 with him. And Bragg also asked her for a couple of dollars,
23 which she gave him. They carried on a normal conversation.
24 She said that Bragg had an odor of alcohol, that he was
25 wearing a tan winter coat, dark pants, and maybe blue jeans,

1 and carrying his guitar in a black case.

2 Q Was she interviewed by anyone else prior to the
3 trial?

4 A She was also interviewed by -- well, excuse me.
5 There are handwritten notes in the private investigator's
6 file that state "Belinda Reece. Tennessee Department of
7 Human Services. Bobby in her office either Thursday a.m. or
8 Friday a.m. She can't remember exact date."

9 Q And is it clear whether or not that information
10 came directly from Belinda Reece?

11 A No.

12 Q Did Belinda Reece testify at trial?

13 A She did. She was called by the defense. She
14 testified that she saw Bragg in December of 1994 when he
15 came in to ask for an application for TennCare. She was
16 unable to recall the date, but she testified that there was
17 a weekend in between when she saw Bragg and when the
18 detectives interviewed her.

19 She also testified that the week before that
20 interview she had worked every day except for Thursday.

21 MS. SMITH: Commissioners, a summary of her
22 testimony can be found on pages 458 to 459 of your brief.

23 Q Did Mr. Bragg make any statements about going to
24 the Department of Human Services in Mountain City,
25 Tennessee?

1 A In his interview with law enforcement, he stated
2 that, at 8:00 a.m. on Thursday, December 8, he walked from
3 Jay Manuel's to the Department of Social Services, that he
4 talked to Belinda Deese -- Reece about signing up for
5 TennCare, that she gave him \$2 in quarters, and that he kept
6 the application to fill out later, and that he and Judy
7 Thomas filled it out and mailed it out later that day.

8 Q Was the Commission able to interview Belinda
9 Reece?

10 A We did.

11 Q Can you tell the Commissioners what she said.

12 A She remembered Robert Bragg and she recalled
13 testifying at trial. She recalled that Bragg had come in
14 and picked up an application for food stamps. She stated
15 she had forgotten the date, that she told him she didn't
16 know the date and time because the department didn't log in
17 when someone comes in for an application. They only log in
18 when an application is returned.

19 She was unable to recall the dates now, but just
20 remembered that he came in, she talked to law enforcement,
21 and she testified about it, and that she was working on the
22 day he came in. She does not recall him bringing the
23 application back.

24 She also stated that her normal schedule is she
25 was normally off on Fridays unless it was a week with a

1 holiday.

2 Q Have the statements that Ms. Reece has provided
3 been generally consistent?

4 A With the exception of what day she normally had
5 off, they have been, and the -- what the application was
6 for, they have been consistent, yes.

7 Q Who is Jewell Triplett?

8 A Jewell Triplett was the secretary at the First
9 Baptist Church in Mountain City, Tennessee, at the time of
10 the crime.

11 Q And who is Violet Eller?

12 A Violet Eller was the janitor at the same church.

13 Q Can you tell the Commissioners why they are
14 relevant to this case.

15 A The First Baptist Church in Mountain City,
16 Tennessee, at the time offered food, medicine, and gas
17 vouchers to people that they determined were in need. And
18 during that time, Bragg indicated that he received a \$10
19 voucher from the First Baptist Church. He provided a
20 receipt -- or the voucher receipt to law enforcement
21 officers.

22 Q And was Jewell Triplett interviewed by law
23 enforcement?

24 A She was. She was interviewed on December 12,
25 1994. She told law enforcement in that interview that she

1 was off on December 9, that Friday, and that the writing on
2 the voucher they showed her looked like that of the janitor,
3 Violet Eller.

4 Q Was Violet Eller interviewed by law enforcement?

5 A No.

6 Q Were either Jewell Triplett or Violet Eller
7 interviewed by anyone else prior to the trial?

8 A They were both interviewed by the private
9 investigator, Jerry Vaughn, on January 2, 1996. They stated
10 that Jewell Triplett was not at the church on that Friday,
11 December 9, because Fridays were her day off, and that it
12 was Violet Eller that gave Robert Bragg the gas voucher at
13 approximately 8:30 a.m. on Friday.

14 Q Did either of those women testify at trial?

15 A Both of them were called to testify and their
16 testimony was consistent with what they told law enforcement
17 and the private investigator.

18 MS. SMITH: Commissioners, a summary of that
19 testimony can be found on pages 459 to 460 of the brief.

20 Q Did the Commission have an opportunity to
21 interview Jewell Triplett?

22 A We did. She recalled testifying at trial and that
23 she was off that Friday because she had Fridays off and that
24 she had authorized Violet Eller to sign her name.

25 Q And was the Commission able to interview Violet

1 Eller?

2 **A She is deceased.**

3 **Q** Have the statements provided by Ms. Triplett and
4 Ms. Eller been generally consistent?

5 **A Yes.**

6 **MS. SMITH:** I am passing around the criminal
7 record of Alfred Henley.

8 **Q** Ms. Stellato, who is Alf Henley?

9 **A Alf Henley was a friend of Robert Bragg who lived**
10 **in Mountain City, Tennessee, at the time of the crime.**

11 **Q** Was Mr. Henley interviewed by law enforcement?

12 **A No.**

13 **Q** Was he interviewed by anyone else prior to trial?

14 **A No.**

15 **Q** Did he testify at trial?

16 **A No.**

17 **Q** Did the Commission locate and interview
18 Mr. Henley?

19 **A We did.**

20 **Q** Can you tell the Commissioners what he said.

21 **A He stated that, on the day of the murder, Robert**
22 **Bragg was seen on the telephone where the old Dairy Bar used**
23 **to be by a woman. He stated that this woman saw Robert**
24 **Bragg on the phone at 15 minutes until 7:00 p.m. He knew**
25 **this because he was good friends with the lady's husband.**

1 He stated that this couple were the Eldritts (phonetic).

2 He also stated that the following day he saw
3 Robert Bragg after Robert Bragg had left the First Baptist
4 Church in Mountain City, Tennessee. Alf Henley stated he
5 picked Bragg up and Bragg had gone to the church in order to
6 bum some money for gas. Alf Henley stated he took Robert
7 Bragg to the Exxon gas station because the Exxon gas station
8 would cash the voucher. From there, he took Bragg to the
9 beer store and Bragg bought a case of beer.

10 During his interview with the Commission, Alf
11 Henley questioned why Robert Bragg would be going to a
12 church to bum some money if he had just robbed someone.

13 He stated that Robert Bragg had never stolen from
14 him despite many opportunities for Robert Bragg to do so,
15 and that it was common for him to see Robert Bragg
16 hitchhiking from town to town, and that he would always pick
17 up Robert Bragg and give him a ride wherever Bragg wanted to
18 go.

19 Alf Henley did not know Jay Manuel.

20 Q Did the Commission follow up on any of the
21 information provided by Mr. Henley?

22 A We made efforts to contact the lady who saw -- who
23 he said saw Mr. Bragg on the telephone as well as her
24 husband, and we determined that both of them are deceased.

25 MS. SMITH: Commissioners, do you have any

1 questions for Ms. Stellato regarding the alibi witnesses she
2 has just testified about?

3 **MR. EDWARDS:** Okay. So Mr. Henley, where did you
4 get his name?

5 **THE WITNESS:** His name came from an interview with
6 Robert Bragg asking Mr. Bragg if he could -- could recall
7 anyone in Mountain City who may have seen him there at the
8 time.

9 **MR. EDWARDS:** And Mr. Henley said a lady told him
10 that she saw Robert Bragg on the telephone about a quarter
11 to 7:00.

12 Was that on the night of the murder?

13 **THE WITNESS:** Mr. Henley told us that --
14 correct -- that he was very good friends with the woman's
15 husband and that that is how he knew that.

16 We didn't know that when we interviewed
17 Mr. Henley. We only knew that Mr. Bragg was saying "That's
18 someone I saw when I was in Mountain City, Tennessee."

19 Mr. Henley stated that, on the day of the murder,
20 this woman saw Bragg on the phone at 15 minutes until
21 7:00 p.m. and that this is where the Dairy Bar used to be,
22 which that is where the pay phone was, and that he was good
23 friends with the lady's husband, and that's how we knew
24 that.

25 **JUDGE WAGONER:** And he was not interviewed by law

1 enforcement or anyone else before the Commission interviewed
2 him? Mr. Henley?

3 **THE WITNESS:** Right. No, ma'am.

4 **JUDGE WAGONER:** And how long ago did you-all
5 interview him? What was the date of your interview with
6 him? You just interviewed him once?

7 **THE WITNESS:** February 18, 2016.

8 **JUDGE WAGONER:** Okay.

9 **MS. SURGEON:** The application for benefits that
10 was completed, you said it was completed with the assistance
11 of Ms. Thomas.

12 **THE WITNESS:** Yes, ma'am.

13 **MS. SURGEON:** Was that returned to DSS?

14 **THE WITNESS:** According to Mr. Bragg, after Judy
15 Thomas helped him fill it out, they put it in the mail. The
16 Commission would -- did not obtain those records. I'm
17 certain that we would be able to. I'm sure we could get a
18 release from Mr. Bragg, but I'm not certain on that answer.

19 **MS. SURGEON:** What kind of benefit was it?

20 **THE WITNESS:** TennCare. So it was Medicaid.

21 **JUDGE WAGONER:** Judge Lock?

22 **JUDGE LOCK:** Just out of curiosity, since phone
23 records apparently confirm him making the placement of a
24 collect phone call close to 7:00 p.m. on Thursday,
25 December 8, '94, from the Dairy Bar in Mountain City --

1 Mountain City, Tennessee, how did the prosecution explain
2 that at trial?

3 Was it addressed in closing arguments or some sort
4 of rebuttal evidence offered? Or how was it handled by the
5 prosecution?

6 **THE WITNESS:** Phyllis Smith was presented --
7 according to the information that she provided to -- in a
8 letter to defense attorneys, she indicated that she was
9 extremely nervous and may not have given good testimony in
10 her opinion. However, the testimony was simply that the
11 calls were made.

12 As far as an explanation either way, there is no
13 indication of -- of that. I mean, I can't really answer
14 that question because there's just no explanation other than
15 the testimony was presented -- the testimony was heard.

16 **JUDGE LOCK:** If I understand correctly, the
17 private investigator actually testified at trial and
18 presented a photograph of that phone that the phone records
19 confirmed the making of a collect call from that phone at
20 that time on that date.

21 Is that correct? Was that the evidence received?

22 **THE WITNESS:** He -- they presented the phone
23 records. He goes to the phone and takes the photograph of
24 it. And they -- he testifies where it was. I don't know
25 that the photograph is actually entered, but he does testify

1 this is where it came from.

2 **JUDGE LOCK:** Okay. Were the phone records
3 received?

4 **THE WITNESS:** Yes, they were.

5 **MR. EDWARDS:** I know that this was something back
6 from yesterday, I think, but the -- do you recall the time
7 that, I guess, the 911 call or something was made and the
8 ambulance and dispatch was sent?

9 **THE WITNESS:** Trick question.

10 **MR. EDWARDS:** Yeah.

11 **THE WITNESS:** Uh-huh.

12 **MR. EDWARDS:** It's not intended to be a trick
13 question.

14 **THE WITNESS:** I know. I do, actually.

15 The neighbor, Larry Grimes, goes next door and
16 discovers the victim between 6:15 and 6:30 p.m. The call is
17 received and dispatch comes at 6:41 -- or dispatch sends.

18 The detectives arrive at 7:20 p.m.

19 Is that kind of what you're asking?

20 **MR. EDWARDS:** Okay. So if the murder were
21 committed anywhere even between 5:00 p.m. and 6:00 p.m. on
22 December 8 and it only takes 30 minutes to get to Mountain
23 City, Tennessee, then there would have been time for him to
24 get there and make a phone call.

25 **THE WITNESS:** Is --

1 **MR. EDWARDS:** That's hypothetical, I understand.

2 **THE WITNESS:** If the -- if the body is found at,
3 according to Larry Grimes, the earliest, 6:15, and the phone
4 call is made at 6:54 -- and your question is could you have
5 driven to Mountain City -- well, to be clear, the body is
6 found at that time. He has to go to Harris Teeter, get the
7 ride -- which the ride alleges that Gary Edwards and Laney
8 gave to him earlier that day -- but if he got a ride from
9 someone else, yes, he could have gotten there, made a phone
10 call from the Dairy Bar, yes, sir.

11 BY MS. SMITH: (2:52 p.m.)

12 **Q** Ms. Stellato, did Gary Edwards and Darlene Laney
13 say that they gave him a ride on December 8?

14 **A** Yes.

15 **Q** Or December 7?

16 **A** December 7. Thank you.

17 **JUDGE WAGONER:** Yes, sir.

18 **MR. BARROW:** I thought I heard you use two
19 different dates on when the secretary says that she saw
20 Robert Bragg in Tennessee.

21 **THE WITNESS:** You did hear me do that because she
22 gave two different dates.

23 **MR. BARROW:** Okay.

24 **THE WITNESS:** Ultimately, though, what she
25 testifies to and what she -- her final testimony and what

1 she says is that it was December 9 that Robert Bragg
2 received the voucher.

3 **MR. BARROW:** And the voucher was from the Baptist
4 Church; right?

5 **THE WITNESS:** Correct.

6 **MR. BARROW:** But I'm talking about the TennCare.

7 **THE WITNESS:** Oh, okay.

8 She states that Bragg came into the office on
9 either Thursday, December 8, or Friday, December 9, but
10 after talking with other secretaries in the office, Bragg
11 came into the office on Friday, December 9.

12 **MR. BARROW:** And is there any further information
13 on what talking with the other secretaries may --

14 **THE WITNESS:** That's actually what's written in
15 her police report. Her initial interview actually reads
16 "She stated that Bragg had come into the office on either
17 Thursday, December 8, 1994, or Friday, December 9, 1994.
18 She stated that after speaking with two other secretaries in
19 her office, they stated that Bragg had come into the office
20 on Friday, December 9. The time was around 8:30 a.m."

21 In her interview with us, what she's saying is "We
22 don't -- we don't keep a record when you come in for an
23 application; we only keep a record when you turn in the
24 application."

25 **MR. BARROW:** And the only bellwether, then, would

1 be which day she was off?

2 **THE WITNESS:** Sir?

3 **MR. BARROW:** I said the only way you could really
4 tell would be by which day she was off that week, whether it
5 was Thursday or Friday.

6 **THE WITNESS:** And she states that when detectives
7 came back and interviewed her, her recollection is that it
8 was on a Friday even though she's normally off on Fridays.

9 **MR. BARROW:** And she gave him \$2?

10 **THE WITNESS:** She stated that he asked for a
11 couple of dollars and she gave it to him. That's what
12 police wrote in the report. "Bragg asked for a couple of
13 dollars and she gave it to him."

14 **JUDGE WAGONER:** Okay. Mr. Long's had his hand up.

15 **MR. LONG:** Well, I think she's answered the
16 question.

17 **JUDGE WAGONER:** Okay.

18 **MR. LONG:** She later said that she was off that
19 week on Friday, didn't she?

20 **THE WITNESS:** She later said that -- in her
21 original testimony at trial, she said that, on that specific
22 week, she worked every day except Thursday. But in another
23 interview, she said that she is normally off on Fridays
24 unless it is a holiday.

25 **MR. LONG:** Right. Thank you.

1 **JUDGE WAGONER:** Yes, ma'am.

2 **MS. SURGEON:** So were there employment records to
3 indicate what days she worked those two weeks?

4 **THE WITNESS:** There may have been at the time, but
5 it's -- it's from 1994.

6 **MS. SURGEON:** But nobody verified?

7 **THE WITNESS:** No, ma'am.

8 **JUDGE WAGONER:** Any other questions?

9 (No response.)

10 **MS. SMITH:** I think now would be an appropriate
11 time for the afternoon break.

12 **JUDGE WAGONER:** We'll be in recess until about ten
13 minutes after 3:00.

14 (Recess taken, 2:57 to 3:12 p.m.)

15 **JUDGE WAGONER:** I think we are ready.

16 **MS. SMITH:** Commissioners, we are going to take
17 care of a couple of housekeeping questions that were left
18 over from the last section. Then we are going to have
19 Ms. Stellato testify about the Commission's interviews with
20 Robert Bragg and then Mr. Bragg will be testifying, to kind
21 of give you an idea of how the rest of the afternoon will
22 proceed.

23 BY MS. SMITH: (3:12 p.m.)

24 **Q** Ms. Stellato, you were asked a question, I
25 believe, by Mr. Barrow about the distance between Jay

1 Manuel's trailer and Jim Bragg's home.

2 Do you now have knowledge of that?

3 **A I do. It appears that it's roughly .4 miles from**
4 **Jim Bragg's home to Jay Manuel's home.**

5 **Q** And, Ms. Stellato, you were asked by Judge Lock
6 how the prosecution handled the phone calls that were
7 introduced -- the collect phone calls -- between the pay
8 phones in Boone and Mountain City from Mr. Bragg to his
9 sister, Phyllis Smith.

10 Have you had an opportunity over the break to
11 review the closing argument of the prosecution in the case?

12 **A I have, as well as the cross-examination of**
13 **Phyllis Smith.**

14 **It is not mentioned -- she is not questioned about**
15 **it and it is not mentioned in the closing argument.**

16 **MS. SMITH:** Are there any additional questions
17 from that last bit of testimony about the alibis?

18 **JUDGE WAGONER:** (Moves head side to side.)

19 **MS. SMITH:** Commissioners, I am now passing out
20 the criminal record of Robert Bragg.

21 **Q** Ms. Stellato, was Mr. Bragg interviewed by law
22 enforcement?

23 **A He was. He was interviewed after his arrest on**
24 **December 10, 1994, while he was still in Mountain City,**
25 **Tennessee.**

1 **Q** What did he tell law enforcement during that
2 interview.

3 **A** He stated that he had been to the victim's home on
4 Tuesday, December 6, and spent the night there. He further
5 stated that Kenneth Coffey had arrived at the victim's home
6 around 3:00 a.m.

7 On December 7, Coffey and Bragg went to the A&P
8 store at approximately 6:00 a.m. to 6:30 a.m. and they stood
9 outside drinking wine until 10:00 a.m. or 11:00 a.m.

10 Both Coffey and Bragg then went to Henryk
11 Ossowski's home. Kenneth Coffey stayed at Henryk
12 Ossowski's, but Bragg left and he took the AppalCART, which
13 is a bus, over to the Harris Teeter.

14 According to Bragg's statement, Gary Edwards gave
15 Bragg a ride to Wayland Street in Mountain City, Tennessee,
16 and he arrived by 5:00 -- 4:00 or 5:00 p.m. that day.

17 The statement goes on to describe his activities
18 in Mountain City, Tennessee, from Wednesday afternoon until
19 his arrest on Saturday evening, December 10. And that
20 statement is provided in your brief on pages 87 through 93.

21 **Q** Ms. Stellato, was Mr. Bragg interviewed by anyone
22 else prior to trial?

23 **A** There are handwritten notes in the private
24 investigator's file that indicate Robert Bragg called the
25 investigator from jail on January 31. He told the private

1 investigator about seeing a man in the pawn shop in Mountain
2 City.

3 He also said "Horton, somebody else may have seen
4 Bobby and Kenneth walking to Coy's trailer on Tuesday,
5 12/06/94, not Thursday."

6 Q Are there any other additional handwritten notes
7 in the private investigator's file?

8 A There are additional notes indicating that, on
9 12/1/95, the investigator met with Robert Bragg while in
10 jail. This note indicates "See Joe Pat Snyder, U.S.
11 postman. He seen Bobby at Jay's trailer on Thursday after
12 1:00 p.m."

13 Q Mr. Stellato, I believe you just said that that --
14 those notes were from 12/1/95.

15 Is that actually February 1, 1995?

16 A February 1, 1995.

17 Q Did Mr. Bragg to testify at his trial?

18 A No.

19 Q Was Mr. Bragg interviewed by anyone after the
20 trial but prior to the Commission's involvement in the case?

21 A The students from UNC Wrongful Convictions class
22 interviewed Mr. Bragg on November 6, 2006. They interviewed
23 him and drafted a memo about that interview. There are no
24 handwritten notes, but we do have that memo.

25 Q And what does the memo indicate that Mr. Bragg

1 told the students?

2 A According to the memo, Mr. Bragg denied any
3 involvement in the murder and said he did not know anything
4 about the crime, including whether or not Kenneth Coffey was
5 involved.

6 Mr. Bragg stated the last time he saw the victim
7 was in the early morning hours of December 7, the day before
8 the murder. Mr. Bragg said he had spent the night on
9 Tuesday, December 6, at the victim's house. He stated he
10 was friends with the victim and he felt the victim was a
11 good fellow.

12 He stated that about 4:00 p.m. on December 7, he
13 went to the Harris Teeter and asked Darlene Laney for a ride
14 to Mountain City. She didn't have a car. Gary Edwards
15 drove Laney home and then took Bragg to Jay Manuel's trailer
16 in Mountain City. That night, Bragg and Jay walked to the
17 store to get more alcohol.

18 The memo states that Bragg waited outside because
19 he had been previously banned from the store. Jay Manuel,
20 who was drunk at that time, dropped and broke some bottles
21 while he was inside the store and the store employees called
22 the police. Jay was arrested but Robert Bragg did not want
23 to get in trouble, left the scene.

24 Bragg stated the next day he played poker at the
25 trailer park with Jay Manuel, John Shoemake, and some

1 **African-American males.**

2 **The memo also includes Bragg's theories as well as**
3 **student impressions on the case.**

4 **Q** Did the Commission obtain the Department of Public
5 Safety records for Mr. Bragg?

6 **A** **We did.**

7 **Q** And did the Department of Public Safety records
8 for Mr. Bragg reveal any statements that Mr. Bragg made
9 about the crime?

10 **A** **All of the statements related to the crime, he has**
11 **maintained innocence and denied any involvement in the**
12 **murder.**

13 **MS. SMITH:** Commissioners, I am going to pass
14 around a mental health and education summary for Mr. Bragg
15 that was prepared by the Commission from the DPS records.

16 Judge Wagoner, I would request that you order that
17 the document I am passing out now not become public record
18 due to the sensitive information and --

19 **JUDGE WAGONER:** So ordered. Once you've read it,
20 just pass it back like we did the other one, please.

21 I think we're ready.

22 **MS. SMITH:** Okay.

23 **Q** Ms. Stellato, did the Commission interview
24 Mr. Bragg?

25 **A** **The Commission interviewed Mr. Bragg two times.**

1 Q And can you tell the Commission about the first
2 interview.

3 A In his first interview, Mr. Bragg stated that, at
4 the time of the crime, he was homeless; that he traveled
5 back and forth between, Boone, Mountain City, and Bristol;
6 that he originally came to Boone because there was a
7 Hospitality House there; that he had been in and out of the
8 Boone area since 1989; that when he was in Boone, he started
9 making friends. They all drank, played music, and were
10 homeless. He stated he would hitchhike with friends or
11 friends would give him a ride.

12 When asked what would make him move from one place
13 to another, he stated that, in Boone, he would get tired of
14 being put in jail for being drunk and disruptive and he
15 would leave town.

16 When he was in a relationship with Shirley
17 Faircloth, he would leave Boone, she would ask him to
18 return, and he would come back and stay with her for a
19 while.

20 When asked how he would get money, Boone [sic]
21 stated that he would panhandle and that when he would play
22 guitar, people would also give him money.

23 Bragg stated that the victim would let homeless
24 people in, that the victim drank a lot, and Bragg would go
25 over there and drink with the victim and sometimes spend the

1 night.

2 He said that the victim had both a couch and a bed
3 in his living room, and that the victim would allow Bragg
4 and others who were drinking to go there, take a shower, get
5 out of the cold, and have a place to get out of the streets.

6 Mr. Bragg stated that he really didn't know most
7 of the people who lived in the trailer park where the victim
8 lived.

9 With respect to Kenneth Coffey, Bragg stated that
10 he had known Coffey's wife, Louise Coffey, and that he and
11 Kenneth Coffey were friends, more or less, that they would
12 run into each other and drink and get along.

13 He described Coffey as dumb or ignorant, but
14 stated he couldn't describe it. He stated that if he ran
15 into Coffey and Coffey had something to drink, he would
16 drink with him, but after that, he would shy away from
17 Coffey.

18 When asked about a relationship with Joe Cothren,
19 Bragg stated that Cothren was from Wilkesboro but would come
20 to Boone to hang out with homeless people and get drunk, but
21 that only happened until Cothren got sick and then Cothren
22 would disappear and they wouldn't see him for a month or so.

23 Bragg was asked about acts of domestic violence
24 with his wives and former girlfriends. And he admitted to
25 this, but stated that this occurred when he was drinking.

1 He also stated that he believes he got into a
2 fight with Doyle Pitts and slapped him, but denied hitting
3 him in any other way.

4 When asked about Nancy Horton, Bragg stated he had
5 read her name in some investigative reports, but he does not
6 think that he knows her. He stated that he did not know
7 Jeffrey or Rene Nelson and had never seen them before.

8 He was asked about the trailer hitch ball and how
9 he obtained it. Bragg stated that he was crossing the
10 street in Boone, that he saw a trailer hitch ball laying in
11 the road, that he put it in his pocket, that it wore a hole
12 in his pocket; so he put it in a pair of socks and carried
13 it around.

14 He stated that he carried socks because when you
15 are homeless, your feet get wet and you always carry a pair
16 of dry socks. He stated that the trailer hitch ball was in
17 a pair of socks, not one sock, so that it had double
18 insulation.

19 Bragg states that he never threatened anyone with
20 the trailer hitch ball and he was not carrying it for
21 protection. He stated that he might -- he thought he might
22 be able to sell it to someone and get two or three dollars,
23 and that he tried to sell it to some garages.

24 Bragg stated that he could not recall exactly how
25 long he carried it with him, but he guessed it was three to

1 four days.

2 Bragg stated that when he was arrested on
3 December 10, the trailer hitch ball was in a trench coat
4 that was hanging on the back of a chair. He stated that he
5 wasn't wearing the coat that it was in. He stated the ball
6 was not in the sock and there were no socks in the pockets
7 with the trailer hitch ball.

8 He stated when his socks were wet, he took the
9 ball out of the socks and put those socks on at Judy's. He
10 threw his old socks out. He bought another pair of socks at
11 the general store. He does not know where his new socks
12 were, but he never put the trailer hitch ball back in them.

13 Q Did he say anything else?

14 A Bragg stated that he and Kenneth Coffey had been
15 hanging out for a few days and that, prior to that, they had
16 been put in jail for being drunk in public.

17 Regarding the statement to law enforcement, he
18 said he never told police that he would use it as a weapon.
19 He said, "I told police you never can tell where I might
20 find someone to sell it to."

21 Bragg stated that when they were released from
22 jail on that Tuesday, December 6, they went to a bar. He
23 told Kenneth Coffey and Monroe Brown that he was going to
24 Mountain City because they kept putting him in jail.

25 On Tuesday, he said, "I'm going to spend the night

1 with Coy, and the next morning I'm going to get me a way
2 back to Mountain City, Tennessee."

3 So that night, he went to the victim's house,
4 asked if he could spend the night, and laid on the couch.
5 Around 3:00 in the morning, Coffey came over, Bragg and
6 Coffey drank beer, and Bragg got out his guitar. The victim
7 had gone back to sleep.

8 They stayed up all night. And the next morning,
9 around 7:00 a.m., he went to the A&P. They went in and got
10 a couple of bottles of wine and drank it in the parking lot.
11 Coffey had the money for that.

12 They then went to another trailer park and went to
13 Henry's house. He said Henry was Polish. Bragg told them
14 he was leaving and going back to Mountain City.

15 When Bragg got off of the AppalCART, he got off at
16 the Pantry in Boone and called his sister Phyllis Smith. At
17 that time, he asked her for some money. He then went to the
18 Harris Teeter. He stated that Darlene Laney had given him
19 rides before, and on that day, she told him she didn't have
20 a car and he should wait for Edwards. He asked what --
21 Edwards for a ride, and after Edwards took Laney home,
22 Edwards gave him a ride to Mountain City.

23 Q Does he say where Mr. Edwards dropped him off and
24 when that occurred?

25 A He says that Edwards took him straight to Jay

1 Manuel's house and that Edwards picked him up between
2 3:00 and 4:00 p.m.

3 Q In that interview, did Bragg also detail his
4 activities from the time he arrived in Mountain City on
5 December 7, 1994, until his arrest on December 10, 1994?

6 A He did.

7 Q Was he consistent?

8 A He was consistent. However, he stated that he
9 played poker on Friday night, and in all prior statements he
10 had indicated that he played poker on Thursday night. The
11 details providing who was there all remain consistent. And
12 additionally, he stated on that night he had no money; the
13 others were playing poker, and he was standing there
14 watching, and that John Shoemake asked Bragg if he wanted to
15 play. Bragg said, "I don't have any money to play," and
16 John Shoemake gave him money so that he could play.

17 Q What else did Mr. Bragg say during the interview?

18 A He stated that he didn't know who murdered the
19 victim. He stated, "All I know is that Kenneth Coffey lied
20 on me and said I beat Coy Hartley to death with a trailer
21 hitch ball, which is a boldfaced lie. I don't even know a
22 thing about it."

23 Q Did he say anything else?

24 A "Only thing I can say is that I did not commit
25 that murder and I do not know nothing about that murder,

1 **never did and I still don't."**

2 **MS. SMITH:** Commissioners, the interview with
3 Mr. Bragg was recorded and transcribed. The transcript of
4 interview is 94 pages. Mr. Bragg is here to testify under
5 oath today, and I am going to call him to do so in just a
6 little bit.

7 If, after he testifies, you would like a copy of
8 that transcript to read, we can certainly make copies
9 available to you.

10 **MR. EDWARDS:** May I just ask, what was the date of
11 his first interview?

12 **THE WITNESS:** September 30, 2011.

13 **Q** Ms. Stellato, did the Commission interview
14 Mr. Bragg a second time?

15 **A** **We did. That's on January 6, 2016.**

16 **Q** And can you tell the Commissioners what Mr. Bragg
17 said in that second interview.

18 **A** **In this interview, the Commission interviewed him**
19 **to inform him that his case would be going to hearing. We**
20 **reviewed the procedure with him and his attorney. And**
21 **additionally, the Commission asked Mr. Bragg some additional**
22 **questions that we had for him at that time.**

23 **We asked Mr. Bragg whether there was anyone that**
24 **he could recall that he spoke to or that he saw or may have**
25 **seen him in Mountain City. During that conversation,**

1 Mr. Bragg recalled a man by the name of Alf Henley. I
2 testified earlier about Alf Henley.

3 Q Did Mr. Bragg say anything specifically about what
4 he -- what Mr. Henley saw?

5 A Mr. Bragg stated that, on December 8, after Jay
6 Manuel got out of jail, he and Jay Manuel walked to a
7 convenience store and they saw Alf.

8 Robert Bragg told Alf that he would get Alf some
9 gas if Alf would run him to the beer store. Alf told Bragg
10 that the only place the voucher would be good is the Exxon.
11 So they went to the Exxon and used the voucher. Alf then
12 took them to the beer store and brought them to Jay's
13 trailer.

14 Q What else did Mr. Bragg say in the second
15 interview with the Commission?

16 A He stated that he did not commit the crime and
17 does not know who did it. We asked him whether or not
18 Coffey committed the crime. His response was "Why would he
19 give all them statements if he didn't have some involvement
20 in it? But as far as know him, actually knowing that he did
21 it, I couldn't say. I don't know."

22 Q Based on your interviews with Mr. Bragg, did the
23 Commission conduct any follow-up interviews or
24 investigation?

25 A During the first interview with Mr. Bragg, he told

1 us about an inmate whose nickname was Shorty who he had met
2 in prison. According to Mr. Bragg, Shorty was incarcerated
3 with Coffey, and Coffey told Shorty that Coffey had blamed
4 the murder on Bragg.

5 The Commission conducted a search and determined
6 that Shorty was a man named Steve Petty. The Commission
7 scheduled an interview with Petty in prison. But prior to
8 the interview, we were informed that Mr. Petty had refused
9 the visit.

10 Bragg informed us in the second interview of Petty
11 again. Mr. Petty is deceased.

12 Q Did the Commission do any other follow-up
13 interviews or investigation after the interviews with
14 Mr. Bragg?

15 A Mr. Bragg also informed us of another inmate named
16 Quinton Sherrill. Mr. Bragg had a letter in 1996 from an
17 inmate named Quinton Sherrill. The letter states "Kenneth
18 Coffey and myself were at Marion Correctional, and he talked
19 to me about his murder case and told me how he had beaten a
20 man to death about money that was owed to him."

21 MS. SMITH: Commissioners, I am passing around the
22 criminal record of Quinton Sherrill.

23 Q Ms. Stellato, what did the Commission staff do
24 based on that information?

25 A The Commission interviewed Sherrill at Scotland

1 Correctional. We provided him a copy of the letter and
2 asked him if he had written it or remembered writing it. He
3 stated that he had.

4 Mr. Sherrill said that Kenneth Coffey told him the
5 victim owed Coffey money for a job and the victim wouldn't
6 pay him. So Mr. Coffey took a hammer and beat the dude in
7 the head and killed him.

8 Sherrill said in the interview that he wasn't
9 friends with Mr. Coffey, that they had just met at Marion
10 Correctional, and that Coffey talked about how he had caught
11 a life sentence.

12 Later on, while Mr. Sherrill was in the prison
13 system, he met Mr. Bragg in prison and they started talking,
14 and he said it just so happened that he knew Coffey. The
15 commission was able to confirm through prison records that
16 Coffey and Sherrill were in Marion Correctional together and
17 that Bragg and Sherrill were also later imprisoned together.

18 Q Ms. Stellato, was the interview that was conducted
19 with Quinton Sherrill transcribed -- recorded and
20 transcribed?

21 A It was.

22 Q Can I refer you to page 3 of that --

23 A Okay.

24 Q -- and ask you to read line 31 through line 35.

25 (Read by Ms. Stellato:)

1 **A** Quinton Sherrill stated "He got the life sentence.
2 I got a life sentence. The only difference is I ain't did
3 nothing to get my life. Dude cried. You know, I reached
4 out to him, you know. I've been here 18 years. So I can
5 imagine how he feels when he ain't did nothing. I did my
6 crime and I know how I feel, you know, but this man ain't
7 did nothing. He ain't did nothing to get a life sentence."

8 **Q** Can you also read -- the page numbering is messed
9 up at the bottom -- on page 3, line 2, through page 4,
10 line 7.

11 **A** "I know he ain't did nothing. You know, I know
12 the dude that did it because I heard the story. I sat right
13 there and listened to the man tell me how he killed a man
14 with a hammer and everything when he went to get his money.
15 Dude wouldn't give him his money, they got to fighting, he
16 done killed him with a hammer."

17 **Q** Did Mr. Sherrill tell you anything about whether
18 or not Mr. Bragg had ever stated he was innocent or admitted
19 guilt in any way?

20 **A** Mr. Sherrill stated that Bragg maintained to him
21 he was innocent and had nothing to do with the crime.

22 **Q** And is Mr. Bragg here to testify today?

23 **A** He is.

24 **MS. SMITH:** Commissioners, do you have any
25 questions for Ms. Stellato regarding her testimony about

1 Mr. Bragg?

2 **JUDGE LOCK:** Where is Mr. Sherrill today?

3 **THE WITNESS:** I believe he is still incarcerated,
4 but I can check.

5 **JUDGE LOCK:** When was the last time he was
6 interviewed?

7 **THE WITNESS:** June of 2012.

8 **JUDGE LOCK:** Why has he not been interviewed more
9 recently than that? To see if he is standing by that story?

10 **THE WITNESS:** The purpose -- when you hear that
11 there are -- that there are two or three interviews, the
12 purpose -- the Commission primarily does one interview
13 unless there is a follow-up needed to be done.

14 So when you are hearing that there are two or more
15 interviews, it is normally to go back and ask follow-up
16 questions if there has been some further investigation that
17 needs to be continued on.

18 In his specific case, there just hasn't been
19 anything that reveals we need to go back to him.

20 We certainly can, but there's been nothing related
21 to him for us to go back to.

22 **JUDGE LOCK:** And I apologize for asking this
23 question -- perhaps it's my ignorance -- but why would he
24 not be called as a witness to testify before this
25 Commission? Why would Sherrill not be called as a witness?

1 **THE WITNESS:** He certainly can be. There was no
2 reason. Again, the Commission summarizes information simply
3 because it can get lengthy.

4 **JUDGE LOCK:** Sure.

5 **THE WITNESS:** But there absolutely is no reason
6 that we didn't call him or chose to call him. It's just
7 that there's a lot of people saying different things, as
8 you've heard today, and we can, if the Commission would like
9 us to do so.

10 **JUDGE LOCK:** Thank you.

11 **JUDGE WAGONER:** Other questions?

12 **MR. FRYE:** One other one real quick.

13 The letter that he wrote to Robert Bragg, did he
14 have that -- still have that letter?

15 **THE WITNESS:** Robert Bragg provided the Commission
16 the original.

17 **MR. FRYE:** That's what I want to know.

18 **THE WITNESS:** He was shown it, stated that it was
19 his handwriting, that he did write the letter, and confirmed
20 that it came from him. So the Commission has the original.

21 **MR. FRYE:** Okay.

22 **JUDGE WAGONER:** Would y'all like to see it later
23 perhaps?

24 (No response.)

25 **JUDGE WAGONER:** Okay.

1 **MS. SMITH:** You may step down.

2 (Witness stands down.)

3 **MS. SMITH:** The Commission calls Robert Charles
4 Bragg. It will be just a moment for them to bring him in.

5 Judge Wagoner, would the Commissioners like for
6 staff to prepare a writ for Mr. Sherrill to be here
7 tomorrow?

8 **JUDGE WAGONER:** Do you know where he is?

9 **MS. SMITH:** We can find out.

10 **JUDGE WAGONER:** No.

11 You might not be here anyway.

12 **JUDGE LOCK:** I am satisfied with the summary of
13 the testimony.

14 **JUDGE WAGONER:** Does anybody wish to hear
15 Mr. Sherrill?

16 No, thank you.

17 **MS. SMITH:** Okay.

18 Thereupon, Robert Bragg, having been sworn, was examined and
19 testified as follows on DIRECT EXAMINATION

20 BY MS. SMITH: (3:44 p.m.)

21 **Q** Good afternoon, Mr. Bragg.

22 **A** Hi.

23 **Q** Will you please state your full name for the
24 record.

25 **A** Robert Charles Bragg.

1 Q And what is your date of birth?

2 A 3/8/53.

3 Q And where are you currently residing?

4 A Pamlico Correctional Center.

5 Q Can you tell the Commissioners how you came to be
6 in Boone, North Carolina.

7 A I came to Boone, North Carolina, from Mountain
8 City, Tennessee. I just went over there and they had a
9 homeless shelter over there, and I started staying over
10 there and living around with the homeless, the homeless
11 shelter, and just hanging the streets and stuff like that
12 and drinking and stuff.

13 Q And is that in Boone or Mountain City?

14 A In Boone. I come from Mountain City. I heard
15 about it in jail over there in Mountain City.

16 Q Can you tell the Commission here how you know the
17 victim, Marvin "Coy" Hartley.

18 A I got to knowing him from up there in Boone
19 because he hung around with the homeless and he drink and
20 stuff, and people went down to his trailer and they drank
21 and he would let them in and they partied there and stuff
22 and everybody just got to knowing him and he just let people
23 in and stuff, come in there and rest and party, take showers
24 and stuff, fix them something to eat.

25 Q And did you know Kenneth Coffey?

1 A I got to knowing him up in Boone.

2 Q And how did you know him?

3 A I just got to knowing him from running around with
4 the rest of the homeless. They was all drinking and stuff
5 and laying in bushes and stuff, and we just got to knowing
6 each other.

7 Q Did you spend a lot of time with him?

8 A Just off and on when I seen him, you know. What
9 it was is his wife -- he had a wife named Louise, and she --
10 I guess she fell in love with me or something. And she kept
11 hanging around me and hanging around me. And she went with
12 other men and everything, you know, but I didn't love her or
13 nothing like that, but sometimes she'd have money and
14 everything and we'd just get drunk together and have a good
15 time and stuff. And for some reason, he got where he hated
16 me over that.

17 Q Can you tell us about your arrest on Tuesday,
18 December 6, 1994. Do you remember that?

19 A Yes, I do. I was at the -- me and Kenneth Coffey
20 had been running around that weekend and all into Tuesday,
21 and he had a motel room at the Red Carpet Inn. And we left
22 that Tuesday and we went to Coy Hartley's. And I had my
23 guitar with me and I asked Coy -- I asked Coy could I -- can
24 I leave my guitar there. And he said yeah.

25 So me and Kenneth, we left Coy's and we went to

1 the Pantry and we stopped and got some beer and got us a
2 sandwich because we was heading to Henryk's trailer. He
3 lived in a trailer park from the Pantry, and there was a
4 path through there to the trailer park to Henryk's.

5 So on that path, there was an old building there.
6 We stopped there and drank the beer and eat the -- drank the
7 beer and eat the sandwich. And then a woman came by,
8 Bonnie, while we was sitting on that path, and we knowed her
9 because she hung around the homeless shelter. But she had
10 moved in a trailer park, I think.

11 JUDGE WAGONER: Excuse me. Did you say Bonnie?
12 Bonnie?

13 THE WITNESS: Yeah.

14 JUDGE WAGONER: Okay.

15 THE WITNESS: I think her name was Crawley or
16 something like that.

17 A And I asked her would she cut my hair, and she
18 said yeah. And that was on the 6th -- December 6. It was
19 on a Tuesday.

20 Q And was that before or after you were arrested
21 that day?

22 A This was right before. So we went to Henryk's --
23 after we drunk the beer and eat the sandwich, we went to
24 Henryk's. And Henryk wasn't home. So we left and went
25 to -- crossed the street and went to the liquor store and

1 got some liquor. And then we went to the Pantry and -- to
2 get a Coke for a chaser. And I was getting a Coke out of
3 the machine, and next thing I know, Coffey was having words
4 with somebody.

5 And I looked over my shoulder, and it was Rhonda
6 Carson. I didn't really know her -- I didn't know what her
7 name was then, you know, right at that moment, you know. I
8 heard her name later. And they was having words and
9 everything. And told him, I said, "Man, I'm going to the
10 Longvue Motel" because I knowed somebody there, and --
11 somebody I could drink liquor with.

12 And next thing, I looked over my shoulder and
13 Coffey was right on my heels. And so we go into the Longvue
14 Motel parking lot, and the Boone PD pulls up, throws me up
15 against the car and reaches in my pocket and pulls my liquor
16 out and opens it up, pours it out, and takes me and him both
17 to jail. That's how we got arrested.

18 Q And how long were you in jail that time?

19 A We wasn't in jail over a couple of hours or
20 something. It wasn't very long as far as I can remember. I
21 know we called Monroe Brown and he got us out of jail.

22 Q When you were arrested on that day, did you have a
23 trailer hitch ball in your possession?

24 A Yeah, I did.

25 Q What did you tell officers about that?

1 A He asked me what was I doing with that trailer
2 hitch ball, and I said, "You never can tell when I might
3 sell it to somebody." And he went and twisted it around and
4 "never can tell when I might use it on somebody." He got up
5 in court and lied on it.

6 Q Can you please tell the Commission what you did
7 after you were released from jail that evening.

8 A Yeah. Monroe Brown and Kenneth Coffey and me, we
9 went to a bar and we drank some beer. And I told them -- or
10 all of them, I said, "I'm leaving Boone," I said, "every
11 time I turn around, they're putting me in jail." And I told
12 them I was going back to Coy's to pick up my guitar, and I
13 said, "I'm going to ask him to spend the night there, and
14 then I'm going back to Mountain City, Tennessee."

15 Q And did you do that?

16 A What? Back to Mountain City, Tennessee?

17 Q Spend the night with Coy Hartley.

18 A Yeah. I went to Coy's and I asked Coy could I
19 spend the night, and he said yeah. He wanted me to go to
20 the store for him and I went to store for him. He wanted me
21 to get him some eggs and bread and a six-pack of beer, and I
22 did. And then he wanted to fix him up some eggs and bread
23 and I did. And he had -- his bed was in the living room in
24 the trailer and he had a couch there too. And I laid down
25 on the couch and he laid down on the bed and we went to

1 sleep.

2 At about -- I think it was about 3:00 or 3:30 in
3 the morning, Kenneth Coffey was beating on the door and Coy
4 said, "Who is it?" And Kenneth said it was him and he told
5 me to get up and let him in. So I let him in.

6 And Coy never did get out of bed. We went to the
7 trailer -- the kitchen table and I had my guitar, and I just
8 took it, we was sitting there, drinking that beer and tuning
9 the guitar up -- and played a little bit of stuff, and about
10 6:00 -- about 6:00 or 6:30 in the morning and we left and
11 went to the A&P and got some wine.

12 Q What did you do after that?

13 A Went back to Henryk's -- went back to Henryk's
14 trailer and he was home.

15 Q Okay. And what did you do at Henryk's?

16 A Well, at Henryk's, we sat there and drank a little
17 bit more wine there. And Coffey and Henryks and them kept
18 talking. And I said, "Man, I'm leaving," I said, "I'm going
19 to get a ride back to Mountain City, Tennessee" and I did.

20 Q Why were you leaving Boone?

21 A Because the law kept putting me in jail and I just
22 got tired of it. They was harassing me. For some reason,
23 they didn't like me up there.

24 Q Okay. So you told them you were going to leave?

25 A Yeah.

1 Q Leave and go back to Mountain City?

2 A Right.

3 Q What happened next?

4 A Well, I left there and caught the AppalCART going
5 across town to over there on King Street. And then I called
6 my sister from the Pantry. And that was at 1:14 at the
7 Pantry, 1:14, I think, on Wednesday, December 2.

8 Q And what did you do after that?

9 A Then I went down to the Harris Teeter, and I knew
10 Darlene. She had given me rides before. And she was
11 working there and I asked Darlene, I said, "Darlene, would
12 you give me a ride back to Mountain City?" And she said she
13 didn't have no car, that Gary Edwards was giving her a ride
14 to and from work.

15 And I said -- so I just waited. And when Gary
16 Edwards pulled up, I said, "Gary, would you give me a ride
17 to Mountain City?" He said yeah. He said, "Wait until I
18 take Darlene home," he said, "I'll come back and pick you
19 up." So I waited. He came back, picked me up, and took me
20 to Mountain City, Tennessee, to Jay Manuel's trailer.

21 Q Do you know about what time that was?

22 A It was between 3:30 and 4:00, because we got to
23 Mountain City somewhere about around 5:00, somewhere around
24 there. That's all -- as far as I can remember.

25 Q And do you know where Mr. Edwards dropped you off?

1 **A** **Yep. Jay Manuel's trailer in Mountain City,**
2 **Tennessee.**

3 **Q** Can you tell the Commissioners in as much detail
4 as you can what you did from the time you arrived in
5 Mountain City on December 7 until the time you were arrested
6 on December 10.

7 **A** Well, when I got to Jay's, I asked Jay, I said,
8 "Jay, can I stay a few days with you," and he said yeah. I
9 told him about the law coming kept harassing me, putting me
10 in jail and stuff, and he said, "Yeah, you can stay."

11 And John Shoemake and Jackie, his wife, was there
12 at the trailer when I got there. But they left.

13 So they left, and me and Jay was drinking beer,
14 and we run out. So we decided we go to Town and Country,
15 it's a beer and bar store. It's outside of town, I guess,
16 about -- I don't know -- it's about 2 miles from his
17 trailer. They don't sell beer in the city limits up there
18 in Mountain City.

19 So we went to the beer store and Jay went in. I
20 stayed outside and Jay went in. And when he come back out,
21 he said, "Man, he said, I think they're going to call the
22 law on me."

23 And I said why? He said he dropped some quarts of
24 beer on the floor. I said, "Oh, man, I said let's go out in
25 the wood and see if they call the law." So we just went up

1 in the woods and drank some beer and I never did see no law.
2 So we come back out. And as soon as we come out, there come
3 the law by and Jay started staggering around everything. I
4 said, "Man, I'm not going to jail." So I walked on up above
5 him and went to the 24-hour place -- there is a convenience
6 store and they sold hamburgers and stuff like that, and I
7 got me a hamburger and was waiting there. And Jay never did
8 show up. And so I went back over to his trailer, and
9 Shoemake -- John and Jackie Shoemake was there at the
10 trailer. And I told them. They said they believed they put
11 Jay in jail. So I stayed there, and Jackie and John
12 Shoemake -- and they left.

13 And so then I went down to another convenience
14 store -- I can't remember the name of it -- but anyway,
15 there was a convenience store, and I seen some guy that know
16 my brother Jim could give me a -- I asked him to give me a
17 ride to my brother Jim's, Jim Bragg. And he gave me a ride
18 to my brother Jim's.

19 And Jim said I could -- yeah, I could stay all
20 night, but I would have to stay in his basement. So I
21 stayed at his basement down there. The next morning, I got
22 up, and he lived -- his basement was down below the hill,
23 and when I come up, I stepped in a big old mud hole or
24 something, and he said a water main had broke and I got my
25 feet all wet.

1 And so on his way to work, he give me a ride back
2 to that 24-hour convenience store and dropped me off. And
3 he went back to work, my brother Jim. That was at -- I
4 think it was about 6:00 in the morning.

5 And then from there, I walked from there back to
6 Jay Manuel's, and he wasn't home. Then I went to Judy's.
7 And Judy was there, and I talked to her out there on the
8 porch and stuff. And then I told her I was going to go to
9 social service -- I thought I would go over to social
10 service. I went over and talked to Belinda Reece because I
11 knowed her. I used to go to church with her and stuff. And
12 I think I borrowed \$2 off of her.

13 And then I went on up past -- up in town to the
14 surplus store. And then from the surplus store, I went to
15 the General Dollar store, and then I went to the Baptist
16 church and asked them for a gas voucher because I wanted to
17 go to Shady Valley, Tennessee, to see my sister Terri.

18 And then I shot back to Jay's house. And Jay
19 hadn't got out of jail yet. So I went back to Judy's. And
20 I had my guitar with me, and I went to Judy's. And
21 Geraldine come over and she wanted me to go to her trailer
22 and play her some music and I said I would. And I went over
23 there and started playing some music and stuff.

24 Then Jay got out of jail. And then me and him
25 went back up to his trailer. And he wanted to go get some

1 beer, after he got out, at the beer store. And so we went
2 down -- back down to the convenience store, and that's where
3 we needed to find us a ride. And I seen a dude named Alf
4 Henley, and I asked him would he give me a ride to the beer
5 store, and he said yeah.

6 So I told him I would give him some gas because I
7 got this \$10 gas voucher. He said, "Well, about the only
8 place it's good at is the Exxon." And he said, "Well, I'll
9 take -- I'll put the whole \$10 in, and I'll give you \$7
10 back." So I put the whole \$10 in and he gave me \$7 back so
11 I can give him some extra money for beer.

12 So he took us to the Big Chief beer store and we
13 got some beer, and took us back to Jay's, and we stayed
14 around Jay's there for several hours, drinking beer, playing
15 the guitar and stuff.

16 Then John and Jackie came back over, and they
17 wanted us to go over to their apartment. And we went to
18 their apartment and picked some guitar and drank some more
19 beer. And some dude come by with a load of wood and we
20 helped him unload it. And then I asked him would he run me
21 down to the pawn shop because I had a guitar pawned there
22 and that it was due on December 8. And I was going to pawn
23 that guitar because it was more expensive for that guitar
24 and pick -- pawn it and pick the other guitar up. But the
25 man at the pawn shop wouldn't do it, said he wouldn't do it.

1 So anyway, we got a ride back to -- he took us
2 back to Jay Manuel's trailer.

3 JUDGE WAGONER: I have a question. What day are
4 you talking about?

5 THE WITNESS: December 8.

6 JUDGE WAGONER: December 8?

7 THE WITNESS: Right. That was on December 8.

8 JUDGE WAGONER: Yeah.

9 A So he took us back to Jay's trailer. And then,
10 from Jay's trailer, I had a watch, and I asked Jay would
11 he -- did he know anybody that would sell the watch so we
12 could get some more beer, and he said yeah. He said he
13 knowed some black people down at -- about three trailers
14 down. So he took the watch and went and sold it for \$10 and
15 brought it back. And we seen Edgar -- he was out there
16 around his mom's house and stuff, and we asked him would he
17 give us a ride to the Big Chief beer store again. And he
18 gave us a ride to the Big Chief beer store and we got some
19 more beer.

20 And we sat there and drank beer. And Judy came
21 over. And then I went down I called my sister at a phone on
22 December 8, and it was at 6:54 December 8 I called my sister
23 Phyllis Smith in West Virginia. And then me and Judy came
24 back and she fixed some supper. And then John and -- John
25 and Jackie come back over and we drank some more beer and

1 picked some guitar and stuff. And then it's about 10:00 or
2 something and John and Jackie, they left. And they left and
3 me and Judy went to bed. Then Jay, he went to bed, and that
4 was it for Thursday December 8, 1994.

5 Q What happened on Friday?

6 A On Friday, we went to -- I think we went and
7 played some poker and stuff like that and got some more beer
8 and just drank it on Friday and stuff.

9 Q What happened on Saturday, December 10?

10 A I think -- let's see. We stayed -- I stayed all
11 night at Jay Manuel's trailer and Saturday we just got up
12 and more or less just fooled around. I think we went and
13 got somebody else and got some more beer, Jay borrowed some
14 money somewhere and went down and got some more beer.

15 And then Saturday evening, we was sitting there
16 and we was -- I don't know, I think it was about 8:00 or
17 9:00, we was sitting there in Jay Manuel's trailer. I was
18 sitting on the couch, picking my guitar, and Judy was
19 sitting beside of me and Jay was sitting at the kitchen
20 table. And we had the door open because it was warm. I
21 remember.

22 And Jay said, "Man, the law's running around here
23 awful slow."

24 And I said, "Well, Jay, that ain't nothing
25 unusual." I said, "They always run around here slow in this

1 trailer park here."

2 He said, "Not this slow."

3 I said, "What do you mean?"

4 He said, "The whole yard's full of them."

5 I said, "What the hell?"

6 So the law comes up on the porch and they said,
7 "Robert, we got some paperwork on you."

8 And I said -- you know, the first thing running
9 through my mind was that -- see, I had been put in jail for
10 drunk in public up there in Mountain City, and the judge
11 told me, he said, "Son, I'm going to let you go this time,
12 but if you don't pay that fine, I'm going to have you picked
13 up and you are going to have to spend \$5 a day in jail," and
14 the fine was about \$200. And they did it around
15 Christmastime.

16 And when they said, "We got some paperwork on
17 you," that is the first thing that went through my mind. I
18 thought, "Man, they're putting me in jail for this fine
19 money."

20 And then they said, "We got a warrant on you for
21 fugitive from justice from the State of North Carolina and
22 first-degree murder."

23 And I had a beer in my hand and it fell straight.
24 I couldn't believe it. I said, "Man, who am I supposed to
25 killed?"

1 And they told me his name, but it didn't even
2 register because it shocked me. I didn't know what was
3 going on. And then when they put me in the patrol car, put
4 me in the backseat, it dawned on me that it was Coy Hartley,
5 that's who they had me charged with murdering. And I told
6 them, I said, "Man, I have been here ever since Wednesday."
7 I said, "Y'all made some bad mistake."

8 So they took me over to the jailhouse, questioned
9 me, hounded me. I told them, I said, "Man, you've got the
10 wrong man." I said, "Man, I don't know a thing about this
11 stuff. You've got the wrong man, I'm telling you." I said,
12 "I've been here."

13 So anyway, they got me in jail. And then on
14 Monday, they arraigned me. And Judge Wilson -- they took me
15 over there, and Judge Wilson said, "Son, they ain't got a
16 thing on you." He said, "You fight extradition, I will
17 appoint you a lawyer, they won't get you across the
18 Tennessee line."

19 I said, "Judge, I ain't got nothing to hide." I
20 said, "I'm not guilty." I said, "I ain't done nothing." I
21 said, "If I fight extradition, they'll think I'm guilty."

22 He said it again. He said, "Son, if you fight
23 extradition and I appoint you a lawyer, you can fight
24 extradition, they won't get you across the Tennessee line."

25 I said, "No." I said, "They'll think I'm guilty

1 if I fight extradition." And so I went ahead and waived it.
2 And they come and got me, and I've been in jail ever since
3 for the murder of Marvin "Coy" Hartley which I never didn't
4 even know nothing about. I didn't know nothing about his
5 murder until they arrested in Mountain City, Tennessee,
6 didn't know a thing about it.

7 That's the God's honest truth. I didn't know
8 nothing. I did not kill Coy Hartley. I didn't know nothing
9 about Coy Hartley's murder until they arrested me in
10 Mountain City, Tennessee, and that was the first knowledge I
11 had of it. I knowed nothing about it.

12 Q Mr. Bragg, did you participate in this murder in
13 any way?

14 A No, I did not.

15 Q Were you present during the murder of Mr. Hartley?

16 A No, I wasn't.

17 Q Did you receive any money from this crime?

18 A For this crime?

19 Q From this crime.

20 A No, I did not.

21 Q Were you in Boone, North Carolina, on December 8,
22 1994?

23 A No, I was not.

24 Q Do you know who committed this crime?

25 A No, I do not.

1 **MS. SMITH:** Commissioners, questions?

2 **MR. EDWARDS:** I have a few.

3 Mr. Bragg, good afternoon.

4 **THE WITNESS:** Good afternoon.

5 **MR. EDWARDS:** I just want to make sure I've got my
6 notes right. And I -- this is honestly not a trick
7 question.

8 When you said you went to Mountain City,
9 Tennessee, and it was -- and on that day, I believe Jay
10 Manuel got arrested for -- and was sent, taken to jail for a
11 few hours; is that right?

12 **THE WITNESS:** Yes.

13 **MR. EDWARDS:** All right. And so was that on a
14 Wednesday?

15 **THE WITNESS:** Yes, it was. It was on a Wednesday
16 night around 7:00.

17 **MR. EDWARDS:** Okay. So that was Wednesday
18 evening, December 7, 1994.

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

20 **MR. EDWARDS:** All right. And after he got picked
21 up, went to jail, you spent the night that night -- did you
22 go back to his house or somewhere else?

23 **THE WITNESS:** Well, I walked up to the convenience
24 store, then I went to Jay Manuel's trailer, and John and
25 Jackie was there. And they said -- I told them about Jay,

1 and they said that they believed they put him in jail for
2 drunk in public. So they left. And I stayed at Jay's
3 trailer, and then I went down to the convenience store and
4 got a ride from three guys to my brother's house up there in
5 Mountain City, Tennessee -- Jim Bragg's.

6 **MR. EDWARDS:** Okay. So you spent that night with
7 your brother and watched a Clint Eastwood movie or something
8 that night; is that right?

9 **THE WITNESS:** Yeah. He was -- I remember watching
10 it. I didn't even watch it, but I remember going in his
11 house and seeing it on and just staring at it a little bit.
12 And I went down there to his basement there because he said
13 I could stay in the basement so I went down to the basement
14 and stayed in the basement.

15 **MR. EDWARDS:** Now, was the next day Thursday,
16 December 8, when you say you got the gas voucher? Or was
17 that Friday, the 9th?

18 **THE WITNESS:** That was Thursday, December 8.

19 **MR. EDWARDS:** All right. And you took that gas
20 voucher and give it to Mr. Henley?

21 **THE WITNESS:** Yeah, Alf Henley.

22 **MR. EDWARDS:** All right. And so he gave you a
23 ride to the store and he got some gas out of it.

24 **THE WITNESS:** Right. And he told me to put the
25 whole 10 in and he would give me \$7 back because I was

1 giving him some gas money. He just charged me \$3.

2 **MR. EDWARDS:** Now, at your trial, Mr. Bragg, you
3 did not testify; is that right?

4 **THE WITNESS:** Yes.

5 **MR. EDWARDS:** But do you recall Ms. Violet Eller
6 testifying? She was the custodian at the Baptist Church in
7 Mountain City -- Mountain City, Tennessee, and she said that
8 a person came in on Friday, December 9, she could not
9 identify who that person was, but he had on an tan overcoat
10 and that he asked for money and she gave a gas voucher.

11 Do you even remember her testifying that?

12 **THE WITNESS:** Yes, I do. I remember her
13 testifying.

14 **MR. EDWARDS:** Was that you on Friday or was that
15 somebody else?

16 **THE WITNESS:** I went there on a Thursday. They
17 said Friday. I don't know how they got them mixed up. I do
18 not have -- I have sat and thought about that. I couldn't
19 figure it out. It was a Thursday.

20 **MR. EDWARDS:** All right. Now, you've stated that
21 you remember when you were in Boone calling your sister -- I
22 think you even said the exact time, 1:14 p.m. or something
23 like -- you called her, and that was when you were still in
24 Boone; is that right?

25 **THE WITNESS:** Yeah. Yeah. In Boone, North

1 Carolina, at the Pantry. Yeah. That's when I got off the
2 AppalCART, I went to the Pantry and I called her from there.

3 **MR. EDWARDS:** All right. Now, was that Wednesday,
4 December 7?

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

6 **MR. EDWARDS:** All right. And so is it your
7 testimony here today then, after that -- at some point after
8 that on December 7, that Wednesday, is when you went to
9 Mountain City, Tennessee?

10 **THE WITNESS:** Right. I went -- Gary Edwards took
11 me to Mountain City, Tennessee, on Wednesday, December 7,
12 around -- between 3:00 and 4:00. And we got there around
13 5:00. He drives slow, you know.

14 **MR. EDWARDS:** All right. So why is it that you
15 wait until the next night at almost 7:00 p.m. to call your
16 sister and tell her that you were in Tennessee? Any reason?

17 **THE WITNESS:** There was no reason. I just
18 decided, out of the blue, just to go call her again --

19 **MR. EDWARDS:** Okay.

20 **THE WITNESS:** -- on December 8 at 6:54. Me and --
21 Judy went down to the phone booth with me.

22 **MR. EDWARDS:** Now, Mr. Bragg, I think you've
23 already addressed this, but I want to just ask you again
24 about Officer Rasnake I think is how his name is pronounced.
25 He testified in your trial about arresting you in early

1 December, 1994.

2 Do you recall him testifying in the case?

3 **THE WITNESS:** Yes, I do.

4 **MR. EDWARDS:** All right. And do you recall him
5 testifying that, when he arrested you and you had the
6 trailer hitch, he said you said, "You never know when I
7 might need to use it on somebody."

8 **THE WITNESS:** Yeah, he said that. But he -- yeah.
9 He asked me what I was doing with the trailer hitch ball and
10 I said, "You never can tell when I might sell it to
11 somebody." That's what I said. But he twisted it around up
12 in court. He had personal prejudice against me because he
13 kept locking me up in jail too. And that's one reason why I
14 think he lied on me.

15 **MR. EDWARDS:** Just a couple more.

16 **JUDGE WAGONER:** Sure.

17 **MR. EDWARDS:** You have testified today and there's
18 been a number of witnesses that have talked about at least
19 four people that had given you rides around this time frame,
20 Gary Edwards; your brother, Jim Bragg; Alf Henley; and I
21 think Edgar whose last name might have been Osborne.

22 **THE WITNESS:** Yeah, I believe it was. Edgar
23 Osborne, yeah.

24 **MR. EDWARDS:** So all during this time frame, in
25 early December, at least four of those people were available

1 to you to catch rides.

2 **THE WITNESS:** Right. Gary Edwards give me a ride
3 on December 7 around, like I said, 3:30 and 4:00 and took me
4 to Mountain City, Tennessee, to Jay Manuel's trailer.

5 **JUDGE WAGONER:** I've got a quick question. How
6 long had you had that trailer hitch?

7 **THE WITNESS:** Well, what it was, I had found it a
8 few days -- I don't know, I'd had it about three or four
9 days. What I had done is that I was going down through --
10 this other girl I know named Shirley Faircloth, I was
11 going -- I called her and asked her could I come down, and
12 she said, "Yeah, get some wine and come on down." And I
13 said, "All right."

14 I was crossing the street and it was nighttime, it
15 was getting dark, and this car come by and kept blowing its
16 horn and blinking its light, blowing its horn. And I
17 thought, you know, he's giving me some road courtesy because
18 it was two lanes on one side and one lane on the other. And
19 I thought he was giving me some road courtesy.

20 And so I'm gonna go on across the road to the
21 convenience store there. And it kept blowing its horn and
22 blinking its lights. So "What's going on?" And I looked
23 down and there is that trailer hitch ball. And I picked it
24 up and took it down to the convenience store and asked them,
25 "Man, did somebody lose this or something?" They said, "Far

1 as we know, no, and you can just keep it," and that's how I
2 got to carrying it. I found it.

3 **JUDGE WAGONER:** All right. Yes, sir.

4 **MR. FRYE:** Going back to the day of December 8,
5 what time did you go to bed on December 8? That day, when
6 did you go to sleep at? What time did you go to bed?

7 **THE WITNESS:** On December 8, I went to bed at Jay
8 Manuel's with Judy.

9 **MR. FRYE:** From the time you went to bed, can you
10 go over the events in reverse order for me from the time you
11 went to bed until the time you got up that morning?

12 **JUDGE WAGONER:** Let me just -- explain -- what
13 date are you talking about?

14 **MR. FRYE:** December 8, from the time you laid down
15 December 8 and went to bed that night, could you tell me
16 what you had done going backward until the morning that you
17 got up December 8.

18 **THE WITNESS:** Let's see now, December 8? Okay.
19 Yeah. December 8? Right?

20 Jim let me off at the convenience store
21 December 8, that morning. And then I went from there back
22 to Jay's and he wasn't there. Then went to the porch and --
23 because Judy lived in a big white house right down the
24 street there. She was staying with some people. And we sat
25 and talked on the porch, and then I went and talked --

1 **MR. FRYE:** Hold on. You went to bed at Jay
2 Manuel's. Before that, you were where?

3 **THE WITNESS:** I went to Jay Manuel's on -- yeah,
4 that night.

5 **MR. FRYE:** That night, December 8, you went to bed
6 at Jay Manuel's; correct?

7 **THE WITNESS:** Right. Right.

8 **MR. FRYE:** Before that, where were you at? Right
9 before Jay Manuel's?

10 **THE WITNESS:** Right before Jay Manuel's, see, she
11 picked us some supper. And John and Jackie came over and --
12 see, we made that phone call, and then she picked us some
13 supper and John and Jackie Shoemake came over and we picked
14 some music. And then they left, and we went to bed right
15 there at Jay Manuel's trailer on December 8.

16 **MR. FRYE:** Where were you at before you got to Jay
17 Manuel's trailer that day? What did you do right before you
18 got to Jay Manuel's trailer that day?

19 **THE WITNESS:** Before we go to Jay Manuel's --
20 before I got to Jay Manuel's trailer, was -- well, Jay got
21 out of jail, and then -- then I had that gas voucher and we
22 went down to the convenience store and got Alf Henley to
23 give us a ride.

24 **MR. FRYE:** Before the gas voucher, what did you
25 do?

1 **THE WITNESS:** Oh, I seen -- before the gas
2 voucher, I went to the General Dollar store. Then I seen
3 Belinda Reece. And then I seen Judy on the porch on
4 December 8.

5 **MR. FRYE:** Before that, what happened?

6 **THE WITNESS:** Well, I went to Jay's trailer. And
7 then from Jay's trailer, Jim dropped me off at the
8 convenience store up there in Mountain City, Tennessee.
9 See, I left Jim -- he took me to the convenience store on
10 December 8, to the convenience store. And then from the
11 convenience store, he dropped me off, he went back to work.
12 And then I went to Jay Manuel's on December 8, that morning.
13 And he wasn't home because he hadn't got out of jail yet.

14 **MR. FRYE:** Before you went to the convenience
15 store, where were you at?

16 **THE WITNESS:** Jim Bragg's house. Jim Bragg. I
17 stayed all night in his basement.

18 **MR. FRYE:** You knew the victim, Coy Hartley;
19 correct?

20 **THE WITNESS:** Yes.

21 **MR. FRYE:** Did you ever know Mr. Hartley to have
22 any kind of -- any sums of money on him at all?

23 **THE WITNESS:** I'd never know, really. Now, he
24 gives some people some money and they would go -- they'd go
25 to the store for him and get him some beer and stuff like

1 that, but as far as any large sum of money on him, I never
2 did.

3 **MR. FRYE:** Never seen any large sums of money?

4 **THE WITNESS:** Not as I know.

5 **MR. FRYE:** Where did he take his money out of when
6 he would give you money?

7 **THE WITNESS:** Out of a wallet or something. I
8 think he either carried it in his bibs or something. I
9 don't exactly remember, it was either the back pocket or his
10 bibs or something like that, as far as I can remember.

11 **MR. FRYE:** He was known for wearing bibbed
12 overalls; correct?

13 **THE WITNESS:** Yeah.

14 **MR. FRYE:** Okay. When -- that morning when you
15 stayed there and he sent you to the store, where did he get
16 the money out of?

17 **THE WITNESS:** I think he just had it out in his
18 hand. He just come up to me with the money in his hand.
19 And when I went to -- yeah, when I went to get my guitar,
20 you know, that evening after I got out of jail up there in
21 Boone and I left that bar with Monroe and Coffey and I told
22 them I was going to Coy Hartley's to pick up my guitar that
23 was there and was going to stay all night there and then go
24 to Mountain City, Tennessee. And then he wanted me to go to
25 the store for him and get him some bread and eggs and, I

1 think it was, a six-pack of Budweiser beer.

2 But he just handed me the money. I don't even
3 remember. He just come up to me and said, "Here, go to the
4 store for me." So I think he already had it out, I think,
5 as far as I can remember.

6 **MR. FRYE:** Had he ever given you money before?

7 **THE WITNESS:** He might have. He might have given
8 me some money to go to the store for him to get a six-pack
9 of beer and stuff like that.

10 **MR. FRYE:** But you don't recall where he got the
11 money from?

12 **THE WITNESS:** Not really, no. Usually, he just
13 had it in his hand, you know. Some people, you know, like,
14 keep their money to theirselves and pull out a little bit
15 and give it to somebody or something, you know, do something
16 with it. People flash their money, I guess. I don't know.
17 But as far as seeing him with any large sum of money, I
18 never did.

19 **MR. FRYE:** Did he have a wallet?

20 **THE WITNESS:** I can't remember that either. I
21 just know he had something in his bibs. I don't know if he
22 had right there -- in the middle there.

23 **MR. FRYE:** Is that where he would get his wallet
24 out of, something in his bib?

25 **THE WITNESS:** I guess. He either carried it in

1 his bibs or in his back pocket. That's all I know.

2 **MR. FRYE:** Okay.

3 **JUDGE WAGONER:** Yes, sir.

4 **MR. LONG:** Mr. Bragg, I'm David Long. I wanted to
5 just ask you a few questions, if I could.

6 When you first got to Mountain City -- and you say
7 it was on December 7; is that right?

8 **THE WITNESS:** Yes.

9 **MR. LONG:** You went to Jay --

10 **THE WITNESS:** Jay Manuel's.

11 **MR. LONG:** -- Manuel's mobile home?

12 **THE WITNESS:** Yes. Gary Edwards dropped me off.

13 **MR. LONG:** And then you and he went to the general
14 store or a beer store.

15 **THE WITNESS:** We went -- well, when I got there,
16 you know, John and Jackie Shoemake was there, and then they
17 left, and then we run out of beer, and Jay said, "Let's go
18 to the Town and Country beer store," the bar and beer store
19 right outside of Mountain City.

20 **MR. LONG:** Who paid for the beer?

21 **THE WITNESS:** I guess Jay did.

22 **MR. LONG:** Did you have any money at all on
23 December 7 when you went to that beer store?

24 **THE WITNESS:** I really -- I don't know if I had
25 any money. If it was, it wasn't very much. I don't think I

1 did.

2 **MR. LONG:** Okay. And when did you go to the
3 social services place? What day was that?

4 **THE WITNESS:** That was on December 8.

5 **MR. LONG:** And did you go to the social services
6 place on December 8 before or after you went to the church?

7 **THE WITNESS:** I went to social services before --
8 before I went to the church. And --

9 **MR. LONG:** So you went to social services --
10 excuse me. I'm sorry.

11 **THE WITNESS:** Yeah. I went to social services,
12 seen Belinda Reece, because I knowed her and borrowed \$2
13 from her.

14 **MR. LONG:** Okay. Approximately what time was
15 that?

16 **THE WITNESS:** Oh, that was -- I don't know, about
17 8:30, something like that.

18 **MR. LONG:** Okay. She gave you \$2. And then you
19 went to the church; is that right?

20 **THE WITNESS:** I went to the surplus store and then
21 I went to the General Dollar store.

22 **MR. LONG:** And then to the church?

23 **THE WITNESS:** Right.

24 **MR. LONG:** And you got that voucher, the \$10
25 voucher at the church?

1 **THE WITNESS:** Yes.

2 **MR. LONG:** Had you been to the church before to
3 get a voucher?

4 **THE WITNESS:** Yeah, I think I had.

5 **MR. LONG:** Okay. I don't have any further
6 questions.

7 **JUDGE WAGONER:** Judge?

8 **JUDGE LOCK:** Mr. Bragg, before you were convicted
9 of this murder, tell me everything that you can recall you
10 had been convicted of in the past in your life.

11 **THE WITNESS:** Everything?

12 **JUDGE LOCK:** Yes, sir.

13 **THE WITNESS:** Well, when I was 17, I got convicted
14 down in Virginia, in Martinsville, Virginia, for breaking
15 and entering.

16 **JUDGE LOCK:** All right. What else?

17 **THE WITNESS:** And then I've been in jail for --
18 several times for drunk in public and stuff like that.

19 **JUDGE LOCK:** Okay.

20 **THE WITNESS:** And drunk driving, stuff like that.

21 **JUDGE LOCK:** Anything else?

22 **THE WITNESS:** Just a lot of drunk in publics, I
23 think, is about all I can remember.

24 **JUDGE LOCK:** Why did you not testify at your own
25 trial?

1 **THE WITNESS:** That's a good reason -- a good
2 question. Well, I asked my lawyer, Jeff Hedricks and Vince
3 Gable, and I asked them, I said, "Man, what do you think I
4 should do? Should I testify?"

5 And they said, "We don't know. We'll get back
6 with you on that."

7 So about -- I don't know, it was about 4:00 or
8 5:00 in the morning up there in Boone jail, Jeff Hedricks
9 come to the jail and he wrote me a little note and he said,
10 "If you testify, it might hurt you." And he said, "If you
11 testify, then it might help you." And he didn't even say
12 nothing; he just handed that to me.

13 And I'm sitting here, what's this supposed to
14 mean? What am I supposed to do? I didn't know what to do.
15 You know, I thought the law was honest. So I didn't know,
16 really, what to do. Them lawyers, they wouldn't tell me
17 what to do; so I didn't know what to do. I didn't know
18 nothing about the law much. And I still don't.

19 **JUDGE LOCK:** Did you understand that it ultimately
20 was your decision and not your lawyers' as to whether or not
21 you would testify?

22 **THE WITNESS:** I thought maybe they would give me
23 some advice. I probably needed some advice on that, you
24 know? How about letting me know what should I do? I don't
25 know. I'm kind of, you know, stuck. I don't know whether

1 to testify or not. And so they never did say nothing. So
2 the whole trial just went and I just never did testify and
3 it just went on. That's the reason. But I found out now I
4 wished I had.

5 **JUDGE LOCK:** Thank you.

6 **JUDGE WAGONER:** Mr. Barrow?

7 **MR. BARROW:** When you went to sleep that night,
8 did you think about whether you were going to testify or
9 not?

10 **THE WITNESS:** Well, he handed that to me about
11 4:00 or 5:00 in the morning, and so I'm just sitting here
12 thinking, "I don't know what to do," you know, I'm sitting
13 here thinking, "Should I testify or should I not? If I
14 testify, it's going to hurt me; if I testify -- don't -- it
15 might help me."

16 So I didn't know what to do and I didn't really
17 think much more. Then they called us over to court the --
18 that morning, I think. And then things got -- you know,
19 trial started going on and I'm still sitting there and
20 everything and he was testifying and everything and I'm
21 sitting there and thinking, "Man, this is all a big lie."

22 And Jeff and them -- I asked Jeff -- oh, yeah. I
23 asked Jeff, I said, "What about them three little boys that
24 Jeffrey -- Jeffrey Nelson said he was playing soccer with
25 when he said he seen me?" I said, "How come they're not up

1 here in court to get them to testify, man?" And he started
2 shaking and everything. "Oh, oh, their mom and them don't
3 want them getting involved."

4 I said, "Man, they're trying me for the death
5 penalty," and that's what he said. I couldn't believe he
6 was saying something like that.

7 **MR. BARROW:** But I'm going back to that night when
8 you were in your cell back over in the jail. Before he
9 brought you that note, did you think about whether you were
10 going to testify or not?

11 **THE WITNESS:** To be honest with you, I can't
12 remember whether I thought about it or not. I don't know
13 whether it crossed my mind should I testify or not. At that
14 moment, I can't recall.

15 **JUDGE WAGONER:** Mr. Long? Did you have more?

16 **MR. LONG:** Let me just ask a few, if I may. I'm
17 sorry. I wanted to ask you just a few more questions.

18 You had moved from place to place before 1993,
19 1994. You said -- testified you went back and forth, Boone,
20 Mountain City, Bristol.

21 **THE WITNESS:** Yes.

22 **MR. LONG:** How many of those places did you have
23 convictions for one offense or another?

24 **THE WITNESS:** Like I said, I've had a lot of drunk
25 in public charges. I've been put in jail in Bristol for

1 drunk in public, in Bristol. And Mountain City.

2 **MR. LONG:** Martinsville, Virginia?

3 **THE WITNESS:** No. I never was in Martinsville,
4 Virginia. I got into some trouble when I was 17 in
5 Martinsville, Virginia.

6 **MR. LONG:** Oh, that was -- okay. That was what
7 happened in Martinsville. They didn't ever put you in jail
8 there?

9 **THE WITNESS:** Oh, Martinsville, Virginia?

10 **MR. LONG:** Yes.

11 **THE WITNESS:** Yeah, they put me in jail for
12 breaking and entering. I was running around with a street
13 gang.

14 **MR. LONG:** Okay. How many different places have
15 you been in jail?

16 **THE WITNESS:** I've been in jail, like -- you know,
17 like I was in Bristol jail for drunk in public up there in
18 Bristol, Tennessee; and Bristol, Virginia; and Abingdon,
19 Virginia; and Mountain City; and Boone and stuff. I think
20 one time I got -- was down in Knoxville and got in jail for
21 drunk in public down there. Yeah, I did.

22 **MR. LONG:** Okay. That's all I have.

23 **JUDGE WAGONER:** Yes, ma'am.

24 **MS. SURGEON:** Did you start with two attorneys in
25 this case?

1 **THE WITNESS:** Yeah. Yeah, I did. Jeff Hedricks
2 and Vince Gable.

3 **MS. SURGEON:** And had you ever had two attorneys
4 before on any case?

5 **THE WITNESS:** On any case before this charge?

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

7 **THE WITNESS:** Uh-uh.

8 **MS. SURGEON:** Had you ever had a jury trial
9 before?

10 **THE WITNESS:** Not as I can remember, no.

11 **MS. SURGEON:** Did you ask for attorneys to be
12 appointed?

13 **THE WITNESS:** No. But what happened there is when
14 I was in Mountain City jail, when they arrested me for this
15 murder charge, Vince Gable, he got a lawyer in Mountain City
16 and he contacted a lawyer in Mountain City and he come to
17 the jail and told me not to say nothing, that Vince Gable
18 wants to appoint -- wants to be your lawyer when you get
19 back to Boone, when they extradite you back to Boone. And
20 so ...

21 **MS. SURGEON:** I'm sorry?

22 **THE WITNESS:** Vince Gable, he wanted to be my
23 lawyer when they extradited me back to Boone, North
24 Carolina.

25 **MS. SURGEON:** Why?

1 **THE WITNESS:** Beats me. I don't know. I thought
2 maybe they appointed him. See, I didn't know what was going
3 on.

4 **MS. SURGEON:** Had he ever represented you before?

5 **THE WITNESS:** Huh?

6 **MS. SURGEON:** Had he ever represented you before?

7 **THE WITNESS:** Yeah, I think he represented me one
8 time before.

9 **MS. SURGEON:** On what?

10 **THE WITNESS:** I think it was about some kind of
11 guitar, something about a guitar some guys had done
12 shoplifted out of a store.

13 **MS. SURGEON:** Had you ever been charged with a
14 felony before?

15 **THE WITNESS:** Yeah. Up in Martinsville, Virginia.

16 **MS. SURGEON:** When you were 17?

17 **THE WITNESS:** Yes.

18 **MS. SURGEON:** But not since then?

19 **THE WITNESS:** Uh-uh.

20 **MS. SURGEON:** When did your attorneys ask you what
21 happened?

22 **THE WITNESS:** I know Vince Gable, one was -- they
23 didn't really want him to be my lawyer some way. They
24 slipped me into the city, and from the city, they brought me
25 straight to the courthouse. And somehow, Vince Gable come

1 there, and the judge -- soon as I got down -- as soon as
2 they extradited me back to Boone, North Carolina, and they
3 extradited me and they took me to the city jail -- I mean,
4 the city police station and took my fingerprints, my a
5 picture and all this stuff, then they took me to the
6 courthouse in Boone and then took me in front of a judge,
7 and that's when they appointed me Vince Gable.

8 **MS. SURGEON:** How often did you talk with him?
9 And when did you tell him what happened -- what you say
10 happened and where you were?

11 **THE WITNESS:** Yeah. When -- after he come to the
12 jail, you know, and he called -- they called me into the
13 little office there, and I tell them. I said, "Man, I ain't
14 killed nobody. I don't know nothing about this murder."

15 **MS. SURGEON:** What did he say?

16 **THE WITNESS:** Well, he said he was going to
17 represent me and stuff, and then he said he was going to try
18 to get me an investigator, Jerry Vaughn, try to get an
19 investigator to go to Mountain City and investigate this
20 stuff. And then the next thing I know, they had Jeff
21 Hedricks -- brought in Jeff Hedricks for a lawyer and I had
22 two lawyers.

23 **MS. SURGEON:** When did they talk to you about
24 whether or not you should testify? When did they first talk
25 to you about whether you should testify?

1 **THE WITNESS:** That one time when Jeff Hedricks
2 come to the jail with a note that said "If you testify, it
3 might help you; if you testify, it won't help you." That's
4 the only time they told me about that testifying, they
5 talked to me about. Rest of the time, they shut up. They
6 didn't say nothing.

7 **MS. SURGEON:** Is this when you were -- when they
8 were first assigned to you?

9 **THE WITNESS:** No. This was after the case -- no.
10 They didn't bring that note -- now I can think, they didn't
11 bring that note till while I was in trial.

12 **MS. SURGEON:** You were already in trial?

13 **THE WITNESS:** In trial when he brought the note.

14 **MS. SURGEON:** And two defense attorneys were
15 talking to you for the first time about whether or not you
16 should testify?

17 **THE WITNESS:** That's right. That's right. I
18 remember now. And he brought me a note. I never did. I
19 mean, I thought. "That's awful strange." He brought me the
20 note. He said, "If you testify, it might help you; if you
21 testify, it might hurt you." And handed it to me and walked
22 away. And I didn't know what was going on.

23 **MS. SURGEON:** Thank you.

24 **JUDGE WAGONER:** All right.

25 Anything? Any other questions of Mr. Bragg?

1 Anything y'all want to ask?

2 **MS. SMITH:** No.

3 **JUDGE WAGONER:** Okay. I think that's it. Thank
4 you, sir. You have a nice day. All right.

5 **THE WITNESS:** All right. Thank you. You do the
6 same.

7 (Witness stands down.)

8 **JUDGE WAGONER:** Hold on. We've got one more
9 question. Do you want to ask that first?

10 **MR. LONG:** Yeah.

11 **JUDGE WAGONER:** Y'all come up here. Just stand
12 right here. He wants to ask you a question. Just stand
13 right there.

14 **JUDGE LOCK:** I have one more question.

15 **JUDGE WAGONER:** You do?

16 **MR. LONG:** I do.

17 **JUDGE WAGONER:** Okay. Do you want him to sit
18 down?

19 **MR. LONG:** No.

20 **JUDGE WAGONER:** Do you want to stand up or sit
21 down?

22 **THE WITNESS:** I'm fine here.

23 **JUDGE WAGONER:** Okay.

24 **JUDGE LOCK:** At any time before or during trial
25 were you ever offered a negotiated plea, sometimes called a

1 plea bargain?

2 **THE WITNESS:** Yeah. They -- Jeff Hedricks -- Jeff
3 Hedricks, Vince Gable, and Jerry Vaughn, they took me out of
4 my cell and called me into the office up there in the jail,
5 and they sat down. And they said, "Will you take a plea?"
6 And I said no. I said, "I am innocent. I didn't kill
7 nobody. I don't know nothing about this murder." And I
8 said, "No, I am not taking no plea bargain."

9 And Jerry Vaughn said, "Well, I guess we'll just
10 keep the ball rolling, then."

11 **JUDGE LOCK:** Thank you very much.

12 **THE WITNESS:** All right.

13 **JUDGE WAGONER:** Thank you, sir.

14 (Witness stands down.)

15 **MS. SMITH:** Judge Wagoner, I would just ask if we
16 could be at ease for a few minutes so we can kind of figure
17 out logistically what we need to do next.

18 **JUDGE WAGONER:** Sure.

19 (Court at ease, 4:37 to 4:43 p.m.)

20 **JUDGE WAGONER:** All right. We need to open this
21 back up.

22 There is a very -- a document that is 40 or 50
23 pages long that, in my opinion, we need to read carefully
24 before we deliberate, which -- then, after we hear the
25 victim impact statement and other things, it's going to be

1 really pushing us, and I think it would be better for
2 everyone to take these -- take this big document home
3 tonight and read it in calm reflection and not being tired
4 at the end of the day, and then come back tomorrow and we
5 deliberate.

6 But in the meantime, did you want to pass that out
7 now, Ms. Smith?

8 **MS. SMITH:** Yes.

9 So the first thing that I will pass around is the
10 requested transcript of the recorded interview of Kenneth
11 Coffey from October 20, 2011.

12 Following right behind that will be the
13 recorded -- the transcript of the recorded interview of
14 Kenneth Coffey from August 11, 2016.

15 **JUDGE WAGONER:** Is that it?

16 **MS. SMITH:** That is all I have to pass around
17 unless the Commissioners want anything else.

18 **JUDGE WAGONER:** The Commissioners -- before we
19 hear from Mr. Hartley, do the Commissioners have any more
20 information they need or want or desire before we deliberate
21 tomorrow?

22 (No response.)

23 **JUDGE WAGONER:** Hearing nothing, I will assume you
24 are all satisfied.

25 **MS. PICKENS:** And 9:00 in the morning?

1 **JUDGE WAGONER:** Yes.

2 Now, this portion of the hearing is going to be
3 closed to the public and the video camera.

4 **MS. SMITH:** There's not one.

5 **JUDGE WAGONER:** There's not, but it would be off.

6 The court reporter will continue reporting. The
7 only persons who can be in the hearing room during this
8 victim impact statement are the victim's family,
9 Commissioners including the alternates, commission staff,
10 the claimant's counsel, and the Watauga County District
11 Attorney.

12 Everyone else must leave at this time.

13 For administrative purposes, this will be the last
14 portion of the hearing. After the victim impact statement,
15 we will reopen the hearing room to the public briefly. And
16 then after that, we will proceed to deliberations tomorrow
17 morning.

18 All right. If you would like to come around,
19 Mr. Hartley. He is Mr. Hartley's nephew and only living
20 relative, he's here today, and he will give a statement.

21 Thank you for being here, Mr. Hartley.

22 (Victim impact statement)

23 **MR. HARTLEY:** You are certainly welcome.

24 First, I would like to say I appreciate the amount
25 of work that these people have done. It's a lot more than I

1 thought it would be.

2 I have read the transcripts of the previous
3 trials, but I did not attend the previous trials. And I
4 knew Coy fairly well, but I had moved away and did not see
5 him at all later in life. When he was murdered, my father
6 informed me -- who has passed away now -- and he was quite
7 upset, but that was just about his last living relative.

8 But my opinion is this. I have heard a lot of
9 testimony from a lot of individuals, and I want to say very
10 questionable individuals. And I don't know how much I can
11 believe. I would not want to be in your shoes.

12 But I think I have heard some things that are
13 contradictory from reading the original manuscripts. And I
14 guess I would say, as we sit here today, we can't see the
15 body language and the behavior of the people who originally
16 testified. And so I guess what I'm requesting of you is
17 this, don't look at it from too much of an academic point of
18 view. It was a very brutal murder, and think about that and
19 condition your -- I think the original jury probably had a
20 better idea than we can come up with now as to the whether
21 he was guilty or not.

22 But in listening to the reaction of the group
23 here, I have absolute confidence that you will come up with
24 the appropriate decision. And I thank you for taking the
25 time to do this.

1 Thank you very much.

2 **JUDGE WAGONER:** Thank you very much sir. Thanks
3 for coming all the way from -- Virginia? West Virginia?
4 South Carolina?

5 **THE WITNESS:** Oh, let me tell you, it's Virginia.
6 You don't know. You've got me out of three or four days of
7 honey-do projects.

8 **JUDGE WAGONER:** We'll take all of the credit for
9 that.

10 All right. Thank you very much.

11 Okay. Now, at this time, I guess we will reopen
12 the hearing for anyone who would like to be in here.

13 And any questions about tomorrow?

14 **MS. SMITH:** If the hearing is reopened I am going
15 to finish just a few things, and then you can do questions
16 for tomorrow after that.

17 (Discussion off the record.)

18 **MS. SMITH:** Commissioners, thank you all for your
19 patience and attention to this hearing. This concludes the
20 presentation of the Commission's case.

21 You are now asked to decide whether you conclude
22 there is sufficient evidence of factual innocence to merit
23 judicial review.

24 Because this conviction resulted from a trial,
25 your vote will be by majority. You may decide that there is

1 sufficient evidence of factual innocence to merit judicial
2 review and the case will be referred to a three-judge panel.
3 You may decide that there is not sufficient evidence and the
4 case will be closed. You may instruct the Commission staff
5 to continue the investigation and reconvene the hearing at a
6 later date.

7 At this time, I am going to ask Judge Wagoner to
8 close the hearing. I understand that we are going to do
9 deliberations first thing in the morning, and I would just
10 ask that it be closed now and remain closed through
11 deliberations tomorrow morning.

12 **JUDGE WAGONER:** All right. At this time, we will
13 close the hearing until we have completed our deliberations
14 tomorrow morning. We'll start at 8:30. Take your homework
15 home with you, please, to read. And you can come back after
16 we are through deliberating.

17 I guess that is it for the evening. Thank you-all
18 very much. 8:30 tomorrow morning.

19 (Overnight recess, 4:52 p.m.)

20 / / / /

21 FRIDAY, SEPTEMBER 2, 2016 (8:32 a.m.)

22 **JUDGE WAGONER:** We are going to come to order. We
23 are back in session at 8:32.

24 Thank you all for being prompt. I believe we will
25 now let the court reporter be at ease and we will begin our

1 deliberations.

2 (Deliberations, 8:32 a.m. to 9:37 a.m.)

3 **JUDGE WAGONER:** All right. We'll come to order
4 again. All of the members are present as well as members of
5 the public and interested parties.

6 This is in the matter of 94 CRS 4929.

7 This matter came on for hearing before the North
8 Carolina Innocence Inquiry Commission on August 31,
9 September 1, and September 2, 2016, pursuant to North
10 Carolina General Statute 15A-1460 through 1475. After
11 careful review of the evidence presented, the Commission
12 hereby makes and enters the following findings of fact:

13 1. On December 8, 1994, Marvin "Coy" Hartley was
14 killed in his home in Boone, North Carolina;

15 2. On February 26, 1996, Robert Charles Bragg was
16 convicted, after a jury trial, of first-degree murder.
17 Bragg was sentenced to life without parole;

18 3. In July 2010, the North Carolina Center on
19 Actual Innocence Center -- the North Carolina Center on
20 Actual Innocence center referred this case to the
21 Commission, and the Commission began an inquiry pursuant to
22 Article 92, Chapter 15, of the General Statutes;

23 4. Throughout the Commission's inquiry, Bragg has
24 fully cooperated with Commission staff in accordance with
25 the North Carolina General Statute 15A-1467(g);

1 5. On August 31, September 1, and September 2,
2 2016, the Commission had held a full evidentiary hearing in
3 this matter pursuant to North Carolina General Statute
4 15A-1468;

5 6. During the hearing, the Commission considered
6 testimonial and documentary evidence. The evidence
7 included, among other things:

8 a. A 474-page brief provided to the Commission by
9 the Commission's Director prior to the hearing;

10 b. Supplemental documentation in the form of
11 handouts and a PowerPoint presentation provided during the
12 hearing;

13 c. Live testimony by Commission Associate
14 Director Sharon Stellato and Commission Grant Staff Attorney
15 Catherine Matoian, DNA expert Meghan Clement, witness
16 Jeffrey Nelson, witness Rene Nelson, witness Jerry Shull,
17 and the Claimant Robert Charles Bragg.

18 d. Affidavits from Boone Police Department
19 evidence technician April Gunter, Watauga County Sheriff's
20 Office Captain Jaska H. Rominger, former Assistant District
21 Attorney Gerald Wilson, Attorney Jeff Hedrick, Attorney Kris
22 Parks, Attorney Phil Griffin, and Attorney Vince Gable; and

23 e. A statement by the victim's nephew, Jerry
24 Hartley.

25 After carefully considering the evidence, the

1 Commission has concluded, by a vote of 6 to 2, that there is
2 sufficient evidence of factual evidence -- factual innocence
3 to merit judicial review.

4 Wherefore, pursuant to NCGS 15A-1468(c) and as
5 Chairman of the Commission, the undersigned refers this case
6 to the Honorable Gary Gavenus, Senior Resident Superior
7 Court Judge for Judicial District 24, and respectfully
8 requests that the Chief Justice of the North Carolina
9 Supreme Court appoint a three-judge panel and issue
10 commissions to its members to convene a special session of
11 Superior Court of Watauga County to hear evidence relevant
12 to the Commission's recommendation.

13 This, the 2nd day of September, 2016, Anna Mills
14 Wagoner, Senior Resident Superior Court Judge, District 19C,
15 Chairman of North Carolina Innocence Inquiry Commission.

16 Pursuant to statute, it is also ordered that since
17 the opinion was not unanimous, that each member of the
18 Commission states on the record his or her vote.

19 I will just start with me since I am the chair.
20 The chair voted yes to refer to the three-judge
21 panel.

22 **MR. LONG:** I voted yes to refer.

23 **JUDGE WAGONER:** David Long, for the record.

24 **MR. EDWARDS:** Seth Edwards. I voted no.

25 **MR. FRYE:** Kevin Frye. I voted no.

1 **MS. PICKENS:** Barbara Pickens. I voted yes.

2 **MS. SURGEON:** Diane Surgeon. I voted yes.

3 **MS. BELLE:** Aurelia Sands Belle. I voted yes.

4 **MS. COVER:** Camilla Cover. I voted yes.

5 **JUDGE WAGONER:** Let the record reflect that all
6 members of the Commission have stated for the record their
7 votes in this matter.

8 Anything further with regard to this matter?

9 (No response.)

10 **JUDGE WAGONER:** Okay. There being no further
11 business, this Commission meeting, for purposes of this
12 hearing, is adjourned.

13 (Hearing adjourned, 9:45 a.m.)

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BY MS. SMITH: [7] 254/24 279/21 303/12 304/18 369/10 384/10 387/22 JUDGE LOCK: [27] 241/1 241/13 300/17 301/2 301/4 301/11 381/21 382/15 383/1 404/1 404/4 404/7 404/21 405/3 405/9 406/11 436/7 436/11 436/15 436/18 436/20 436/23 437/18 438/4 445/13 445/23 446/10 JUDGE WAGONER: [118] 223/3 226/25 227/5 227/13 227/19 228/15 228/20 235/4 235/8 239/6 240/25 241/16 241/22 246/16 274/1 275/14 275/19 276/19 276/22 277/9 277/11 277/14 277/16 277/20 278/25 279/3 279/5 279/10 279/14 279/19 280/16 280/23 287/18 292/24 298/14 301/13 301/17 301/19 303/3 303/11 304/12 314/24 315/3 315/5 315/8 315/12 315/18 331/16 332/23 332/25 348/9 348/19 366/7 366/11 366/13 366/18 366/21 366/24 369/2 369/17 369/20 380/24 381/3 381/7 381/20 384/16 386/13 386/16 386/25 387/7 387/11 387/14 388/17 392/18 405/10 405/21 405/24 406/7 406/9 406/13 409/10 409/13 418/2 418/5 418/7 427/15 428/4 429/2 429/11 434/2 436/6 438/5 439/14 440/22 444/23 445/2 445/7 445/10 445/14 445/16 445/19 445/22 446/12 446/17 446/19 447/14 447/17 447/22 447/25 448/4 450/1 450/7 451/11 451/21 452/2 454/22 455/4 455/9 MR. BARROW: [19] 275/23 276/10 315/10 325/1 333/1 348/20 349/5 349/11 349/13 384/17 384/22 385/2 385/5 385/11 385/24 386/2 386/8 438/6 439/6 MR. EDWARDS: [71] 236/22 237/1 237/7 237/13 237/18 237/20 238/3 238/6 238/20 239/2 239/5 274/9 274/11 274/18 274/25 275/5 296/13 296/16 296/21 297/5 297/13 297/25 298/9 298/13 299/2 330/22 331/3 331/12 331/17 331/19 331/25 332/10 332/13 366/25 367/4 367/7 367/12 367/14 367/18 368/9 380/2 380/8 383/4 383/9 383/11 383/19 383/25 399/9 423/1 423/4 423/12 423/16 423/19 424/5 424/14 424/18 424/21 425/1 425/4 425/13 425/19 426/2 426/5 426/13 426/18 426/21 427/3 427/14 427/16 427/23 454/23 MR. FRYE: [43] 226/21 227/3 227/18 239/7 239/14 239/23 240/4 275/6 275/13 280/17 280/20 296/2 347/24 348/11 348/18 369/3 369/6 369/8 405/11 405/16 405/20 429/3 429/8 429/13 429/25 430/4 430/7 430/15 430/23 431/4 431/13 431/17 431/20 432/2 432/4 432/10 432/13 433/5 433/9 433/18 433/22 434/1 454/24 MR. HARTLEY: [1] 448/22 MR. LONG: [30] 241/20 386/14 386/17 386/24 434/3 434/8 434/10 434/12 434/19 434/21 435/1 435/4	435/8 435/13 435/17 435/21 435/23 436/1 436/4 439/15 439/21 440/1 440/5 440/9 440/13 440/21 445/9 445/15 445/18 454/21 MS. BELLE: [13] 277/21 277/24 278/11 278/21 299/19 330/6 330/11 330/14 330/16 330/21 332/14 332/18 455/2 MS. COVER: [9] 294/17 294/21 294/24 295/3 295/6 295/10 303/4 303/9 455/3 MS. PICKENS: [4] 275/16 300/7 447/24 454/25 MS. SMITH: [98] 223/1 223/7 223/22 226/19 227/21 227/23 228/21 230/3 230/24 233/3 234/7 235/7 236/20 241/23 242/4 244/16 246/13 246/17 254/13 254/16 254/18 254/21 257/11 266/9 267/10 268/1 273/19 274/4 275/21 278/23 279/4 279/20 280/19 280/21 292/19 293/1 294/14 298/20 301/14 303/10 304/11 304/13 304/15 304/24 305/6 306/11 309/11 310/25 314/18 314/22 315/13 315/19 324/20 330/3 334/24 336/12 339/12 340/14 342/10 346/22 347/21 349/12 349/14 355/11 356/13 356/22 357/19 358/17 358/24 360/17 365/21 369/19 371/12 374/20 377/17 378/5 379/24 387/9 387/15 388/15 388/18 392/12 392/21 399/1 401/20 403/23 405/25 406/2 406/8 406/16 422/25 445/1 446/14 447/7 447/15 448/3 450/13 450/17 MS. SURGEON: [50] 240/5 240/12 242/2 295/11 295/14 295/20 296/1 297/14 297/17 297/20 299/9 299/12 300/4 301/18 301/20 302/3 302/10 302/15 302/19 302/21 303/2 315/2 368/16 381/8 381/12 381/18 387/1 387/5 440/23 441/2 441/5 441/7 441/10 441/20 441/24 442/3 442/5 442/8 442/12 442/15 442/17 442/19 443/7 443/14 443/22 444/6 444/11 444/13 444/22 455/1 THE WITNESS: [244]	.4 miles [1] 388/3
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