

STATE OF NORTH CAROLINA
COUNTY OF COLUMBUS

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

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

NORTH CAROLINA INNOCENCE INQUIRY COMMISSION

HEARING

DAY TWO

At Raleigh, North Carolina

December 4, 2014

Ira Anderson
P.O. Box 6348
Concord, NC 28027

A P P E A R A N C E S

Kendra Montgomery-Blinn, Esq.
Sharon Stellato
Lindsey Guice Smith, Esq.
NORTH CAROLINA INNOCENCE INQUIRY COMMISSION
Administrative Office of the Courts
P.O. Box 2448
Raleigh, NC 27602

Commission Chair: The Honorable Quentin T. Sumner
Senior Resident Superior Court Judge
7th Judicial District
P.O. Drawer 1215
Rocky Mount, North Carolina 27801

Commissioner: Wade M. Smith, Esq.
THARRINGTON SMITH, LLP
P.O. Box 1151
Raleigh, North Carolina 27602-1151

Commissioner: The Honorable C. Branson Vickory, III
District Attorney
8th Judicial District
P.O. Box 175
Goldsboro, North Carolina 27533

Commissioner: Barbara Pickens
Retired Sheriff, Lincoln County
220 Margaret Hoffman Drive
Mt. Holly, NC 28120

Commissioner: Isaac Heard, Jr.
Urban Planning & Community Economic Development
Consultant Analyst
6728 Constitution Lane
Charlotte, NC 28210-4216

Commissioner: T. Diane Surgeon, Esq.
CEO of Eldercare Resources Center of North Carolina
2003 North Pine Street
Lumberton, NC 28358

Commissioner: Aurelia Sands Belle, M.Ed.
Executive Director Durham Crisis Response Center
206 North Dillard Street
Durham, NC 27701

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Commissioner: The Honorable J. Van Duncan
Elected Sheriff - Buncombe County
60 Court Plaza, 4th Floor
Asheville, NC 28801

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1 JUDGE SUMNER: Good morning. We're going to
2 resume the hearing. This hearing is Bladen County, the case
3 of State of North Carolina vs. Joseph Sledge, file number,
4 again, 78-CRS-2415 and 2416. Once again, this trial was
5 moved to Columbus County. And we'll turn this morning's
6 session over to Ms. Montgomery-Blinn.

7 MS. MONTGOMERY-BLINN: Thank you, Your Honor.
8 Good morning commissioners. Thank you for coming back
9 today. Thank you all for staying yesterday a little bit
10 late. That helped us get back closer to being on schedule.
11 Our plan for today is to have the experts testify, so the
12 fingerprint expert and two DNA experts.

13 We're also going to begin the morning with
14 commission staff testifying about the search for physical
15 evidence in this case. Then we'll go into the experts and
16 their testimony. And right before we hear about the DNA,
17 Commission staffer, Lindsey Guice Smith, is going to give
18 you a DNA overview and a quick summary to help you as you
19 hear from the experts in more depth. And then we're going
20 to take that administrative matter that we weren't able to
21 get to yesterday.

22 So after the experts, we'll close for the
23 administrative matter. We'll ask everyone who is not a
24 commissioner or staff to leave the room, and we'll handle
25 the administrative matter. Then this afternoon if we have

1 time, we're going to start talking about Joseph Sledge and
2 our investigation regarding him. I don't know if we'll have
3 time for him to testify today or not, but we might, and I
4 understand, I think, we're breaking at 4 o'clock today.

5 JUDGE SUMNER: That's correct.

6 MS. MONTGOMERY-BLINN: All right. Did I put
7 my clicker here? Is that it? Thank you.

8 So we're going to turn our attention now to
9 the Commission's search for files and evidence in this case.
10 When the Commission received this case there were many
11 evidence, items of evidence and files that were missing and
12 had not been located. When we received the case the items
13 that were available to us were the hairs from the victim's
14 body; the SBI original investigative file as it exists
15 today; a portion of the SBI lab file; and the second trial
16 transcript. The items that were missing without
17 documentation to why they were missing or whether they had
18 been destroyed were the DA's file, the original trial file;
19 the Bladen County Sheriff's file; the SBI lab latent print
20 file. All of the rest of the physical evidence, even the
21 items that had been tested in 2008 through 2010, had been
22 lost since their return from the labs. The first trial
23 transcript was also missing.

24 There was a 2003 court order for DNA testing,
25 and the Bladen County Sheriff's Department and the district

1 attorney's office under DA Rex Gore filed affidavits stating
2 that they had conducted searches, and no files and physical
3 evidence related to the cases could be introduced or be
4 located, other than the evidence remaining at the Columbus
5 County Clerk's Office. In 2013 DA John David requested the
6 various agencies to search for files and evidence related to
7 the case. The SBI also searched in some locations, and
8 photographs from the second autopsy were located during that
9 search at the SBI.

10 After the Commission received the case
11 Commission staff interviewed all of the agencies and
12 conducted our own searches. The Commission was able to
13 locate some files and evidence at all of the agencies. As
14 part of the Commission's enabling Statute, 15A-1468(d),
15 evidence of criminal acts, professional misconduct, or other
16 wrongdoing disclosed through formal inquiry or Commission
17 proceedings shall be referred to the appropriate authority.

18 The Commission staff will now testify about
19 the searches and the result of the searches. During your
20 deliberation in this case you will need to consider whether
21 there is a duty for the Commission to refer any evidence of
22 professional misconduct or wrongdoing.

23 All right, I call Ms. Smith.
24
25

1 Lindsey Guice Smith, having first been duly
2 reminded she was still under oath, testified as
3 follows:

4

5 EXAMINATION BY MS. MONTGOMERY-BLINN

6 Q. Good morning. You're still under oath.

7 A. Good morning.

8 Q. Ms. Smith, which of the clerk's offices were involved
9 in the handling of this case?

10 A. The Bladen County Clerk's Office had original
11 jurisdiction in the case, and the trials were both
12 conducted in Columbus County pursuant to an order for
13 change of venue.

14 Q. Where was the trial evidence introduced and held?

15 A. In Columbus County.

16 Q. Did the Bladen County Clerk's Office have any files or
17 evidence?

18 A. The only thing that they had remaining in their file
19 was the Change of Venue Order.

20 Q. And how about the Columbus County Clerk?

21 A. They did, they had a file, the whole court file. They
22 still maintained a blue and white sweater that was
23 introduced at trial. They also had some empty evidence
24 bags and some other paper exhibits, including some of
25 the photographs that were introduced at trial.

1 Q. Okay. Were there other items that had been
2 transferred?

3 A. There were.

4 Q. And what were those?

5 A. They included hairs, the slips and dresses of Aileen
6 Davis and Josephine Davis, and the pepper can.

7 Q. And were those items -- where were those items located
8 when you received the case?

9 A. When we received the case the hairs were still at a
10 private lab, Mitotyping Technologies, and the other
11 items had been returned to the Bladen County Sheriff's
12 Office in 2010, but had been missing since that time.

13 Q. All right. And did you speak the clerks about, anybody
14 from the clerk's office about locating items?

15 A. We did. We spoke with the elected clerk and a deputy
16 clerk about where evidence had been stored and about
17 where steno pads containing the clerk's shorthand from
18 the first trial might be located.

19 Q. Okay. And did you conduct your own search?

20 A. We did.

21 Q. And tell us about that.

22 A. That occurred on March 26, 2014. It was myself and
23 Ms. Stellato present for that search. We searched a
24 boiler room in the basement of the Columbus County
25 Courthouse, and there we were able to locate the steno

1 pads containing the shorthand of the clerk's notes and
2 trial minutes from the first Sledge trial, which had
3 not previously been located. We also searched another
4 file room and two evidence vaults and found no results
5 there.

6 MS. MONTGOMERY-BLINN: Before we move on to
7 the next agency, are there any Commissioner questions
8 about the search of the clerk's office?

9 (No response.)

10 Q. All right. Let's talk about the district attorney's
11 office. How many districts are covered by the DA's
12 office?

13 A. District 13 covers three counties, Bladen, Columbus,
14 and Brunswick.

15 Q. And were you able to search the DA's office?

16 A. Yes. District Attorney John David gave us permission
17 to come in and search all three of those offices.

18 Q. Okay. And tell us about that.

19 A. We interviewed the district attorney as well as members
20 of his staff about file storage. Many staff members
21 recalled that the prior district attorney, Rex Gore,
22 had a box containing information about the case, but it
23 was unable to be located at that time.

24 Q. What were you able to locate?

25 A. We searched the Bladen County Sheriff's Office, and

1 were unable to locate anything related to this case.

2 Q. Do you mean the Bladen County DA's Office?

3 A. I'm sorry, we did, Bladen County DA's Office.

4 Q. All right. And what about the Columbus County DA's
5 Office?

6 A. We searched the Columbus County District Attorney's
7 Office on March 26, 2014. That was myself and
8 Ms. Stellato. We searched a vault and a file room, and
9 there we located the first trial transcript and a
10 portion of the second trial transcript.

11 Q. And you already had the second trial transcript, but
12 not the first?

13 A. That's correct.

14 Q. Okay. Did you locate anything else?

15 A. We did, we located a thin file that contained post
16 conviction documents from the prior district attorney,
17 Mr. Gore's term.

18 Q. Okay. And what about the Brunswick County DA's Office?

19 A. We searched the Brunswick County DA's Office on
20 March 5, 2014. That was myself and Ms. Stellato. The
21 day before the commissioner -- the Commission came in
22 and searched, the district attorney's office had
23 actually conducted a search themselves and had located
24 two electronic files, which were later provided to the
25 Commission. These were post conviction files. They

1 contained post conviction documents, and then they also
2 located some handwritten notes from one of the
3 administrative assistants from the prior
4 administration, and these were also taken post
5 conviction.

6 Q. Okay. And did you locate anything during your search?

7 A. We did not locate anything from the original district
8 attorney's file, but we were able to search a file
9 room, two conference rooms, and the district attorney's
10 personal office and located a file with materials
11 related to the pending MAR.

12 Q. So everything that you located was from post
13 conviction, prior DA's administration?

14 A. With the exception of the last thing I mentioned was --

15 Q. The file you --

16 A. Okay, so we located the first and second trial
17 transcripts in a different office. In this office we
18 located stuff from the prior administration post
19 conviction, but also from the current pending MAR.

20 Q. Okay. All right. And did you interview former
21 District Attorney Rex Gore about his file?

22 A. We did.

23 Q. And what did he say?

24 A. That conversation was a telephone conversation. It
25 took place on August 21, 2013. Myself and Ms. Stellato

1 were present on that phone conversation. He indicated
2 that he had never received any files or evidence from
3 the Bladen County Sheriff's Department, but could not
4 say what happened in Bladen County since his office,
5 his main office was in Brunswick County.

6 Q. So he couldn't say what had happened in the Bladen
7 County DA's Office?

8 A. That's correct.

9 Q. Okay. And why were you asking him about physical
10 evidence?

11 A. We were asking him that because we had also talked with
12 the former sheriff, Earl Storms, and he had stated to
13 us that he had given files or given evidence, rather,
14 to Mr. Gore.

15 Q. Okay. And what else did Mr. Gore say?

16 A. He indicated he did not have any files in his
17 possession and that anything that he had had should
18 still be at the Brunswick County District Attorney's
19 Office.

20 Q. Okay. And what else did he say?

21 A. He recalled that he searched for the original file. He
22 couldn't recall, though, whether he had ever located
23 it, and he directed us to his former administrative
24 assistant and suggested we speak with her.

25 Q. And did you speak with her?

1 A. We did. We spoke with her via phone, and she recalled
2 a big brown box with the word, Sledge, written on the
3 outside. She indicated that it was her belief that it
4 was the original district attorney's file and that it
5 was in a conference room, because District Attorney
6 Gore was working on the file when he was working on the
7 2003 MAR.

8 Q. Okay. And did she recall what happened to that box?

9 A. She did not know what happened, but stated when the new
10 administration came in it might have been thrown out
11 because they were cleaning up the office.

12 Q. Okay.

13 MS. MONTGOMERY-BLINN: Are there any
14 questions from the commissioners about the district
15 attorney's office search?

16 (No response.)

17 Q. Okay. Let's talk about the crime lab. What did you
18 obtain from the crime lab?

19 A. We were able to obtain the crime lab's file, but it was
20 missing the latent evidence file.

21 Q. And did you ask the state crime lab to search for the
22 latent file?

23 A. We did.

24 Q. And what did they find?

25 A. On September 9, 2013, they responded that they were

1 unable to locate any latent file, but that it may have
2 been returned from archives and destroyed in 2007 along
3 with other files from the mid-1970s.

4 Q. Were they able to produce any documentation of that
5 possible destruction?

6 A. No, they were not.

7 Q. What about the SBI investigative file?

8 A. We did obtain a file, the SBI investigative file.

9 Q. Okay. And tell us, was there any items missing from
10 that file?

11 A. Not that we're aware of.

12 Q. Okay. And what did --

13 A. I'm sorry. Let me restate that. Actually, there was.
14 It was missing the reports from the Herman Baker
15 interview and some of the Sutton interviews. However,
16 we were able to locate those later in the Bladen County
17 Sheriff's Office file.

18 Q. Okay. And what did the SBI file reveal about the
19 possible location of physical evidence?

20 A. In reviewing that file in conjunction with the Bladen
21 County Sheriff's Office file we noted evidence forms
22 that showed that the last person in the chain of
23 custody for many of the items that weren't introduced
24 at trial was Special Agent Marshall Evans, who had been
25 assigned by the SBI to the case.

1 Q. Okay. And did you follow up with that?

2 A. We did. We asked the SBI to search the southeastern
3 district field office to see if they retained any
4 evidence there as well as to reach out to the
5 individual agents who had worked on the case and ask
6 them if they had anything remaining.

7 Q. And were they able to locate anything?

8 A. They indicated that they had searched the office and
9 were unable to locate anything. They also indicated
10 that they had left messages with the special agents,
11 but hadn't received return calls.

12 Q. Okay. And did you follow up with Marshall Evans?

13 A. We did. We had a staff member, Ms. Matoian, contact
14 him, and he informed us that he did not have any
15 evidence and did not know what would have happened to
16 it.

17 MS. MONTGOMERY-BLINN: Before we move on,
18 any commissioner questions at this point?

19 (No response.)

20 Q. Okay. All right. Now let's talk about the Bladen
21 County Sheriff's Office. Ms. Smith, if you'll step
22 down, I'm going to call Ms. Stellato.

23 (Ms. Smith steps down from witness stand.)

24

25 Sharon Stellato, having first been duly

1 reminded she was still under oath, testified as
2 follows:

3

4 EXAMINATION BY MS. MONTGOMERY-BLINN

5 Q. Okay. Ms. Stellato, you're still under oath. When the
6 Commission received the case, what did the Bladen
7 County Sheriff's Office know that they had in their
8 possession?

9 A. At that time they did not have anything in their
10 possession. They did not have the file, and they did
11 not have any of the physical evidence.

12 Q. What did you do to try to locate those items?

13 A. We interviewed the sheriff, Sheriff Benston, and
14 Lieutenant Jeff Singletary on July 13, 2013.

15 Q. And who was present for that interview?

16 A. Myself and Ms. Smith.

17 Q. Okay. And what did they say?

18 A. Lieutenant Singletary stated that he had become aware
19 of physical evidence in the case back in 2008 or 2009
20 when the Bladen County Sheriff's Department had been
21 asked to transport evidence from the clerk's office to
22 the State Bureau of Investigation for testing. That
23 evidence was returned in October of 2010 by FedEx, and
24 it was signed for at the Bladen County Sheriff's
25 Department by Lieutenant Bridgers. The evidence was

1 then lost at the Bladen County Sheriff's Department.

2 Q. All right. What else did Lieutenant Singletary say?

3 A. Regarding any evidence that was not admitted at trial
4 he stated that it had been destroyed years ago, but
5 that there was no documentation to support that. He
6 had been with the department for 22 years, and he
7 stated he knew where all the physical evidence was at
8 the Bladen County Sheriff's Department, where it was
9 stored, and he described all of the physical -- excuse
10 me, all of the storage facilities at the Bladen County
11 Sheriff's Department.

12 Q. Had he previously searched for the evidence?

13 A. He stated that he had searched his agency as well as
14 the SBI had searched for the evidence, and they had not
15 been able to locate it. At that time we asked if the
16 Commission could come in and conduct our own search of
17 the Bladen County Sheriff's Department, and the sheriff
18 agreed to that.

19 Q. Okay. Did anything happen in your investigation
20 related to the physical evidence or the files prior to
21 your search of the Bladen County Sheriff's Office?

22 A. Our search was scheduled for August 26, 2013. On
23 August 15 while we were searching the district
24 attorney's office at the courthouse, a basement room
25 was located. That room has physical evidence from the

1 1980s. That room was maintained by the Bladen County
2 Sheriff's Office. They were the only ones that had a
3 key to that room. It was agreed that the Commission
4 would return and search that room at a later date.

5 When we found out that the Bladen County
6 Sheriff's Department was the only one that had a key to
7 that room, we interviewed Lieutenant Singletary, and he
8 stated he was not aware that there had been any
9 physical evidence kept in that location. On that same
10 day Lieutenant Singletary showed the Commission staff
11 the various storage facilities in preparation for our
12 search that was going to happen. Later, in
13 anticipation for the search, the Bladen County
14 Sheriff's Department began moving files that they had
15 in a storage facility, it was called the Braxton
16 Building, and they located a box that was marked
17 Phillip Little. They looked in that box and they
18 discovered the original investigation file. That's the
19 file that we now have. It's as much as, as much as
20 they were able to locate.

21 Q. Do you know for sure whether that file is a complete
22 file?

23 A. No.

24 Q. And do you know whether it's not a complete file?

25 A. No.

1 Q. You just don't know either way?

2 A. No.

3 Q. Okay. Now, please describe the Commission's search
4 then.

5 A. The search took place on August 26, 2014.

6 Q. And who --

7 A. Excuse me, 2013.

8 Q. Who did the search?

9 A. Myself and Ms. Smith.

10 Q. And where did you search at the Bladen County Sheriff's
11 Office?

12 A. We searched the Bladen County Sheriff's Department.
13 The locations there included a gun vault, an evidence
14 room, evidence lockers that were kept in each
15 detective's room, an off-site storage facility called
16 the Braxton Building, eight connexes -- connexes are
17 best described as metal containers that look kind of
18 like train cars -- and various other locations.

19 Throughout the three-day search various
20 additional locations where evidence was stored were
21 discovered. These locations were not originally known
22 or disclosed to us by the sheriff or Lieutenant
23 Singletary when we first met with them. They were not
24 aware of them as containing evidence.

25 Q. Okay. Tell us about the search of the gun vault.

1 A. Excuse me, we also searched that basement location at
2 the courthouse that I mentioned.

3 During the search of the gun vault we located
4 another box labeled Phillip Little, that was labeled
5 Phillip Little Drug Cases. Inside of that box was a
6 file marked Joseph Sledge. It contained post
7 conviction letters and documents related to the Sledge
8 case.

9 Q. All right.

10 A. Also during the search of the gun vault, on the back
11 wall behind all of the guns there were lockers on both
12 sides. These lockers were still locked with padlocks.
13 We were told -- we asked if they had searched those
14 lockers. They stated they had not searched them, that
15 they had been locked for some time, and that they
16 didn't have keys to the lock, to any of the locks. We
17 then had them cut off the locks. All of the lockers
18 contained items. Most of the items included drugs and
19 money in the boxes. In one of the lockers there was a
20 package labeled Sledge. That package was returned from
21 the State Bureau of Investigation. It contained 97
22 latent lifts from the crime scene as well as a piece of
23 linoleum and a white paper bag.

24 Q. And was that from the crime scene, the linoleum and the
25 paper bag, too?

1 A. Yes, ma'am.

2 Q. Okay. Go ahead.

3 A. That had been returned to the Bladen County Sheriff's
4 Department from the crime lab in 2007. The crime lab
5 did not have documentation of making this return,
6 however, there was documentation inside of that
7 envelope that explained it had been returned in 2007.
8 This was evidence that had not been introduced at
9 trial.

10 As we went through other lockers there was
11 another envelope related to the Sledge case. It
12 contained lab reports, an empty Ziploc bag, and a
13 canister that had been sent to the SBI in 2008. In
14 another locker there was another box that contained an
15 envelope from Adrienne Sellers to Phillip Little as
16 well as two handwritten notebooks related to the Sledge
17 investigation. The other items in those lockers
18 consisted mainly of drugs and money, and there may have
19 been other physical evidence, but we didn't go through
20 it.

21 Q. Okay. Tell us about the search of those connex storage
22 facilities.

23 A. So there were mainly eight connexes. In connex number
24 four any physical evidence that was not marked we
25 opened or had them open and go through. In connex

1 number four there was a gray interlocking tote. Inside
2 of that was a box with a FedEx shipping label. This
3 was the evidence that was returned from LabCorp to the
4 Bladen County Sheriff's Office in 2010. It contained
5 the missing dresses, slips, and the pepper can.

6 Q. Who had signed for it when it had been returned in
7 2010, if you recall?

8 A. It had been returned to Lieutenant Singletary.

9 Q. What did you do with the evidence that you located
10 during this search?

11 A. The evidence and the files that were located we took
12 possession of. We then met with Sheriff Benston about
13 the evidence that we had located as well as the storage
14 of the evidence.

15 Q. Let me just back up and ask you a question. You said
16 you took possession. Does the Commission staff have
17 certified evidence custodians on staff?

18 A. Yes, ma'am.

19 Q. And who is that?

20 A. Lindsey Smith, we -- both of us have training in
21 evidence.

22 Q. Okay. And you're a certified evidence custodian?

23 A. Yes.

24 Q. Okay. And so when you took possession of the evidence,
25 did you do that as an evidence custodian?

1 A. Yes.

2 Q. And did you follow all proper chain of custody
3 procedures as you took it and checked it back in here?

4 A. Yes, we did.

5 Q. And does the Commission maintain its own evidence
6 storage facility?

7 A. Yes, we do.

8 Q. Okay. All right. Now, what else did you do then after
9 you met with the sheriff?

10 A. We discussed with him the various locations where
11 evidence was stored, the fact that they were not aware
12 of the various locations where evidence was stored, how
13 evidence should be stored, the temperature of the
14 physical evidence and where it was being stored, what
15 we intended to do, and described things that we had
16 seen during the search including opened item of
17 evidence and how things were being stored and things of
18 that nature.

19 We offered to come back and make
20 recommendations. We discussed our training and offered
21 ideas of what they might wish to do in the future.

22 Q. Do you recognize this?

23 A. Yes, I do.

24 Q. And what is it?

25 A. This is a memo that we wrote to District Attorney John

1 David, Sheriff Benston, Special Agent Chad Barefoot in
2 the case file regarding our search at the Bladen County
3 Sheriff's Department, what happened, and what we saw
4 during our search.

5 Q. And so you provided this memo to the sheriff --

6 A. Yes, ma'am.

7 Q. -- and the other people you listed?

8 A. (Witness nods head affirmatively.)

9 MS. MONTGOMERY-BLINN: And we're going to
10 pass that memo around to the commissioners and give
11 them a chance -- if the commissioners want to read it
12 right now, we can. If you would like to save it and
13 read it at another time, you can as well.

14 (Memo dated 9/5/13 is distributed.)

15 Q. Ms. Stellato, since you gave this memo and met with the
16 sheriff, have you learned of any action that the
17 sheriff's department has taken?

18 A. We never heard back from the sheriff regarding our
19 offer to meet with him or to make -- inaudible -- or
20 any response to the memo. So in anticipation of this
21 hearing I contacted Lieutenant Singletary to find out
22 if the sheriff's department had taken any action
23 related to the memo or what had happened. During that
24 meeting when we informed the sheriff of what was going
25 on he had two suggestions back. One of them was he

1 mentioned purchasing evidence tracking software. And
2 we let him know that that was not actually the problem
3 with what we had seen. And he also mentioned that they
4 were seeking funding to build a new facility, a new
5 jail, and that if they were able to obtain that
6 funding, they would be building a new evidence room.

7 So when I contacted Lieutenant Singletary on
8 November 18, 2014, I asked him if there had been any
9 follow-up with the Bladen County Sheriff's Department
10 related to the memo. He stated that after our meeting,
11 later that year, 2013, they did purchase the evidence
12 tracking software, and that they had added a new
13 evidence room in the Bladen County Sheriff's
14 Department, but that new evidence room is not large
15 enough to hold all of the evidence. So the new
16 incoming evidence is being logged into the new evidence
17 room. However, the connexes are still in use, and the
18 old evidence is still being stored there.

19 He stated that only two people now have new
20 keys to the evidence room. So that is an improvement
21 because prior to that eight people had keys to the
22 evidence room. Sheriff Benston has not been re-
23 elected. A new sheriff has now taken over as of
24 Monday.

25 MS. MONTGOMERY-BLINN: Commissioner

1 questions?

2

3

EXAMINATION BY SHERIFF DUNCAN

4 Q. Do you know how many times they've moved since '78?

5 A. I do know that answer. Just give me one second. The
6 sheriff's department has been in the same location with
7 one exception. They were in the jail prior to that,
8 and we did search that location, but there was no
9 evidence stored there.

10 MR. SMITH: Can I ask a question?

11 JUDGE SUMNER: Yes, sir.

12

13

EXAMINATION BY MR. SMITH

14 Q. What was the appearance of those storage rooms? I
15 mean, did it look like no one had been in there for
16 years and years?

17 A. Some of them; some of them, yes. But the Braxton
18 Building, which is where files are stored, and in many
19 of those files physical evidence is also stored in the
20 files, there has not been anyone there in a long time.

21 The connexes, depending on who is maintaining
22 them -- so certain detectives are assigned connexes,
23 but there are connexes that have been assigned to
24 detectives that are no longer there. So those are not
25 being maintained, and those have old evidence, and

1 people are not going in them.

2 However, some of them are still in use.

3 Obviously, the lockers, storage facilities that are in
4 the detectives' offices are being used and are
5 completely maintained.

6 Q. Was there any resistance to permitting the Commission
7 to come in and look in those rooms that, as I picture
8 in my mind, are old and almost forgotten?

9 A. No. There was no, there was never any resistance at
10 all. There was no -- they did not know. They were not
11 aware of all the locations where evidence was stored.
12 There was never any resistance.

13 Q. The rooms that they had forgotten, where were they?
14 Were they in basements or --

15 A. One was in a basement of a courthouse where the food --
16 what that basement is, the jail is in the courthouse as
17 well. The room that the physical evidence was in, that
18 room is used as a storage room for food for the jail.
19 So I can't tell you that it's been forgotten because
20 people go in and out of there every day, and certainly
21 the sheriff's department runs the jail. However, some
22 of them stated they weren't aware of the evidence,
23 other people were.

24 As you know, sheriffs turn over, employees
25 turn over. We've interviewed several members of the

1 sheriff's department. While we were doing the search
2 over that three days several of the people, of the
3 employees who worked there would come up and say, I've
4 thought of one more place you need to go. So they were
5 cooperative, and they were coming up and saying, you
6 need to go to this other place. In fact, that happened
7 numerous times with the connexes. There was a lack of
8 knowing where everything was.

9 Q. Thank you.

10

11

EXAMINATION BY RETIRED SHERIFF PICKENS

12

Q. The connexes, were they located on the property or on a
13 different site?

14

A. They were on a different site. They were in the public
15 works section where the water department was, so
16 offsite, yes, ma'am.

17

Q. Fenced, locked?

18

A. It was fenced, and it was locked. You had to have a
19 code to get into that area. They're not temperature
20 controlled, but they are maintained as far as secure.
21 Once you get into that facility, not all of the
22 connexes were locked with a lock on them, but the gate
23 did have a lock on it.

24

Q. But the connexes are just in a general fenced-in area
25 within public works, they're not fenced off?

1 A. They're in an area where vehicles and other items for
2 the city are stored, but certainly only city employees
3 can get back there. And then again, at least a large
4 number of them were locked; not all, but a large number
5 of them were.

6 Q. Thank you.

7

8 EXAMINATION BY MR. HEARD

9 Q. Was there anything from the previous research you had
10 done that you thought might have been among this
11 material that you were not able to find?

12 A. Physical evidence?

13 Q. Yes, physical evidence.

14 A. All of the physical evidence has never been located.

15 Q. So what's still missing?

16 A. Sledge's clothing that he was wearing. The prison
17 pants have never been located. The gray pants that he
18 was wearing have not been located. The clothing that
19 he was wearing. There's a hand print from the crime
20 scene that was cut, the wallpaper was cut, that has
21 never been located.

22 Obviously, if there are additional files --
23 when Mr. Little testified he indicated that he likely
24 had made other notes, you know, handwritten notes.
25 Those have never been located. So if there is an

1 additional file, it has not been located. There is
2 other physical evidence that hasn't been found.
3 Basically, anything that was not introduced at trial
4 has not been located.

5 Q. Okay. And the material which was in, I guess you know
6 here, that was in the, not in the climate controlled
7 area, did that create any serious deterioration in any
8 of this evidence?

9 A. The evidence that we located in the connexes included
10 rape kits, which cannot be stored -- you know, the
11 temperature in those connexes reached well above over
12 120 degrees when it was hot. We were searching in
13 pretty hot weather. That's not proper storage. There
14 were homicides stored in there. We found bloody knives
15 and things of that nature. It contaminates DNA for
16 testing.

17 Q. But with regard to the specific evidence for this case,
18 was any of it compromised because of this lack of
19 climate control?

20 A. I mean, I can't say whether it was compromised or not,
21 that would be up to the analyst. But the evidence that
22 we found stored in the connexes were the dresses and
23 the slips and the pepper can. The testing had already
24 been done on those items, and then we did send it off
25 for more testing, and there will be experts to testify

1 later.

2 Q. All right, thank you.

3

4

EXAMINATION BY MS. SURGEON

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Q. The evidence that you just talked about that was not found, like Mr. Sledge's clothing and such, was there documentation of the tests that were done on those clothing items that were found?

9

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A. Yes, ma'am. They did the blood serology tests on them. This is the clothing where they found spots or droplets that they -- it's in the brief where they -- Ms. Montgomery-Blinn I'm sure can point you to the page, but where they indicate presumptive tests for blood, so they did collect them and they were not introduced. They were testified about at trial, but they were not introduced.

17

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MS. MONTGOMERY-BLINN: If I can, I'm just going to hand Ms. Stellato the brief beginning on page 82, and those are the items that were originally subjected to serology testing, and let her walk through with you and say whether those items could be, have been found.

23

24

25

A. Thank you; thank you. So starting on page 82, the first item is the green pants. Those would be the prison pants that Mr. Sledge was wearing. Page 83 is

1 the t-shirt. That is the shirt that he was wearing
2 when he was arrested.

3 MS. MONTGOMERY-BLINN: So have those items
4 been located?

5 A. I'm sorry, I apologize. The prison pants have not.
6 The t-shirt has not. Page 84, the blue jeans, they
7 have not been located. Page 85, his underwear, they
8 have not been located. Page 86, his shoes, they have
9 not been located. Page 87 is the piece of wallpaper
10 with the stains, that has not been located. Page 88 is
11 a towel that was collected from the crime scene, that
12 has not been located. And then page 89 on begins with
13 the victims' clothing, and that has been located.

14 Q. So the items that were not located, not introduced at
15 trial, they were testified to at trial?

16 A. Yes, ma'am. Mr. Taub testified regarding blood on
17 Mr. Sledge's clothing, but he did not introduce those
18 items at trial.

19 Q. And had tests been done on those items?

20 A. If you look on -- when you look, when you go back to
21 page 82, if you look the left-hand side, you'll see
22 benz and phenol positive. And then moving on you'll
23 see those -- like on the shirt you'll see benz, phenol,
24 Takayama pos. So those are his notes.

25 And then if you look on the clothing itself,

1 like, for example, on page 83 you'll see one spot, and
2 he's pointing, there's like a little spot on the shirt,
3 and then an arrow, and it says Tak plus, and then
4 underneath it there's a check. It says Takayama, what
5 it's saying is Takayama positive.

6 MR. DUNCAN: Page 92 that's a very good
7 breakdown.

8 A. So that, he's noting where he sees blood on the
9 clothing. That's what this -- that's what these are.
10 These are what's called the bench notes.

11 Q. So would the expert be able to connect the dots for us
12 as to the significance of these tests? Because on page
13 82 it indicates that there was insufficient for further
14 analysis, but just that there was blood?

15 A. Right.

16 Q. But that's all?

17 A. Would you like to answer that question?

18 MS. STELLATO: Yeah. If you'll look at page
19 92, it's a summary that we, the Commission staff put
20 together, and it includes the items, what the bench
21 notes say, what the lab report says, and if it was
22 testified about at trial, what was said about it. And
23 because these items don't exist anymore, we haven't
24 been able to do any additional testing to say whether
25 for sure that is blood, and if it is blood, it's

1 Mr. Sledge's blood or the victims' blood. We don't
2 know, and unless those items get located at a later
3 date, we never will. But that summary at least was
4 designed to tell you all that we do know.

5 MS. SURGEON: Okay. Thank you.

6 A. If it helps at all to clarify your questions, in the
7 photographs where you see the dot and the arrow, that's
8 where they are noting the blood. And simply without
9 the clothing we just can't test them any further.

10 Q. Right.

11 A. I'm sorry that we can't answer your questions further.

12 Q. Thank you.

13

14 EXAMINATION BY MS. SANDS BELLE

15 Q. So according to this summary then, these items, for the
16 most part, weren't presented again at the second trial
17 or weren't discussed, or is that -- do you see what I
18 mean?

19 A. Uh-huh (yes).

20 Q. -- except for the last page where it talks about the
21 vehicle's interior, but not much else?

22 A. Yes, ma'am. They weren't testified to except for the,
23 as you said, the vehicle interior. That's also, to
24 kind of further answer your question, that's why we
25 were looking for this specific evidence. Well, we want

1 all evidence, but that's why we would want to find this
2 specific evidence to test.

3

4

FURTHER EXAMINATION BY MR. SMITH

5

Q. So we don't know whose blood was on Mr. Sledge's pants?

6

A. No, sir. Some of it we don't even know, to be clear,

7

if it was blood because it -- they did not do the

8

positive test on some of the items.

9

Q. Yes, ma'am.

10

A. And if it did have a positive test for Takayama, you're

11

correct, we don't know whose blood it was.

12

13

FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

14

Q. And would you just clarify that, based on the diagrams,

15

that whether we're talking about the clothing being

16

coated in blood or spots and whether people testified

17

if it was even visible to the naked eye?

18

A. Sure. On the green pants, the prison pants, we

19

actually don't know because they did not mark on the

20

diagram where the blood was located. What we know is

21

that the phenol, they have a question mark next to

22

positive, so we don't know anything about it. They

23

then write insufficient for further analysis. So all

24

we know is that there were chemical indications for

25

blood found on the pants, meaning we have no idea if

1 there was blood.

2 For the next --

3 MR. VICKORY: So that's not a mark on the leg
4 there?

5 A. You know, we keep seeing that in the copy, but
6 normally, and we can't say for sure, Mr. Vickory, but
7 normally they'll put the arrow out. I just don't know.

8 MS. SANDS BELLE: But the amount of blood
9 that was at the crime scene and the amount of blood
10 that's on the victim's clothing -- but I guess you got
11 lost stuff, so you wouldn't -- because it -- okay. It
12 just seems a little incongruent to me there would not
13 be more blood found even at this stage of the game on
14 shoes, you know, pants, shirts that came off of, you
15 know, the -- okay.

16 A. The t-shirt, which is on page 83, human blood was
17 found. So they did all three tests and human blood was
18 found. They tested for human. And that is found there
19 on the bottom you'll see it. There's a spot. It may
20 even be two spots. Again, some of these pictures are
21 so old you can't tell.

22 Q. Ms. Stellato, as you do this, if you feel comfortable
23 or if it's possible, are you able to say when,
24 according to Mr. Sledge, he obtained that item of
25 clothing in terms of where he was, whether he had

1 passed where would be that part of Elizabethtown?

2 A. Well, this one, this shirt I can tell you that he was
3 wearing when he was arrested in Fayetteville, which is
4 a few days after the murder. The prison pants that we
5 just went through on page 82 he was wearing when he
6 escaped.

7 Q. And were they located in Fayetteville, if you recall?

8 A. The prison pants he was wearing when --

9 Q. The two pairs of pants?

10 A. No, excuse me. Yes; yes, ma'am.

11 Q. So he was not wearing them at arrest. They were found
12 in Fayetteville, which if his journey is as he says,
13 would have been after the -- after he passed the
14 victims' home?

15 A. Yes, ma'am.

16 Q. Okay. Thank you.

17 A. On page 84, the blue jeans, this tested positive for
18 human blood. If you look at -- there's two different
19 areas. There is inside of the pocket, and then it is
20 on the knee, and this is human blood group A.

21 Q. And do you know, were these on Mr. Sledge when he was
22 arrested?

23 A. Yes, he was wearing them when he was arrested in
24 Fayetteville.

25 His underwear, which is on page 5, chemical

1 indications for blood were found. It was insufficient
2 for further analysis. And so this is a little bit
3 harder to tell. If you can read what it says, it's
4 reddish stains, no, I think it says no benz
5 verification, and I can't read the other word, I'm
6 sorry. It's on the other side, but they're --

7 RETIRED SHERIFF PICKENS: It's looks like
8 tiny.

9 MR. Vickory: Tiny.

10 A. Tiny, uh-huh (yes), and they're indicating those two
11 locations there.

12 Q. And is this the underwear that was found on Mr. Sledge
13 when he was arrested?

14 A. It is, and it's the underwear that he was issued at
15 prison. So on page 86 they only show you one shoe, but
16 if you look up a little above it, you'll see that they
17 did test his other shoe, which is the left shoe. It
18 was negative. However, the right shoe is positive for
19 Takayama. Chemical indications of blood were found.
20 Insufficient for further analysis, and you'll see right
21 above the tongue there after the laces.

22 Q. Are these the shoes that he was wearing when he was
23 arrested?

24 A. These were not prison issued shoes, but they are the
25 shoes that he indicates they were Converse All Stars,

1 and they're shoes that he indicates were given to him
2 by a prisoner who was being released. So they're shoes
3 that he had when he escaped prison. And that is all
4 the clothing. As I said, we've never found the
5 wallpaper or the towel.

6 MR. SMITH: May I ask a question?

7 JUDGE SUMNER: Certainly.

8

9 FURTHER EXAMINATION BY MR. SMITH

10 Q. Just kind of in summary now, on the clothing that
11 Mr. Sledge was wearing when he was arrested there were
12 indications of blood on, did you say the shoes, the
13 t-shirt?

14 A. Yes, sir.

15 Q. The pants?

16 A. Yes, sir.

17 Q. The underwear?

18 A. Yes, sir.

19 Q. Inside of the pocket?

20 A. Yes, sir.

21 Q. Those items are gone?

22 A. Yes, sir.

23 Q. So we can't, we can't know whether that was his blood
24 or whose blood it was?

25 A. Correct.

1 Q. We don't know how that blood got on those garments?

2 A. Correct.

3 Q. And so as I am thinking about that and listening to
4 your testimony, part of the tragedy of the loss of
5 those clothes is that we can't now go back and know
6 anything about that blood?

7 A. Correct.

8 Q. And we know that the event that we're looking at was a
9 bloody event?

10 A. Yes, sir.

11 Q. But we don't know whether that blood was the blood of
12 either of these two women?

13 A. We do not.

14 MS. MONTGOMERY-BLINN: And do we even know if
15 it is all blood?

16 A. We do not.

17 Q. We don't know if it's all blood?

18 A. No, sir.

19

20 FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

21 Q. Did you ask Mr. Sledge about how, during your
22 interviews, and I know we're jumping a little bit
23 ahead, but it seems pertinent right now, about how
24 blood might have gotten on his clothing?

25 A. Yes, we did.

1 Q. And what did he say?

2 A. He stated that it would have come, that he had cut his
3 hands and arms, you know, that he had scratches on him
4 from his escape.

5

6 FURTHER EXAMINATION BY SHERIFF DUNCAN

7 Q. They did type it into groups, and I think Mr. Sledge is
8 group A, and one of the victims is group A. One of the
9 victims is group B?

10 A. Yes, sir.

11 Q. Do you have a breakdown of what specifically was type
12 tested positive for blood and was group B, on what
13 pieces of clothing?

14 A. We do; we do. I can get you that. I don't have it up
15 here with me, but I can sure get it for you.

16 Q. But the inside of the pocket was group A?

17 A. It was, yes, sir.

18 MR. SMITH: May I ask one additional
19 question?

20 A. But, yes, sir, but as he was group A --

21 Q. He was group A.

22 A. -- and one of the victims was group A.

23 Q. Exactly.

24 MS. MONTGOMERY-BLINN: Ms. Stellato, is any
25 group B, if you know? If you don't know --

1 A. In the testing?

2 Q. Yes.

3 A. I don't believe that it was, other than the victim, but
4 I would have to look at it to refresh.

5 MR. VICKORY: Nothing on the clothing was
6 group B.

7 MR. HEARD: That was just the wallpaper,
8 wasn't it?

9 A. It was just the wallpaper, I believe.

10 MR. HEARD: Right.

11 A. But again, I would have to look at it to refresh. I
12 just don't have it up here.

13 JUDGE SUMNER: Mr. Smith.

14

15 FURTHER EXAMINATION BY MR. SMITH

16 Q. Do we know whether he was cut when he came over a
17 fence?

18 A. So Mr. Sledge states that he was cut or scratched, I
19 should -- I don't want to mischaracterize, I don't have
20 that either, but he was scratched. He had scratches on
21 him, and those are noted in the -- when he is arrested
22 and they ask him about that, and he states in his
23 interviews that that's from his escape as well as, he
24 escaped and then he also, when he was first located in
25 Fayetteville, he escaped. You know, he was almost

1 apprehended in Fayetteville, and then he fled again.
2 So he indicates that that, that those scratches came
3 from that and that he was bleeding, and that would be
4 how the blood ended up on his clothing.

5 MR. VICKORY: On page 175, are those his
6 hands?

7 A. (Ms. Stellato examines document.) Yes, they are.
8

9 FURTHER EXAMINATION BY RETIRED SHERIFF PICKENS

10 Q. Do we know what type of perimeter fence was at White
11 Lake at this time?

12 A. I've seen it now. I don't know what it was then. I
13 would imagine that it hasn't changed too much. Like
14 most.

15 Q. Razor wire?

16 A. Uh-huh (yes). However it was a prison camp so it is
17 not as secure as most, as you can imagine. I mean, 15
18 people did escape during that time, so it was an easier
19 fence to climb. It's not as medium or certainly not
20 maximum as most of them. It's a prison camp so the
21 fence is not as high and not as difficult.

22 MR. SMITH: One more question.

23 JUDGE SUMNER: Sure.
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FURTHER EXAMINATION BY MR. SMITH

Q. The blood in the pocket, do we have any description of what that looked like and whether there was a pattern connected with that pocket blood?

A. In Mr. Sledge's pant pocket?

Q. Yes, ma'am; yes, ma'am.

A. No, sir. The only -- other than the diagram on page 84 that just says inside of pocket and then, you know, the little, the little drawing that's on there --

Q. Okay.

A. -- that's the only information we have.

Q. Thank you.

FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

Q. Ms. Stellato, according to Mr. Sledge, these jeans, these pants, did he say that he -- according to him, did he say he got them in Fayetteville?

A. Yes, he did.

Q. Okay. Which would have been after he passed by the victims' house or passed through?

A. Correct.

Q. Okay.

MS. MONTGOMERY-BLINN: Are there any more questions?

(No response.)

1 MS. MONTGOMERY-BLINN: Okay. I'll ask
2 Ms. Stellato to step down.

3 (Ms. Stellato steps down from the witness
4 stand.)

5 MS. MONTGOMERY-BLINN: We're going to turn
6 our attention now to the fingerprint evidence. As
7 you've heard, there was a lot of fingerprints that were
8 collected at the crime scene throughout the
9 investigation, and many of those or those were located
10 during the evidence searches. The Commission asked an
11 independent -- they were evaluated originally, as
12 you've seen in the reports and read in the testimony
13 from the trials, and we also had an independent
14 fingerprint expert examine them recently. And so I'll
15 call Mr. Marty Ludas.

16
17 Marty Ludas, having first been duly
18 sworn, testified as follows:

19
20 EXAMINATION BY MS. MONTGOMERY-BLINN

21 Q. Good morning.

22 A. Good morning.

23 Q. What is your name?

24 A. My name is Marty Ludas.

25 Q. And how are you employed?

1 A. I'm self-employed. My company is Forensic Press.

2 Q. Tell us about what your company is.

3 A. Well, Forensic Press describes the publications that I
4 write and the video production I do regarding evidence,
5 but a big part of what I do with them is review of
6 criminal cases, specifically defense work.

7 Q. Okay. Mr. Ludas, I'm going to show you what I believe
8 is your CV. Will you check that and tell me if that is
9 your current CV and if you provided that to the
10 Commission?

11 A. Yes, I did.

12 (Mr. Ludas' CV is distributed.)

13 Q. Okay. I'm going to send that around, and while that's
14 going around, if you will just talk to us about your
15 experience, and you can just use your CV, your training
16 and your experience, and what you've been doing for
17 your career.

18 A. I began my career in fingerprints in 1972 when I took
19 employment with the FBI in Washington, D.C. I worked
20 in the identification files. I had applied when I was
21 a junior in high school to get that job. I worked
22 there for two-and-a-half years. I really enjoyed it.
23 At that point I decided that I knew that fingerprinting
24 was going to be what I did the rest of my career. I
25 got great training at the FBI. I was in a classroom

1 for three months learning the science of fingerprints.

2 Of course, it was before any automation.

3 This was when everything was done manually. And after
4 being there two-and-a-half years I applied for a job in
5 North Carolina at the SBI, and they had an opening, a
6 federal grant, and I was able to do the exact same work
7 at the FBI and at the SBI.

8 While at the SBI I was promoted to the latent
9 evidence section, where I was trained in an 18-month
10 program to learn how to compare latent prints to inked
11 prints. I also attended North Carolina Wesleyan
12 College and got my degree in criminal justice
13 administration.

14 While at the SBI I was promoted to latent
15 evidence section supervisor, and I later took a
16 transfer to the City/County Bureau of Identification in
17 1982. I worked there for 20 years. My entire career
18 working in law enforcement has been doing case work. I
19 compared fingerprints and footwear every day, usually
20 about five hours a day, and that was what I enjoyed
21 doing, and I did.

22 I testified approximately 400 times for the
23 prosecution on latent fingerprint and footwear
24 identifications. And when I retired I gradually got
25 into defense work, and I have done more than 100

1 defense case comparisons. I've only testified five or
2 six times for the defense in that matter. And so that
3 brings me to, I think, today.

4 Q. Testifying for a neutral agency today?

5 A. Yes.

6 Q. Now, tell me about whether you have any experience in
7 determining whether or not fingerprints are likely or
8 more likely to yield DNA value?

9 A. Doing, I'm currently doing my own research with a DNA
10 expert, and we are struggling with pulling tape apart
11 and trying to get latent print residue out of the
12 adhesive. We're working on a project where we got 50
13 cases that were 20 years old. And so we're working on
14 that, learning the technique of how can we loosen or
15 extract the DNA and then get it sent off. He's the DNA
16 guy definitely, and I'm just the fingerprint person on
17 that, but I have always felt that there are latent
18 prints that can be identifiable. Yet they're very dark
19 in nature, where it's known that there was a transfer
20 of something, usually perspiration, which often is the
21 component that you're looking for with DNA.

22 So it's always been my thinking, even when I
23 was doing work for the state, that these latent prints
24 that are of no value for comparison purposes might have
25 DNA value. So of course, I read the research on it,

1 but the easiest way is to take the DNA before the tape
2 is put on it. And I've had some cases where they'll
3 take the sample, and then they'll put the tape and
4 remove it. So the particular field that I'm talking
5 about or that we're doing research are the, it's the
6 evidence that's already been processed, and it's in a
7 tape form, not unlike this case.

8 Q. Okay.

9 MS. MONTGOMERY-BLINN: Your Honor, I'd ask
10 that Mr. Ludas be able to testify before the Commission
11 as an expert in latent print examination and
12 identification.

13 JUDGE SUMNER: He is so qualified.

14 MS. MONTGOMERY-BLINN: Thank you.

15 Q. All right. Mr. Ludas, did you meet with staff from the
16 Commission on October 9, 2014?

17 A. Yes.

18 Q. Okay. And who did you meet with, if you recall?

19 A. I remember meeting Sharon, Lindsey, and you later on,
20 but the primary meeting was with Sharon and Lindsey.

21 Q. Okay. And what were you asked to do?

22 A. Well, it started out, there was a number of things that
23 they wanted done. The main thing was to digitize or
24 photograph the latent print evidence to preserve it.
25 And they already had the evidence, the entire -- all

1 the latent prints that were in the case. So when I
2 looked at them, they had to be scanned at a certain
3 resolution. It was very time consuming to do. I tried
4 to do it here, and I -- there was just not enough time.

5 So the first thing was to digitize the
6 evidence so that we could document it better. The
7 second thing was to create an inventory of the
8 evidence, which would involve assigning a number or a
9 count to every single latent print that was in there
10 because there was a lot of latent print, latent print
11 lifts in this case. After the inventory, then they
12 wanted me to compare Joseph Sledge's prints and three
13 or four other people's prints. You know, my
14 recommendation was it would be excellent if I could
15 identify Joseph Sledge's prints at the scene, and that
16 was like one of the first things that I said, well,
17 maybe they missed his print. And that was going to be
18 one of the things that I wanted to checklist off, you
19 know. His print is not there.

20 Then the comparison would proceed to make all
21 these comparisons and then determine how many prints of
22 value are there, a print of value being, can the
23 questioned print be compared to an inked print? And if
24 it can be compared and identified and positively
25 attributed to the ink print, then that's a print of

1 value. Then there's another print of lesser value,
2 which is exclusionary. An exclusionary print
3 determination is quite subjective. You see something
4 there, you can see a ridge flow. You might recognize
5 that it's circular, therefore it's a whorl pattern, and
6 you know that the prints you're comparing are loops.
7 You can make an exclusion on a print that isn't
8 technically of fingerprint identification value. This
9 was not done in this case, and we had discussed that
10 there was -- and it's not usually done. It's still not
11 done.

12 Specific exclusions are not normally
13 conducted in latent print work. Usually the prints are
14 compared in an attempt to identify them. So one of the
15 -- moving on with what I was doing, one of the
16 important things was, come up with this inventory and
17 then find out how many prints have the print of value
18 or exclusion value, and then weigh that against the
19 inked card of Mr. Sledge.

20 So I conducted that comparison. I was given
21 eight or ten exemplars of his, and I made the -- I
22 compared all the latent prints to Mr. Sledge. I was
23 unable to identify any of his prints or attribute any
24 of the latent prints to him. And then in my inventory
25 I made a listing of the prints that I knew did not

1 originate from him. And in my opinion, this was new
2 information because it was clear that, for example, I
3 found 14 latent prints that I excluded as originating
4 from him.

5 Further on in our discussion I was told that
6 there could be a possible bloody print that needed to
7 be reconciled. So my, just with that I found which
8 ones they were and I very carefully examined what was
9 purported to be a bloody palm print and compared that
10 to Mr. Sledge. I think that's about everything.

11 Q. Okay.

12 A. Oh, and then, of course, prepare a report.

13 Q. So let me just back up a little bit. When you first
14 were called by the Commission and first met with the
15 Commission, did you understand the Commission to be
16 neutral and not seeking or hoping for any specific
17 outcome?

18 A. Yes, you made that very clear.

19 Q. Okay. And when you look at the original examination,
20 will you just give us an overview, was this, what,
21 looking at that, knowing your experience, was that
22 typical, the original examination of what you would
23 have seen in 1976, '77?

24 A. Yes, it was very typical, and I actually knew the
25 examiners. I recognized their handwritings and their

1 names and their markings. So, and that's how I do
2 things and did things back then. I didn't do the
3 cases. I was working there, but I did not do this
4 case, but if I had done it, mine would have looked very
5 similar to that.

6 Q. So you understood those notations on the card --

7 A. Absolutely.

8 Q. -- and what all of that meant?

9 A. Yes, even down to creases that were there, and I could
10 tell how they were compared and all these little
11 indicators. So I could get a pretty good idea what
12 they were looking at to compare that with what I'm
13 seeing.

14 Q. And using that, were you able to tell what
15 determinations they had made then, back during the
16 original investigation, about the prints?

17 A. Oh, yes.

18 Q. And you said you were comparing again, and that they
19 had compared them to Sledge, and you also did with no
20 results, and then they had compared some to victims as
21 well. Had you seen that?

22 A. Yes, and I --

23 Q. Family members and the victims?

24 A. I looked over those and I agreed with them, and I
25 confirmed, I basically confirmed what they had

1 determined, from what I could see, you know, on these
2 notes and looking at the latent prints.

3 Q. Okay. Thank you. Now, you said that you were provided
4 with prints that were adequate for comparison of Joseph
5 Sledge, his prints?

6 A. Yes.

7 Q. Okay. All right. And if you want to just now go
8 ahead, I've left the clicker up there, and go through
9 the photographs that you provided with your report, and
10 explain briefly to us what they are and what you found.

11 A. All right. Which way do I point it?

12 Q. Oh, at the computer, which is actually behind you. You
13 may need to --

14 A. I got it.

15 Q. Okay.

16 A. Okay, I'm going to start, I numbered these 1 through
17 97. I made a determination that there were 97
18 different latent prints that needed to be accounted
19 for, compared, and in some way evaluated so we know,
20 yes, no, or we don't know. The best way for me to do
21 it would be to, after I digitized them, is to assign
22 numbers 1 through 97.

23 I start here with numbers 1 through 4. These
24 latent prints were recovered, according to the notes,
25 50 days after the date of the original crime scene

1 processing. I don't know why they were, why this area
2 was processed, but I still made the comparison. And I
3 had to evaluate the four prints for what I was talking
4 about, prints of value, identification, exclusion, et
5 cetera.

6 Q. Now, you did note, and I do want to ask you about that,
7 you thought these prints could be extremely significant
8 based on what they had noted originally, and was that
9 because of the location near the victims' body, bodies?

10 A. Yes. There wasn't a lot of documentation or a
11 photograph of where these prints originated. On the
12 back of the latent print there was an indication that
13 the prints were developed from beside the body on the
14 floor, which to me is extremely significant. And then
15 in my comparison I recognized a palm print and what
16 appeared to be a thumb print, in my assessment. But
17 most importantly was the ridge structure, which I know
18 came from the area here that was in a red/brown
19 coloration, which I recognized as being blood. And so
20 these four prints, I started the numbering, and I have
21 to make my observations and conclusions based on them
22 knowing that they're extremely important, even though
23 they were developed 50 days later.

24 The ridge structure of the prints in blood I
25 determined to have been a result of a positive

1 transfer, which means there is blood on the palm, and
2 when it makes contact, the blood transfers from the
3 palm to the surface. And that's important for crime
4 scene reconstruction purposes, as opposed to the
5 opposite situation, which would be a negative
6 impression, where there is blood and a hand makes
7 contact with the blood. And in that type of deposition
8 the hand contact actually leaves a negative, and it
9 subtracts the blood. And so it's up to the examiner to
10 determine for sure, is it a positive or a negative
11 impression. And what I use generally to do this is
12 pore structure.

13 Pores are the very tiny circular orifices
14 that are on the ridges of the fingers. They run in the
15 center and in the sides of each of the ridges. So when
16 I look at the -- when I looked at the palm print, even
17 though it was very fragmentary, I could tell that the
18 powder that developed, that helped to develop this
19 print in blood, the power attached to the ridges. The
20 ridges displayed pore structures. Therefore -- and the
21 ridge coincided with the blood ridges. I made my
22 assessment that it was a positive deposition based on
23 that observation.

24 So I, then I went forward with it, and when I
25 look at the print in blood I, what I am assessing to be

1 blood, I note that it was not developed with a reagent
2 or there wasn't any -- there was no follow-up process.
3 And at that time I can't think of anything that we were
4 using. In the 80s and 90s we started using reagents,
5 different color, that we could add to visualize the
6 print.

7 So all I had was that palm print with ridges
8 in blood, but it was of no value. It was of absolute
9 no value for exclusion either. So it was just palm
10 ridges that I would never be able to track or link to
11 anybody, certainly with a fingerprint or a palm print
12 comparison.

13 Then beside it there was a loop pattern, and
14 that's the top right. The top right is a loop pattern,
15 and if you will look to the tape, you can see there's a
16 crease or a fold. That indicates to me that that tape
17 was lifted or was folded so that it could be slid under
18 a magnifier and placed next to the known exemplar card.
19 That's the way that the comparison is done.

20 That print was very important to me in my
21 attempt to reconcile it or identify it. I compared it
22 to Mr. Sledge, and even though the print is very poor,
23 Mr. Sledge has whorls in his two thumbs, and that's a
24 loop print. That's a loop pattern. I compared his
25 fingers also and excluded him. That print on the top

1 right is not an identifiable print, however, I excluded
2 Joseph Sledge as the source.

3 The print to the lower left is a palm print,
4 and it has much more ridge structure visible. Again,
5 my assessment is it's probably not positively
6 identifiable, but it displays significant ridge
7 structure and flow. I compared that. My assessment is
8 it's a left palm print, which would correspond to that,
9 to the thumb print on the top right. I compared that
10 to Mr. Sledge, excluded him.

11 The print on the right was more ridges that
12 were never identified. Would it be appropriate for me
13 to explain the comparison of Josephine Davis now?

14 Q. Yes, but I do want to ask you one quick clarifying
15 question.

16 A. Okay.

17 Q. And I just, I think you said it one time, but you were
18 talking about the prints being in blood. You don't
19 know for certain it's blood. You're assessing it
20 visually as looking like blood, is that correct?

21 A. Absolutely. I can't think of anything else it could
22 be, and then all the other latent prints had blood
23 spatters, which are easily recognizable as blood based
24 on their perimeter and their coloration. The prints
25 were pristine condition despite their age. So my

1 assessment is that it was in blood -- it could still be
2 chemically tested to verify that -- that it was a
3 positive print, and of course, that I wanted to make
4 sure that it was in the report to explain it.

5 Q. But that assessment is based on your experience, as
6 opposed to a chemical test that indicates for certain
7 that it's blood?

8 A. Yes.

9 Q. Okay.

10 A. And the coloration is remarkable. I think if anybody
11 looked at the latent prints, they would still be able
12 to see the red/brown coloration and understand there's
13 no other explanation. But of course, it is, it's an
14 assessment that I cannot eliminate that it's not
15 blood --

16 Q. Okay. Thank you.

17 A. -- at the least.

18 Q. Okay. Thank you. Go ahead, please.

19 A. The, okay, the problem -- let me be careful how I say
20 this. The latent prints next to a body, if there's
21 ridges in blood, they need to be reconciled in some
22 way. The print was excluded as originating from
23 Sledge. The exemplars that they took of the two
24 victims, Aileen and Josephine, were taken at the
25 morgue, and they only took first joint fingerprints

1 during the autopsy. This was not a problem until 50
2 days later and the palm print was developed.

3 Rather quickly the bodies were exhumed to get
4 the palm prints, and my inference to this is that palm
5 print, the lower left palm print, they needed, the lab
6 needed the victims' print to eliminate one of the
7 victims as that print, as it did not, was not
8 reconciled or identified to Mr. Sledge.

9 There was a real problem with that, and the
10 finger, the skin of Josephine Davis was in very poor
11 quality, and I can't know if it was from the 50 days of
12 decomposition. I don't think it was. I hate to say
13 this, older people, their hands tend to get more and
14 more cracks in them, and that's just a natural part of
15 aging where your hands just aren't as clear. So
16 Aileen's prints were comparable and they could be
17 excluded. Josephine's prints, Josephine Davis, her
18 left palm print looked similar in configuration to the
19 lower left print.

20 I examined it on multiple occasions trying to
21 come up with a conclusive either exclusion or possible
22 inclusion. My determination was I didn't think it
23 could originate from her. There were a number of
24 reasons. The biggest reason is the ridges seemed wider
25 in the latent print, which would compare more to a

1 larger hand or a male hand, and, but I held it out that
2 it possibly could have been her print, but we go back
3 to the top right print that I excluded.

4 So in the scenario that if I exclude
5 Josephine on the lower left palm, that could supplement
6 the exclusion that I made on the, what I expected or
7 what I assessed to be the left thumb print. So I have
8 sort of reinforcing information from this left palm
9 print.

10 I think I've adequately explained that. I
11 hope I haven't confused anybody.

12 Q. All right.

13 A. Do I need to clear up anything before I move?

14 Q. Well, I think maybe commissioners have questions during
15 the testimony. Let's not wait until the end.

16 MS. MONTGOMERY-BLINN: If you have a question
17 now, let's ask it, but we have more to do with
18 Mr. Ludas.

19

20 EXAMINATION BY JUDGE SUMNER

21 Q. Just for basic layman purposes, could you describe the
22 loop versus the whorl pattern?

23 A. Yeah. A whorl is concentric, it's circular. If you
24 look at your thumb print, you'd be able to spot it.
25 It's concentric circles, basically, and it's -- or

1 ellipses, as opposed to a loop is like your garden
2 hose. You take your garden hose and you flick it up in
3 the air, and if it falls down, it actually creates a
4 loop.

5 Fortunately loops convey what hand they came
6 from in a lot of cases. A right slant loop comes from
7 the right hand, left slant from the left hand. Whorls
8 are often centered and it's not as easy to determine
9 what hand they came from. So your question relates to
10 making an exclusion based on pattern type. And it's
11 pretty well accepted that limited conclusions can be
12 made if the pattern type is grossly different. Is that
13 good?

14 Q. Yes, sir, perfect. Thank you.

15

16 EXAMINATION BY SHERIFF DUNCAN

17 Q. The thumb print --

18 A. Yes.

19 Q. -- that you got a pretty good, a pretty good latent
20 print on, was it also a positive transference, in your
21 estimation?

22 A. Yes. I think all four of these were positive
23 depositions. And because of the way, the shape of the
24 palm print -- if I pick this up, my thumb is making a
25 contact with it because it's a curved surface and I'm

1 picking it up. If I'm doing like pushups on the floor,
2 my palm -- my thumb print doesn't make flat contact, it
3 makes an angle contact. The fingers make flat contact,
4 but the thumb doesn't.

5 I saw that somewhat angle contact, which is,
6 it could be described as pushup position of the hand
7 making a deposition and leaving the latent print. So
8 that's an assessment that I make of how did that, how
9 could have that palm print been deposited.

10 Q. And it was all left-handed? Your best determination it
11 was all the left hand?

12 A. I make an assessment that it's left hand because I try
13 to come up with a, you know, what's going on here? But
14 to back that up, of course, I compare everything on the
15 card. So it's a two-step process. First, you're
16 looking at what you think you're seeing, but then you
17 do a -- you're careful to, well, what if I'm wrong
18 about that? So that you're sure that that entire ten-
19 print card is eliminated as the source.

20 Q. The last question I have is --

21 A. Yes.

22 Q. -- you were talking about you did see, and I imagine it
23 was an SBI examiner that made the notes and the
24 fingerprint comparison?

25 A. Yes.

1 Q. Is that a correct -- was there anything in their notes
2 that kind of corroborated what you're saying as far as
3 the transference? Were they doing that kind of
4 evaluation in '78 and '79? Was there anything where
5 they agreed with you? You said you agreed with them,
6 but --

7 A. Well, I agreed with their conclusion that Sledge's
8 prints were not identified. Back then and even now the
9 detailed information about ridge structure is not noted
10 or documented. It's just the way it is and it has to
11 be remembered. In this analysis that I did, assuming
12 that somebody was going to follow me up and look at
13 this, I had the chance to digitize everything so I can
14 tell them what I'm thinking.

15 Like on the top right print there, I know
16 that print was folded and they were comparing that
17 print. Even though it was a really poor quality print,
18 I know they were trying to compare that to Mr. Sledge
19 and anybody else. But the documentation, it's not
20 standard to document all of this possible scenarios.
21 Mainly the point is to try to identify the prints.

22

23 EXAMINATION BY MR. HEARD

24 Q. How many other people did they attempt to match any of
25 these besides the victims and Mr. Sledge?

1 A. I'm not sure of how many people they identified.
2 That's in a report that I don't, I don't think I have
3 access to that. I compared -- well, I've got a list.
4 It's in my report of who I compared. The two victims,
5 of course, and there was two men, and Mr. Sledge.

6 MS. MONTGOMERY-BLINN: Can I just ask a
7 follow-up to that one?

8 JUDGE SUMNER: (Nods head affirmatively.)

9 MS. MONTGOMERY-BLINN: If they would have
10 compared with no identification, would that not
11 necessarily have been written on the print card? In
12 other words, if they compared people, would they maybe
13 just have noted it in the investigative file or in
14 later reports, but not with what you saw?

15 A. Right. The print card doesn't get written up like
16 that. It would go in a separate file. Somewhere
17 there's a list of all the names, and I'm sure it's in
18 a file before they took, before they filed this. It
19 was standard that --

20 Q. But it wouldn't show up on the print card, though?

21 A. Not in the information that I was given, right.

22 MS. MONTGOMERY-BLINN: And also, the people
23 that you were given, were those the people that just
24 whose prints came with the prints from the packet that
25 came with the prints?

1 A. Yes.

2 MS. MONTGOMERY-BLINN: And then additionally
3 Mr. Sledge?

4 A. Right.

5 MS. MONTGOMERY-BLINN: Mr. Heard, we're just
6 trying to find the page in the brief where it lists who
7 all was compared.

8 MR. HEARD: Yeah. I found some of it.

9 MS. MONTGOMERY-BLINN: It is 71.

10 MR. HEARD: 71, okay. Yes; yes.

11 MS. MONTGOMERY-BLINN: And Mr. Heard, just to
12 clarify, that is all that we know of. That's all that
13 made it into reports. That's what we can tell.

14 MR. HEARD: Okay.

15 A. I can, if I may interject, I compared Joseph Sledge,
16 Aileen Davis, Josephine Davis, Marion Lee Hales, Samuel
17 Smith, and Samuel Smith. Those are the cards that I
18 compared myself.

19 MS. MONTGOMERY-BLINN: Okay. All right.

20 A. May I proceed or is there --

21

22 FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

23 Q. I think so.

24 A. This is a super blow-up of the ridge structure that I
25 was describing, and it shows the -- you can actually

1 see the coloration of what I am assessing to be blood.
2 It's a red/brown color. This color also matches other
3 transfers that we'll be looking at in a few moments.
4 If you notice, you'll see the two colors, and they
5 appear to coincide. In some areas you have a black
6 ridge, and then it turns into the red/brown coloration.

7 That's what my assessment is that the blood
8 was on the ridges and then transferred. The areas
9 between the ridges or the lines, those are the furrows,
10 and the furrows don't make contact with the evidence
11 surface and therefore it's lighter in color. Now, I
12 was able to recognize what I assessed to be pores in
13 the black ridges, and that helped me confirm that this
14 was a positive deposition in blood. And those are
15 arrows indicating some of the pores that I saw.

16 This is print number, the second print to the
17 right that I discussed that I assessed as being a
18 probable thumb print, left thumb print. Maybe you can
19 see what appears to be a looping pattern. I made a
20 yellow indication on the crease. That was the crease
21 that I described which shows that it was folded. If it
22 was folded there, you could place it right next to the
23 ink print on the card and compare it through the
24 magnifier. The comparisons through a magnifier are
25 limited by the size of the optic. So even though that

1 print was not determined to be of any value, I excluded
2 Sledge as the source of it and put that in my notes
3 there.

4 This is the latent print that I assessed
5 being the left palm print, and that's on the left. And
6 the print on the right is the prints that were taken of
7 Josephine Davis at the exhumation. They were first
8 printed with ink, and then they removed the skin and
9 tried to get a better exemplar quality by removing the
10 skin, but that didn't, that didn't improve the
11 exemplar, this, the actual ink print. And I think, I
12 think this comparison here was, to me it was, it was
13 important because it shows that they looked at that
14 print, too, and had the same dilemma that I did. Did
15 it originate from Josephine Davis, therefore it could
16 be explained, or don't know whose print that is.

17 Again, we looked at the thumb print that I
18 excluded as Mr. Sledge. I easily excluded Sledge as
19 the source of this print.

20 Q. Thank you.

21 A. This is the fourth print that was there, and it shows
22 ridge structure. This is an example of prints that
23 have no value at all. It's just recognized as being a
24 probable palm print. I did notice brown and red
25 specks. This is, this was not -- I didn't assess this

1 as being blood. It was some kind of something that I
2 found under the tape, and it was found on some other
3 pieces of tape. It was some kind of foreign, something
4 foreign that didn't appear to be blood at all. So
5 that's the last print from the floor.

6 Now, these prints, number 5, display what I
7 described as the blood droplets that I used as a
8 reference card. And you can see clearly the perimeter
9 of the dried blood in the ones that I circled. The
10 little red circle to the right, lower right is an
11 indicator that that is a print of identification value,
12 that it could be positively identified to someone. I
13 think it's the left index finger. I excluded Sledge.
14 I excluded all of his prints as originating from there.

15 I also interpreted the print to the far left
16 as a possible DNA candidate because it had so much of a
17 reaction to the powder. That could be tested for DNA.
18 And then the print also on the lower right is an AFIS
19 candidate, which could be searched in an automated
20 fingerprint identification database, which there are
21 numerous different ones with different cards in them.
22 This was a Sledge exclusion.

23 Q. Can I ask you a clarifying question?

24 A. Yes.

25 Q. It's the same kind of question. So what you've circled

1 in red are what you assess to be, in your experience,
2 likely to be blood droplets, but you cannot say for
3 certain, is that right?

4 A. Right.

5 Q. Okay. Thank you.

6 A. Here they are in an enlarged view. This is how blood
7 dries. It tends to evaporate in the center, and along
8 the perimeter it's a scalloped type shape. This is
9 classic characteristic of blood drying. And from my
10 experience in doing controlled depositions where I
11 would make my own blood spatters to just understand the
12 basic principles of blood -- because I look at so many
13 prints that may have blood on them, it's just been part
14 of my studies that I've done independently, and of
15 course, I read whatever I can. I am not a blood
16 spatter expert, though. That's not my discipline.

17 I have, these are prints from the, marked as
18 being removed from the refrigerator. There was one
19 print, the top right print, the ridges are very close
20 together. My assessment is they could be from a female
21 print. They were not identifiable. When I see a print
22 that is not clearly identifiable or has limited value,
23 if the ridges are very close together, I'll classify
24 those as reference to female just so I can remember
25 that assessment and have it marked there, knowing that

1 I'm probably not going to identify that print, but at
2 least I can explain it and account for it in some
3 manner.

4 The print on the lower section is a palm
5 print. It's from the thenar. My assessment is it's
6 from the thenar area. It's going to be either the
7 right or the left hand. I excluded that palm print as
8 originating from Sledge. It was not identified to
9 anyone, including the victims.

10 The top left, there are ridges that appear on
11 there, and there's also -- it's dark and light.
12 They're of no value for identification.

13 The lower left, there is obvious blood
14 transfer there. I have no idea what's going on.
15 Another good example of an exemplar of blood, the
16 red/brown coloration. And there are some very faint
17 ridges visible there, totally unidentifiable, can't be
18 excluded, so I can move forward.

19

20 FURTHER EXAMINATION BY MR. SMITH

21 Q. Sir?

22 A. Yes.

23 Q. Are you saying that the prints that you've just shown
24 us came from the refrigerator if there was blood on the
25 refrigerator?

1 A. Yes; yes. I am assessing number 7, specifically that
2 as being a blood transfer, and it can be followed up
3 with chemical testing. But I have to look at it as a
4 -- I have to assume it's blood, as a fingerprint
5 examiner, and it has to be explained otherwise to me.
6 So it's a red flag of there's fingerprints, palm prints
7 near blood. So it's always a red flag for me to make
8 sure that I note it.

9 Q. Okay. Can you exclude the victims from that
10 fingerprint that was on the refrigerator?

11 A. No. It's one of those prints that have no value even
12 for exclusion.

13 Q. Okay.

14 A. It's just I see ridges. I can't explain them or
15 account for them. But in a case like this, if there's
16 two ridges, they'll lift them and recover them, which
17 is good. Everything was lifted.

18

19 EXAMINATION BY MR. VICKORY

20 Q. So are you saying that's a positive --

21 MR. VICKORY: I'm sorry, Wade.

22 MR. SMITH: That's okay.

23 Q. It's a positive transfer?

24 A. The lower left one I didn't make an assessment. It
25 looks like it could possibly be a negative deposition,

1 and I didn't characterize that either way, but it's
2 suspicious because of the coloration. It looks like it
3 was in the subtraction process. If you look at it,
4 there is a gap there or a void. And it was concerning
5 to me, but I couldn't exclude, I couldn't use it for
6 any identification purposes, so I let it be. I'll
7 agree with you on that, that it could be a negative
8 deposition.

9
10 FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

11 Q. Did you describe it to me as the print was already on
12 the substrate and the blood spattered on top, or the
13 blood was dried when the print was placed there; are
14 those the two possibilities?

15 A. That is something that concerned me with every print
16 that I compared, trying to do crime scene
17 reconstruction of, was the print under the blood or was
18 the print on top of the blood? There's only a few
19 assessments or studies that I can make to determine
20 that. If I can find -- if the blood is underneath the
21 palm print, during the offense it would still
22 presumably be damp or sticky, which would -- an
23 indication of that would be probably interpretable. I
24 didn't see that.

25 I saw what looks like no negative blood

1 impressions. I only was able to see palm prints and
2 fingerprints that appeared to be under the blood, but I
3 wouldn't absolutely say which each one is because I, or
4 I don't know if anybody else would be able to really
5 make that call and be able to back it up. But I was
6 very, very concerned about trying to, in any case, like
7 in the first one where I felt it was a positive
8 transfer because of blood being so important at a crime
9 scene. If I could move on, there's only a few left.

10 JUDGE SUMNER: Yes, sir.

11 A. Yes.

12 SHERIFF DUNCAN: A quick question just for
13 point of reference looking at the crime scene and
14 trying to figure out, that refrigerator that that print
15 came off of, is that represented in photo 121 on page
16 121, it's the photo of the victim? It appears to be
17 maybe that refrigerator?

18 MS. MONTGOMERY-BLINN: Let me just check
19 because there were two refrigerators.

20 SHERIFF DUNCAN: Okay.

21 MS. MONTGOMERY-BLINN: What page did you say,
22 oh, the --

23 SHERIFF DUNCAN: 121.

24 MR. HEARD: There's blood spatter on the
25 bottom of it?

1 A. Yes.

2 MR. HEARD: Yeah.

3 MS. MONTGOMERY-BLINN: Can you go back to
4 that spot?

5 SHERIFF DUNCAN: Is that the one?

6 (THEREUPON, A DISCUSSION WAS HAD OFF THE
7 RECORD WHICH WAS NOT REPORTED.)

8 MS. MONTGOMERY-BLINN: Because you can see on
9 -- there's two refrigerators. 118 and 119 are photos
10 of the refrigerators. It is the refrigerator on -- 118
11 shows both the refrigerators. It's the refrigerator on
12 119 that you can see pictures of, and then, you're
13 right, you can see the top of it in 121. And it was
14 noted as being, having quite a lot of blood on it
15 during the investigation.

16 SHERIFF DUNCAN: So it's well within the wing
17 span of the victims, so to speak?

18 MS. MONTGOMERY-BLINN: Yeah. The officers
19 photographed it and noted that it did have a lot of
20 blood on it, blood droplets.

21 Q. Okay, thanks. If you'll move on, Mr. --

22 A. Okay, the next print that I'm displaying here was from
23 a radio, and this radio was, in my opinion, it was
24 probably picked up. What you're seeing there is the
25 second joint, which this would be the first joint, the

1 fingertip, and then the second joint area would be
2 these two areas here (indicating).

3 Normally we don't make many identifications
4 to the second joint. I recognize not only the second
5 joint, but it looks like it's a simultaneous deposition
6 where the fingers are side by side, indicating that
7 that print was made when the radio was probably being
8 held like you're holding something.

9 There was no identifiable ridge structure to
10 positively identify those prints, nor was there enough
11 to make an exclusion. However, because of the
12 darkness, the contrast of those latent prints, I
13 classified it as a possible DNA candidate, something
14 that could be maybe pulled apart and try to get DNA
15 from that deposition. That would be the only potential
16 value that it had, and again, I don't know anything,
17 what happened at the crime scene, whether it was moved,
18 but -- and this print couldn't be identified to anybody
19 because of it's quality, but it could have value for
20 DNA purposes.

21 Q. Okay.

22 A. This print is also from the radio, could be associated
23 with the print that you saw before. It came from the
24 same object and the same surface. This is an unusual
25 print in that, in my opinion, it looks like it's a

1 right thumb print. My first assessment would be it's a
2 right thumb print. There's not a lot of clear ridge
3 structure, but if you look to the lower right, there's
4 a lot of very small ridge detail that I think if you
5 had a pristine, perfect exemplar, that print could
6 possibly be identified to somebody.

7 In its current condition I was able to
8 exclude it as originating from Joseph Sledge and the
9 other cards that I looked at. So this is kind of a
10 borderline print for identification purposes, but it
11 has value for exclusion.

12 This is another print removed from the
13 refrigerator, and I noted another of the blood, the
14 perimeter blood droplet. And this print, if I may go
15 to my notes, this print I assessed as clearly being a
16 left palm print. Of course, I would compare right and
17 left prints, but this is a left palm print. Clearly it
18 did not originate from Mr. Sledge, nor any of the
19 victims.

20 MR. HEARD: Nor the victims, the victims or
21 any of the other individuals?

22 A. Josephine and Aileen.

23 MR. HEARD: Okay

24 A. Okay, this is a print that shows what I'm interpreting
25 as a blood droplet, and it's kind of elongated. Again,

1 coloration similar to all the other prints. The only
2 -- I saw some ridge structure, and I would only
3 reference it to a female hand, and it has no value for
4 exclusion other than my notes would be that it could be
5 from a female, and there is a blood droplet. Something
6 is going on there in that area, and I don't know, you
7 know, why that area was processed or what was
8 happening, but I did make note that there were some
9 ridges there.

10 The next print is --

11 Q. Wait. So you said you have excluded Sledge from this
12 one or you could not?

13 A. No; no. It has no value.

14 Q. The slide says Sledge exclusion. That's not right on
15 the slides?

16 A. Oh, sorry. No, I would have made it. That's -- I
17 stand corrected. Those were Sledge exclusions. They
18 just don't look as good as the, what I examined. So
19 those were Sledge exclusions.

20 Q. Okay. Thank you.

21 A. The next print is clearly notable. This print was
22 lifted twice. The one on the left is the original, and
23 after the examiner removed it -- in other words, powder
24 is applied. The powder attaches itself to the ridges
25 from the perspiration or whatever is on the hand, it's

1 lifted, and then they went back and powdered it again
2 and lifted it a second time because sometimes the
3 second attempt is better than the first one, especially
4 in areas where it's real dark. And in this case both
5 of them are identifiable. That print was easily
6 excluded as originating from Sledge and the other
7 people. This print in some palm print databases could
8 possibly be searched against a database, and I think it
9 definitely was a candidate for possible DNA testing.

10 Number 41 is a lot of ridge structure. It's
11 a palm print, and sometimes there is considerable
12 amount of ridge structure, but it doesn't have any
13 value. And I noted this as -- because there's so many
14 ridges there, but I characterized it as no value for
15 identification or exclusion, and therefore it was not
16 comparable.

17 The next print was from the refrigerator.
18 These prints, it was the number eight and nine finger,
19 which is the left middle and the left ring finger.
20 They were attributed to Wanda Sue Hales by the original
21 examiner, S.R. Jones, and I confirmed that
22 identification. I agree with it. Probably a
23 simultaneous contact from the stair step location of
24 the prints or the position of the prints. And the
25 print above it was of no identifiable value.

1 This print was marked as being recovered on
2 10/26, so this was not part of the original crime scene
3 processing. And I'm not sure the significance of that,
4 but I just tried to classify the print. This is a
5 print from the stove. I found it interesting. I'm
6 sorry. There's the characteristic crease marks there,
7 which indicate that that print was compared. Even
8 though the print was of very poor quality, that shows
9 signs that it was being compared. It wasn't designated
10 as a print of value. I feel sure it was compared to
11 the prints and it has no identification value, but I
12 don't know what the examiners knew about the stove, so
13 that could be why they compared a print that was of no
14 value.

15 The next one is from the wash pan, and the
16 top right print I circled. This is a very poor
17 quality print, and the only reason I was able to
18 exclude Sledge was his prints were completely different
19 from this, and there is no way that he could have been
20 the source of that print. It may be a print to -- it
21 may be difficult to identify one day if the right print
22 came along, but it was an easy exclusion to Sledge, and
23 I also excluded the other cards.

24 This is a print that I have to note. It
25 would be the print in the very center, and there's just

1 a few ridges there. I note it. I couldn't compare it
2 to Sledge. His prints, his prints weren't of real high
3 quality. The skin surface of his fingerprints were all
4 -- they weren't real clear like this one, the middle
5 center one. So I note that print that down the road if
6 another person comes up, that print needs to be
7 compared, even though it's very poor quality.

8 This print is from another print from the
9 refrigerator. It is, it looks to me like it's a right
10 thumb print. It's a right slant loop probably. It's
11 obviously been compared. I excluded Sledge as the
12 origination along with the other cards that I compared.
13 It has value certainly for exclusion purposes.

14 More prints from the refrigerator identified
15 to Wanda Sue Hales by Steve Jones, and I confirmed that
16 identification, and there's no other prints of any
17 value there to deal with.

18 MR. SMITH: And there's no blood there, I
19 take it, no blood in that print?

20 A. No. I don't see any here on this print.

21 The next, number 89, and there's only a few
22 left, 89 is from a TV screen. This was, I believe,
23 processed after the crime scene. This is a fairly good
24 print, and I think it's probably a thumb print, a right
25 thumb print. It's a potential AFIS candidate. In

1 other words, this print could be encoded and searched
2 against a database. It's not Sledge's or the other
3 cards that I compared.

4 At this point, if I could, I'd like to go
5 back to my original summary that I did do. And that
6 was just the brief narrative of the prints. And this
7 won't take but a minute, if that's okay?

8 Q. Yes, go ahead.

9 A. The reason I'm doing this, this is specifically one of
10 the things that you asked me for.

11 Q. Go ahead.

12 A. Okay. So in my report I've -- in my conclusions I
13 determined there were 14 unidentified latent prints in
14 this case. Even though there was 97 prints lifted,
15 that doesn't mean that many or most of them have true
16 identification value. So in my conclusion there are 14
17 unidentified prints. Two of those 14 are for purposes
18 of exclusion only. So they can't be identified, but I
19 was able to exclude them. The unidentified prints
20 suitable for identification purposes, six fingerprints
21 and six palm prints. So there's, in this set of 97
22 prints there's these six fingerprints, six palm prints
23 apparently that need to be reconciled.

24 The elimination fingerprints was something
25 else that you asked for. And elimination prints are

1 people that have business being there, it might be
2 family or friends or something. And I identified 12
3 fingerprints to elimination, eight to Aileen Davis, one
4 of the victims, and four to Wanda Hales. And I don't
5 know who she is, but -- and then the last thing that
6 you --

7 MS. MONTGOMERY-BLINN: Commissioners, I'll
8 just interrupt.

9 A. Maybe I'm going too fast.

10 MS. MONTGOMERY-BLINN: She was the
11 granddaughter of Josephine Davis.

12 Q. Okay, go ahead.

13 A. Oh, okay. The last thing was, how many prints did I
14 exclude originating from Joseph Sledge, and that is, I
15 excluded 13 of his prints. From the floor, a
16 fingerprint and a palm print; from the refrigerator,
17 two fingerprints and six palm prints; from the stove,
18 one fingerprint; from the TV screen, one fingerprint;
19 and from the wash pan, one fingerprint.

20 Now, I see some of you taking notes. I've
21 got this in my report, so --

22 Q. We're not handing out the report or --

23 A. Oh, okay, well, it's available somewhere, but --

24 Q. So were any identified as being made by Joseph Sledge?

25 A. None.

1 Q. Okay.

2 MS. MONTGOMERY-BLINN: Commissioner
3 questions?

4

5 EXAMINATION BY RETIRED SHERIFF PICKENS

6 Q. This is a general one. Of all the 97 lifts that were
7 recovered, do we know if those lifts were made by the
8 State Bureau of Investigation or were any of them done
9 by Bladen County originally; do we know?

10 MS. MONTGOMERY-BLINN: I don't know. You can
11 tell from the cards.

12 A. I know. I know, and that's why I was really -- I paid
13 attention to the dates because I thought that was
14 important to me. Some of them were 9/6, and then the
15 one that was 10/28. So the latent prints, you can
16 usually tell who lifted them. The red flag to me was,
17 why were these prints another date so far, 50 days
18 apart? And then the other red flag was, why was that
19 floor processed because I don't, I don't know. And
20 then it led to having to find the -- exhume the bodies
21 for the palm prints.

22 MS. MONTGOMERY-BLINN: And so the
23 investigation has originally sheriff's department, and
24 then they keep, they go back multiple times with the
25 SBI.

1 A. From what I --

2 MS. MONTGOMERY-BLINN: Back to the
3 investigative report.

4 A. From what I could see, every examiner in the SBI had
5 something to do with this case because I recognized all
6 their initials either --

7 Q. On the prints, on the lifts?

8 A. On lifting evidence, processing evidence, and trying to
9 recover exemplars from the victims. So there was all
10 -- you know, there was different people involved in
11 different activities.

12 Q. Most of the recoveries from the victims after the
13 exhumation, that was done by someone from the Bureau,
14 correct?

15 A. Right; yes.

16 RETIRED SHERIFF PICKENS: No?

17 MS. MONTGOMERY-BLINN: We'll take a look at
18 it and clarify it --

19 RETIRED SHERIFF PICKENS: Oh, okay.

20 A. Okay.

21 MS. MONTGOMERY-BLINN: -- based on the
22 investigative reports. Yeah, if you'll just give us a
23 minute.

24 RETIRED SHERIFF PICKENS: Sure thing.

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EXAMINATION BY JUDGE SUMNER

Q. But in summary, out of the 97 that you looked at, only two for purposes of exclusion excluded Sledge, is that right? Is that the --

A. Oh, I'm sorry, no. For purposes of exclusion there's 13 that I excluded as originating from Sledge. That was in my final -- and I went through it maybe too fast because I see now you were taking notes.

Q. A little slow, I guess.

A. Well, I was talking too fast. So I could give you a better accurate -- but there was 13 that it was excluded to him.

MS. MONTGOMERY-BLINN: But all that were identifiable excluded Sledge?

A. Yes.

Q. Is that right?

A. Yes.

FURTHER EXAMINATION BY MR. SMITH

Q. Do we know whether there was any bloody print on the handle of the refrigerator?

A. I didn't see any indication of a handle. I didn't see anything described as a handle. It could possibly be that you read the report, it would be in an investigative report, but they didn't show up in that

1 packet.

2

3

FURTHER EXAMINATION BY SHERIFF DUNCAN

4

Q. The thumb print from the floor, was it AFIS quality for
5 comparison?

5

6

A. No, sir. It's, it's barely there. It looks like it's
7 a seven or an eight count loop, which is a small
8 quantification of the size or the number of ridges
9 between, but it's certainly not identifiable on an
10 AFIS. And it may not be identifiable to the print who
11 left it, but in that case then you wouldn't be able to
12 exclude it.

12

13

14

FURTHER EXAMINATION BY MR. VICKORY

15

Q. Was that one, though, that you thought probably came
16 from Aileen, or am I mixing that up?

16

17

A. No. The one that I -- if we're talking about the
18 floor --

18

19

Q. Right.

20

A. -- the palm print, what I assessed as being a left palm
21 print, it was somewhat consistent with Aileen - or with
22 Josephine's left palm, but there were some pretty
23 significant differences which made me feel like a
24 qualified exclusion. It was a very difficult
25 comparison. And, you know, I know I -- I have seen

25

1 prints like this and they're very difficult to
2 absolutely say one way or the other. The easiest thing
3 is to not note them, which I think is what happened
4 here.

5

6

FURTHER EXAMINATION BY JUDGE SUMNER

7

Q. You're confident, though, in your exclusion? You've
8 got a high confidence level, is that what you're
9 saying?

10

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A. My confidence level is high. And the other thing I
have to note is, just because of Sledge's fingerprints,
they were easy exclusions. There wasn't any that were
difficult or real time consuming on his comparisons.
Now, with the two victims, maybe a few more
identifications could be made to the victims on certain
objects, but Sledge's were -- it was a clear cut
exclusion and not difficult to make.

18

MS. MONTGOMERY-BLINN: Okay. All right.

19

JUDGE SUMNER: Thank you, sir.

20

MS. MONTGOMERY-BLINN: Thank you.

21

MR. SMITH: Thank you.

22

JUDGE SUMNER: This is probably a good point
23 for us to take a break.

24

MS. MONTGOMERY-BLINN: Will you give me two
25 minutes to answer a couple quick questions --

1 JUDGE SUMNER: Sure.

2 MS. MONTGOMERY-BLINN: -- and then we can
3 take a break; is that all right, Your Honor?

4 JUDGE SUMNER: Certainly; that's fine.

5 MS. MONTGOMERY-BLINN: Thank you. While
6 we're on the topic.

7 JUDGE SUMNER: We're going to defer to you
8 always.

9 MS. MONTGOMERY-BLINN: You're too kind.

10 (THEREUPON, A DISCUSSION WAS HAD OFF THE
11 RECORD WHICH WAS NOT REPORTED.)

12 MS. MONTGOMERY-BLINN: We don't need Mr.
13 Ludas anymore. May he be released, Your Honor?

14 JUDGE SUMNER: He's excused. Thank you, sir.

15 MS. MONTGOMERY-BLINN: And you're welcome to
16 stay or go, Mr. Ludas, thank you.

17 (Mr. Ludas is excused from the witness
18 stand.)

19 MS. MONTGOMERY-BLINN: Just very briefly
20 before we take the break, I just wanted to let you know
21 that the two fingerprints that Mr. Ludas identified as
22 being of AFIS value we did send to the state crime
23 lab. They also determined that they were of AFIS
24 value, and they were uploaded to both the state and
25 federal fingerprint databases, and they were searched

1 with no identifications being effected.

2 We also did attempt DNA testing on some of
3 the fingerprints that he identified as possible DNA
4 candidates, and the DNA experts will be here to testify
5 in a little bit. After the recess I'm going to have
6 Ms. Smith do an overview of the DNA testing, and then
7 we'll move into the DNA experts.

8 So are we just doing a short morning recess?

9 JUDGE SUMNER: Just a short break.

10 MS. MONTGOMERY-BLINN: Okay, thank you, Your
11 Honor.

12 JUDGE SUMNER: Thank you.

13 (THEREUPON, A SHORT RECESS WAS TAKEN FROM
14 11:09 THROUGH 11:26 A.M.)

15 JUDGE SUMNER: All right, we're back in
16 session.

17 MS. MONTGOMERY-BLINN: All right, I'm calling
18 Lindsey Guice Smith.

19
20 Lindsey Guice Smith, having first been duly
21 reminded she was still under oath, testified as
22 follows:

23
24 EXAMINATION BY MS. MONTGOMERY-BLINN

25 Q. Ms. Smith you're still under oath.

1 A. Okay.

2 Q. Did you review the results of forensic testing that was
3 done prior to the Commission's investigation?

4 A. I did.

5 Q. And where were those? What agencies were those from?

6 A. I reviewed the State Bureau of Investigation crime lab
7 file from the original investigation. That included
8 serology, latent prints, and footwear, and shoe track
9 comparisons. I also reviewed an FBI lab report for the
10 microscopic hair analysis.

11 Q. And are those reports summarized or included entirely
12 in the brief?

13 A. They are.

14 Q. Okay. And how about the post conviction testing that
15 happened before the Commission received the case?

16 A. I reviewed the SBI crime lab files from testing
17 conducted in 2009; 2010 LabCorp testing, which was done
18 via consent order between the Center on Actual
19 Innocence and the district attorney's office.

20 Q. Is LabCorp a private DNA lab?

21 A. It is.

22 Q. Okay.

23 A. The 2012 Cellmark Forensics testing, which was done via
24 a consent order as well between the Center on Actual
25 Innocence and the district attorney's office; and the

1 2012 and 2013 Mitotyping Technologies testing, which
2 was done by consent order between the center and the
3 district attorney's office.

4 Q. And then did the Commission conduct additional testing?

5 A. We did.

6 Q. And what labs did the Commission use?

7 A. We used Mitotyping Technologies for DNA testing on
8 hairs from the victim's body, and we conducted DNA
9 testing at Cellmark Forensics for testing on the
10 victims' clothing, the pepper can, a piece of linoleum,
11 a white paper bag, and fingerprints.

12 Q. Okay. And did you, as you were doing the testing,
13 consult with experts during the testing process?

14 A. Yes. We consulted regularly with experts throughout
15 the entire process to determine which items we wanted
16 to test, what type of testing would be best suited for
17 each item, and which order we should do the testing in.

18 Q. Now, have you reviewed all the testing you just
19 described and condensed it into a chart?

20 A. I have.

21 Q. Okay. Is this the chart?

22 A. It is.

23 Q. And was that made by you?

24 A. It was.

25 Q. All right. I'm going to pass this around and let each

1 commissioner get a copy, and then ask you to go through
2 the chart and explain it to us.

3 A. Okay.

4 (The Forensic Testing Chart is distributed.)

5 Q. As it's going around, will you just tell me, is this
6 chart, what all does it include?

7 A. It includes all of the post conviction testing. So
8 that includes the testing conducted prior to the
9 Commission's involvement as well as the Commission's
10 testing.

11 Q. Okay.

12 MS. MONTGOMERY-BLINN: Now, commissioners,
13 I'm going to ask Ms. Smith to go ahead and walk us
14 through the chart, but if you have questions, please
15 just go ahead and ask as we go through. Don't try to
16 hold them until the end.

17 Q. All right. If you will begin with the first item
18 tested.

19 A. This is the dress of the victim, Aileen Davis. And
20 there's a photograph of it on your screens. This was
21 taken by Cellmark Forensics, and this was collected,
22 the dress was collected as part of the original law
23 enforcement investigation.

24 Q. And is this the dress that Aileen Davis was wearing
25 when she was killed or when her body was found?

1 A. That is correct.

2 Q. All right. And please tell us about -- well, I guess,
3 can you go ahead and tell us if you did -- did you
4 already tell us the results?

5 A. I have not.

6 Q. Okay. Please, go ahead.

7 A. The results of the testing that was conducted post
8 conviction, first, the testing failed to reveal any
9 chemical indications for the presence of semen. The
10 dress was DNA tested by the State Bureau of
11 Investigation crime lab, LabCorp, and Cellmark
12 Forensics. No lab was able to obtain any DNA, male
13 DNA, rather, from the dress.

14 Q. Okay. Let's move on to the next item.

15 A. This is the slip from Aileen Davis. This was collected
16 during the original law enforcement investigation and
17 was the slip that she was wearing at the time of her
18 murder.

19 Q. Okay. And go ahead and tell us about the results of
20 this test.

21 A. Okay. The testing also failed to reveal any chemical
22 indications for the presence of semen. This was DNA
23 tested by the SBI, LabCorp, and Cellmark. A partial
24 male DNA profile was obtained from the SBI. That
25 partial male profile excludes Joseph Sledge, Herman

1 Baker, Billy Ray Hales, Samuel Smith, Johnny Ray
2 Benton, Daniel Slater Haire, III, Elisha Robinson,
3 William Thomas Haire, and Robert Washington.

4 Q. Okay. Please tell us about the next item.

5 A. Before we move on, can I explain who some of those
6 individuals are?

7 Q. That sounds like a good idea.

8 A. Okay. Billy Ray Hales is a family member of the
9 victims. He's the grandson of Ms. Josephine Davis and
10 the nephew of Ms. Aileen Davis. He and his family live
11 next door to the victims' home. The DNA testing that
12 was conducted includes, the Y-STR DNA testing will
13 include his father's and his brother's. And they were
14 known to be in the victims' home regularly so this was
15 done more as elimination purposes than anything for
16 some of the victims' family members.

17 Q. Okay. And how about Samuel Smith?

18 A. Samuel Smith, we spoke about him yesterday. His DNA
19 will exclude all of his brothers, who were considered
20 suspects during the initial investigation. It does
21 not, however, include the nephew.

22 MS. SANDS BELLE: That was a neighbor, right?

23 A. Yes, he was a neighbor.

24 And then all of the remaining individuals,
25 including Mr. Sledge, were individuals who were

1 suspects.

2 Q. Okay.

3 A. I'm sorry. There is one individual on there, Robert
4 Washington, was not a suspect at the time, however, he
5 was on escape from prison at the time.

6 Q. Okay. And the other people, Johnny Ray Benton, Daniel
7 Slater Haire, Elisha Robinson, and William Thomas
8 Haire, those are people you testified about yesterday?

9 A. That's correct.

10 Q. Okay. And Robert Washington will be testified about
11 later today?

12 A. That's correct.

13 Q. Okay. Thank you. All right. Now, can we please move
14 onto the next item?

15 A. Yes. The next item is the dress of Ms. Josephine
16 Davis. This was collected by law enforcement during
17 the original investigation and was the dress that she
18 was wearing at the time of her murder.

19 Q. Okay. And what are the results from testing of this
20 item?

21 A. The testing failed to reveal chemical indications for
22 the presence of semen. It was also DNA tested by the
23 SBI, LabCorp, and Cellmark. A partial male DNA profile
24 was obtained on the item by the SBI. This excludes
25 Joseph Sledge and all of the other individuals who were

1 tested, which are all of the individuals named before.

2 Q. Okay.

3 A. This profile does not match the male profile that was
4 obtained from the slip of Aileen Davis, which I just
5 testified to.

6 Q. Okay. All right.

7 A. This is the slip of Josephine Davis. This was
8 collected during the initial investigation of the crime
9 and was the slip that Ms. Davis was wearing on the
10 night of her murder.

11 Q. Okay. And tell us about the testing results for this.

12 A. This item failed to reveal chemical indications for the
13 presence of semen. It was also DNA tested by the SBI,
14 LabCorp, and Cellmark. A partial male DNA profile was
15 obtained by LabCorp. This profile excludes Joseph
16 Sledge and all of the other individuals who were
17 compared, and this profile is consistent with the
18 profile from the dress of Josephine Davis that was
19 obtained by the SBI, which I also just testified about.

20 Q. Okay. Tell us about this item.

21 A. This is the pepper can. This was collected by Phillip
22 Little, Detective Little, approximately a year-and-a-
23 half after the crime from the crime scene. There were
24 no identifiable latent prints noted or developed, this
25 is during post conviction testing. It was DNA tested

1 by the SBI and by Cellmark, and no DNA profiles, either
2 male or female, were developed from testing on the can.

3 Q. And what is that photograph of?

4 A. This is a photograph of the pepper can in an evidence
5 bag. Inside the evidence bag is also pepper that
6 presumably had been in the can at the time of its
7 initial collection.

8 Q. Okay. And why did you have that weighed?

9 A. We had the pepper that is in the bag as well as the
10 pepper remaining in the can today weighed to determine
11 how much pepper was in the can.

12 Q. Okay. And how much was?

13 A. The weight of the pepper is approximately 30.5 grams,
14 which is approximately 1.076 ounces. The pepper can is
15 labeled as being a 2.0 ounce pepper can. So it's
16 approximately one half or a little more of the pepper
17 was still in the can.

18 Q. And had you been able to locate any studies about
19 whether pepper changes composition or weight over long
20 periods of time?

21 A. I was not able to find any.

22 Q. Okay. All right. Please tell us about the next item.

23 A. This next item is a piece of linoleum. This was
24 collected from the crime scene, however, there's no
25 evidence reports documenting its collection so we don't

1 know when, by who, or why it was collected.

2 Q. Okay. Tell us what -- well, what did you note about
3 the linoleum or what was noted about it?

4 A. We noted that it had reddish brown stains on it, and so
5 that's why we wanted to have it tested.

6 Q. Okay. Tell us about the testing.

7 A. It was tested by Cellmark Forensics. A partial male
8 DNA profile was obtained, and this profile is a mixture
9 of at least two males. Billy Ray Hales, the victims'
10 family member, cannot be excluded as a contributor to
11 the mixture. And as I mentioned before, Mr. Hales is
12 the grandson of Ms. Josephine Davis and the nephew of
13 Aileen Davis, and he and his family lived next door and
14 had been in the home.

15 Q. Okay.

16 A. The profile does exclude Joseph Sledge and Johnny Ray
17 Benton. However, due to the partial mixture profile
18 and the possibility of allelic dropout, the following
19 individuals, no determination could be made regarding
20 Herman Baker, Samuel Smith, Daniel Slater Haire, III,
21 Elisha Robinson, William Thomas Haire, and Robert
22 Washington as contributors to the mixture. The expert
23 will explain that more when she testifies.

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EXAMINATION BY MS. SANDS BELLE

Q. Explain what -- I'm sorry, I don't understand when you say mixture.

A. A mixture means that there's more than one DNA profile present.

Q. Okay.

A. So more than one person is showing up.

Q. So DNA from not sperm, but what, what kind, blood from that -- from the blood mixture there, is that what we're --

A. No. So we were only isolating male DNA. Certainly if the killer's DNA or killer's blood was on the linoleum, it could be blood. However, it could also just be touch DNA --

Q. Okay. That's --

A. -- from shedding of skin cells.

Q. Okay, got it.

A. But we were only looking at male DNA.

FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

Q. Okay. Tell us about this item.

A. This is a white paper bag. It's labeled. The label on the front says The Medicine Shoppe. The paper bag we believe was collected from the crime scene. According to an SBI report, a paper bag at the crime scene was

1 collected that contained a bottle of alcohol. We don't
2 know anything about that bottle of alcohol, whether it
3 was liquor, wine, beer or, you know, a bottle of
4 rubbing alcohol or some kind of medicine. This is the
5 only paper bag that we've been able to locate, so we
6 had it tested, but we can't be positive that this is
7 the bag that they referred to.

8 Q. And did you ask, when you interviewed Mr. Little, did
9 you ask him if he remembered what kind of alcohol it
10 was?

11 A. We did ask him that, and he was unable to recall.

12 Q. Okay. All right. Go ahead and tell us about the paper
13 bag or the testing.

14 A. This item was tested by Cellmark Forensics. A mixture
15 profile was also obtained on this item. For this item
16 we did do STR DNA testing, and the major profile within
17 that mixture is the victim, Josephine Davis, and Aileen
18 Davis could not be excluded as the minor contributor.
19 We also attempted to isolate male DNA on that bag and
20 were unable to develop any kind of male DNA profile.

21 Q. Okay. Before we go there, can you just talk about the
22 tape lifts, which are the next items?

23 A. Sure. The tape lifts that we had DNA tested were
24 fingerprint or latent lifts from the crime scene.

25 Q. Okay. And go ahead and tell us which ones did you

1 decide or how did you decide which ones to DNA test?

2 A. First we met with Mr. Ludas, who just testified, and
3 discussed with him based on his experience which prints
4 he felt were suitable for DNA testing. Then we looked
5 at crime scene photos and we talked about and
6 determined which of the prints might have been most
7 likely to have been left by the killer. We were
8 dealing with a large number of prints so we needed to
9 be able to narrow it down somewhat. And then we
10 considered which ones were most likely to yield DNA
11 based on Mr. Ludas' experience, and then thought about
12 which areas the killers might -- killer might have
13 touched.

14 Q. Okay. And then just looking at all of the ones that
15 say tape lift together, the one that says, 40/40dup,
16 can you just tell us really quickly what that means?

17 A. Yes. That just means that that print was lifted twice.
18 I believe Mr. Ludas described that as they lifted it
19 once and then went back and lifted the same print
20 again.

21 Q. Okay. All right. And go ahead and tell us the results
22 briefly for all of those.

23 A. Okay. The first one that we tested was what Mr. Ludas
24 had identified as print number 1. This was tested by
25 Cellmark Forensics, and a partial male DNA profile was

1 obtained. This profile excludes Joseph Sledge and all
2 of the other individuals who we had compared.

3 Q. Okay.

4 A. The second one was the prints labeled 2 and 3. We had
5 those combined for DNA testing, and that was just based
6 on the amount of DNA the lab was seeing when they first
7 quanted for DNA. That was tested at Cellmark
8 Forensics, and we also obtained a partial male DNA
9 profile. This profile was a possible mixture. And so
10 they were able to exclude Joseph Sledge, Herman Baker,
11 Billy Ray Hales, Samuel Smith, Johnny Ray Benton, and
12 Elisha Robinson. However, due to the partial mixture
13 profile and the possibility of allelic dropout, they
14 were not able to make any determinations regarding
15 Daniel Slater Haire, III, William Thomas Haire, and
16 Robert Washington as contributors to the sample.

17 Q. Okay.

18 A. The next item, the next print that we had tested was
19 print number 4, which is also from the living room
20 floor. This was DNA tested by Cellmark Forensics and a
21 partial male DNA profile was obtained. This excluded
22 Joseph Sledge and all other individuals who were
23 compared.

24 Q. Okay.

25 A. The next one was a tape lift from the Zenith radio.

1 This was labeled as print number 12 by Mr. Ludas. It
2 was tested by Cellmark Forensics and a partial male DNA
3 profile was obtained. This excluded Joseph Sledge and
4 all other individuals who were compared.

5 Q. All right. Go ahead to the next one, please.

6 A. The next one is a tape lift from the right side bottom
7 door of a refrigerator. This was labeled as print
8 number 32 by Mr. Ludas. It was tested by Cellmark
9 Forensics and a partial male DNA profile was obtained.
10 It excludes Joseph Sledge and all other individuals who
11 were compared.

12 Q. Okay.

13 A. The next one is a tape lift from the side of the
14 refrigerator towards the door. This was labeled by
15 Mr. Ludas as print 40/40dup. It was also tested by
16 Cellmark Forensics and a partial male DNA profile was
17 developed. It excludes Joseph Sledge and all other
18 individuals who were compared.

19 Q. All right. Please go ahead and go onto the next item.
20 I think I moved to the picture a little ahead of it.

21 A. Yes. The next item that was tested were the hairs from
22 the victim's body. This is a photograph of all nine
23 hairs laid out. This photo was taken by Cellmark
24 Forensics when they originally had the hairs in, I
25 believe, 2012.

1 Q. Okay.

2 A. Two of the hairs were tested at Cellmark Forensics, and
3 then all nine hairs were retested at Mitotyping
4 Technology. Seven of the hairs revealed the same DNA
5 profile. This is a mitochondrial DNA profile. Two of
6 the hairs revealed a mixture. However, that mixture is
7 most likely due to degraded DNA, and not multiple
8 contributors. The underlying profile within that
9 mixture is the same as the other seven hairs. So we're
10 looking at one mitochondrial DNA profile across all
11 nine hairs.

12 All nine hairs exclude Joseph Sledge, Herman
13 Baker, Katherine Brown -- Ms. Brown is a maternal
14 relative of the victims -- Samuel Smith, Johnny Ray
15 Benton, Daniel Slater Haire, Elisha Robinson, William
16 Thomas Haire, and Robert Washington.

17 Q. Okay. Where on the victim's body were the hairs from?

18 A. Detective Little testified that he collected these
19 hairs from the abdomen of the victim, Aileen Davis, and
20 also one embedded in blood on her forehead.

21 Q. Okay. Thank you.

22 A. He also testified that he collected them before her
23 body was moved by medical personnel. And an
24 investigative report from the original investigation
25 indicates that Detective Little believed that he was

1 the first person to enter the crime scene after the
2 murders.

3 Q. Now, one of the people that you said was excluded was
4 Katherine Brown. Can you tell us who that is and why
5 you were having her DNA compared?

6 A. Yes. Ms. Katherine Brown is a maternal relative of the
7 victims, therefore, her mitochondrial DNA profile would
8 be the same as the victims. So we wanted to have that
9 profile compared so that we could either include or
10 exclude the victims' hair from these hairs.

11 Q. So it is not the victims' hair?

12 A. That is correct. It's not the victims' hair.

13 Q. Okay. What else were you able to tell through DNA
14 about these hairs?

15 A. The analyst indicated that the mitochondrial DNA
16 profile that we are seeing is recognizably African or
17 African-American.

18 Q. Okay. And has the victims' family ever indicated to
19 you whether or not they knew of African-American family
20 friends who may have been in the home?

21 A. They had told us that they did not believe that any
22 African-Americans had ever been in the victims' home.

23 Q. Okay. All right. Please go ahead and tell us about
24 that last item there.

25 A. The last item are hairs from Mr. Sledge's pants. These

1 were the green pants that he wore, the prison issued
2 pants. We had DNA testing conducted at Mitotyping
3 Technology.

4 Q. Can I back you up one quick --

5 A. Sure.

6 Q. These are the pants that there's just been testimony
7 about that we don't have, but the hairs had been lifted
8 originally before the pants were lost, is that right?

9 A. That's correct. The hairs had been taken and removed
10 from the pants during the original SBI testing. The
11 hairs were introduced at trial and therefore were still
12 available. The pants cannot be located.

13 Q. And why did you want to test the hairs from the pants
14 that Mr. Sledge admits he was wearing when he left
15 prison?

16 A. The first reason was to see if there were any hairs on
17 Mr. Sledge's pants that were consistent with the hairs
18 found at the crime scene on the victim's body. The
19 second reason was to see if there were any of the
20 victims' hairs on Mr. Sledge's pants.

21 Q. Okay. Go ahead and tell us about the results.

22 A. Okay. There were six hairs total. We had DNA testing
23 conducted on four of those six hairs. One hair does
24 belong to Mr. Sledge, and that hair also excludes all
25 of the other individuals who were compared.

1 Q. Okay.

2 A. One of the hairs was determined to be a cat hair, and
3 then two of the hairs revealed no DNA at all, either
4 human or animal. The remaining two hairs were not
5 tested because they were similar in color and type to
6 the hair that was determined to be a cat hair as well
7 as the two hairs that were showing no DNA.

8 Q. All right. Have you covered the chart?

9 A. I believe so.

10 Q. Okay.

11 MS. MONTGOMERY-BLINN: Before the experts
12 come in, do the commissioners have any questions on
13 this brief overview provided by Ms. Smith?

14

15 EXAMINATION BY MR. SMITH

16 Q. I just want to be sure I understand about the hair --

17 A. Yes, sir.

18 Q. -- that belongs to Sledge and excludes all the other
19 reference standards submitted, and where was that hair
20 found?

21 A. That was on his green, prison issued pants.

22

23 EXAMINATION BY SHERIFF DUNCAN

24 Q. We had matches for the hairs found from the victim that
25 they came from one, probably from one?

1 A. They either came from one person or any of their
2 maternal relatives. So, you know, it could be more
3 than one person, but they would have to be maternally
4 related.

5 Q. Was there any of the matching of the blood taken from
6 -- not the blood, but the DNA taken from the prints
7 that came back from a male profile? Did any of those
8 match, were they able to say?

9 A. So they -- what I can say, and the expert will get into
10 this more, the male profiles developed on the various
11 items, there are a couple that are consistent with one
12 another, but there is definitely more than one male
13 profile that's being seen. The mitochondrial DNA from
14 the hairs and the DNA from all of the other items, the
15 Y-STR testing, cannot be compared with one another. So
16 until you have a single person who you can match to one
17 and compare to the others, you can't say if you're
18 seeing the same person on the hairs as you are on any
19 of the other evidence.

20 MS. MONTGOMERY-BLINN: All right. Other
21 questions?

22 (No response.)

23 MS. MONTGOMERY-BLINN: Shall we bring in
24 Ms. Clement?

25

1 Meghan Clement, having first been duly sworn,
2 testified as follows:

3

4 EXAMINATION BY MS. MONTGOMERY-BLINN

5 Q. What is your name?

6 A. Meghan Clement.

7 Q. And where are you employed?

8 A. I'm employed at Cellmark Forensics.

9 Q. And what is your title there?

10 A. My title is senior director.

11 Q. Did you provide us recently with a copy of your CV?

12 A. I did, yes.

13 Q. All right. And is this your CV that I'm handing you,
14 the most recent version?

15 A. Yes, it is.

16 (Ms. Clement's CV is distributed.)

17 Q. How many times have you testified as an expert before?

18 A. I believe it's 356 times.

19 Q. How many times before the Commission?

20 A. Three or four.

21 Q. And how many times for the prosecution?

22 A. Oh --

23 Q. Or both prosecution and defense?

24 A. I have testified for both prosecution and defense.

25 Probably about 90 percent have been for prosecution,

1 and about 10 percent for defense.

2 Q. Okay. And where did you go to school?

3 A. I went to the Westfield State College in Massachusetts
4 for my bachelor's, I was awarded a bachelor of science
5 in biology, and I got my master of science in forensic
6 sciences from the University of New Haven in West Haven
7 Connecticut. I've also attended graduate level courses
8 at the University of New Mexico in Albuquerque as well
9 as the University of Virginia. I actually took courses
10 at the FBI Academy, but they have a relationship with
11 the University of Virginia, and I obtained graduate
12 credits from the University of Virginia.

13 Q. All right. How long have you been working in the field
14 of DNA?

15 A. In the field of DNA since 19 -- I basically started in
16 1988 taking classes and getting ready to implement a
17 DNA laboratory in Albuquerque at the time. We started
18 the laboratory in 1989.

19 Q. Okay. And when it says that you have worked at LabCorp
20 and Cellmark Forensics, can you just tell us briefly
21 how those two companies are intertwined?

22 A. Yes. LabCorp is our parent company. Laboratory
23 Corporation of America Holdings, Incorporated is
24 located in Burlington, North Carolina, and in December
25 of 2011 LabCorp acquired Orchid Cellmark. They

1 re-branded the laboratory Cellmark Forensics, and in
2 mid-2012 they closed down the North Carolina laboratory
3 and merged it into the Dallas laboratory. So Cellmark
4 Forensics is a wholly owned subsidiary of LabCorp.

5 Q. And did you move to Texas then?

6 A. I did. July is a terrible time to move to Texas.

7 Q. Well, we're glad to have you back for right now. And
8 do you have any Board certifications?

9 A. Yes. I am certified by the American Board of
10 Criminalistics in molecular biology.

11 MS. MONTGOMERY-BLINN: Your Honor, may
12 Ms. Clement testify as an expert in DNA testing and
13 technology?

14 JUDGE SUMNER: She's duly qualified.

15 Q. All right. Has Cellmark Forensics conducted DNA
16 testing in the case of State versus Joseph Sledge?

17 A. Yes.

18 Q. And have you reviewed all of the testing done by your
19 agency, and are you comfortable testifying about all of
20 it?

21 A. Yes, I have.

22 Q. Have you also or did you conduct testing at both
23 LabCorp Forensics and Cellmark Forensics?

24 A. Yes.

25 Q. Did the SBI conduct testing on some of the same items

1 that your agency has tested?

2 A. Yes, they did.

3 Q. And have you reviewed the SBI's reports?

4 A. Yes, I have.

5 Q. And do you feel comfortable testifying about the SBI's
6 testing?

7 A. I do.

8 Q. And the testing that we're talking about, was that done
9 both by the North Carolina Center on Actual Innocence
10 and then later by the North Carolina Innocence Inquiry
11 Commission?

12 A. Yes.

13 Q. Okay. And have you provided the Commission staff with
14 reports and notes for all of the testing that you've
15 done in this case?

16 A. Yes, from both LabCorp as well as Cellmark Forensics.

17 Q. Okay. I'm going to hand you a stack of reports. Will
18 you just look through them and tell me if you recognize
19 them, and if you do, what you recognize them to be.

20 A. (Witness examines documents.) This is a compilation of
21 all of the reports that have been submitted based on
22 testing performed in the Sledge case.

23 Q. Okay. And is that including the SBI, LabCorp, and
24 Cellmark?

25 A. Yes, as well as Mitotyping.

1 Q. And Mitotyping, too?

2 A. Yes.

3 Q. And I'm going to hand you one more document. Do you
4 recognize this chart?

5 A. Yes, I do.

6 Q. And what do you recognize that to be?

7 A. This chart is a chart depicting who performed what type
8 of DNA testing and what the results were for the items
9 that were tested.

10 Q. And does that chart group the testing as item by item
11 as opposed to date of report by date of report?

12 A. It does.

13 Q. Okay. And would that help you as you are using --
14 during your testimony?

15 A. Yes, it would.

16 Q. And was that chart provided to you as being prepared by
17 the Commission staff?

18 A. Yes, that's correct.

19 Q. All right. Will you very briefly describe the
20 difference between the three types of DNA testing that
21 were done in this case and what they are and what they
22 mean?

23 A. Sure. The three different technologies that were used
24 for analyzing the DNA in this case were -- the first
25 one is the most common that's used, and generally all

1 the crime laboratories will do what's called an STR
2 testing. This tests the DNA that we inherit from both
3 our mothers and our fathers. We test generally 15 or
4 16 different areas and then can compare the results
5 from the evidence to known reference samples.

6 The second type of testing that was used in
7 this case is called Y chromosome or Y-STR testing.
8 With the Y-STR testing we are looking at DNA only found
9 on the male Y chromosome. So it will basically ignore
10 all the female DNA which is present in a sample and
11 will look for only male DNA.

12 The third type of testing that was performed
13 is called mitochondrial DNA testing. it's abbreviated
14 mtDNA, and mitochondrial DNA is inherited only from our
15 mothers. And so everyone in the same maternal lineage
16 will have the same mitochondrial sequence.
17 Mitochondrial DNA is extremely helpful in situations
18 where you have very, very old and degraded DNA, but
19 also hairs that have no roots, because DNA is only
20 found in the root of a hair. So if you have a hair
21 which is only a shaft and no root, mitochondrial DNA
22 can be very helpful in those situations.

23 Just as mitochondrial DNA is inherited from
24 the maternal lineage, obviously, Y chromosome DNA is a
25 paternal lineage test. So all the males in the same

1 paternal lineage will have the same, should have the
2 same male Y chromosome profile.

3 Q. In this particular case, why was Y-STR done?

4 A. In this particular case because there was so much DNA
5 from the two victims, who were women, on the clothing
6 and there was blood all over the clothing, we were
7 interested in finding something other than their DNA
8 type. So Y chromosome DNA testing was more
9 informational at that point.

10 Q. And why was mitochondrial DNA testing done?

11 A. Mitochondrial DNA testing was done because there were
12 numerous hairs that did not have roots on them or had
13 roots that did not provide a typical STR profile.

14 Q. Okay.

15 MS. MONTGOMERY-BLINN: And commissioners, if
16 you have questions as we're going, please, again, just
17 ask as we go.

18 Q. All right. If you will go through the items, the
19 testing that was done item by item, and just very
20 briefly explain to us what the results are and that
21 they mean, if you can tell.

22 A. Sure. The first item is the dress from Aileen Davis.
23 The SBI performed what are called serology tests to
24 help identify any potential body fluids. They did get
25 positive results for presumptive tests for blood, and

1 they did not get any positive results for the presence
2 of semen. So there was no indication of semen present,
3 but there was indications that blood was present. They
4 had attempted a typical STR analysis or, excuse me,
5 Y-STR analysis on that, and they did not obtain any
6 profile.

7 LabCorp also had taken cuttings from the
8 bottom of the dress, and as part of the testing
9 process, once you extract a sample you can quantitate
10 it to determine whether you've been able to obtain any
11 male DNA. There was no indication of male DNA on those
12 cuttings and so no further testing was performed at
13 that point. LabCorp also took six swabs from the
14 dress, the front of the dress, and we attempted to
15 obtain a Y-STR profile, and we obtained no profile on
16 that.

17 And Cellmark Forensics then also scraped the
18 dress and took swabbings from that as well and
19 attempted a Y-STR profile and did not get any results.

20 Q. And the testing you just covered, is that things that
21 began in 2009 and went all the way up through 2014?

22 A. Yes, that's correct.

23 Q. Now, let me ask you a question that had come up
24 earlier. That doesn't mean that a man never touched
25 this dress, right?

1 A. That's correct.

2 Q. It just means it wasn't able to be obtained at the
3 locations attempted?

4 A. That's correct. All of the testing that's performed in
5 the laboratory requires a minimum amount of DNA in
6 order to attain a result. So there is the potential
7 that there are small quantities of DNA still on these
8 items, but it just wasn't sufficient enough to be able
9 to yield a profile during the testing process.

10 Q. And if the item was stored for 38 years at not-
11 recommended conditions, could that have made it less
12 likely or could that have degraded the DNA over time if
13 there had been DNA there?

14 A. Yes, absolutely. Anytime a substance is deposited
15 outside of its natural environment it's going to begin
16 to degrade. And so, obviously, over time it degrades
17 more and more. The older it is the more degradation
18 there will be, the less likely that you will be able to
19 get a profile.

20 Q. Okay. Thank you. If you'll move on to the next item,
21 please.

22 A. The next item was a slip from Aileen Davis, and in 2009
23 the State Bureau of Investigation again did the
24 serology testing. Again they got positive indications
25 of blood. That means a presumptive test was positive.

1 Presumptive tests for semen were negative, and
2 therefore they did not find any evidence of semen on
3 that. They also in 2009 attempted to develop a Y-STR
4 profile, and they did get a partial profile.

5 A partial profile simply means that if you
6 test for 17 areas and you only get three or four, that
7 would be considered a partial profile. So they only --
8 they got a very partial profile. They could compare
9 what they did obtain to the reference sample from
10 Mr. Sledge, and that did not match Mr. Sledge. They
11 also -- I can talk -- there was also a partial profile
12 that was obtained from the dress of Josephine Davis
13 later that they compared, and they did not match that
14 as well. So there were two different partial profiles
15 from those two items.

16 Q. But neither matches Mr. Sledge?

17 A. And neither matches Mr. Sledge, that's correct.

18 Q. Okay.

19 A. In 2010 LabCorp made cuttings from near the bottom of
20 the slip, and we obtained no indications of male DNA so
21 we did not attempt to develop a profile on that.

22 Cuttings made from the bottom of the slip, that was
23 also -- so we took cuttings from the top of the slip --
24 excuse me, a stain near the bottom of the slip, and
25 cuttings from two different stains, and neither of them

1 revealed any indications of male DNA, so that those did
2 not go further. We also took six swabs and swabbed the
3 front of the slip and we attempted to develop a Y-STR
4 profile, but we did not obtain any profile from that.

5 In 2014 Cellmark took scrapings and swabbings
6 and did not obtain a profile. And then we were
7 provided numerous reference samples to compare to the
8 partial profile that was obtained from the SBI, and we
9 excluded Herman Baker, Billy Ray Hales, Samuel Smith,
10 Johnny Ray Benton, Daniel Slater Haire, III, Elisha
11 Robinson, William Thomas Haire, and Robert Washington.

12 Q. And Joseph Sledge?

13 A. And Joseph Sledge, yes. He had previously been
14 excluded.

15 Q. So, and when you say provided numerous reference
16 samples, are those swabs that the Commission sent to
17 you that we told you we had obtained?

18 A. Yes, that's correct.

19 Q. Okay. All right. If you'll please move on to the next
20 item.

21 A. The next item was the dress of Josephine Davis. The
22 SBI in 2009 got positive results, presumptive results
23 for the presence of blood and got negative presumptive
24 results for semen. They did obtain a partial male
25 profile from swabbings of the bottom of the dress.

1 That partial profile did not match Mr. Sledge, and
2 again, it did not match the partial profile from the
3 slip of Aileen Davis.

4 There were in 2010 two swabs from the
5 interior lower back and hem area of the dress. It was
6 taken from LabCorp and no DNA profile was obtained from
7 that. Four additional swabs were taken from the
8 exterior and hem of the dress, and no male profile was
9 obtained from that.

10 In 2014 a Y-STR profile was not obtained from
11 scrapings and swabbings that were taken at Cellmark.
12 And the comparison of the known reference samples
13 excluded Herman Baker, Billy Ray Hales, Samuel Smith,
14 Johnny Ray Benton, Daniel Slater, Elisha Robinson,
15 William Thomas Haire, and Robert Washington as possible
16 contributors of the Y profile developed by the SBI, as
17 well as Mr. Sledge.

18 Q. As well as Joseph Sledge, okay. If you will, go on to
19 the Josephine Davis slip.

20 A. The slip from Josephine Davis, again, gave the positive
21 presumptive results for blood, negative presumptive
22 results for semen. No DNA profile was obtained from
23 the swabbings of the bottom front of the slip by the
24 SBI in 2009.

25 In 2010 a cutting from the stain near the

1 interior back hem of the slip did not reveal any male
2 DNA so that no further testing was performed on that.
3 There was also a cutting from a stain near the interior
4 back, and that also did not indicate any male DNA, so
5 no further testing was performed on that.

6 There was a cutting from a stain near the
7 upper exterior of the slip done at LabCorp also, and a
8 partial Y-STR profile was obtained from that item.
9 That partial Y-profile was different than the profile
10 from Mr. Sledge, so he, again, was excluded as a
11 potential source of that. We had also taken six swabs
12 from the front of the slip, and that failed to reveal
13 any indication of male DNA so no further testing was
14 performed on those.

15 In 2013 a comparison was made between the
16 results from the state, the partial results from the
17 state laboratory and the LabCorp testing, and it
18 revealed that the results between the SBI testing and
19 LabCorp on the Josephine Davis dress and the slip are
20 consistent, although LabCorp got additional information
21 or genetic information at one additional area
22 indicating a possible mixture. Because there's only
23 one location -- so the SBI got results at a certain
24 number, LabCorp got results at a certain number, but
25 there's only one location that overlapped that can be

1 compared. And with only one location no conclusions
2 can be drawn because it's such limited information at a
3 single area.

4 In 2014 a Y-STR profile was attempted from
5 that slip at Cellmark and a Y-STR profile was not
6 obtained. Comparing the reference samples submitted to
7 Cellmark, Herman Baker, Billy Ray Hales, Samuel Smith,
8 Johnny Ray Benton, Daniel Slater Haire, III, Elisha
9 Robinson, and William Thomas Haire as well as Robert
10 Washington are all excluded as potential sources of
11 that partial male DNA.

12 Q. The pepper can?

13 A. The pepper can. The pepper can was originally looked
14 at at the SBI in their fingerprint division, and there
15 was a report indicating that there were no identifiable
16 latent prints that were noted or developed from that.
17 That then went to the biology section and no profile
18 was obtained from the swabbing from the pepper can
19 using the most traditional type of STR testing.

20 In the pepper can there was still an amount
21 of pepper as well as, the pepper can came in a bag and
22 there was a bunch of spilled pepper in the bag as well
23 as pepper in the can itself. In the can there was
24 approximately 16.5 grams of pepper, and in the bag
25 itself there were 14 grams, approximately, which gave a

1 total of about 30.5 grams. If you convert the number
2 of grams to ounces, it's approximately 1.076 ounces.
3 The pepper can said it contained 2 ounces, so it was
4 approximately or slightly over half full.

5 Cellmark attempted to develop a STR profile
6 from swabbings of the exterior of the can and were not
7 able to obtain results on that. Additionally, a Y-STR
8 profile was attempted and no profile was obtained using
9 the Y-STRs.

10 All right, the linoleum, a piece of linoleum
11 was submitted, and in 2014 Cellmark was able to obtain
12 a partial Y profile. The profile is consistent with a
13 mixture of at least two males. In comparing those to
14 the known, Billy Ray Hales cannot be excluded as a
15 contributor to that mixture. Mr. Sledge is excluded as
16 a contributor. Additionally, due to the partial
17 mixture and the fact that -- when we have partial
18 profiles and you can see that we could be losing some
19 genetic information just from degradation and the
20 sample being so old, it was -- no determination could
21 be made regarding Herman Baker as a potential
22 contributor to that mixture. And basically, what that
23 means is there were some characteristics that he
24 possessed, but there was other characteristics that he
25 possessed that we didn't see. So it just wasn't enough

1 to be able to include or exclude. Johnny Ray Benton is
2 excluded as a contributor. And then in comparing some
3 of the others we also couldn't make a determination as
4 to Samuel Smith, Daniel Slater Haire, III, William
5 Thomas Haire, Elisha Robinson, and Robert Washington.

6 Q. And can you just tell us, that not being able to make a
7 conclusion, a little bit more about what that means?
8 It doesn't mean it's their DNA?

9 A. No, that's correct. It doesn't mean that it's their
10 DNA. They're simply -- there's not enough information
11 for us to be able to say that they're included or
12 excluded. We just simply can't determine that.

13 Q. Okay. If you'll just move on to the next one.

14 A. There was also a comparison made of the partial DNA
15 profile from the slip from Aileen Davis in comparison
16 to the linoleum, and what was determined was that the
17 characteristics from that partial DNA on the slip are
18 found within the linoleum mixture, and therefore, there
19 can be a common source of DNA from the person who
20 deposited both the DNA on the slip as well as the
21 linoleum.

22 No conclusion could be made regarding the
23 source of the DNA from the slip of Jolene Davis to the
24 linoleum, and the partial profile from the dress from
25 Jolene Davis and the partial profile from the linoleum

1 are excluded as having a common source.

2 Q. Okay. And when you say Jolene, it's Josephine or
3 Aileen?

4 A. Josephine, I'm sorry; Josephine.

5 Q. I just want to make sure.

6 A. All right. So a white paper medicine -- a bag from The
7 Medicine Shoppe was submitted and a partial DNA profile
8 obtained from this using STRs in 2014 was a mixture.
9 And the major profile was consistent with the profile
10 of Josephine Davis, and Aileen Davis could not be
11 excluded as a possible minor contributor to the DNA in
12 that mixture. We attempted a Y-STR profile and none
13 was obtained from that.

14 Q. And that's the male, that would be the male DNA?

15 A. That's correct.

16 Q. Okay.

17 A. Then there were numerous prints, fingerprints, lifts
18 that were submitted from print 1, which was tape lift
19 from the floor of the living room. In 2014 Y-STR
20 analysis was performed. There was a partial profile
21 obtained at 4 out of 17 locations. Mr. Sledge, Herman
22 Baker, Billy Ray Hales, Samuel Smith, Johnny Ray
23 Benton, Daniel Slater Haire, III, Elisha Robinson,
24 William Thomas, and Robert Washington are excluded as
25 contributors of the male DNA in that sample. There are

1 alleles that are seen within this mixture of DNA on the
2 linoleum that are also seen on this partial Y, so this
3 could have a common source.

4 The profile from the fingerprint is excluded
5 or the source of the profile from the fingerprint is
6 excluded as having a common source of the partial
7 profile from Josephine Davis's slip and Aileen Davis's
8 slip and Josephine Davis's dress. And then there were
9 some comparisons made from print to print, and there
10 were basically three prints that could be compared and
11 they all had a different partial male profile. So
12 there had to be three different sources there.

13 Q. Okay.

14 A. Tape lifts from the floor of the living room, which
15 were prints number 2 and 3, these were combined and
16 tested collectively. We obtained a partial male Y STR
17 profile. We only obtained 3 locations out of 17 that
18 were tested. There was indication it was a possible
19 mixture. Mr. Sledge, Herman Baker, Billy Ray Hales,
20 Samuel Smith, Johnny Ray Benton, and Elisha Robinson
21 are excluded as contributors. However, due to the
22 partial profile and the possible mixture, again there
23 was no -- not sufficient information to make a
24 determination in regards to Daniel Slater Haire, III,
25 and William Thomas Haire, as well as Robert Washington

1 on this particular sample. So no determination could
2 be made for those three individuals.

3 The profile from this is excluded as having a
4 common origin with the slip and dress from Josephine
5 Davis as well as the slip from Aileen Davis. Again,
6 because of the mixtures in both this particular print
7 as well as the linoleum, no conclusion can be drawn of
8 whether they could have a common origin. And again,
9 this is one of the -- there was insufficient because of
10 the mixture and partial profile for it to be compared
11 to other prints as well.

12 The tape lift from the living room floor,
13 print number 4, we did obtain a partial Y-STR profile
14 only at 2 out of the 17 locations. Mr. Sledge, Herman
15 Baker, Billy Ray Hales, Samuel Smith, Johnny Ray
16 Benton, Daniel Slater Haire, III, Elisha Robinson,
17 William Thomas Haire, and Robert Washington are all
18 excluded as contributors. And this is different from
19 the other two prints, partial profiles from prints that
20 were obtained.

21 There was a tape lift from the Zenith radio,
22 print number 12, we got a partial profile. There were
23 4 locations out of 17. Mr. Sledge, Herman Baker, Billy
24 Ray Hales, Samuel Smith, Johnny Ray Benton, Daniel
25 Slater Haire, III, Elisha Robinson, William Thomas

1 Haire, and Robert Washington are all excluded. No
2 conclusions can be drawn regarding whether this print
3 had any common source in regards to print 2 and 3. And
4 the profile from 12 from this particular print is
5 insufficient to compare to the other profiles. The
6 reason it's insufficient is because even though we may
7 have gotten 2 out of 17 or 4 out of 17 or 3 out of 17,
8 they may not be overlapping, and unless they overlap we
9 can't compare them.

10 The tape lift from the right side bottom door
11 of the refrigerator, print number 32, we obtained a
12 partial Y-STR profile at two locations. Mr. Sledge,
13 Herman Baker, Billy Ray Hales, Samuel Smith, Johnny Ray
14 Benton, Daniel Slater Haire, III, Elisha Robinson,
15 William Thomas Haire, and Robert Washington are all
16 excluded. The print from profile 32 is not, does not
17 have a common source as the source of the linoleum.
18 It's insufficient to compare to the desk -- to, excuse
19 me, the slip of Josephine Davis or the dress from
20 Josephine or the slip from Aileen Davis. And this is
21 the one of the three where there were overlapping that
22 could be compared, and it's different.

23 The tape lifts from the side of the
24 refrigerator towards the door, prints 40/40dup, we did
25 obtain a partial Y-STR profile at two locations. All

1 of the individuals, Mr. Sledge, Herman Baker, Billy Ray
2 Hales, Samuel Smith, Johnny Ray Benton, Daniel Slater
3 Haire, III, Elisha Robinson, William Thomas Haire, and
4 Robert Washington are excluded. The profile is
5 excluded also from the profile that could be compared
6 to Aileen Davis' slip and linoleum. It's insufficient
7 to compare it to the slip from Josephine Davis or the
8 dress from Josephine Davis. And this is the third of
9 the three prints that did have overlapping that all
10 show differences.

11 And then do we want to talk about --

12 Q. Are we ready to move on to the hairs?

13 A. Yes.

14 Q. Okay. Go ahead.

15 A. Okay. There was a hair that was recovered from the
16 victim's body. It was slide Q4 and labeled hair
17 number 4. We attempted -- there was a root on the
18 hair, and we did attempt to obtain an STR profile,
19 however, none was obtained. We then performed --

20 Q. And Meghan, you don't need to testify about the
21 Mitotyping.

22 A. Right.

23 Q. Just yours.

24 A. Right.

25 Q. Okay. Thank you.

1 A. And then after we obtained no profile from the root of
2 the hair using STRs, we attempted mitochondrial DNA
3 testing, and with the mitochondrial we obtained a
4 mixture of two or more mitochondrial DNA profiles.
5 Because there was a mixture, no conclusion could be
6 drawn. Cellmark Forensics has a protocol that says if
7 a mixture is obtained, no conclusions can be made from
8 that particular sample. And so following their
9 protocol it was reported as no conclusions could be
10 drawn. But there was clearly a mixture of
11 mitochondrial DNA types.

12 Q. And did you send that hair then to another lab that
13 specializes in mitochondrial DNA?

14 A. We did, yes; yes.

15 Q. Okay. Please go ahead with the next hair.

16 A. The next hair was also from the victim's body, it was
17 hair number 9. And there was insufficient DNA that was
18 obtained after the first amplification so we stopped
19 testing at that point. We didn't try to develop a
20 profile or a sequence to be compared, so no further
21 testing was done at that point.

22 Q. And did that hair and the remaining hairs end up also
23 being sent to another lab that specializes in degraded
24 mitochondrial DNA?

25 A. Yes, it did.

1 Q. Okay. All right. So am I right that the only items
2 that yielded male DNA were the Aileen Davis slip, the
3 Josephine Davis dress, the Josephine Davis slip, the
4 linoleum, some of the prints, and some of the prints;
5 is that all that yielded male DNA?

6 A. Yes, that's correct.

7 Q. And Joseph Sledge is excluded as a contributor of the
8 male DNA on all of these items?

9 A. On every single one of them, yes.

10 Q. Okay.

11 MS. MONTGOMERY-BLINN: Commissioners, do you
12 have any questions or do you have anything to add that
13 I didn't ask?

14 A. I don't think so.

15 Q. Okay.

16 MS. MONTGOMERY-BLINN: Commissioner questions?

17

18 EXAMINATION BY SHERIFF DUNCAN

19 Q. Was there enough of a DNA sample in any of the partials
20 to submit to CODIS?

21 A. Y-STR testing cannot be submitted to CODIS, and there
22 was, there were not enough autosomes of the
23 traditional STRs to be submitted, so the answer would
24 be, no.

25 MS. MONTGOMERY-BLINN: Are there any other

1 questions?

2 EXAMINATION BY MR. VICKORY

3 Q. And you don't know what type of cells these were taken
4 from necessarily that showed male, I guess, male DNA?

5 A. No. They're -- basically, the only time you can
6 absolutely give indication of that is when you identify
7 semen. Because semen was not present, generally it's
8 going to be some type of epithelial cells, so skin cell
9 or cells that are sloughed off in sneezing, coughing,
10 talking. But so there's no reason to indicate it was
11 semen because no semen was identified, so most likely
12 skin or cells that have been sloughed off through
13 saliva.

14 MS. MONTGOMERY-BLINN: Okay. I guess we
15 don't have any more questions for you.

16 A. Okay.

17 MS. MONTGOMERY-BLINN: Thank you, and I'll
18 ask that Ms. Clement be released from her subpoena so
19 she may travel back to warm Texas.

20 A. It's not so warm. Thank you.

21 MS. MONTGOMERY-BLINN: Thank you.

22 (Ms. Clement is dismissed from the witness
23 stand.)

24 MS. MONTGOMERY-BLINN: And would you like to
25 go to recess? We have another DNA expert who is back

1 there. I don't know if she'll be done before
2 1:00 or --

3 JUDGE SUMNER: Let's err on the side of
4 eating, all right?

5 MS. MONTGOMERY-BLINN: Okay, we'll -- lunch
6 recess? Okay.

7 (WHEREUPON, THE LUNCHEON RECESS WAS TAKEN
8 FROM 12:28 P.M. THROUGH 1:18 P.M.)

9 MS. MONTGOMERY-BLINN: Just for planning
10 purposes we are going to have another expert testify,
11 then we are going to break for the administrative
12 matter that the Commission needs to handle. The
13 commissioners will stay in here, and we'll ask the
14 public to leave and turn off the cameras. It's an
15 administrative matter unrelated to this hearing.

16 Then we will reconvene this afternoon and
17 we'll have more testimony, and the hearing itself is
18 going to break, recess tonight at 4 o'clock. And
19 Mr. Sledge won't, we won't be able to get to him until
20 tomorrow.

21 All right, so the Commission calls Terry
22 Melton.

23
24 Terry Melton, having first been duly sworn,
25 testified as follows:

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EXAMINATION BY MS. MONTGOMERY-BLINN

Q. What is your name?

A. My name is Terry Melton.

Q. And where are you employed?

A. I'm employed at Mitotyping Technologies in State College, Pennsylvania.

Q. And what is your position with Mitotyping?

A. I am the technical leader at the laboratory, and until last week I was the lab director. So I'm retiring in a few months and I've been replaced, so --

Q. Congratulations.

A. Thank you.

Q. Ms. Melton, I'm going to hand you what I believe to be your CV. Will you just check and make sure that is your current CV and that it was what you provided to the Commission?

A. (Witness examines document.) Yes, it is.

Q. Okay.

(Ms. Melton's CV is distributed.)

Q. All right. Now, we don't need to go through all 14 pages, but will you tell us briefly about your education?

A. I have a bachelor's degree from Wake Forest University; I have both a master's and a PhD from Penn State University. I completed my PhD in 1996. The subject

1 of my doctoral work was mitochondrial DNA as a forensic
2 tool and how it can be used in the criminal justice
3 system, that was a project that was funded by the
4 National Institutes of Justice. And that is my
5 educational career.

6 I had -- on the completion of my PhD I had
7 two post docs, one at Penn State and one at the
8 University of Oxford in England. And then I returned
9 to State College and started my laboratory, Mitotyping
10 Technologies in 1998, and I've been doing that work
11 since then.

12 Q. Okay. And have you testified before in a trial as an
13 expert?

14 A. Yes.

15 Q. In DNA technology or Mitotyping?

16 A. (No audible response.)

17 Q. And it looks like I'm seeing most of them listed here.
18 Are they sometimes for prosecution, sometimes for
19 defense?

20 A. Most of my testimonies are actually for prosecution.

21 Q. Okay.

22 A. Usually when some piece of evidence is exculpatory I
23 don't usually go to court for defense. However, I have
24 done a few defense cases as far as testifying, and I've
25 done several recently, in fact.

1 Q. And your lab, Mitotyping, is that what you would call a
2 specialty DNA lab or --

3 A. It is. We do what we think of as a regular DNA testing
4 with nuclear DNA, which I think you heard about
5 earlier, but we have a very special niche called
6 mitochondrial DNA analysis, which I think you'll hear a
7 lot about this afternoon.

8 Q. Okay. You said you specialize in mitochondrial.
9 First, will you just tell us very briefly, we've
10 already heard a little bit, but what is mitochondrial
11 DNA?

12 A. Well, mitochondrial DNA is the second kind of DNA
13 that's in a cell, the first kind is nuclear DNA. And
14 it's nuclear DNA is the kind that we usually think of
15 when we think of semen stains or blood stains or saliva
16 stains at a crime scene. Mitochondrial DNA is a little
17 different. It's used primarily for analyzing very
18 difficult things like bones that might be very old, but
19 especially in our laboratory we work a lot on hairs.

20 So if you have a hair with a freshly plucked
21 root on it, you might be able to do the regular DNA
22 testing, nuclear DNA. But if you just have a naturally
23 shed root or a very old hair or just the hair shaft
24 alone, you need to use mitochondrial DNA testing, and
25 it's a different system of DNA testing. So we test

1 these unknown samples such as hairs and then we compare
2 the mitochondrial profile from those hairs to known
3 samples from known individuals. And those known
4 samples can be things like blood and saliva because all
5 cells contain mitochondrial DNA.

6 Q. Okay. And can mitochondrial DNA be uploaded into the
7 data bank CODIS?

8 A. No, it is not uploaded.

9 Q. Okay. And can it be compared to Y -- if all you have
10 is a Y-STR profile from another place, can you compare
11 the Y to the mito?

12 A. No. It's a different system of DNA testing.

13 Q. Okay.

14 MS. MONTGOMERY-BLINN: Your Honor, I'd ask
15 that Terry Melton be qualified to testify as an expert
16 in DNA testing and technology?

17 JUDGE SUMNER: She's so qualified.

18 Q. Okay. Now, Dr. Melton, has Mitotyping Technologies
19 conducted DNA testing in the case of State versus
20 Joseph Sledge?

21 A. Yes.

22 Q. And have you done the testing yourself or reviewed what
23 was done in your lab?

24 A. In our laboratory we have technical staff that do all
25 the bench work, and there are two of us who review all

1 the data, all the testing, and who work together to
2 write the reports and then provide the results.

3 Q. So do you feel comfortable testifying about all the
4 testing that was done at your lab?

5 A. Yes.

6 Q. And was testing in this case done through you by both
7 the North Carolina Center on Actual Innocence and the
8 North Carolina Innocence Inquiry Commission?

9 A. Yes.

10 Q. And have you provided reports and notes for all of the
11 testing that you did in this case to the Commission?

12 A. Yes.

13 Q. Do you recognize these to be your reports?

14 A. (Witness examines document.) Yes.

15 Q. And it looks like you may also have a few notes up
16 there as well?

17 A. I do.

18 Q. Okay. And those are all the notes you provided to the
19 Commission?

20 A. Correct.

21 Q. All right. Let's talk about in this case the hairs
22 from the victim's body that you tested first. How many
23 of those were tested?

24 A. There were nine of those hairs.

25 Q. Okay. And can you tell us the results, if you can

1 group them into the results of the two different
2 groups, if you can?

3 A. Yes. Well, there were hairs that came off of a Post-It
4 note, and they were labeled one through nine. These
5 were the hairs as we received them for testing. We
6 tested each one of those hairs and we found that they
7 all shared the same mitochondrial DNA profile.

8 Q. Can I back you up about the Post-It note, and can you
9 just explain what do you mean by they came off a Post-
10 It note?

11 A. Yes. We received the hairs for testing, and they had
12 previously been at Cellmark Laboratory. And when we
13 received them the hairs were mounted on a piece of
14 sticky Post-It note, which is actually a very good
15 system for keeping hairs from moving around. It was
16 folded over, and when we opened it up we saw the nine
17 little pieces of hair each with a number next to it.
18 So we used those numbers to delineate which hair was
19 taken for testing.

20 Q. Okay. So that's a typical way to sort of store or
21 mount hairs?

22 A. It is.

23 Q. Okay. And when you said hairs on the Post-It note,
24 though, we are talking about hairs that originally were
25 marked as having been collected from the body of the

1 victim?

2 A. That's correct.

3 Q. Okay. Thank you. So you said seven of those. Tell me
4 about the seven.

5 A. There were nine of those.

6 Q. Okay.

7 A. And we did get profiles from all nine of those hairs.
8 All nine profiles were the same profile; that is, the
9 individual who left those hairs was either one person
10 or maternally related people because people who are
11 maternal relatives have the same mitochondrial DNA
12 type. And all nine of those hairs and the profile of
13 each of those hairs, which as I said was the same,
14 excluded Mr. Sledge.

15 Q. Okay. And were seven of those hairs -- from the
16 reports it looks like seven of those hairs were a
17 single source profile, is that right?

18 A. Yes, that's correct. However, we did have two hairs,
19 which showed some mixed, mixed sites. In my opinion
20 those were not really mixtures. They were hairs that
21 were -- all of the hairs were quite challenging and
22 required some methods that we use for degraded DNA.
23 And my opinion is that those mixed sites that we
24 observed in those hairs was due -- were due to damaged
25 DNA. However, the basic profile for all the hairs was

1 the same.

2 Q. Okay. So if an item of evidence has been stored for a
3 long period of time and/or at not good conditions, the
4 DNA can break down, and that's why you could see a
5 mixture?

6 A. Yes. What happens is that after a very long period of
7 time the DNA breaks down. You can only recover very
8 small fragments of the DNA, and sometimes you're
9 recovering so few down to, say, 50 to 100 copies, that
10 you might accidentally pick up one of the damaged pieces
11 and mix it in with the others allowing you to see some
12 mixed sites in the profile. That's a pretty standard
13 thing for us to see in our laboratory because we do a
14 lot of very difficult samples.

15 Q. Okay. And you said that the profile that you obtained
16 excluded -- can you just list everybody that it did
17 exclude from your reports?

18 A. Yes. It excluded Mr. Sledge, Herman Lee Baker, Jr.,
19 Katherine Brown, Samuel Smith, Johnny Ray Benton,
20 Daniel Slater Haire, III, William Thomas Haire, Elisha
21 Robinson, and most recently we received a sample, and
22 I'm afraid I don't remember the name.

23 Q. Robert Washington?

24 A. Robert Washington, I'm sorry. I just got the results
25 this morning. So we eliminated nine individuals as the

1 donor of those hairs.

2 Q. And you never included -- nobody was sent to you that
3 you included as the donor?

4 A. That's correct.

5 Q. Were you able to make any other determinations about
6 that hair, even if we don't know whose it is, anything
7 about the --

8 A. Yes. In mitochondrial DNA analysis profiles are
9 typically associated with continental ethnicity. So
10 the reason for that is mitochondrial DNA has been
11 inherited from a common ancestor. We find that people
12 who are from European lineages, that is maternal
13 lineages, tend to have one -- a set of profiles that
14 are quite similar to each other. People from Asia have
15 profiles that are quite similar to each other, and
16 people from Africa have profiles that are quite similar
17 to each other.

18 I searched for the profile of this particular
19 set of hairs in a database that does allow us to
20 understand the declared ethnicity of people whose
21 profiles are in that database. This is a database for
22 understanding how common or rare a particular profile
23 is. The profile from these hairs is actually somewhat
24 rare, and it is almost exclusively observed in people
25 who have African maternal lineages.

1 Now, we're very careful about that sort of
2 statement because it is possible for someone who looks
3 black to have a Caucasian profile or someone who looks
4 white to have an African profile. But for the most
5 part, the mitochondrial profile is highly correlated
6 with the ethnic determination of that maternal lineage.
7 So this profile would be described as an African origin
8 profile indicating that the maternal line is African
9 that this family comes from.

10 Q. And are you able to give statistics on that likelihood?
11 Is there a percentage or a one out of?

12 A. Well, I believe I searched this profile, and there are
13 15 people in the database that we use out of nearly
14 30,000 that have this profile, and 13 of those 15
15 people self-describe as African or African-American.
16 So it is a profile that comes from a group called the
17 L3 group, which is an African origin mitochondrial
18 group.

19 So again, we can't say that the person who
20 left these hairs looks African-American or African, we
21 want to be very careful that people don't misunderstand
22 that, but the odds are in favor of that being true just
23 based on seeing 13 out of 15 people with this type who
24 say they are African or African-American.

25 Q. Okay. And when you talk about that database, that 13

1 people, that doesn't mean that this DNA is a match to
2 13 people in a database, it means that some of the
3 markers are common?

4 A. It means that there are 13 other people in this
5 database who have this profile. Remember, I said that
6 mitochondrial DNA is inherited among maternal
7 relatives. So the donor of these hairs is maternally
8 related to these other 15 people, but maybe many, many
9 generations removed. So just like my siblings and I
10 will share the same type, if I go back to my great,
11 great, great, great, great, great, great, great
12 grandmother through all these women and trace the
13 lineage down another branch, there's probably someone
14 out there in the population, if there's -- another line
15 of women who has the same type I do. So we can't say
16 that these 15 people are someone we could find.
17 They're simply people who have this profile, and there
18 are probably other people who do as well.

19 Q. Okay. All right. Now let's talk about the other hairs
20 that you tested that were collected from Joseph
21 Sledge's pants. How many of those were there?

22 A. There were four of those.

23 Q. All right. And can you tell us about those?

24 A. Yes. We had one hair that we determined was a cat
25 hair. One of the things we do in our laboratory is

1 when we get no results from a hair, we then have to
2 say, well, is it a hair that doesn't really have any
3 DNA at all so we can't get any DNA from it or could it
4 be a hair from another species. So we followed up the
5 normal routine of testing with the species test to
6 determine that one of those hairs was a cat hair. One
7 of the hairs from the pants did not exclude Mr. Sledge.
8 In other words, that hair had his mitochondrial
9 profile. And then there were two hairs where we had no
10 results. So the probable result, cause of that result
11 would be that the DNA was just too degraded to recover.

12 Q. Okay. And were there another two hairs that on visual
13 examination looked similar? Or I don't know if you
14 want to say that. If you want to just read directly
15 from the report about the wispy and auburn in
16 comparison to the one that was a cat hair?

17 A. Could you direct me to that in a report? I don't see a
18 wispy auburn -- I don't think that would have been in
19 my report, but I think we would not have described
20 anything that way in our report.

21 Q. Okay.

22 A. Can you point me to that?

23 Q. (Ms. Montgomery-Blinn confers with staff.) Okay. Do
24 you recall -- if it's not in a report, do you recall
25 saying it during a phone call?

1 A. No, I don't.

2 Q. Okay. How many hairs total were you given from
3 Sledge's pants?

4 A. From Sledge's pants there were four hairs.

5 Q. There were four total?

6 A. Yes.

7 Q. That were given to you or four that were tested, but
8 six --

9 A. Four that were tested. I'm not sure whether we tested
10 every hair there was to test. I know we were asked to
11 test four.

12 MS. MONTGOMERY-BLINN: All right,
13 commissioners, do you have questions?

14 JUDGE SUMNER: Go ahead.

15

16 EXAMINATION BY MR. HEARD

17 Q. I was looking at the report here, the microscopic hair
18 comparison, and I'm wondering how this relates to the
19 analysis that you did. I'll read the two paragraphs.
20 It's the FBI report.

21 Two brown pubic hairs of Negroid origin found
22 in one each of Q1 (hairs removed from pants) and Q4
23 (hairs removed from the abdominal area of Victim) are
24 microscopically like the K1 (known hair of suspect)
25 pubic hair sample from Sledge.

1 Four dark brown head hairs of Negroid origin
2 were found in the Q4 (hairs removed from the abdominal
3 area of Victim). Brown head hairs of Caucasian origin
4 were found in Q2 (hair removed from the sweater), Q3
5 (hair removed from pillowcase), and Q4 (hairs removed
6 from abdominal area of Victim). Those hairs are
7 suitable for significant comparison purposes in the
8 event that known head hairs are submitted.

9 Are these -- it might be easier for you to,
10 if you see if that's the same that you're talking
11 about?

12 A. It might be difficult to trace back exactly which hair
13 is which to the original notes. I know that Ms. Smith
14 and Ms. Stellato directed us which hairs to test.

15 Q. Okay.

16 A. So I could try to make those associations, but I
17 couldn't promise that I would have it exactly correct.

18 Q. I just didn't know how this --

19 MS. MONTGOMERY-BLINN: I'll get the original
20 report.

21 MR. HEARD: Okay, it's page 96.

22 MS. MONTGOMERY-BLINN: Okay, I'm going to
23 hand her the --

24 MR. HEARD: Okay.

25

1 FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

2 Q. While we're finding that, Dr. Melton, could you just
3 explain how microscopic hair comparison differs from
4 DNA testing?

5 A. Microscopic comparison is a very qualitative way of
6 looking at trace evidence. So your typical hair
7 examiner can look under the microscope -- and I'm not a
8 hair examiner, I only do DNA -- but they're making
9 judgments of color and curl, and they'll often measure
10 the hair, and it's very subjective. So this is why DNA
11 testing is important because the FBI did a study in
12 2004 that determined that 11 percent of the time their
13 own examiners, hair examiners, were wrong in
14 associating a hair with someone.

15 And so that's why there's been a recent
16 interest in going back and looking at hairs because
17 often someone went to court and said this is a hair
18 that could have come from so-and-so when, in fact, the
19 DNA later when done said it did not. So it is, again,
20 a very subjective way to evaluate evidence. We use it
21 in our laboratory. We send out hairs for microscopic
22 evaluation sometimes to help us understand which hairs
23 belong in groups together, but we would then go on
24 forward and do the DNA testing to confirm or refute the
25 association.

1 JUDGE SUMNER: Did you say the FBI rate was
2 11 percent? Is that what you said?

3 A. That's correct. They have a published study, it was
4 published in Journal of Forensic Sciences that showed
5 that 11 percent of the time their own examiners were
6 wrong in associating a hair with a microscope to a
7 known person. And they went on and did the DNA testing
8 and found that in those 11 percent of cases they had
9 been erroneous.

10 Q. And I'll hand you the FBI report from this case
11 originally, if you would like to take a look at it and
12 see if you, reading that, have anything, you know, to
13 add comparing that, those hairs to your DNA testing.

14 A. Well, it's a little difficult for me to make the
15 associations because we received -- I can go and look
16 at my inventory. (Witness examines documents.) Okay,
17 I can see that report here. So we tested the hairs
18 from the abdominal area of the victim were the nine
19 hairs that we tested that did not match Mr. Sledge,
20 then there were hairs from the pants that were the
21 other four that we tested, for a total of 13.

22

23 FURTHER EXAMINATION BY MR. HEARD

24 Q. So that accounts for everything in the FBI report then?

25 A. (No response.)

1 Q. One other point with regard to that, we may have
2 already mentioned this and I may have missed it as you
3 were going through it. But they noted in their report
4 that no head hair was submitted from Sledge for
5 comparison, but you all -- so did you have a sample
6 from Sledge to compare to?

7 A. No. The Cellmark laboratory had previously developed a
8 mitochondrial profile for Mr. Sledge, so we simply took
9 that information and used it to make our comparisons.

10 Q. Thank you.

11

12 FURTHER EXAMINATION BY MS. MONTGOMERY-BLINN

13 Q. And would you have developed that or did Cellmark --
14 can you note from the records that they developed it
15 from a cheek swab instead of a hair?

16 A. I don't know. I may have in my report -- I don't have
17 in my report what sample that came from. They had
18 reported it on November 16 of 2012, and I may have
19 somewhere in my file what it was, but I don't -- I
20 can't tell you from the report.

21 MS. MONTGOMERY-BLINN: Are there other
22 questions?

23

24 EXAMINATION BY MR. SMITH

25 Q. May I just ask her, to be sure, talking about the nine,

1 the nine hairs now, all of those, I think you said,
2 shared the same characteristics or whatever. They
3 would be from either the same person or the same family
4 of people?

5 A. Yes.

6 Q. Would that be the way --

7 A. They could be from brothers. They could be from any
8 two siblings, two sisters, a brother and a sister, or
9 multiple siblings. All individuals in the same family
10 who share a mother will have the same type. So we
11 can't say they're all from one person, but it would be
12 from one person or a maternally related person.

13 Q. Could be one person?

14 A. Could be, yes.

15 Q. And these were all found on the same victim?

16 A. Yes.

17 Q. The midsection of the same victim?

18 A. My understanding is they were found in the abdominal
19 area, but I don't have any direct knowledge of that.

20 Q. Yes, ma'am; ys, ma'am.

21 MR. HEARD: I think one was the
22 forehead, wasn't it?

23 MR. SMITH: Pardon?

24 MR. HEARD: I think one was from the
25 forehead, I think.

1 Q. Is one from the forehead, or do you remember?

2 (Inaudible.)

3 MR. SMITH: Okay, all right.

4 Q. Thank you. That answers my questions. Thank you.

5 JUDGE SUMNER: Anyone else?

6 MS. MONTGOMERY-BLINN: Okay, all right.

7 JUDGE SUMNER: Dr. Melton, thank you.

8 MS. MONTGOMERY-BLINN: Thank you, Dr. Melton.

9 A. Thank you.

10 MS. MONTGOMERY-BLINN: And I'll ask that she
11 be released from her subpoena to catch her flight back.

12 JUDGE SUMNER: Certainly.

13 A. Thank you very much.

14 MS. MONTGOMERY-BLINN: Thank you.

15 (Ms. Melton steps down from the witness
16 stand.)

17 (THEREUPON, A DISCUSSION WAS HAD OFF THE
18 RECORD WHICH WAS NOT REPORTED.)

19 MS. MONTGOMERY-BLINN: All right. At this
20 time if we can go into closed session.

21 JUDGE SUMNER: All right. The hearing will now
22 be, we'll move to closed session. I'm going to ask
23 that all visitors please excuse themselves at this
24 point in time.

25 (THEREUPON, THE HEARING WENT OFF THE RECORD

1 FOR CLOSED SESSION FROM 1:44 P.M. THROUGH 3:17 P.M.)

2 JUDGE SUMNER: We are back in session.

3 MS. MONTGOMERY-BLINN: Thank you, Your Honor.

4 I'd just like to thank Chief Justice Lake for being
5 here. As we all know, Chief Justice Lake was the one
6 who began the creation of the Innocence Inquiry
7 Commission as it moved through the General Assembly.
8 So it is certainly our honor that he is here today.

9 (Applause.)

10 MS. MONTGOMERY-BLINN: But he's here to watch
11 us work, so we might as well get back to it.

12 So for now I'm going to turn the portion of
13 the presentation to our investigation surrounding
14 Joseph Sledge. The only documented law enforcement
15 interview that we were able to locate on Mr. Sledge is
16 on page 67 included in its entirety in your brief. He
17 did not testify at the first trial, but he did testify
18 at the second trial, and his testimony from the second
19 trial is included in its entirety on page 235 of your
20 brief just for you to note it.

21 What we're going to do now is go through his
22 post conviction interviews. In every documented post
23 conviction interview or conversation that the
24 Commission has been able to locate Mr. Sledge has
25 always maintained his innocence. Once again, I'm going

1 to call his attorney to talk about the interviews that
2 she had done with Mr. Sledge.

3 I'd again just like to clarify that she does
4 represent Joseph Sledge, and that she did refer the
5 case to the Commission. I'm going to ask her about
6 questions and things from prior to the time that she
7 referred the case to the Commission in which attorney-
8 client privilege was waived as part of the Commission
9 accepting the case for formal inquiry and, again, just
10 remind everybody that Ms. Mumma is Mr. Sledge's
11 attorney and we'd like to keep the questions to just
12 the facts about her interviews.

13 Christine Mumma.

14
15 Christine Mumma, having first been duly
16 reminded she was still under oath, testified as
17 follows:

18
19 EXAMINATION BY MS. MONTGOMERY-BLINN

20 Q. All right. Ms. Mumma, you're still under oath. And
21 you had asked me if you could clarify one thing from
22 your testimony yesterday. Would you like to go ahead
23 and do that?

24 A. Yes. Thank you very much. There were some questions
25 raised about the interview the center conducted with

1 Herman Baker on March 18 after meeting with the SBI and
2 the district attorney's office and the fact that we
3 went forward with meeting with Mr. Baker. I wanted to
4 clarify that at that meeting the morning of the 18th I
5 asked if the center could be present when Mr. Baker was
6 found for his interview, and I was told we could not.

7 I asked if the SBI would record the interview
8 with Mr. Baker, and I was told that was not their
9 policy, that they did not record interviews with
10 witnesses and they would not be recording their
11 interview with Mr. Baker. I then responded that I felt
12 it incumbent upon me to try and find Mr. Baker myself,
13 if that was the case. So I did give notice that I
14 would be trying to find Mr. Baker that afternoon.

15 Q. Okay. Thank you. When did you personally start
16 working on Joseph Sledge's case?

17 A. I've been -- Joseph first wrote the center, I think our
18 first letter was 2000. I started with the center in
19 2001. I don't think anything was really done with his
20 2000 letter. In the early years of the center the
21 letters tended to pile up for quite a while.

22 Q. Okay. But when did you personally start working on it?

23 A. 2004.

24 Q. And before you referred the case to the Commission, had
25 you done investigation on your own?

1 A. I had.

2 Q. And as part of that referral to the Commission, did
3 Mr. Sledge, with your advice and representation, waive
4 attorney-client privilege?

5 A. He did.

6 Q. And did he understand that that waiver included when
7 you represented him, and he was waiving privilege with
8 you up until the time the case was referred to the
9 Commission?

10 A. He did.

11 Q. All right. Now, in your conversations then with
12 Mr. Sledge, I assume you've spoken with him numerous
13 times?

14 A. Yes, I have.

15 Q. Has he ever admitted to you any involvement in the
16 murders of Josephine and Aileen Davis?

17 A. Never; never.

18 Q. I'd like to go through a little bit, a couple pieces
19 from your correspondence and interviews with
20 Mr. Sledge. Ms. Mumma, I'm handing you a couple of
21 different documents just all at once. If you'll just
22 glance through those and see if you recognize them, and
23 if you do, if you recognize them as being parts of your
24 file?

25 A. (Witness examines documents.) Yes.

1 Q. Okay. I'd like to start with the first document, which
2 is dated February 7, 2013. What is this document?

3 A. This is a summary of the interview that took place at
4 Pamlico Correctional between myself, Staff Attorney
5 Cheryl Sullivan, and Joseph Sledge.

6 Q. Okay. And how was this, was this interview, is this
7 the only documentation of this interview?

8 A. This is the only documentation. Our typical practice
9 is that we take handwritten notes during the interview.
10 Actually, I would conduct the interview and someone
11 else would take the notes so that we can have eye
12 contact for the person who is conducting the interview,
13 and then the memo be written from the notes later on.

14 Q. So having this memo, would that help refresh your
15 recollection as you testify about that interview?

16 A. Yes, it will.

17 Q. Okay. What was the purpose of this interview?

18 A. This interview was, we were going to the meeting with
19 the district attorney and I wanted to just get some
20 additional facts with Joseph. The way that we
21 typically work through these cases is, because we get a
22 lot of applications and there's a lot of cases that we
23 are not able to move forward. You know, we're trying
24 to find the evidence that might prove a case of
25 innocence, and then once that evidence is found, then

1 we really go into in-depth investigation.

2 The hair evidence was found in August of
3 2012, the test results came back in December of 2012,
4 and so this interview was February of 2013 once we
5 really knew we had the DNA evidence to prove his
6 innocence.

7 Q. All right. If you would go ahead and read the memo,
8 but if you'll just pause after you read a paragraph in
9 case I have a question about or if the commissioners
10 do.

11 A. We interviewed Joseph at Pamlico Correctional. CM,
12 that's Chris Mumma, began by explaining that we were
13 meeting with the DA on Thursday and wanted to make sure
14 we had a complete understanding of the facts and
15 details of the case prior to doing so.

16 Q. Please go ahead and go on.

17 A. 1974, while on escape, Sledge had a Coupe de Ville in
18 New York. He had escaped that time because of living
19 conditions in the prison. He was unable at that time
20 to adjust to prison life. He drove to Miami and got
21 arrested. He was in Dade County Jail. Joe Lewis had
22 the car. Sledge had signed it over to him. Sledge was
23 extradited to North Carolina.

24 Q. Okay. Go ahead.

25 A. In 1973 Sledge was given a four-year sentence for

1 stealing boxes of shoes, pants, et cetera, from an
2 expensive store in Fayetteville. He was only convicted
3 of receiving stolen goods, but he admits he is the one
4 who stole them.

5 In 1976 he jumped the fence at White Lake to
6 try to find Joe Lewis. He did not tell law enforcement
7 that is why he escaped because he did not want them to
8 know about the situation with the car.

9 Q. Did he tell you why he didn't want them to know about
10 the situation with the car?

11 A. No. I don't remember, recall any kind of discussion
12 about that.

13 Q. Okay. Please go ahead.

14 A. There were scuppernong grapes behind the unit. That
15 year they had not produced any grapes. He told law
16 enforcement he escaped to get the grapes because he
17 wanted to avoid talking about Joe Lewis.

18 I guess --

19 Q. You don't know why?

20 A. -- that would have been why he didn't want to bring up
21 the car, because he didn't want to bring up Joe Lewis.

22 Q. But do you know why he didn't want to bring up --

23 A. I don't.

24 Q. He didn't say?

25 A. (No audible response.)

1 Q. Okay. Please go ahead.

2 A. Sledge saw a long, black snake by the fence. He said
3 this is a sign he shouldn't have escaped.

4 Joe Lewis hung out in Virginia, so Sledge was
5 originally headed there to get his car. In
6 parentheses, this explains why he went north to
7 Fayetteville at first but changed course to go to South
8 Carolina when he found out he was wanted for the
9 murders.

10 Q. And is that parentheses your conclusion or what he
11 said?

12 A. That's our conclusion, it would be. It's in
13 parentheses.

14 Q. Okay.

15 A. Sledge discussed the trial. He said the other inmates
16 were trying to make it about racial hatred. He said
17 the trial -- the trail was cold and they had no one
18 else to blame. Sledge says he never hated white women.

19 Keep going?

20 Q. (Ms. Montgomery-Blinn nods head affirmatively.)

21 A. Sledge discussed the inmate he was having problems with
22 at White Lake, John Fowler, possibly, and then the DOC
23 number. Fowler was in jail for killing his wife. The
24 two got into it when they were doing road work. Fowler
25 got busted back to brown clothes as a result. Then he

1 was put back on Sledge's unit at White Lake. Sledge
2 says the incident should be in the records. He said
3 the prison system was not advanced back then. So that
4 is why Fowler was allowed back in the same unit -- on
5 the same unit, on the same unit.

6 When Sledge escaped he jumped the fence and
7 waited until dark. He walked up 701. He stopped at a
8 juke joint and spoke to two people. They had a 1955
9 Chevy. He was still in his green clothes. He did not
10 know them. If he knew them, he would have called them
11 as witnesses.

12 The juke joint was before the river, before
13 the intersection. Judge -- Sledge showed us where it
14 was on the map.

15 The road squad officer was Earl McClure. He
16 knew about Fowler and what had happened.

17 Q. Were you able to ever interview Earl McClure?

18 A. We did not.

19 Sledge ran across the bridge, Cape Fear River
20 bridge, in parentheses. He sat down around the
21 graveyard and waited. He walked into the city, in
22 parentheses, (Elizabethtown). He took clothes off the
23 line. He found a car with keys in it.

24 We go back to when he was at the juke joint.
25 The juke joint is on the same side of the road as White

1 Lake Prison Camp. After leaving the juke joint he
2 crossed the street. He was now facing traffic as he
3 walked down 701.

4 When he crossed the Cape Fear River bridge,
5 he crossed over the top of it. He went down under the
6 bridge right at the beginning to look around to see if
7 anyone was there. He didn't see anyone under the
8 bridge. He never saw any pillows, blankets, et cetera.

9 He knew the area from working on road crew.

10 Sledge never asked the victims for any water.
11 That was against the rules.

12 So that would have been in response to a
13 question we asked him.

14 Q. Okay.

15 A. He has seen folks on their porches while doing road
16 work.

17 Rome Martin was the law enforcement officer
18 who told Sledge about the case. He said they were
19 trying to hang the murders on Sledge. He said Sledge
20 was the prime suspect because they couldn't find the
21 perp. This conversation was in the car from Carthage
22 to Bladen for the theft case. He drove him again from
23 court to jail.

24 Q. Were you ever able to interview or locate Rome Martin?

25 A. He's deceased.

1 Sledge spoke to a few girls at a truck stop
2 in Fayetteville. He did not know them.

3 The paper said the murders happened at 4 a.m.

4 Sledge left the prison wearing Converse
5 sneakers from the prison. And then the next bullet, he
6 never changed his shoes.

7 Green prison pants. He took gray pants from
8 a carport near the sweater he took off the clothesline.
9 He put them on over the green pants. He later took
10 jeans from a clothesline in Fayetteville. He took the
11 green and gray pants off and put them in the bark of a
12 tree. He took police to the tree, and they got all of
13 the pants.

14 Green prison shirt, he took the woolen shirt
15 from the rig and stuffed the green shirt into the rig's
16 pipe. It was not there when he went back there with
17 law enforcement. He later took a sweater from a
18 clothesline. He put the woolen shirt in the
19 neighborhood nearby. He can't recall exactly where.

20 Underwear, he never changed his underwear.
21 Socks, he never changed his socks.

22 Sledge is left-handed. CM gave him a pen and
23 asked him to sign his name, and he grabbed it with his
24 left hand and signed. We never told him why we wanted
25 his signature on a blank paper.

1 He heard of one of law enforcement officers
2 say, there's ain't no way, in quotes, he could have
3 done all this with no blood on his clothes.

4 Two inmates said Sledge said he did it at
5 Caledonia Correctional. They were trying to piecemeal
6 a case.

7 He was never chased by dogs and never saw any
8 dogs.

9 He did not go by the Davis house.

10 His first trial was a mistrial. There was
11 one holdout juror, and the others were trying to
12 convince. That juror knew Aileen was raped from the
13 paper. Rome Martin knew she was sexually assaulted.
14 He believes he was not charged with the rape to get
15 around the death penalty. In parentheses, (research
16 indicates the death penalty was still not in effect
17 when the crimes happened, so it was not an issue.)

18 Sledge says his blood type is B positive. In
19 parentheses, (SBI lab reports indicate he is type A.)

20 Q. But that's not blood type A, that's the ABO typing A,
21 right?

22 A. Yes.

23 Q. Okay. Go ahead.

24 A. Yes.

25 His hand is seven-and-a-half inches long.

1 His feet are eleven inches long. In parentheses,
2 (research indicates both are average size for men.)

3 Sledge never met Baker. First saw him in
4 court.

5 He saw Sutton in the Cumberland County Jail.

6 He asked if we got a profile from Sutton's
7 sister yet. We told him we have not.

8 Q. And you never did, right?

9 A. We did not.

10 Q. Okay.

11 A. He believes the motive had to be rape. He thinks it
12 was someone in the family.

13 He never saw a purse on the side of the road.

14 He never had a handbag with him.

15 Q. Did you ask him, is that a question?

16 A. These are all answers to questions.

17 Q. Okay. Go ahead.

18 A. He wants to know how Baker knew about the pepper can.

19 He does not know Johnny Ray Benton or Elisha
20 Robinson.

21 Roscoe Smith sounds familiar, but he can't
22 place who he is. He may have known him in 1970-'71 in
23 Fayetteville, but he's not sure.

24 He met Willie Gamble in Oklahoma, in
25 parentheses, (interstate compact). Gamble knew Sledge

1 was baldheaded. Gamble knows the Fayetteville crowd.
2 He tried to put Sledge's case together post conviction.
3 He focused on the head hairs.

4 Q. Is Willie Gamble somebody that helped Sledge write a
5 post conviction motion?

6 A. Yes, while in prison.

7 Q. Okay. Go ahead.

8 A. Sledge was at Marion Correctional with Wallace Danner.
9 Danner knows Baker. Danner said Baker did Sledge
10 dirty. Danner volunteered to write the statement.
11 Sledge was with Danner when he signed the statement.

12 Q. And was that an affidavit, the statement?

13 A. From William Danner, yes.

14 Q. And is William Danner also known at Gator?

15 A. He is.

16 Q. Okay. Thank you.

17 A. Sledge was always a Muslim.

18 Sledge remembers being polygraphed in 1976 in
19 Fayetteville, in parentheses, and 1977, in parentheses,
20 Caledonia.

21 Sledge says Reuben Moore knew he was
22 innocent. Moore said it was a heinous crime and he
23 wouldn't take it if Sledge was guilty. Moore just
24 didn't have enough time to prepare.

25 CM explained that Mandy Locke would like to

1 do a story on the preservation of evidence, including
2 Sledge's case. Sledge gave his permission and CM said
3 she would set up an interview with Mandy in the future.

4 Q. Who is Mandy Locke?

5 A. Mandy Locke works for The News & Observer.

6 Q. Is that the end of that interview?

7 A. It is.

8 Q. Now, what's the next, the thing that's dated 3/22/13,
9 what is that, or 3/25?

10 A. 2/25/2013 interview with Joseph Sledge with Chris Mumma
11 and Mandy Locke.

12 Q. Okay. Was this also an in-person interview?

13 A. It was.

14 Q. And is this the only documentation?

15 A. Yes.

16 Q. Are there notes? You said there were notes. Are they
17 part of your file or are they destroyed?

18 A. They're destroyed.

19 Q. When you make the memo?

20 A. Yes.

21 Q. Why?

22 A. Because, you know, these memos are for our records. If
23 we're comfortable everything is in the memo, then the
24 notes aren't kept, just never have.

25 Q. Who was present for this interview?

1 A. I think that has to do with the fact that unlike --
2 well, I'll just say that if a case is going to go
3 forward for an innocence claim, we're going to have to
4 have -- my notes are going to be immaterial to proving
5 someone's innocence. So the memo is usually sufficient
6 for reporting the facts of an interview.

7 Myself and Mandy Locke and Joseph Sledge.

8 Q. And what was the purpose of this interview?

9 A. There had been numerous cases in North Carolina where
10 evidence has not been properly preserved or lost, and
11 Dwayne Dail's was one that Mandy Locke had reported on,
12 Willie Grimes was another. There have been other
13 cases, and Mandy was looking into a story on
14 preservation of evidence. The hair evidence had
15 recently been found in the clerk's office in this case
16 after basically 12 years of looking.

17 Q. Will you read just that fourth paragraph that begins
18 with t-shirt, the part that says he got the white t-
19 shirt?

20 A. He got the white t-shirt from the clothesline where he
21 got the jeans. He doesn't ever remember having a green
22 hat.

23 Q. What green hat are you asking about there?

24 A. There was a green hat collected in evidence. I believe
25 it might be in the clerk's office or maybe it was

1 referenced. I think it's referenced in a transcript or
2 a document. There was a green camouflage hat.

3 Q. And he doesn't recall wearing it?

4 A. We were trying to determine where the hat came from.

5 Q. And was he wearing a hat when he was arrested?

6 A. No. He doesn't remember ever wearing a hat. I can't
7 say whether he was wearing one, he doesn't remember
8 wearing one.

9 Q. He doesn't -- okay. Okay. And in this memo does it
10 say that he admits escaping from White Lake in 1971?

11 A. He jumped the fence at White Lake in 1971.

12 Q. Okay. And what does it say that he did, the next
13 paragraph after that, that goes, he went back to New
14 York. Would you read that paragraph?

15 A. He went back to New York after escaping and was there
16 1971 to 1974. While there he played a number on a
17 horse race and won \$12,000. He went to Dade County,
18 Florida with his friend where they put -- they were
19 stopped in a routine traffic stop and searched.
20 Paraphernalia was under the seat. They were put in
21 jail, but the charges were dropped because it was an
22 illegal search. Joe Lewis had come to the jail and
23 gotten Sledge's keys. He took off with the Cadillac.
24 When Joseph got out he decided he should go back to New
25 York. He was arrested there for escape when he was

1 with a friend who got pulled.

2 Q. Did he say why he escaped in 1971 from White Lake?

3 A. I believe in the prior interview he had said he just
4 couldn't adjust to prison life. He was a serial
5 escaper.

6 Q. If you will go to page 2 and read the first -- if you
7 can just read the first six paragraphs?

8 A. He got in a minor fight with Fowler while on a road
9 crew back at White Lake. They ended up taking away
10 Fowler's honor grade and putting him back to maximum.
11 Sledge knew Fowler had been done wrong and worried
12 Fowler would take it out on Sledge, so Sledge escaped
13 when Fowler came back. Fowler was in for killing his
14 wife and had a reputation. Sledge was only 147 pounds.

15 Sledge denied being involved in cults, hating
16 white women, or ever being violent. He says those
17 stories were made up to support Baker's story.

18 Sledge started shaving his head when he was
19 20 and always wore it shaved after that. It keeps it,
20 it's shaved for cleanliness and ease of care. Probably
21 got it from the Marine days. He grew up -- grew it out
22 only one time in 1996 for a prison picture.

23 He heard about the murders when he went to a
24 friend's house, Lafayette Smith in Fayetteville. Smith
25 read that they were looking for Sledge for the murders.

1 Joseph decided to go find his friend, Mr. Ralph Grisby,
2 in parentheses, at the Midland Technical Training
3 Center in Columbia where he had worked as a janitor.
4 He thought Grisby could help him approach the law in
5 the right way. Grisby knew about racism, how it could
6 impact things.

7 Joseph always believed if you get to a higher
8 level, people could see the truth and the facts. He
9 felt the prosecution tried to have undereducated people
10 on the jury so that it would be easier to pull the wool
11 over their eyes. He believes the prosecution and law
12 enforcement knew he was innocent, but they needed a
13 scapegoat.

14 Mandy asked him what he would do differently
15 if he could go back in time. He said he would find a
16 way to destroy Satan, and he would present a better
17 case at trial.

18 Q. So this time he's telling you that the reason for the
19 escape is the argument with Fowler. The last time you
20 said it was for the car, no mention of Fowler. Did he
21 ever reconcile that?

22 A. He's always told me that he left because of Fowler. If
23 that wasn't clear in the interview memo, then that was
24 our mistake, but he has always told me that it was
25 because of his fight with Fowler and his fear of Fowler

1 that he escaped the prison.

2 Q. Okay. So in the memo you just read when it says in
3 1976 he jumped the fence at White Lake to try to find
4 Joe Lewis --

5 A. He jumped the lake (sic) because -- he has always said
6 to me he jumped the lake because he was in fear of
7 Fowler and then was going to go find Joe Lewis to get
8 his car.

9 Q. Okay. And then when he said in the part you just read
10 about going to the friend's house, Lafayette Smith, in
11 Fayetteville and Lafayette Smith having read a
12 newspaper, were you ever able to confirm whether or not
13 there was a newspaper of that article at that time that
14 did name Sledge as a suspect?

15 A. We were able to confirm that there was an article.

16 Q. Okay. If you will, turn to the next.

17 A. (Witness complies.)

18 Q. And what is this?

19 A. If this is the correct one I'm looking at, it's a
20 letter from Joseph to me.

21 Q. Is it undated?

22 A. It is, although he writes, I just received your letter
23 dated 2/14 this morning, 3/1.

24 Q. And will you read in there the items that he's marked
25 as 3 and 4, and is he responding to questions that you

1 had asked him?

2 A. He is responding to questions I am asking him. 3, that
3 t-shirt came from a clothesline in Fayetteville in the
4 same area where those pants and prison pants were
5 found. 4, no green hat or boots.

6 Q. So are you asking him about the clothing he was
7 arrested in?

8 A. There was a t-shirt. I believe there was a picture of
9 a t-shirt in the file we obtained that, from the SBI
10 that had a white t-shirt with a cartoon character or
11 something on it.

12 Q. Okay. And what does he mean by no green hat or boots,
13 or what were you asking that he's responding to?

14 A. Did he ever have a green hat or wear boots?

15 Q. Okay. Why were you asking him about a green hat or
16 boots?

17 A. The green hat was referenced in documents, and the
18 boots must have been as well.

19 Q. Okay. I'm going to hand you a document. If you'll
20 just tell us what it is, and then read just number 10.

21 A. The document is dated September 30, 1976. It's from
22 Special Agent Lee E. Sampson with the North Carolina
23 Department of Justice, Bureau of Investigation. It is
24 an investigative document regarding the Davis murders.

25 Q. And what does it say for item number 10 on that report?

1 A. If I could read, the type of case is indicated as a
2 murder, rape, robbery. Number 10 say green camouflage
3 hat from Joseph Sledge, Jr., by Max E-2 (sic), North
4 Carolina Department of Corrections, September 10, 1976,
5 and received by reporting agent.

6 Q. Is that the hat that you were asking about?

7 A. I believe so.

8 Q. And he's just not remembering it?

9 A. He's just not remembering. He says he never had a hat,
10 but if there was any hat, it may have been in the car
11 that he stole.

12 Q. And do you know what boots you're asking about?

13 A. I don't recall.

14 Q. Okay. All right. If you'll go ahead and turn to the
15 next document, this one is dated March 22. And what is
16 this a document of?

17 A. This is a memo regarding my interview with Joseph
18 Sledge. At the time I took Bob Drdak to Pamlico Prison
19 to conduct a polygraph.

20 Q. Okay. And was this an in-person interview?

21 A. It was.

22 Q. And is it documented the same way you describe as the
23 other interviews?

24 A. Yes.

25 Q. And who was present?

1 A. Joseph Sledge, myself, and Bob Drdak.

2 Q. And you said the purpose of the interview was a
3 polygraph?

4 A. Correct. It also documents my phone conversation with
5 Joseph on the 19th.

6 Q. Okay. Would you go back and read the first page down
7 to the last, the second-to-last paragraph where you
8 asked if he ever owned a knife.

9 A. I met Bob Drdak at Pamlico Prison at 9 o'clock on
10 Thursday, March 14 for Joseph's polygraph.

11 I asked Joseph again about the green cap and
12 told him that an officer who chased him after he ran in
13 Fayetteville noted that Joseph was wearing a green cap.
14 Joseph said he's never owned a hat, but he may have put
15 on a hat that was in the car. He does not remember.

16 I explained to Joseph that the DA may want to
17 test the hairs that were found on the sweater and the
18 pants. He is not concerned about anything they want to
19 test and says they should test whatever they want.

20 I asked Joseph if the scrapes on his knuckles
21 when he picked -- he was picked up were from the way he
22 does pushups, and he said he got those scrapes from
23 working on the road crew in the gravel.

24 I asked Joseph how he knew he was wanted for
25 murder. He heard he was wanted for the murders from

1 Lafayette Smith, who had seen it in the papers.

2 He thinks he knows Roscoe Smith from the
3 streets. He could be a Vietnam vet. Sledge met a lot
4 of people on the streets of Fayetteville while in the
5 Army.

6 Lafayette Smith is probably five years older
7 than Sledge. He is black, and his mother was a
8 registered nurse. They met in the poolroom. I told
9 Sledge that Smith said Sledge had a couple handbags
10 with him and was trying to sell them. Sledge thought
11 about it for a while and then remembered he stole the
12 handbags from a small store in Fayetteville and then
13 sold them on the streets for gas money.

14 Sledge says he never borrowed checkered pants
15 from June Bug Waters and never had worn checkered
16 pants.

17 I asked Sledge if he knew Shirley Allen, and
18 he lit right up and said that was the woman at the rest
19 stop in Fayetteville. He wants us to find her because
20 she might remember seeing him that night and would be
21 an alibi for the time he was in Fayetteville. In
22 parentheses, it's doubtful she would remember anything
23 if we could find her.

24 Q. And just read that last part.

25 A. I asked Sledge if he's ever owned a knife or had a

1 knife, owned or had a knife. Sledge is adamant that
2 he's never had a weapon of any kind and has never had a
3 knife.

4 Q. So when you asked about Shirley Allen, where did you
5 get that name? How did you know to ask about Shirley
6 Allen?

7 A. I'm sorry, I can't recall.

8 Q. Okay. Do you know if you ever did find Shirley Allen?

9 A. We did not.

10 Q. Did you look for her?

11 A. We did, but it's a common name.

12 Q. So you don't know if she was deceased or living, you
13 just were never able to narrow it down?

14 A. I don't think so.

15 Q. And were you ever able to interview her or did you look
16 for Lafayette Smith?

17 A. I'm sure we did, and I don't remember interviewing him.

18 Q. All right. What was asked at the polygraph?

19 A. Do you want me to read the questions?

20 Q. Yes.

21 A. So I'll just start with Mr. Drdak spent at least a
22 couple hours with Mr. Sledge preparing before this
23 polygraph was given. I think the whole thing took
24 almost three hours, and I was not in the room for the
25 polygraph. I was out of the room. So I would have to

1 read from the report.

2 Q. Okay.

3 A. The questions that were asked, after leaving the prison
4 camp, did you enter the house where those Davis women
5 lived? Answer, no.

6 Next question, did you cut or stab either of
7 those Davis women in September 1976. Answer, no.

8 Q. And what was the, what was the result or what was the
9 opinion of the examiner?

10 A. No deception indicated.

11 Q. And what were the numerical values?

12 A. It was, it was -- I'm sorry, it was also reviewed, the
13 questions and the report were reviewed by an
14 independent examiner, Mr. James Walker, who reached the
15 same conclusion, no deception indicated.

16 Q. Okay. And then on the next page does it have a
17 numerical score?

18 A. Yes. The passing score, a total final score of plus
19 three or higher positive number for every relevant
20 question is considered passing. For question A he had
21 a plus seven, for question B he has a plus five.

22 Q. Okay. Now, in that same memo that you were looking at
23 just a minute ago, is there documentation on the next
24 page about a March 19 phone call?

25 A. Yes.

1 Q. What was the purpose or, first off, who was calling
2 who?

3 A. I was calling him.

4 Q. You were calling Joseph Sledge?

5 A. Yes. He's never called me.

6 Q. Okay. And what was the purpose of this phone call?

7 A. This was the day or the afternoon that I, of the day I
8 met with Herman Baker and recorded the interview, and
9 it was to tell him about Herman Baker.

10 Q. Can you read the first two paragraphs, the one that
11 begins with March 19th, that one and the next one?

12 A. On March 19th I spoke with Joseph Sledge by phone at
13 1:30 p.m. When I told him we had spoken with Herman
14 Baker and Herman said Sledge never admitted the
15 murders, Sledge said he knew Herman would tell the
16 truth at some point. When I told him that Herman said
17 the details were fed to him, Sledge said we really
18 stirred up a mess now.

19 Q. Can you read the next --

20 A. He doesn't remember ever meeting Baker before, not at a
21 rest stop, in prison, or anywhere else. He said that
22 he doesn't -- he's not saying he didn't, but he doesn't
23 remember ever knowing him. He also doesn't remember
24 that he ever sold soap to inmates in prison. He said
25 he worked at the soap plant, but he doesn't remember

1 that he sold soap.

2 Q. Has Mr. Sledge always maintained to you that he did not
3 know who Baker was prior to the trial?

4 A. Yes, he has. Mr. Sledge is very specific about using
5 the word, know, though. He says when Mr. Baker got on
6 the stand at trial he recognized that he had seen him
7 before, but that he's never known him.

8 Q. Okay. All right. Can you look at the next document
9 dated, March 19, 2013?

10 A. (Witness complies.) Yes.

11 Q. And it begins with Reuben Moore?

12 A. Reuben Moore --

13 Q. Oh, just what is this document?

14 A. It's a letter. It's part of a letter from Joseph.

15 Q. Okay. And will you read us the second paragraph?

16 A. I don't remember Baker from nowhere. I don't remember
17 Baker at Carthage Prison Camp where he said I made
18 criminal statements about the murder, not in the
19 streets, too. My personal honest opinion about this
20 case is that they knew Baker was lying, and they gave
21 support to help get a conviction and \$3,000. But the
22 fact is, how could you prove it? The first time I saw
23 Baker was in court.

24 Q. Okay. So do you understand that to mean he didn't know
25 him from the streets, he didn't recognize him, this is

1 it?

2 A. Yeah.

3 Q. Okay. All right. The next document is dated, April 5,
4 2013. What is this?

5 A. This is a letter from me to Joseph.

6 Q. Okay. And will you read this starting with the second
7 paragraph through the third paragraph of the second
8 page?

9 A. I want you to know that I did not have to do anything
10 to get Herman Baker to come clean, other than find him.
11 My guess is that he has been thinking about this since
12 I spoke to him in 2010. Before that it had been over
13 30 years since he had to think about the case and what
14 he did. When we found him on March 18 all I had to do
15 was say hello and that we had physical evidence that
16 supported your innocence, and he started talking.

17 He is very worried that you hate him for what
18 he did, Joseph, but I've told him that you don't have
19 hate in your heart. I also told him that you
20 understand the kind of pressure that can be put on
21 people, particularly people who are at low points in
22 their lives. Herman was a drug user who was in
23 solitary when they approached him with an offer for a
24 lot of money and reduced sentence to testify against
25 someone they said was guilty. I think it would be very

1 helpful to him if you would write him a letter and send
2 it to me so I can pass it on to his attorney. He needs
3 to know he has nothing to fear from you.

4 Q. Why did you think that -- did Mr. Baker say that he was
5 afraid of Mr. Sledge?

6 A. Yes.

7 Q. Okay.

8 A. During our interview. He was feeling horrible and was
9 in fear.

10 Q. What was he -- did he say what he was in fear of
11 specifically?

12 A. I guess just during the interview he was more in fear
13 of people in the neighborhood, people knowing that he
14 had snitched. I talked to, I also talked to
15 Mr. Richardson after Mr. Richardson became counsel, and
16 Mr. Richardon told me that Herman was wracked, is the
17 word he used, wracked with guilt and fear of how Joseph
18 would react if he got out.

19 Q. He's afraid that Joseph Sledge would hurt him?

20 A. After spending 36 years in prison I could see how that
21 would be a fear.

22 Q. But not just your opinion that you could see that, is
23 that what he was expressing?

24 A. That's what Mr. Richardson expressed to me.

25 Q. Okay. All right. Can you please go ahead and just

1 read a little bit more?

2 A. I do have a few questions I'd like you to respond to.

3 Do you ever remember hearing dogs chasing you after you
4 escaped?

5 Q. Why were you asking that?

6 A. There must have been something in the report about
7 dogs, so I wanted to know whether he ever heard dogs.

8 Q. Okay. Please go ahead.

9 A. We interviewed Robert Washington recently. He strongly
10 believes in your innocence, but he remembers you
11 telling him that you used black pepper to throw off
12 scent from the dogs. Do you remember that?

13 Have you ever heard or talked to anyone about
14 the fact that some Muslims believe black pepper can
15 provide protection from devils?

16 Do you remember talking to Washington about
17 Imps and the Jinn? What can you tell me about those
18 things?

19 You've told me that you never talked about
20 she-devils and white devils. Are you sure about that,
21 Joseph? I don't judge who you are now based on what
22 you might have believed at one point in your life, but
23 I need to know so I can address the issue if it comes
24 up.

25 When you heard that family members were

1 rumored to have been involved in the murders, did you
2 hear any details about who or why?

3 Q. Why were you asking him all these questions again or
4 now in 2013 about she-devils, white devils, Imps, Jinn,
5 black pepper?

6 A. I believe this was after we got the SBI files. So we
7 were just seeing new documents about the investigation.

8 Q. Okay. And did he respond to your letter?

9 A. He did.

10 Q. And is that the next document?

11 A. It is.

12 Q. Would you read that?

13 A. Dear Ms. Mumma, I hope you are well. I am very glad
14 you did what you did finding Baker. Sometimes it takes
15 courage to admit to your own wrongdoings, and he did.
16 God forgives, why can't I? You told him correctly. I
17 do not harbor animosity toward the human being. People
18 do what they do. Life goes on until God doth decide.

19 About those questions, I don't remember
20 seeing a dog out that night. I had my mind focused on
21 getting to the city.

22 I don't know a Robert Washington. If I did,
23 I wouldn't be telling tales like that. The first time
24 I heard that statement was when Baker was telling the
25 jury his testimony about the pepper can. Who on God's

1 earth thought up that one, pray tell me. Ms. Mumma,
2 these people are making all this stuff up as far as me
3 being involved. These lies came out of the court
4 during trial. I'm sure about that. We all are here to
5 learn and well enough life experience is the teacher.

6 When I heard that a family member was the
7 suspect was when Sheriff Rome Martin told me on our way
8 to court. I was being transported for an auto theft
9 charge. It was said someone was being taken out of
10 Josephine Davis' will.

11 The SBI file I found where four unsolved
12 murders were -- I'm sorry, were --

13 Q. Mounting?

14 A. -- mounting in Bladen County. Election time was
15 approaching and none of these cases was solved. The
16 authorities became desperate to make it fit. So here I
17 am convicted and unaquitted. You asked John David to
18 reopen cases where those investigators used informant
19 testimony. I can see where this is going. I wish you
20 the very best. I'll be seeing you in a court of law.
21 Yours truly, Joseph Sledge.

22 Q. And I think I might have asked you this already, but
23 you said Rome Martin is deceased?

24 A. He is. His son is living and is a law enforcement
25 officer.

1 Q. Okay. And the next thing or the next document is dated
2 the same date, what is that?

3 A. It's a letter to Herman Baker.

4 Q. Can you read it? It's from Joseph Sledge?

5 A. It's from Joseph Sledge. This is the letter in
6 response to my letter.

7 Dear Baker, thank you for confessing to the
8 innocent project about this case. I hold no animosity
9 toward you for being influenced by the law, you can
10 rest your faith on that. God knows all. I am grateful
11 for Ms. Mumma for putting a stop to these fabrications
12 and criminal matters. Thank God, you came clean.
13 Sincerely, Joseph Sledge.

14 Q. Did you give this to Mr. Baker?

15 A. I gave that to Mr. Richardson.

16 Q. Did Mr. Richardson ever indicate whether he gave it to
17 Mr. Baker?

18 A. I don't recall.

19 MS. MONTGOMERY-BLINN: Commissioners, do you
20 have any questions?

21 (No response.)

22 MS. MONTGOMERY-BLINN: No? All right.

23 A. I have a couple other letters. Can I just read a
24 couple things that he has written?

25 JUDGE SUMNER: Go ahead.

1 A. Is that okay?

2 JUDGE SUMNER: Yes.

3 A. This is a letter from June of 2006. Do you understand
4 what kind of situation this is? I was taught the truth
5 will eventually come to the light, but not this long of
6 time. I hope and pray with all my heart and soul the
7 situation will be dealt with honestly. God's will.
8 Thank you, ma'am, very, very much. Hope to be hearing
9 from you real soon.

10 I'll just read one more thing. This was a
11 letter I wrote to him in April of 2013. Oh, I'm sorry.
12 We've already covered that one. This is a different
13 one.

14 This is March of 2012, March 26, 2012, and I
15 wrote to Mr. Sledge and said, I understand that you
16 believe that I should pursue Mr. Baker further with the
17 hope that he will change his statement or can be
18 tricked, in quotes, into changing his statement.

19 I'm sorry that I cannot agree to lie to a
20 witness to try to induce them into changing sworn
21 testimony. A recantation obtained in that way would
22 not be considered credible by a court. Although that
23 technique is used by law enforcement during
24 investigations, the post conviction standards of
25 proving innocence are different.

1 Q. So was your client asking you to lie to Mr. Baker?

2 A. He was asking me to --

3 Q. Obtain a --

4 A. He was saying -- actually, what he said was Mr. Baker
5 got \$3,000 to lie. Why can't you give him something to
6 tell the truth?

7 Q. But your response is that you can't lie to him, not
8 that I can't give him money to tell the truth.

9 A. I can go back to his letter and ask me what he -- what
10 he wanted me to do, but --

11 Q. Okay. Go ahead.

12 A. He wanted me to convince Herman Baker to tell the
13 truth.

14 Q. Do you have the letter?

15 A. Sure. Actually, these are all letters.

16 Q. If you could just read that one?

17 A. I won't read them all.

18 Q. Okay. Just the one specific part of that one letter.

19 A. (Witness examines document.) I'll have to find it.

20 I'll keep looking for it, and then I can come back to
21 that.

22 Q. Okay. If you'll find it and point it out to me, then I
23 can determine whether it needs to be a handout.

24 A. Okay.

25 Q. Okay. Thank you.

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JUDGE SUMNER: Thank you, ma'am.

MS. MONTGOMERY-BLINN: I believe we need to adjourn for the day, is that right, Your Honor?

JUDGE SUMNER: We will be in recess until tomorrow morning at 9:00 a.m. Thank you.

(THEREUPON, THE HEARING WENT INTO RECESS AT 4:03 P.M.)

STATE OF NORTH CAROLINA)
) C E R T I F I C A T E
COUNTY OF CABARRUS)

I, Ira Anderson, do hereby certify that the foregoing hearing was taken and transcribed by me; and the foregoing 191 pages constitute a true and accurate transcript of the proceeding.

I do further certify that the parties were present as stated in the caption.

I do further certify that I am not of counsel for or in the employment of either of the parties to this action, nor am I interested in the results of said action.

This the 11th day of February 2015.

Ira Anderson
Electronic Signature
Ira Anderson
Notary Public No. 19973380004