

1 Q. By whom are you employed?

2 A. By the Mississippi Bureau of Investigations.

3 Q. And in what capacity are you employed?

4 A. As a special agent.

5 Q. And were you employed by them on
6 December 26th -- my mind's wandering -- 2001?

7 A. I was.

8 Q. And in what capacity were you employed by
9 them at that time?

10 A. As a special agent.

11 Q. On that evening, did you have occasion to be
12 called to an investigation in Jefferson Davis County,
13 Mississippi?

14 A. I was.

15 Q. All right. And was that on Mary Street in
16 Prentiss?

17 A. That is correct.

18 Q. And what was the purpose of being called to
19 that scene?

20 A. A death investigation where a police officer
21 was fatally shot while serving a search warrant.

22 Q. And is this a common occurrence for the
23 Highway Patrol, as an outside agency, to be called in
24 to do an investigation if an officer is killed in a
25 particular department in the line of duty?

26 A. It is.

27 Q. All right. Now, that evening, did you go
28 there?

29 A. I did.

1 Q. What other Highway Patrol officers responded
2 there? What other investigators responded there with
3 you?

4 A. Special Agent Darrell Perkins and Agent Eric
5 Johnson.

6 Q. And when you arrived at the scene, were you
7 briefed by the officers on the scene with respect to
8 what had happened?

9 A. Just Johnson. Agent Johnson, I spoke with
10 him briefly.

11 Q. Okay. And had you -- were you advised that a
12 suspect was in custody?

13 A. That is correct.

14 Q. And were you advised as to who that suspect
15 was?

16 A. Not by name at that time; only that one was
17 in custody.

18 Q. All right. And did you learn where he was in
19 custody, where he was being held?

20 A. That is correct, at the Jeff Davis County
21 Sheriff's Department.

22 Q. All right. Did you have occasion to proceed
23 to the Jeff Davis County Sheriff's Department?

24 A. I did.

25 Q. And when you got there, did you have occasion
26 to determine whether or not the suspect wanted to be
27 interviewed?

28 A. Myself, Special Agent Perkins escorted Mr.
29 Maye down to a interview room. At that time, he was

1 Mirandized, given the opportunity, he did agree, and
2 he was interviewed.

3 Q. And was that interview tape-recorded?

4 A. Audiotape, yes, sir.

5 Q. All right. Do you see Mr. Maye in the
6 courtroom today?

7 **MS. COOPER:** Your Honor, we would object
8 to this continuous reference. I think the
9 witnesses before have already identified Cory
10 Maye as the defendant, he's sitting here at
11 defense table, and we would just object to
12 each witness having to identify Cory Maye for
13 the record.

14 **THE COURT:** All right. Overruled.

15 **MR. McDONALD:** Thank you, Judge.

16 **BY MR. McDONALD:**

17 Q. Do you see Mr. Maye in the courtroom today?

18 A. Yes, he's to my left.

19 **MR. McDONALD:** All right. I'd like the
20 record to reflect that he's identified the
21 defendant.

22 **BY MR. McDONALD:**

23 Q. Do you have with you the original Miranda
24 warning statement?

25 A. I do.

26 Q. All right. Could I see that, please? I show
27 you this and ask if you can identify it.

28 A. Yes, that is the Miranda form that was used
29 for Cory Maye's interview.

1 **MR. McDONALD:** All right. We'd like to
2 offer this into evidence and have it marked.

3 **THE COURT:** All right. Be the next
4 exhibit.

5 **[ADVICE OF RIGHTS FORM WAS MARKED**
6 **EXHIBIT NUMBER 22 AND RECEIVED IN EVIDENCE.]**

7 **BY MR. McDONALD:**

8 Q. Now, did you present that to Mr. Maye? Did
9 you read that to him?

10 A. Yes.

11 Q. And could you start at the top and read all
12 the printed and handwritten material on that page.

13 A. Top left: "Name, Cory J. Maye. Address,
14 Route 2, Box 188, Monticello, Mississippi. Social
15 Security number 425-39-8920. Date of birth,
16 09/09/80. Education, eleventh. Place, Jeff Davis
17 County jail. Date, 12/27/01. Thursday, time 0148
18 hours."

19 Also at the top it has, "Criminal
20 Investigation Bureau interrogation, advice of
21 rights." Would you like me to --

22 Q. I want you to read everything on the page.

23 A. "Before we ask you any questions, you must
24 understand your rights. You have the right to remain
25 silent. Anything you say can be used against you in
26 court. You have the right to talk to a lawyer for
27 advice before we ask you any questions and have a
28 lawyer with you during questioning. If you cannot
29 afford a lawyer, one will be appointed for you before

1 any questions if you wish. If you decide to answer
2 questions now without a lawyer present, you still
3 have the right to stop answering at any time. You
4 also have the right to stop answering at any time
5 until you talk to a lawyer."

6 And at that point, he was asked, if he
7 understood that, to put his initials at the end.

8 Q. All right. And did he put his initials
9 there?

10 A. He did.

11 Q. And did he do that in your presence?

12 A. He did.

13 Q. All right. And what happened then?

14 A. At that time, I advised him I was going to
15 read him his waiver of rights. "I read this
16 statement of my rights and understand what my rights
17 are. I am willing to make a statement and answer
18 questions. I do not want a lawyer at this time. I
19 understand and know what I'm doing. No promises or
20 threats have been made to me and no pressure or
21 coercion of any kind has been used against me."

22 Q. All right. And did Mr. Maye sign that?

23 A. He did.

24 Q. And did he sign that in your presence?

25 A. He did.

26 Q. And then I see you and Agent Perkins signed
27 as witnesses?

28 A. That is correct.

29 Q. Now, can you see it from there?

1 A. Yes.

2 Q. And those initials CJM, those initials were
3 placed there by him, right?

4 A. That is correct.

5 Q. All right. And at the bottom, under the
6 waiver of rights, that's his signature down there?

7 A. That is correct.

8 Q. All right. After this -- did you or officer
9 -- did you or Agent Perkins do anything to threaten
10 him or coerce him or did you promise him anything in
11 order to get him to do the waiver or give you a
12 statement?

13 A. No, sir.

14 Q. All right. And do you have with you the
15 tape-recording of that statement?

16 A. I do.

17 Q. And have you had an occasion to listen to
18 that?

19 A. I have.

20 Q. And is that a true and accurate -- has it
21 been changed or deleted in any way?

22 A. No, sir.

23 MR. McDONALD: All right. Judge, we'd
24 like to offer that into evidence and play
25 that for the jury.

26 THE COURT: All right. No objection, it
27 will be Exhibit 23, I believe.

28 [TAPE-RECORDING OF INTERVIEW WAS MARKED
29 EXHIBIT 23 AND RECEIVED IN EVIDENCE.]

1 **MR. McDONALD:** Now, the only issue I
2 have is for the court reporter, and that
3 would be do you need to move a microphone
4 closer to this so that it would be easier for
5 you to hear it?

6 **THE REPORTER:** Do I need to take it
7 down?

8 **MR. McDONALD:** Well, I don't know that
9 you need to take it down.

10 **THE COURT:** No, it won't be necessary to
11 take it down.

12 **[TAPE-RECORDING, EXHIBIT 23, WAS PLAYED**
13 **FOR THE JURY.]**

14 **BY MR. McDONALD:**

15 Q. Now, Officer Stone, I believe that Officer
16 Eric Johnson, also with the Highway Patrol, was at
17 the house. Is that correct?

18 A. That is correct.

19 Q. And did he basically work the crime scene and
20 collect articles to show the crime scene?

21 A. Yes, he was the custodian of the evidence and
22 any notes that were taken as far as measurements.

23 Q. All right. And did you go to the -- did you
24 go through the house sometime that evening?

25 A. Yes, but mostly I concentrated in the bedroom
26 area.

27 Q. Okay. Let me ask you just a couple of
28 questions about the statement. As you went through
29 the -- as you went through the house, did you go in

1 each of these rooms?

2 A. No, I did not. Not in each and every room,
3 no.

4 Q. Did you go in the living room?

5 A. Yes, I walked to the living room there at the
6 end where the bar is, like you're coming out of the
7 bedroom, and I could observe the kitchen and then
8 basically I just walked back into the bedroom area.

9 Q. Okay. And was the only couch in there the
10 couch in the living room?

11 A. Yes.

12 Q. All right. And the only bed -- well, where
13 was the only bed you saw?

14 A. Of course, in the bedroom, and that was -- to
15 the left of the bed is the backdoor entrance to the
16 residence, and I would say that was in the back of
17 the house.

18 MR. McDONALD: Okay. I believe that's
19 all the questions I have for Officer Stone.

20 THE COURT: Okay.

21 *****

22 CROSS-EXAMINATION

23

24 BY MS. COOPER:

25 Q. Good afternoon, Agent Stone.

26 A. Good afternoon, ma'am.

27 Q. I'm Rhonda Cooper.

28 A. Yes, ma'am.

29 Q. Now, the statement that Cory Maye gave to you

1 was on that Thursday morning, December 27th?

2 A. That was on -- that is correct.

3 Q. And that was within two or three hours of the
4 incident. Isn't that correct?

5 A. Yes, ma'am.

6 Q. Okay. And the statement was given to you
7 voluntarily, right, Agent Stone?

8 A. That is correct.

9 Q. He was very forthcoming about the
10 information?

11 A. Yes, ma'am.

12 Q. Did he appear to be honest in what he shared
13 with you?

14 A. Yes, ma'am.

15 Q. And that statement, the tape-recorded
16 statement, was transcribed to a written statement or
17 a typed statement, correct?

18 A. That is correct.

19 Q. Now, Agent Stone, did you go into this
20 apartment before or after you took Cory Maye's
21 statement?

22 A. Would you mind repeating that?

23 Q. Did you go into Cory Maye's apartment before
24 or after you took his statement or he gave to you his
25 statement?

26 A. I went in there after the statement.

27 Q. Okay. And I'm just curious, Agent Stone, do
28 you recall there being a table here at this door? Do
29 you recall that?

1 A. A night stand?

2 Q. Yes, sir.

3 A. Yes.

4 Q. Okay. Thank you. And was there one on the
5 other side? Were there two to your recollection?

6 A. I don't remember the one against the wall so
7 much because I remember the one to -- if you're
8 looking at it the way we're looking at it, the one
9 next to the door because of where one of the shell
10 casings was located.

11 Q. Okay. Thank you. Now, I just want to
12 confirm for the jury that when you spoke with Mr.
13 Maye that morning that he did tell you that had the
14 police knocked, he would've opened the door. Isn't
15 that correct?

16 A. That's what he stated, yes, ma'am.

17 Q. And he said that had they knocked and said
18 who they were, that this would not have happened. He
19 would not have shot a police officer.

20 A. I believe his statement was that if they had
21 knocked on the door and he knew who they were, he
22 would've let them in.

23 Q. And he told you that he was scared?

24 A. That is correct.

25 Q. And that he ran from the front room to the
26 back room.

27 A. Yes, ma'am. The front room being the room
28 with the couch, yes, ma'am.

29 Q. And he did this to protect himself and his

1 daughter.

2 A. I believe he ran -- I don't know --he did not
3 say he ran to the back room to protect himself. He
4 only made reference that upon hearing the noise, he
5 left the couch where he was asleep and went to the
6 bedroom.

7 Q. Because he was afraid.

8 A. I'm assuming from the noise, yes, ma'am.

9 MS. COOPER: Okay. Thank you, Agent
10 Stone.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: Is that all?

13 MS. COOPER: Yes, sir.

14 MR. McDONALD: Nothing on redirect. And
15 we call Eric Johnson.

16 THE COURT: All right. You may step
17 down.

18 [WITNESS EXCUSED]

19 *****

20 ERIC JOHNSON,
21 called as a witness by the State of Mississippi,
22 after having been first duly sworn, testified as
23 follows:

24
25 DIRECT EXAMINATION

26
27 BY MR. McDONALD:

28 Q. Would you state your name, please.

29 A. Eric Johnson.

1 Q. And by whom are you employed?

2 A. The Mississippi Bureau of Investigation.

3 Q. Were you employed by them on December 26,
4 2001?

5 A. Yes, sir, I was.

6 Q. And during that month or on that date, did
7 you have occasion to be called to Prentiss,
8 Mississippi, to conduct an investigation with respect
9 to the shooting of an officer?

10 A. That is correct, I did.

11 Q. And when you arrived at that location, what
12 was the principal part that you played in doing that?

13 A. Upon my arrival on the date in question, when
14 I arrived, Chief Deputy Ronnie Barnes with the
15 Jefferson Davis County Sheriff's Department informed
16 me that in an execution of a search warrant where
17 several officers were involved, that a particular
18 officer named Ron Jones had sustained a gunshot
19 wound. And when I arrived, at that time I was
20 notified that Officer Jones had died as a result of
21 his injuries.

22 Q. And were you involved in the collection of
23 evidence?

24 A. Yes, I was.

25 Q. And the investigation of the crime scene. Is
26 that correct?

27 A. Yes, I was.

28 Q. All right. If you can put the photograph of
29 the front of the house up.

1 And do those -- you recognize that
2 photograph?

3 A. Yes, sir, I do.

4 Q. And what is that a photograph of?

5 A. At 1728 Mary Street where this occurred,
6 there was a duplex-style home. And the right side or
7 the porch light that you see on, this is the
8 residence in which the apartment number one was
9 located. In fact, where the suspect, Mr. Maye, had
10 been taken from and the incident occurred at that
11 one.

12 Q. All right. And would you show the photograph
13 -- there's a close-up of the front. Would you put
14 that.

15 **MR. McDONALD:** What exhibit number is
16 that?

17 **MR. RICKEY RAWLS:** The close-up is
18 number 5.

19 **MR. McDONALD:** Number 5. And what was
20 the other one?

21 **MR. RICKEY RAWLS:** Number 1.

22 **BY MR. McDONALD:**

23 Q. All right. That first photograph you
24 identified was Exhibit Number 1. Is that correct?
25 Well, that is correct. Just to tie them into the
26 record. I'll put up Exhibit Number 5, and I'd ask
27 you to look at what's been marked Exhibit Number 5 in
28 evidence, ask if you can identify that.

29 A. That photograph appears to be a closer shot

1 of the previous one we saw depicting the front door.

2 Q. All right.

3 MR. McDONALD: Rickey, if you would, put
4 on the photograph of the back of the house.
5 And which number is that, Rickey?

6 MR. RICKEY RAWLS: Exhibit Number 4.

7 BY MR. McDONALD:

8 Q. Ask you if you can identify Exhibit Number,
9 what's been marked as Exhibit Number 4 in evidence.

10 A. Yes, I can identify that picture.

11 Q. And what is that?

12 A. That is the backside of the house basically.
13 In fact, the door that is ajar, that is the backdoor
14 entrance into the back bedroom.

15 Q. Now, I'm going to show you what has been
16 marked as Exhibit Number 2 and ask if you can
17 identify that.

18 A. Yes, I can.

19 Q. And what is that?

20 A. That's a closer shot of the previous
21 photograph depicting the back of the house. It was
22 from a little bit different angle taken into the back
23 bedroom. As you look through the door, you will see
24 what appears to be two other doors open in the back
25 bedroom. Those two doors are closet doors, as I
26 recall.

27 Q. All right. Now, I'm going to direct your
28 attention to a dark object on the floor right there.
29 Can you tell us what that is.

1 A. Based on what I can see, that possibly --
2 that appears to be the firearm. The handgun, I
3 believe.

4 Q. I assume you -- I assume you made a detailed
5 progress into the house. Is that correct?

6 A. Yes, sir, once we -- actually, we secured the
7 scene, prepared a search warrant to preserve the
8 integrity of the evidence therein. And once the
9 search warrant was signed, that's when we made
10 entrance for the purpose of collection of evidence
11 and photographing inside the residence.

12 Q. Now, there'd been a previous search warrant,
13 but this search warrant was because it was a homicide
14 scene. Is that correct?

15 A. That is correct, sir.

16 Q. You didn't have the other search warrant.

17 **MS. COOPER:** Objection, Your Honor.
18 Could Mr. McDonald just ask his witness
19 questions without leading him?

20 **THE COURT:** That's right. Sustained as
21 to leading.

22 **BY MR. McDONALD:**

23 Q. What did you go get to entitle you to go into
24 the house?

25 A. A search warrant.

26 Q. Who did you get that search warrant from?

27 A. Through Judge Donald Kruger. That was my
28 first time to meet Judge Kruger, but he signed our
29 search warrant.

1 Q. And did you get that before you went through
2 and did your crime scene?

3 A. We did get that prior to going into the
4 residence and collecting evidence.

5 Q. Did you begin by -- how did you begin going
6 through the house?

7 A. As I recall, we made a cursory look through
8 the house. But when we entered the back, we
9 documented the time we entered. I can reflect those
10 times based on my notes. If I may have the
11 opportunity at this time.

12 Q. Sure.

13 A. As I reflect in my notes, approximately four
14 a.m. on the 27th, the early morning hours of the
15 27th, I made entry into the house with Investigator
16 Perkins, who also works in my office, and began to
17 collect evidence.

18 Q. All right. And did you -- did you or did you
19 not number the items of evidence, items of
20 evidentiary value you saw?

21 A. That is correct.

22 MR. McDONALD: Judge, without objection,
23 we'd like to have these marked and offered
24 into evidence. These photographs.

25 THE COURT: All right. You may.

26 [PHOTOGRAPHS WERE MARKED EXHIBIT NUMBERS
27 24 THROUGH 30 AND RECEIVED IN EVIDENCE.]

28 BY MR. McDONALD:

29 Q. I show you what's been marked Exhibit Number

1 27 in evidence and ask if you can identify that.

2 A. Yes, sir, I can.

3 Q. And what is that?

4 A. That is the weapon which was inside the back
5 bedroom of the residence. It is a Lorcin brand; it
6 is a .380 caliber.

7 Q. A Lorcin brand .380?

8 A. Yes, it is.

9 Q. All right. I show you what's been marked as
10 Exhibit 29 in evidence and ask if you can identify
11 that.

12 A. Yes, I can. That is the same handgun.
13 That's more of a close-up shot depicting the serial
14 number.

15 Q. All right. I show you what's been marked as
16 Exhibit Number 28 in evidence and ask if you can
17 identify that.

18 A. Yes, I can. That is a shell casing that was
19 recovered in the back bedroom of the residence in
20 question.

21 Q. And can you tell us where it was recovered.

22 A. Yeah, I can, if I may refer to my notes.

23 Q. Yes.

24 A. As I have noted, it's one shell casing, .380
25 in caliber, located ten inches from right leg of
26 white night stand on right side of bed. That is the
27 location I have marked without referring to perhaps
28 photographs to point the table leg out, but it was on
29 the floor of the back bedroom next to the night

1 stand.

2 Q. I show you what's been marked as Exhibit 25
3 in evidence and ask if you can identify that.

4 A. That appears to be the foot of the bed at the
5 beginning of the closet, which is where two more
6 shell casings were recovered. Now, it appears that
7 is a shot, not actually a close-up shot, but a back
8 shot.

9 Q. Okay. I show you what's been marked as
10 Exhibit Number 30 in evidence and ask if you can
11 identify that.

12 A. Yes, that is a macro or a close-up shot of
13 the two shell casings that I just mentioned.

14 MR. McDONALD: Judge, we have another
15 we'd like marked in evidence.

16 THE COURT: All right.

17 MR. McDONALD: Another photograph.

18 [PHOTOGRAPH WAS MARKED EXHIBIT NUMBER 31
19 AND RECEIVED IN EVIDENCE.]

20 BY MR. McDONALD:

21 Q. I show you what's been marked as Exhibit
22 Number 31 in evidence, ask if you can identify that.

23 A. Yes, I can.

24 Q. And what is that photograph of?

25 A. That is a bullet hole. In the backdoor for
26 the door opening of the residence and the door facing
27 or the wall and door facing to the entrance, that is
28 a bullet hole in the door facing.

29 Q. On the inside?

1 A. Yes, it is, on the inside of the room.

2 Q. All right. Inside of the bedroom?

3 A. That is correct.

4 Q. If you would, now that the jury has seen this
5 photograph, if you could go over this diagram and
6 explain in detail where those items were recovered
7 from as indicated on your diagram.

8 A. Okay. Basically, it's self-explanatory. It
9 has e-x 2, or exhibit 2, is where the shell casing
10 that I described ten inches from the right leg of the
11 night stand. And the night stand is depicted in the
12 diagram, exhibit 1, which I believe we refer to as
13 the weapon, the Lorcin .380, as where it was at. And
14 then the other two shell casings, which were listed
15 as exhibits 3 and 4 upon my collection, are right at
16 the closet door entrance at the foot of the bed.

17 Q. All right.

18 MR. McDONALD: Now, go to the other
19 diagram. What exhibit number was that,
20 Rickey? The last one.

21 MR. RICKEY RAWLS: The one we had was 9.

22 MR. McDONALD: All right. The one you
23 just looked at was 9.

24 MR. RICKEY RAWLS: The new one is 8.

25 BY MR. McDONALD:

26 Q. Looking at Exhibit Number 8. Now, what is
27 Exhibit Number 8 a diagram of?

28 A. Exhibit Number 8 is depicting the layout of
29 the 1728 Mary Street, apartment one. That's kind of

1 the floor plan of the layout inside that residence.

2 Q. And was that the apartment that Cory Maye was
3 in?

4 A. That is correct.

5 Q. All right. Now, you've gone over the area in
6 the bedroom. What other rooms did you find in that
7 apartment?

8 A. Well, there was the bathroom, the kitchen
9 area, and the living room area, which were
10 photographed. Once the evidence was collected, we
11 continued to look through the house for any other
12 particular evidence pertaining to the reason we were
13 there, for the death investigation.

14 Q. Did you find a couch in the apartment?

15 A. Yes, sir, it's depicted in the diagram.

16 Q. All right. Is that it?

17 A. Yes, sir, that shows where it was at,
18 approximately where it was at.

19 Q. Did you find a television or an entertainment
20 center?

21 A. Yes, and it's shown in the bottom corner
22 there.

23 Q. There?

24 A. Yes, it is.

25 Q. And can you tell us where the front door to
26 the apartment is?

27 A. Just to the left of the table and television
28 area in the lower part of your screen.

29 Q. Right there?

1 A. That would be where the front door was at.

2 Q. All right. And what did that go out onto?

3 A. The little front porch area, the small front
4 porch, which was shown earlier in a photograph where
5 it said the light was on. The little porch area.

6 Q. Now, was a -- was there a window in that
7 door?

8 A. Yes, there was a nine-light window or the
9 nine-pane-type window.

10 Q. Was there a window, another window on the
11 front of the house?

12 A. Yes, kind of in the area where the table --
13 between the table and television area was where the
14 other window on the front of the house.

15 Q. I show you this photograph and ask if you can
16 identify it.

17 A. Yes, sir, I can. That is accurate of the
18 inside living room area, which is shown in the living
19 room part of the diagram.

20 Q. That shows the television area?

21 A. Yes, it does.

22 MR. McDONALD: I'm going to offer this
23 into evidence.

24 THE COURT: All right.

25 [PHOTOGRAPH WAS MARKED EXHIBIT NUMBER 32
26 AND RECEIVED IN EVIDENCE.]

27 BY MR. McDONALD:

28 Q. These photographs were made that night?

29 A. Yes, they were.

1 Q. All right. I'm going to show you again
2 what's been marked Exhibit Number 32. And you say
3 that shows the television in the corner. Is that
4 correct?

5 A. That's correct.

6 Q. And is this the area of the front window?

7 A. Right. That is correct. The front window as
8 I described between the small table and the
9 entertainment center there, that's it.

10 Q. What is that covering the window?

11 A. That is a blind, like a solid white blind
12 pulled down. But there's more to that.

13 Q. Is there anything between the blind and the
14 window?

15 A. Yes, it appeared to be some sort of a -- like
16 a brown sheet, comforter, towel, kind of a dark
17 material between the pulled-down blind and the actual
18 window itself.

19 Q. And I'm going to show you what's been marked
20 as Exhibit 18 in evidence. And can you tell what
21 that is?

22 A. Yes, sir, that is the inside photograph of
23 the front door of the residence.

24 Q. On the inside of the building?

25 A. Yes, sir.

26 Q. And what is that covering that window?

27 A. Mini blinds. Brown or burgundy-colored mini
28 blinds.

29 Q. Was there a piece of dark material between

1 those mini blinds and the window itself?

2 A. Can I see the photograph closer?

3 Q. Yes.

4 A. Do we have a photograph of the front of the
5 residence? Can I look at both of those?

6 Q. I show you what's been marked as Exhibit
7 Number 5 in evidence.

8 A. The blinds appear to be dark in color and
9 closed. Could you repeat your question?

10 Q. Okay. You found the material hanging between
11 the blinds and the window on the other window. Does
12 there appear to be any material between the blinds
13 and the window in this photograph, on the door?

14 A. No.

15 **MS. COOPER:** Objection to leading.

16 **THE COURT:** Overruled.

17 A. No, it did not appear in that photograph to
18 have material.

19 Q. Do your notes reflect how far up -- to go
20 back to the photograph that was of the projectile
21 entry point in the door frame, do your notes reflect
22 how far it was from the bottom of the door to that
23 hole?

24 A. Yes. If I may refer to my notes --

25 Q. Yes.

26 A. -- it was 57.5 inches from the floor up and
27 4.5 inches to the right to the center of the
28 projectile hole.

29 Q. Fifty how many inches?

1 A. 57.5 inches from the floor up.

2 Q. How many feet is that?

3 A. Four feet ten and a half inches.

4 Q. Okay. Do you recall anything about the
5 projectile entry point itself? Could you tell if it
6 went in at an angle, straight on, or what?

7 A. Based on what I recall about that and also
8 looking at the photograph, the entry that the
9 projectile made into the wall appeared to be on more
10 of a level-plane-type trajectory or stripe when it
11 hits it.

12 What I have seen in the past in different
13 things is, had it been at an angle, it would have put
14 more of a mark or a groove. Had it went into the
15 wood paneling, or the wood in this particular case,
16 on the bottom side or at a downward angle, it
17 would've caused more disturbance from the top angle.

18 But as you can see in the picture, the paint
19 on this particular wall is kind of flaked off. The
20 hole looks round and smooth.

21 **MS. COOPER:** Your Honor, may we
22 approach, please?

23 **THE COURT:** Okay.

24 **[BENCH CONFERENCE AS FOLLOWS]**

25 **MS. COOPER:** Your Honor, this witness
26 has not been tendered as an expert with
27 regard to trajectory. Now, I understand he's
28 an investigator for the State of Mississippi,
29 but I've not heard anything or seen anything

1 that indicates he's qualified to give any
2 testimony as to angles and trajectory, as to
3 whether or not it was straight on or it was
4 at an angle. And we would move that that
5 testimony be stricken from the record.

6 **THE COURT:** You want to respond?

7 **MR. McDONALD:** I think -- well, of
8 course, there's the -- there's the first
9 thing with respect to the fact it wasn't an
10 objection. But I don't know that I really
11 have an objection to striking and asking to
12 disregard that part of it.

13 I think the primary issue I'm concerned
14 with is how many feet it was off the floor.
15 How many inches it was. And, of course, he
16 can measure that, and that doesn't call for
17 an expert opinion.

18 **MS. COOPER:** Well, in doing that, in
19 instructing the jury, can you tell them it
20 was initially upside down? I mean, I don't
21 know which way is the right way. But that's
22 going to be misleading for him to just state
23 it, that it was not right the first time.

24 **MR. McDONALD:** What, now?

25 **MS. COOPER:** Wasn't it upside down
26 originally?

27 **MR. McDONALD:** I don't think we've ever
28 really referred to upside down, but if it's
29 50-something inches from the floor, to the

1 hole, it's 50-something inches.

2 THE COURT: All right. We'll get into
3 that. I'll go ahead and sustain the
4 objection.

5 [BENCH CONFERENCE CONCLUDED]

6 MR. McDONALD: We have no objection to
7 the striking of the comment with respect to
8 whether it was head-on or not.

9 THE COURT: Whether it was level or at
10 an angle.

11 MR. McDONALD: With the understanding
12 that the measurement of where the projectile
13 went in the door frame from the floor to the
14 ceiling stays in evidence.

15 THE COURT: All right.

16 MS. COOPER: This witness isn't
17 qualified to give that testimony.

18 MR. McDONALD: It may require an expert
19 opinion to give the angle of the entry
20 without precision and instrumentation.

21 THE COURT: Okay. The jury will
22 disregard that, then, about the angle.

23 MR. McDONALD: And we want to be fair
24 about it.

25 BY MR. McDONALD:

26 Q. I'm going to show you what's been marked as
27 Exhibit Number 24 and ask if you can identify that.

28 A. Yes, I can.

29 Q. And what is that?

1 A. This photograph is Officer Ron Jones' duty
2 weapon, handgun.

3 Q. When you obtained the weapon -- what is that
4 stuck between the frame of the gun and the holster?

5 A. It's grass.

6 Q. And is that the condition the weapon and
7 holster were in at the time that you received it?

8 A. Yes, it is.

9 **MS. COOPER:** Objection.

10 **THE COURT:** Okay. Sustained.

11 A. That is where the weapon was when I --

12 **BY MR. McDONALD:**

13 Q. What condition was it in at the time you
14 received it?

15 A. If I may reflect to my notes once again, I
16 examined the weapon in the wee hours of that morning,
17 around 5:50. The weapon in question is a Beretta
18 model 96. It is a .40 caliber handgun. And when I
19 looked at the weapon, it had 11 rounds in it. And as
20 the picture depicts, that is grass from where Officer
21 Jones had fallen outside the residence.

22 Q. The holster was still -- what was the
23 condition of the holster?

24 A. The weapon was still inside the holster.

25 Q. All right. Was or was not the gun secured in
26 the holster?

27 A. The gun was secure in the holster.

28 Q. Is a .40 caliber weapon a different caliber
29 than a .380?

1 A. Yes, sir, it is.

2 Q. Did you attend the autopsy of Ron Jones?

3 A. Yes, sir, I did.

4 Q. Were you present when a projectile was
5 removed from the body of Ron Jones?

6 A. Yes, I was.

7 Q. I show you this photograph and ask you if you
8 can identify that.

9 A. This photograph that was taken is of the
10 projectile at Mississippi Mortuary where the autopsy
11 was conducted.

12 Q. Okay. Is this or is this not the projectile
13 removed from the body of Ron Jones?

14 MS. COOPER: Objection to leading.

15 THE COURT: Overruled.

16 MR. McDONALD: I offer that into
17 evidence and ask that it be marked.

18 THE COURT: No objection, it will be
19 Exhibit Number 33.

20 [PHOTOGRAPH OF PROJECTILE WAS MARKED
21 EXHIBIT NUMBER 33 AND RECEIVED IN EVIDENCE.]

22 BY MR. McDONALD:

23 Q. Were you present when -- were you present at
24 the autopsy?

25 A. Yes, I was.

26 Q. Do you know whether or not a projectile was
27 removed from the body of Ron Jones?

28 A. A projectile was removed from Ron Jones'
29 body.

1 Q. Do you know whether or not a photograph was
2 taken of it?

3 A. A photograph was taken.

4 Q. Do you see the photograph today?

5 A. This is the photograph that's shown here.

6 Q. Thank you.

7 THE COURT: How much longer, Mr.
8 McDonald?

9 MR. McDONALD: It's going to be a little
10 while, Judge. You want to give them a break?

11 THE COURT: Okay. Yeah, let's take a
12 break. I'll let the jury be excused.

13 [THE JURY WAS EXCUSED AND COURT WAS
14 PLACED IN RECESS AT 3:25 P.M. COURT WAS
15 RECONVENED IN THE OPEN COURTROOM AT 3:55
16 P.M., THE JURY WAS RETURNED, AND THE
17 PROCEEDINGS CONTINUED AS FOLLOWS IN THE
18 PRESENCE OF THE JURY.]

19 MR. McDONALD: Judge, we have a couple
20 of other exhibits to introduce.

21 THE COURT: All right.

22 MR. McDONALD: A photograph of the
23 height of the projectile entry point into the
24 door frame or the, you know, whatever you
25 call that thing on the side of the door.

26 THE COURT: Okay.

27 [PHOTOGRAPH WAS MARKED EXHIBIT NUMBER 34
28 AND RECEIVED IN EVIDENCE.]

29 MR. McDONALD: A photograph of the entry

1 point on that same projectile from the
2 outside of that door frame to where the hole
3 is with a measuring tape in it.

4 THE COURT: Okay.

5 [PHOTOGRAPH WAS MARKED EXHIBIT NUMBER 35
6 AND RECEIVED IN EVIDENCE.]

7 BY MR. McDONALD:

8 Q. I show you what's been marked as Exhibit
9 Number 34 in evidence and ask if you can identify
10 that.

11 A. Yes, I can.

12 Q. And what is that a photograph of?

13 A. That is a photograph of the hole in the side
14 of the door facing and the tape measure beside it.

15 Q. And these are the measurements. That would
16 be four feet ten inches. Is that correct?

17 A. Four feet nine and a half, four feet ten,
18 yes, that is correct.

19 MR. McDONALD: And, Rickey, would you
20 put the next one up there. What is the next
21 one's number?

22 MR. RICKEY RAWLS: The next one will be
23 Exhibit Number 35.

24 BY MR. McDONALD:

25 Q. I'm going to show you what's been marked
26 Exhibit Number 35 and ask if you can identify that
27 photograph.

28 A. That's the same hole in the door facing. The
29 measurements indicate across from the end of the door

1 facing how far over the hole was.

2 Q. And this is on the backdoor where entry was
3 made into Cory Maye's apartment?

4 A. Of the back bedroom, that's correct.

5 MR. McDONALD: Rickey, what is the next
6 exhibit?

7 MR. RICKEY RAWLS: Number 26.

8 BY MR. McDONALD:

9 Q. This is one I had marked earlier. I show you
10 what's been marked Exhibit Number 26 in evidence, ask
11 if you can identify that.

12 A. I can. That is a projectile that was removed
13 from the hole that you have seen in previous
14 photographs.

15 Q. Which hole?

16 A. The hole on the door facing.

17 MR. McDONALD: Okay. I need some other
18 things marked, Your Honor.

19 THE COURT: All right.

20 [BOX CONTAINING LORCIN HANDGUN WAS
21 MARKED EXHIBIT NUMBER 36 AND RECEIVED IN
22 EVIDENCE. PAPER BAG CONTAINING PROJECTILE
23 RECOVERED FROM BACK DOOR WAS MARKED EXHIBIT
24 NUMBER 37 AND RECEIVED IN EVIDENCE. PAPER
25 BAG CONTAINING SHELL CASING WAS MARKED
26 EXHIBIT NUMBER 38 AND RECEIVED IN EVIDENCE.
27 PAPER BAG CONTAINING SHELL CASING WAS MARKED
28 EXHIBIT NUMBER 39 AND RECEIVED IN EVIDENCE.
29 PAPER BAG CONTAINING SHELL CASING WAS MARKED

1 EXHIBIT NUMBER 40 AND RECEIVED IN EVIDENCE.
2 AND MANILA ENVELOPE CONTAINING PROJECTILE
3 FROM BODY WAS MARKED EXHIBIT NUMBER 41 AND
4 RECEIVED IN EVIDENCE.]

5 BY MR. McDONALD:

6 Q. Let me show you what's been marked as Exhibit
7 Number 36 in evidence and ask if you can identify
8 that. And open that if you would.

9 A. I can identify it.

10 Q. And what is that?

11 A. This is the Lorcin model .380 semi-automatic
12 handgun that I recovered from the scene. If you'll
13 look at the diagram where exhibit 1 is, that's where
14 I recovered the weapon from.

15 Q. All right. What, if anything, did you do
16 with respect to -- did you have occasion to have that
17 gun tested?

18 A. Yes, I did.

19 Q. And where did you send it for testing and
20 analysis?

21 A. I sent the gun and other items of evidence
22 that was collected for examination to the Mississippi
23 State Crime Lab.

24 Q. I show you what's been marked as Exhibit 37
25 in evidence and ask if you can identify that.

26 A. What's marked as Exhibit Number 37 is a
27 projectile recovered from the backdoor facing in the
28 bedroom.

29 Q. That's the projectile we just saw a picture

1 of?

2 A. In the photographs. In fact, I failed to
3 mention this earlier, but I've noticed on the diagram
4 you'll see exhibit 5, projectile, that's where this
5 particular projectile was recovered from as reflected
6 in the photographs.

7 Q. Let me show you what's been marked as Exhibit
8 Number 38 in evidence and ask if you can identify
9 that.

10 A. I can. It's what I wrote and listed as
11 exhibit 4, and you can refer to the diagram where it
12 says exhibits 3 and 4, this is exhibit 4. This is
13 the shell casing that was recovered at the edge of
14 the closet door at the foot of the bed.

15 Q. I show you what's been marked as Exhibit 39
16 in evidence and ask if you can identify that.

17 A. Once again, the same thing. This is a shell
18 casing. It's listed as my exhibit 3, as the diagram
19 reflects exhibit 3 at the foot of the bed at the door
20 of the closet.

21 Q. Show you what's been marked as Exhibit Number
22 40 and ask if you can identify that.

23 A. It's my exhibit 2. It's a shell casing on
24 the bedroom floor. This would be the shell casing
25 that was recovered by the night stand that I
26 described earlier.

27 Q. In connection with the firearm and the
28 projectiles -- well, were you present at the autopsy?

29 A. Yes, I was.

1 Q. And were you present when a projectile was
2 removed from Ron Jones' body?

3 A. Yes, I was.

4 Q. And was that projectile sent to the crime
5 laboratory?

6 A. It was.

7 Q. And I show you what's been marked Exhibit
8 Number 41, ask if you can identify that.

9 A. Exhibit Number 41 is the projectile that
10 we're referring to that was recovered from the body
11 of Ron Jones.

12 Q. Now, when you -- ask if you can identify
13 that.

14 A. This is a Mississippi Crime Laboratory report
15 indicating items that were submitted and tested or
16 cross-tested between the two. In this particular
17 one, it is referring to the firearms department and
18 in particular the Lorcin .380 that I have here that
19 was recovered at the scene and the testing of the
20 projectiles.

21 **MR. McDONALD:** We'd like to have that
22 report marked and introduced.

23 **THE COURT:** Okay. No objection, it may
24 be marked and entered.

25 **[CRIME LAB REPORT WAS MARKED EXHIBIT
26 NUMBER 42 AND RECEIVED IN EVIDENCE.]**

27 **BY MR. McDONALD:**

28 Q. All right. What result -- what was the
29 result that you received back from the crime

1 laboratory?''

2 A. May I refer to the exhibit just marked?

3 Q. With respect to the comparison between
4 firearm and the projectile.

5 A. Let me explain this to the ladies and
6 gentlemen of the jury. Submission number 5 is the
7 crime lab number which represents the projectile
8 recovered from the body of Ron Jones. Submission
9 number 17 is the projectile recovered from the
10 backdoor facing that I described earlier that we've
11 talked about and that we've seen the photographs of.

12 In reference to Mr. McDonald's question, the
13 projectiles in submission 5 and 17 were fired in the
14 gun in submission 20. And the gun being referred to
15 as 20 is the Lorcin .380 that I have here in my
16 hands. And, like I said, it says submissions 5 and
17 17 were fired in the gun in submission 20.

18 Q. And that is the gun that was recovered at
19 Maye's apartment.

20 A. Exhibit 1. My exhibit 1.

21 Q. I show you Exhibit Number 8. With respect to
22 the living room area, did you discover any broken
23 glass in the living room area?

24 A. No, I did not.

25 Q. Did you discover any broken glass anywhere in
26 the apartment?

27 A. No, I did not.

28 Q. Did you meet with the -- did you have
29 occasion to meet with the other investigators after

1 you did the crime scene or before you did the crime
2 scene? Other Highway Patrol investigators.

3 A. Yes. And if you are referring to Special
4 Agent Stone, which I believe testified earlier, yes.

5 Q. All right. And did you receive a briefing
6 from them on what they had discovered?

7 **MS. COOPER:** Excuse me, Your Honor.
8 Objection. He's continuing to lead his
9 witness.

10 **THE COURT:** He may ask him that
11 question.

12 **MR. McDONALD:** Thank you, Your Honor.

13 A. An explanation to that is, I was on call that
14 night. I received the call first. When I responded
15 and found out the nature of the situation we were
16 dealing with, I notified Special Agent Stone, who is
17 my supervising officer. Advised him of the
18 situation. He, in turn, contacted another agent in
19 my office, Darrell Perkins, and those two responded
20 to the scene with me.

21 Now, their extent of what they did in the
22 investigation, primarily I know that Stone had
23 interviewed Mr. Maye, the defendant.

24 Q. Based on y'all's investigation, did y'all
25 file charges of capital murder against Mr. Maye?

26 A. Yes, we did.

27 Q. And did you file those charges?

28 A. I filed the charges. I signed those
29 affidavits.

1 Q. With respect to the cartridges that -- did
2 you submit the cartridges that have been introduced
3 into evidence to the crime laboratory for comparison
4 with the Lorcin .380 pistol that was recovered at the
5 scene?

6 A. I did submit the shell casings or the
7 cartridges, yes.

8 Q. What were the results of that examination?

9 A. I'm going to refer to the crime lab report.
10 And to continue from where they indicated that the
11 projectiles matched submission 20, the Lorcin, says,
12 the cartridge cases in submissions 14 and 15 were
13 fired in the gun in submission 20.

14 Now, there was three cartridges or shell
15 casings we're discussing. The cartridge case in
16 submission 16 -- you've got 14 and 15 that match the
17 gun. You've got 16 bears class and some individual
18 characteristics consistent with those produced by the
19 gun in submission 20, but could not be positively
20 included or excluded as having been fired in the gun
21 in submission 20 to the exclusion of all other
22 firearms bearing the same class characteristics.

23 Q. All right. And did you find that unusual?

24 A. No, I didn't find it unusual.

25 Q. All right. Now, did you -- well --

26 A. May I ask you a question?

27 **MR. McDONALD:** I believe that's all the
28 questions we have. Ms. Cooper, before you
29 start, could I have just a second?

1 MS. COOPER: Sure. It's going to take
2 me a moment to get these.

3 [PAUSE IN THE PROCEEDINGS]

4 THE COURT: All right. You may proceed.

5 MS. COOPER: Thank you, Your Honor.

6 *****

7 CROSS-EXAMINATION

8
9 BY MS. COOPER:

10 Q. Agent Johnson?

11 A. Yes, ma'am.

12 Q. You are the official investigator for the
13 State of Mississippi for this case. Is that correct?

14 A. I happened to be the one on call that
15 particular night.

16 Q. Okay. Well, in that you were the one on
17 call, are you not or have you not been considered as
18 the official investigator for this case?

19 A. Not necessarily. In a case of this
20 magnitude, it is not uncommon for the rest of the
21 guys or some of the guys in my office to come out and
22 assist. A one-man gang in this situation would've
23 been a burden.

24 Q. Okay. But you are the individual who filed
25 the charges?

26 A. That is correct.

27 Q. And signed the affidavits.

28 A. Yes, ma'am.

29 Q. And you also obtained from Judge Kruger, as

1 you stated earlier, an affidavit to search this
2 apartment --

3 A. That's correct.

4 Q. -- occupied by Cory Maye.

5 A. Yes, ma'am.

6 Q. And you've been referring to your notebook
7 there. And in referring to it, do you have the
8 search warrant that you obtained from Judge Kruger?

9 A. No, I do not.

10 Q. Okay. And do you know whether or not you
11 designated it in your request for the search warrant
12 by apartment 1 or apartment 2? Do you recall that,
13 or do you know?

14 A. However, I do have a copy of it.

15 Q. Okay.

16 A. If I may refer to my copy.

17 Q. Certainly.

18 A. In referring to my copy of the affidavit for
19 search warrant, it says 1728 Mary Street, apartment
20 number 1, which is the apartment in question here.

21 Q. Okay. And if you'll look at the search
22 warrant that was actually signed by Judge Kruger,
23 does that also say apartment 1?

24 A. Ma'am, are you referring to the actual search
25 warrant itself that was signed?

26 Q. Or your copy of the search warrant.

27 A. Yes, correct, my copy does say search warrant
28 1728 Mary Street, apartment number 1. And it does
29 bear Donald Kruger's signature.

1 Q. And in drawing your attention to Exhibit 8,
2 there's been a lot of testimony today about this, but
3 I thought since you had signed the -- filed the
4 charges and signed the affidavits, that you would
5 probably be the better person to clear this up for
6 the jury.

7 Now, the location does state 1728 Mary
8 Street, does it not, Agent Johnson?

9 A. Yes, ma'am.

10 Q. Apartment 1. But then, as we move this up,
11 if you look to the left of the diagram where the
12 areas in the house or the apartment as they're
13 presented, what address does that bear?

14 A. That's -- ma'am, I can't quite see it here.
15 It appears to be a 5 -- a 528 Mary Street, but it
16 says apartment number 2.

17 Q. Okay. So that's the apartment that's going
18 to be Jamie Smith's apartment, would it not?

19 A. That's correct.

20 Q. Okay. But we do know the address is actually
21 1728.

22 A. I believe there was a discrepancy that night,
23 was it 528 or 1728. And based on the search warrant
24 and the affidavit for search warrant prepared, it was
25 our determination at the time that it was 1728.

26 Q. Okay. And the apartment 2, now, does not in
27 any way refer to Cory Maye's apartment, does it?

28 A. No, ma'am.

29 Q. Okay.

1 A. The reason that was printed there depicts
2 that it was a duplex. In other words, this side is
3 where apartment 2 was at.

4 Q. Okay.

5 A. And the diagram depicts apartment 1.

6 Q. Thank you. Agent Johnson, now, if you look
7 at where the arrow indicates where the weapon was
8 found or recovered when the officers entered Cory
9 Maye's apartment, it shows, does it not, that it's by
10 the dresser?

11 A. Ma'am, are you referring to that area?

12 Q. Yes.

13 A. Let me explain that one to you.

14 Q. Okay.

15 A. The dresser -- in other words, it's printed
16 "dresser." You can see where it's printed. And it's
17 got an arrow pointing to it.

18 Q. Yes.

19 A. That arrow is depicting where the dresser is
20 at. Where that period or dot is is the area in which
21 they are referring to the firearm was found.

22 Q. Okay. And that period or dot that makes
23 reference to the firearm is near the dresser, is it
24 not?

25 A. Yes, ma'am, it is.

26 Q. Okay. Now, referring to Exhibit 2, did you
27 not testify earlier that that appeared to be the
28 handgun?

29 A. May I see the photograph up close, please?

1 Q. Sure.

2 MS. COOPER: May I approach, Your Honor?

3 THE COURT: You may.

4 A. Your question was, did I testify to that
5 earlier as that being the handgun?

6 Q. Uh-huh [affirmative].

7 A. And I did say that was earlier. However, by
8 looking at the photograph closely -- I didn't see
9 this close-up -- that is not a firearm we're looking
10 at.

11 Q. Okay. Thank you. It could be a houseshoe
12 perhaps, huh?

13 A. Yes, ma'am, it could be.

14 Q. Okay.

15 A. And, plus, based on this photograph, it would
16 not depict where the diagram that we saw moments ago
17 where the Exhibit 1, the dot was at, it would not be
18 visible in this photograph.

19 Q. And that's what we wanted the ladies and
20 gentlemen of the jury to know.

21 A. Yes, ma'am.

22 Q. Now, there have been lots of photographs
23 about this door facing and the projectile. The door
24 casing, excuse me, with the projectile. Now, there's
25 no bullet in the door, the actual backdoor to that
26 apartment unit, was there?

27 A. No, ma'am, there was not.

28 Q. Okay.

29 MS. COOPER: Court's indulgence, Your

1 Honor.

2 THE COURT: Okay.

3 [PAUSE IN THE PROCEEDINGS]

4 BY MS. COOPER:

5 Q. Agent Johnson, this is Exhibit 32.

6 A. Yes, ma'am.

7 Q. Can you see that okay?

8 A. Yes, ma'am, I can see that one okay.

9 Q. And I think you testified about the cloth
10 that is beneath the blinds.

11 A. Yes, ma'am, I did.

12 Q. And that cloth would have been facing the
13 window or closest to the window, between the window
14 and the blinds, correct?

15 A. Actually, if you refer to the picture, you'll
16 see the pulled-down blind. The cloth is actually
17 between the windowpanes and the pulled-down blinds.

18 Q. And the blinds.

19 A. Yes, ma'am.

20 Q. And in your investigation, did that cover the
21 entire pane?

22 A. Yes. As I recall, without looking at the
23 photograph closer, but, yes, it extended from the top
24 down.

25 Q. Okay. And with that, no light can be seen
26 from inside this room to the outside.

27 A. I couldn't speculate because I wasn't there
28 when the initial search warrant and entry was gained
29 in the apartment. I was 53 minutes later because I

1 live quite a piece away. So I don't know what the
2 condition was at that time.

3 Q. Okay. Well, when you arrived, did you see
4 the front of the apartment?

5 A. Yes.

6 Q. And were the lights on at that time?

7 A. The outside porch light was on, which would
8 almost -- if I can describe it best -- cause some
9 sort of a night blindness because you've got this
10 outside porch light on. It would be hard to see
11 beyond that, what was inside.

12 But do I recall? I don't recall whether the
13 lights were on in there, but I do know the outside
14 porch light was on, based on the photographs we saw
15 earlier.

16 Q. When you got inside, were the lights on in
17 this room? Do you recall that?

18 A. Yes. Yeah, the lights were on when I got
19 there.

20 Q. The lights were on.

21 A. Yes.

22 Q. Okay. And you're telling the jury that as
23 you approached this building, because of the outside
24 light, you couldn't see whether or not there was
25 light on inside? Is that what you're saying?

26 A. I do not know if the lights were on inside
27 when I arrived.

28 Q. Okay. But this cloth that separates the
29 blinds and the windowpane is dark in color, is it

1 not?

2 A. Yes, it is.

3 Q. Okay. Thank you.

4 A. Now, by the time that photograph was taken,
5 there was several hours had passed, I'm quite sure.

6 Q. Okay. But Cory Maye and his family were no
7 longer there, right?

8 A. That is correct.

9 Q. Okay. Now, you read the results of the crime
10 lab report for the firearm. And I just want -- do
11 you have a copy of that?

12 A. Yes, ma'am, I do.

13 Q. And I want the jury to understand, as we all
14 need to know the truth here, and starting with that
15 third sentence, the cartridge casing submission 16.

16 A. That's correct.

17 Q. And it goes on to include submission 20.

18 A. Uh-huh [affirmative].

19 Q. Now, are you telling the ladies and gentlemen
20 of this jury that -- is it submission 16 and 20 that
21 could not be positively included?

22 A. That is correct. Like I say, there was --

23 Q. Or excluded.

24 A. That's right. There was three shell casings.

25 Q. Okay.

26 A. And as you refer to that, it says the
27 submission 16, which is the cartridge, bears class
28 and some individual characteristics consistent with
29 those produced in the gun in submission 20.

1 Q. Submission 20.

2 A. That's correct.

3 Q. Okay. And that shell casing, you're saying,
4 or Mr. Hathcock said could not be excluded, or
5 excluded as having been fired from the gun?

6 A. Included or excluded.

7 Q. Is that correct?

8 A. That is correct based on his report.

9 Q. Okay.

10 MS. COOPER: Just a minute, please, Your
11 Honor.

12 THE COURT: Okay.

13 [PAUSE IN THE PROCEEDINGS]

14 MS. COOPER: Thank you, Your Honor.

15 THE COURT: Okay. Any redirect?

16 *****

17 REDIRECT EXAMINATION

18

19 BY MR. McDONALD:

20 Q. Do you know what they mean when they say
21 class characteristics?

22 A. Yes, sir. The shell casing was a .380. It
23 matched the class, the size, the characteristics of.
24 But it's been my understanding through experience in
25 this line of work that it's not uncommon sometimes
26 for the impression of the chamber where the cartridge
27 is to not match because when you fire a weapon, a
28 weapon causes friction, you have heat. You have
29 variances like that that may not match the other two

1 shell casings exactly. And I think that was what I
2 understood to be the problem in this situation. Not
3 necessarily a problem, but just the facts of it.

4 Q. And that's what they couldn't include or
5 exclude it is based on?

6 A. That's correct.

7 Q. They'll only include it if they're absolutely
8 certain.

9 A. That's correct.

10 Q. I do have one other question with respect to
11 that. Let's put the diagram back up of the bedroom.

12 MR. McDONALD: And that's exhibit number
13 what, Rickey?

14 MR. RICKEY RAWLS: Number 9.

15 BY MR. McDONALD:

16 Q. I show you what's been marked as Exhibit
17 Number 9. And I would like you, with respect to the
18 shell casings, to tell us which exhibit numbers,
19 which exhibit number on this diagram was the one that
20 could not be included or excluded.

21 A. I can do that. May I see those other brown
22 bags?

23 Q. Yes.

24 A. If you'll notice exhibit 2 on the diagram,
25 which is the shell casing, I wrote exhibit 2 on this
26 bag indicating the shell casing. When the crime lab
27 takes in evidence, there may be multiple agencies
28 sending this evidence in on one case. The coroner
29 may send something in. The medical examiner may send

1 something in. So when they get a conglomeration of
2 all this evidence, what might've been my exhibit 2,
3 they'll number in sequence as they receive it to test
4 it.

5 And in this particular case, the crime lab
6 marked it exhibit number 14. And we'll reflect back
7 to the results of this, which indicate that exhibit
8 14 -- let me just read it. "The cartridge cases in
9 submissions 14 and 15 were fired in the gun in
10 submission 20." So, in other words --

11 Q. All right. Which exhibit numbers are 14 and
12 15?

13 A. Okay. My exhibit 2 is number 14. They
14 tested this one positively, identifying it to the
15 characteristics of that handgun.

16 My exhibit number 3, which is at the foot of
17 the bed or at the opening of the closet door, I
18 listed exhibit 3, the state crime lab listed it as
19 exhibit number 15. So we know based on this results
20 that 14 and 15, these two here were positively
21 identified, without a doubt by the state crime lab,
22 as the cartridges.

23 Q. Fired from what gun?

24 A. From the Lorcin .380, which is my exhibit 1,
25 which is their submission 20, I believe. And that is
26 correct. The handgun is submission 20 on the crime
27 lab numbers.

28 Q. And exhibit number 4 would be?

29 A. This is my exhibit number 4. Again, another

1 shell casing. All three of these are shell casings.
2 This is exhibit number 16 according to the crime lab
3 tape here. Sixteen is the one that they could not
4 either include or exclude.

5 Q. And it was found in close proximity to 3.

6 A. That's correct. Three and 4 were right there
7 together.

8 Q. Which were included.

9 A. Yes, sir.

10 Q. In the course of your investigation, was
11 there any evidence found that indicated that any
12 other firearm other than the Lorcin had been found?

13 A. No, none.

14 MR. McDONALD: I believe that's all the
15 questions we have.

16 THE COURT: All right. You may step
17 down.

18 THE WITNESS: Thank you, sir.

19 [WITNESS EXCUSED]

20 *****

21 THE COURT: All right. Who will you
22 call next?

23 MR. McDONALD: Judge, this may be a good
24 time to conclude for the day. Our next
25 witness will be here at nine o'clock tomorrow
26 morning. They were in court in north
27 Mississippi this afternoon.

28 THE COURT: Okay. But that will be your
29 last witness, then?

1 MR. McDONALD: I believe so.

2 THE COURT: All right. For the jury,
3 then, based on that, we'll go ahead and take
4 our break for the day.

5 Again, I want to caution you about
6 talking about it or forming any opinion until
7 you've heard all of it.

8 We'll excuse you, then, till nine
9 o'clock. We'll do some work this evening
10 ourselves to try to move it along tomorrow.
11 All right. Y'all may be excused.

12

13 [THE JURY WAS EXCUSED AND COURT WAS
14 PLACED IN RECESS ON WEDNESDAY, JANUARY 21,
15 2004, AT 4:25 P.M.]

16 *****

17

18 [COURT WAS RECONVENED IN THE OPEN
19 COURTROOM ON THURSDAY, JANUARY 22, 2004, AT
20 9:10 A.M., THE JURY WAS RETURNED, AND THE
21 PROCEEDINGS CONTINUED AS FOLLOWS IN THE
22 PRESENCE OF THE JURY.]

23

24 THE COURT: State ready to proceed?

25 MR. MILLER: State's ready, Your Honor.

26 THE COURT: Call your next witness.

27 MR. MILLER: Call Darrell Cooley.

28

29