

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Frank R. Addy, Circuit Court Judge

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Jun 17 2022

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

DAMIEN LAVAR RITTER,

APPELLANT.

APPELLATE CASE NO. 2021-000710

RECORD ON APPEAL

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State of South Carolina
 County of Lexington

Court of General Sessions

State	)	
	)	
	)	Transcript of Record
v.	)	2018A-32-211-00460 - 479
	)	
Damien Ritter	)	
	)	
<u>Defendant.</u>	)	

February 26, 2019
 Lexington, South Carolina

B E F O R E:

The Honorable Frank Addy, Judge.

A P P E A R A N C E S:

Sutania Fuller, Assist. Solicitor
 Attorney for the State

James Arthur Brown, Jr., Esquire
 Dayne C. Phillips, Esquire
 Attorneys for the Defendant

Bethanie K. Creppon
 Circuit Court Reporter

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1 P R O C E E D I N G S

2 * * *

3 THE CLERK: This is the matter of the State vs.
4 Damien Ritter. He is represented by Dayne Phillips
5 and --

6 MR. BROWN: Jim Brown of the Beaufort County
7 Bar.

8 THE CLERK: -- Jim Brown of Beaufort County.
9 This is a motion by the Defense to set bond, Your
10 Honor.

11 THE COURT: All right. Solicitor, if you
12 could, give me an overview. I believe this is the
13 case you e-mailed me on earlier. The defendant is
14 charged with homicide and some other charges. Can
15 you give me an overview of what the State is
16 alleging, please?

17 MS. FULLER: Thank you, Your Honor. This is
18 the defendant, Damien Ritter. He's charged with two
19 counts of murder, attempted murder, armed robbery,
20 kidnapping, possession of a weapon during the
21 commission of a violent crime, grand larceny greater
22 than \$2,000, as well as criminal conspiracy.

23 This stems from an incident date of July 5th of
24 2018. The defendant was arrested on July 13th of
25 2018. The incident location is [REDACTED] Glenn Street,

1 Apartment ■■■, in West Columbia. That's New
2 Brookland Apartments. Your Honor, on July 5th --
3 and then also, for the record, this is the
4 defendant's first bond hearing. Bond was denied by
5 the magistrate. This is his first general sessions
6 bond hearing.

7 On July 5th of 2018, Damien Ritter essentially
8 executed Samir Atkins, Elzie Mack, with single
9 gunshot wounds to both of their heads. Atkins was
10 26 years old at the time and Mack was 21. He
11 attempted to do the same to Rodney Furtick in this
12 case, Your Honor, but his gun jammed and Furtick was
13 able to fight back. He did sustain a gunshot injury
14 to his leg and buttocks area during the altercation,
15 I guess, the fighting back.

16 How did we get here? I'll tell you what we
17 know and I'll also let you know, Judge, this is a --
18 a lot of facts in this case, a lot of discovery in
19 this case. Back on July 5th, we know that Atkins
20 was home that afternoon; we know that his friend
21 Rodney Furtick, whom he'd known since 7th grade,
22 contacted him, told him that he was bringing him
23 back his second cell phone that Atkins left a couple
24 nights prior when they hung out.

25 Furtick arrived at the residence approximately

1 around 1:30 p.m. that afternoon. He indicates --
2 after a job interview and after grabbing lunch,
3 Furtick indicates that he and Atkins were the only
4 individuals in the apartment when he arrived. He
5 describes hanging out in the living room with
6 Atkins, and then Atkins receives a phone call from a
7 number that Atkins didn't recognize, so he didn't
8 answer the phone. Then the number calls back.

9 At that point, Atkins answers the phone. We
10 believe the caller must have immediately identified
11 himself because Furtick hears Atkins say, you must
12 have a new number, or something along those lines.
13 Atkins tells the caller that he's home and that he
14 can pull up.

15 We know that that call came in to Atkins'
16 phone, lasting 31 seconds, at 2:01 p.m., so,
17 roughly, 30 minutes after Rodney Furtick had arrived
18 at the residence. When he gets off the phone, he
19 tells Furtick that that was his cousin. A few
20 minutes later, a text comes through from that same
21 number to Atkins' phone indicating that he's pulling
22 up.

23 There's a knock at the door. Atkins opens it
24 and Atkins then introduces Furtick to his cousin and
25 says, this is my cousin. At that point, Furtick

1 indicates that the cousin is the only person that
2 enters the apartment. He said they hang out in the
3 living room for a few moments, then Atkins and the
4 cousin go into the kitchen.

5 And just so you -- so you have a good
6 understanding, Judge, this is an apartment. You
7 walk in, the living room is right there to your
8 right, if you're looking at it, and then, to the
9 left, is the kitchen. It's not an open kitchen. So
10 if you're in the living room, you can't see directly
11 into the kitchen to see, like, the sink and the
12 refrigerator and things of that nature. There's a
13 wall partition.

14 Furtick indicates that with a within a minute
15 or two of Atkins going into the kitchen with the
16 cousin, Furtick hears a single gunshot. He pauses
17 and he takes off running down the hall, only to be
18 ordered, at gunpoint, to the kitchen by the cousin.

19 The cousin is asking him about where stuff is
20 in the apartment. Furtick follows instructions. He
21 walks to the kitchen, only to find his friend Atkins
22 lying unresponsive on his back on the kitchen floor.
23 Furtick is ordered down on the ground. He indicates
24 that he was forced to lay down next to Atkins'
25 lifeless body.

1 He says he doesn't hear someone else coming
2 into the apartment, but he hears another voice. He
3 hears the cousin telling someone to hold the gun on
4 him while he's laying facedown on the ground. He
5 hears the cousin say, grab their phones, and then he
6 hears the cousin rummaging through the apartment.

7 A few moments later, he hears the cousin
8 ordering another individual down to the ground.
9 Furtick hears this voice saying, all right, all
10 right, I'm getting down. We later know that that
11 would be Mack, the second deceased in this case.
12 Furtick describes that the individual was ordered
13 down between him and Atkins.

14 He -- we know that Mack was then shot in the
15 head by the cousin. Furtick describes turning his
16 head when he hears the gunshot and he sees the
17 cousin holding the gun. He says the cousin then
18 turns the gun on him and pulls the trigger. He
19 hears the click and then he assumes the gun jammed.

20 Now, Furtick is former National Guard, seven
21 years active. My description of what happens next,
22 is Furtick's survival training kicks in. He
23 indicates that he grabbed the cousin. He stated
24 that the cousin had a bookbag on and he was able to
25 hold onto that as well, restricting the cousin's

1 movements.

2 He says he used him as a shield because he
3 hears the cousin say to the other individual that he
4 can't identify -- he hears him say to shoot him. He
5 hears a gunshot. He doesn't report knowing when he
6 got shot, but we do know that he did suffer an
7 injury to his thigh area, his leg, as well as his
8 butt.

9 He says, at that point, he was able to push the
10 cousin off of him and onto the table that's kind of
11 right outside or in the kitchen area, just right
12 outside that area, and Furtick was able to run
13 outside. He grabs his gun out of his car that's
14 parked right outside the apartment complex.

15 At that point, he sees a Burgundy Tahoe backing
16 out of the apartment complex towards Glenn Street.
17 He's shooting back at the individual as the cousin
18 now runs out of the apartment and has to run through
19 the parking lot, slightly, to the vehicle. The
20 vehicle stops and lets the cousin into the
21 passenger's side and the cousin shoots at Furtick.

22 Furtick then gets back in his vehicle and he
23 tries to follow the Tahoe to get a tag but loses
24 track of it. He doesn't have his phone, so he sees
25 construction workers and he stops to ask to borrow

1 their phone. They actually turn out to be city
2 employees. They dial dispatch and he was able to
3 report what happened. He hears sirens responding,
4 so, at that point, he takes off back to the
5 apartment, kind of cuts in front of the cops, and
6 kind of tells them what's going on.

7 Furtick was able to describe the cousin as dark
8 skin with a gold grill in his mouth; he describes
9 him about five-six and between the ages of 21 and
10 24, about 160 pounds, bald, or had a low-fade
11 haircut. This description was then given to Atkins'
12 girlfriend and she told law enforcement that that
13 description sounds like Black. That's the nickname
14 for Damien Ritter.

15 Atkins' mom and grandmother were able to
16 confirm that Atkins has a cousin by that name that
17 lives in Estill, South Carolina. The detectives, at
18 that point, requested a photo lineup, and Furtick
19 was able to pick Damien Ritter out of that lineup in
20 less than two seconds, according to law enforcement.

21 He identified Ritter as the cousin that came
22 over; as the cousin that killed Atkins and Mack and
23 attempted to kill him. Atkins' girlfriend was also
24 able to pick Ritter out of that lineup, just to
25 confirm who she referred to as Black.

1 What we learned during the investigation:
2 Crime scene tells us that Atkins would have been
3 standing in the kitchen with his back to Ritter.
4 Atkins was shot in the back of his head. The bullet
5 exited the front of his head and struck the cabinet
6 door that would be to the left of the sink.

7 When law enforcement was processing the crime
8 scene, they noticed the disturbed wood. After
9 photographing the cabinet door, a bullet dropped out
10 of the door upon opening it. It's believed to have
11 been the actual bullet that killed Atkins.

12 It also appears, Your Honor, from the crime
13 scene, that Atkins may have been in the process of
14 preparing marijuana for his cousin Ritter, due to
15 the fact that, in the puddle of blood, there were
16 several marijuana buds observed on the floor.
17 Autopsy did confirm that Atkins had an entrance
18 gunshot wound to the back of the head. Stippling
19 was around the wound, which we know what that
20 indicates in this case.

21 THE COURT: Forgive me for interrupting. If
22 you want -- I'm sure the information that you're
23 providing me is very important. I don't want -- I'm
24 assuming the people behind you are family members of
25 the decedent. And some of your descriptions, I

1 think, are quite upsetting to them. So perhaps it
2 would be best if we just sort of flash forward. I
3 assume that, perhaps, the police did some cell phone
4 tracking, things of that nature; were able to ping
5 cell phones or identify his location --

6 MS. FULLER: I'll get to that.

7 THE COURT: Yeah. Maybe go ahead and hit
8 fast-forward --

9 MS. FULLER: Thank you, Your Honor.

10 THE COURT: -- so that -- just so that -- out
11 of respect for the --

12 MR. BROWN: Thank you, Your Honor.

13 For what it's worth, we have a couple of other
14 motions that weren't referenced, just to let Your
15 Honor know, that are motions that are related to
16 discovery, disclosure of some evidence --

17 THE COURT: Okay.

18 MR. BROWN: -- and we'd like to -- you to hear
19 those before you make a decision regarding bond, as
20 well.

21 THE COURT: Sure. But --

22 MR. BROWN: We'd also like to reply to the
23 facts.

24 THE COURT: Right. All right.

25 Go --

1 MS. FULLER: Thank you.

2 THE COURT: -- ahead. But if you want to just
3 hit fast-forward --

4 MS. FULLER: Thank you, Your Honor.

5 They were able to receive a description of the
6 Tahoe that was being driven after this incident,
7 Your Honor. A search of the DMV records revealed
8 that Damien Ritter had a 2007 Chevy Tahoe registered
9 to him.

10 An LPR hit from the month prior also captured
11 the vehicle and confirmed that Ritter's Tahoe was
12 burgundy. The -- a burgundy Chevy Tahoe with dark
13 tinted windows was also captured on city cameras
14 approximately 2:14 heading towards I-26. We know
15 that the 911 call in this case came in at 2:17.

16 Also noted was when Damien Ritter turned
17 himself in, also confirming his identity, he was
18 also wearing a gold grill in his mouth. Law
19 enforcement did execute search warrants on numbers
20 associated -- on the phone number that called
21 Atkins. And law enforcement was able to confirm
22 that the number was pinging off of towers in West
23 Columbia.

24 There was another phone number saved in Atkins'
25 phone under the name Black, and both numbers are

1 captured tracking away from West Columbia back
2 towards Hampton County, where we know Ritter is
3 from, after the murders.

4 We also know that Ritter stopped at a gas
5 station in Estill where he purchased a new cell
6 phone. And that becomes relevant, also for the
7 issue of bond, is that those numbers were provided
8 to law enforcement by acquaintances as well as
9 family members of the defendant. And those numbers
10 put the defendant in Atlanta during the period prior
11 to turning himself in.

12 What's also important, I think, in considering
13 bond in this case, Your Honor, is this additional
14 fact: Law enforcement was able to listen to several
15 jail calls made by the defendant, which was provided
16 in discovery today. When they were -- when they had
17 the -- when they initially received the defendant's
18 phone records, he contacted an individual by the
19 name of Beverly McRooter [phonetic] after the
20 murder.

21 Immediately after ending her phone call with
22 the defendant, McRooter's phone records have her
23 calling glass repair companies shortly around
24 4:00 p.m. that day, the same day as the murder. The
25 company did have a record of an inquiry of her quote

1 for a 2007 Tahoe, the exact make and model matching
2 the defendant's car.

3 In listening to jail calls, you hear the
4 defendant asking Beverly if she got rid of the tire
5 and the floor mat that he left at her residence,
6 which would be around the Augusta area in Georgia.
7 Law enforcement met with McRooter. They were able
8 to actually recover the tire and floor mat; she
9 never got rid of it.

10 And she also was able to provide law
11 enforcement, which was turned over today in
12 discovery -- she was able to provide to law
13 enforcement details about the crime that she would
14 have only known coming from the defendant's mouth.

15 She stated that he went to purchase marijuana
16 from his people and his people had someone else
17 there. He told her he felt like something was up
18 and it was either me or them. He told her that he
19 shot two people and his gun jammed at some point.
20 This information was never released to the media.

21 He even told her that the other boys that were
22 in the car, that they work and they weren't like
23 that; that they almost left him and that he had to
24 run into the vehicle and the other guy from the
25 apartment was shooting at him. Again, details never

1 released and only provided today in discovery. She
2 said that he left the next morning, got his
3 windshield fixed, and then went to Atlanta.

4 We also have information from jail calls of him
5 talking to, what I refer to as, I guess, his main
6 girlfriend from Estill about what happened. She
7 relayed to law enforcement when she was questioned
8 she was aware of the shooting. She stated that
9 she -- she stated that he indicated to her that he
10 went to purchase marijuana, he felt like he was
11 being set up, and he indicated that he got into a
12 fight and injured his knee and that his tire and his
13 windshield got shot.

14 Your Honor, the State's position is that bond
15 in this case should be denied. In what we know from
16 his account to other people, there's no case of a
17 struggle in this case; there's no case of
18 self-defense. And we have that a surviving victim
19 in this case was able to positively identify Damien
20 Ritter as the shooter in this case.

21 Furtick indicated that he didn't hear any
22 noise, much less any struggle, coming from the
23 kitchen. Same thing with Mack. What we know about
24 Mack is he text Atkins shortly before 2:00 saying he
25 was on the way. According to law enforcement, it's

1 almost as though -- if he would have just been
2 caught, probably by one light, he probably would
3 have missed all of what happened. He walked into
4 something and it ended up in his death.

5 THE COURT: All right. Does Mr. Ritter have
6 prior criminal history?

7 MS. FULLER: He does not have any prior
8 criminal history, Your Honor. I do have the
9 detective here on the case who would share some
10 additional information that would justify bond being
11 denied in this case.

12 THE COURT: All right.

13 I'm happy to hear what you want to say. What
14 is your name, please?

15 DETECTIVE DEAS: My name is Matthew Deas. And
16 that's spelled D-E-A-S. I'm a detective with the
17 City of West Columbia Police Department.

18 MR. BROWN: Your Honor, I'd ask that he be
19 sworn in since he's not an officer of the court,
20 with all due respect.

21 THE COURT: All right. I appreciate that. I
22 -- this is a bond matter; it's not a full-blown
23 trial. I let people have their say.

24 Have your say.

25 DETECTIVE DEAS: Your Honor, over the course of

1 this investigation, I've developed an accurate and
2 detailed understanding of Mr. Ritter's habits while
3 incarcerated and developed insights into how
4 Mr. Ritter would be if released.

5 Mr. Ritter's words have shown him to be a
6 danger to the community, if released, and to be a
7 flight risk. Additionally, this glimpse of who
8 Mr. Ritter is has shown him to participate in the
9 committing of crimes while incarcerated and in the
10 destroying of evidence in this case.

11 Mr. Ritter's danger to the community, if
12 released, is exhibited by the fact that he has been
13 heard on jail calls talking openly with multiple
14 friends about their gambling and drug-trade
15 lifestyles and its inherent violence. He has
16 discussed robberies stemming from these activities
17 that have occurred both before and after his
18 incarceration.

19 When one friend was victimized in a robbery,
20 Mr. Ritter suggested retaliation using a mutual
21 friend explaining that's what he's down there for.
22 Mr. Ritter also makes mention of his intentions on
23 physically attacking someone who is a witness in
24 this case, as well as saying she's going to get
25 what's coming to her. This reaction was only over a

1 nominal amount of money owed to him by her, as he
2 did not yet know of her statement against him. So
3 imagine his feelings now.

4 Further insight into Mr. Ritter's violent way
5 of thinking is found in his discussion over the
6 phone of why his own extremely close friend was
7 recently murdered. When Mr. Ritter was told that it
8 was over unpaid drug debt, Mr. Ritter expressed
9 that, under those circumstances, that was fair.
10 That is darkly similar to the circumstances that
11 Mr. Ritter created in this case and exhibits the
12 world in which he lives and the rules by which he
13 operates.

14 One of Mr. Ritter's girlfriends has recently
15 confirmed with law enforcement that she knew
16 Mr. Ritter to carry a gun and to be selling drugs
17 prior to his arrest that he would buy from his
18 cousin.

19 Mr. Ritter is also a flight risk. His jail
20 conversations have recorded him saying that he plans
21 on moving to Charlotte and obtaining a fake resume
22 for a job when he gets out and that he never should
23 have turned himself in, elaborating that he should
24 have just done what he was planning on doing.

25 In addition to this, he has numerous

1 connections to North Carolina and Georgia. Our
2 investigation has shown that he originally fled to
3 Georgia following the murders, after switching phone
4 numbers and discontinuing the use of his regular
5 phones.

6 Mr. Ritter continues to snub his nose at state
7 laws, even while incarcerated, by committing crimes
8 behind bars. His calls show him soliciting others
9 to put money on his books using credit cards he knew
10 to be stolen, as well as talking with someone he
11 knew to be an SCDC inmate on an illegal cell phone.
12 One -- and that is someone who is actively,
13 currently serving a sentence in SCDC.

14 One conversation with this fellow inmate
15 included discussions of dropping a three-pound pack
16 of narcotics and cell phones into SCDC using a
17 drone. This was a discussion of actual plans and
18 not empty wishes as they were talked of -- as they
19 talked of the delayed plans due to a damaged drone
20 and pack weights. This is a very real danger to the
21 community and law enforcement.

22 Further illegal conversations I have found
23 include his discussions of destroying evidence in
24 this case. One somewhat covert and cryptic call
25 came just hours after investigators executed a

1 search warrant at his home resulting in him calling
2 a witness and asking them to get rid of evidence;
3 yet another call involved him asking a friend about
4 the black box with the 30s, which investigators
5 believe to be the safe stolen in this case.

6 The amount of damning conversations are
7 overwhelming and include discussions about his
8 firearms and the firearms belonging to his apparent
9 drug-dealing-and-robbing circle of friends. I'm
10 honestly concerned for the lives of my witness, the
11 community at-large in this case, if Mr. Ritter is
12 released.

13 The City asks that his bond stay at its current
14 status. I don't know if Your Honor would entertain
15 this: But if Your Honor finds it appropriate, the
16 City feels that his behavior warrants that his phone
17 privileges be restricted or removed.

18 THE COURT: All right. I'm happy to hear
19 anything that the victims' family may want to relay
20 to me.

21 MS. FULLER: Thank you, Your Honor. And, prior
22 to speaking, Your Honor, I do have some photographs
23 that have been presented to the Defense that I would
24 like to present to you.

25 THE COURT: I'm sorry?

1 MS. FULLER: Some photographs.

2 THE COURT: Okay. I don't know that I need
3 those, to tell you the truth. This is not a trial,
4 so I think that I'm good. I'm really just trying to
5 get everybody's input on the questions here.

6 MS. FULLER: Okay.

7 THE COURT: Thank you though.

8 Yes, ma'am. If you could, just give me your
9 name, please.

10 MS. POSEY: Patricia Posey.

11 THE COURT: Ms. Posey, I'm happy to hear from
12 you, ma'am.

13 MS. POSEY: I'm the sister of Mack. And I
14 request that bond be denied on behalf of me, my mom
15 who is sick and can't be here today, and the family,
16 and the victims. It was a selfless act that he did.
17 I'm sorry. He hurt so many people. And, every day,
18 I have to deal with this. I'm sorry. And it's
19 never going to get easy. I'm in the healthcare
20 field, and I deal with this; I see this every day I
21 go to work. But until it happens to you, you have
22 no idea how it feels when you're on the other end.

23 And I request that his bond be denied and, if I
24 could, request his phone privileges be denied. He's
25 still making these violent acts inside the jail.

1 And it makes me feel like he's not remorseful, he's
2 not sorry for what he did, and he has plans to do
3 other things. And I ask that his bond be denied on
4 behalf of myself and my family. Thank you.

5 THE COURT: Thank you, Ms. Posey.

6 Ma'am, what's your name, please?

7 MS. ASHFORD: Tawanna. I'm Samir's mother. I
8 ask that his bond be denied. I feel like he did a
9 vicious act to his family. And if he did it to his
10 family, he'll do it to anyone. I feel like he's a
11 flight risk. And I feel like my family and the
12 victims, they fear for their life. And I just ask
13 that he remain incarcerated.

14 THE COURT: I understand, ma'am. What's your
15 last name, ma'am?

16 MS. ASHFORD: Tawanna Ashford.

17 THE COURT: Thank you, Ms. Ashford.

18 MS. FULLER: And, Your Honor, just so you know,
19 the surviving victim is present in the courtroom,
20 Mr. Rodney Furtick. He is in the front row. He
21 does not wish --

22 THE COURT: He didn't want to relay anything to
23 me?

24 MS. FULLER: He does not wish to speak, Your
25 Honor.

1 Your Honor, just to reiterate the State's
2 position you've heard, we believe the defendant is a
3 flight risk. On one jail call, in addition, he also
4 states that he only turned himself in so the judge
5 wouldn't consider him a flight risk and would give
6 him a bond.

7 We know, from his phone records and from
8 witnesses, that he's already left the state and came
9 back. We also know, Your Honor, that he has ties to
10 the community that would help him in terms of
11 possibly covering up -- in listening to the jail
12 calls, law enforcement has not been able to locate
13 that vehicle to corroborate what's happened in this
14 case. When questioning the family, they indicated
15 they hadn't seen it, they don't know where it is,
16 but on the jail calls, they're talking about it.

17 Just the nature and the circumstances of the
18 crime itself, it's the State's position that if
19 Damien Ritter were to be released, it would
20 constitute a reasonable danger to the community, the
21 surviving victim, as well as the potential witnesses
22 in this case. Thank you, Your Honor.

23 THE COURT: Thank you. You raised -- just two
24 quick questions before I turn it over to the
25 Defense.

1 You mention the possibility of phone privileges
2 being revoked. I've never actually been requested
3 to do that. I assume that there's some sort of
4 internal protocol that, perhaps, the Detention
5 Center would have addressing this kind of situation.
6 And, secondly, based upon what you've presented to
7 me, it sounds like, perhaps, the phone calls might
8 actually be aiding the prosecution of this case. So
9 I'm kind of surprised that you actually want them
10 revoked.

11 But I -- what authority do I have to limit
12 that? I've never been asked to do that before and
13 I'm unaware of any other judge ordering it to be
14 done.

15 MS. FULLER: Thank you, Your Honor. I've never
16 made that request before. I don't know the actual
17 means and authority that you may have, Your Honor.
18 We'll definitely send it up the channels through the
19 jail. And since the jail calls are being disclosed
20 today and turned over, I anticipate we won't be -- I
21 would expect not to have any more jail calls that
22 would aid in the prosecution of this case, Your
23 Honor.

24 THE COURT: Sure.

25 MS. FULLER: But we'll definitely -- I don't

1 know what jurisdiction you would have to do that.

2 THE COURT: I generally try to avoid getting
3 involved in whatever internal operation of the
4 detention centers, prisons, because they're trained
5 in that area and I am not. So I generally try not
6 to interfere with whatever the internal operating
7 procedures are for local detention centers. So I
8 think that, perhaps, your request may be best made
9 to them. Obviously, he's going to need some
10 capacity to communicate with his attorneys. But,
11 how that's structured, I don't know. I'm not sure
12 that I'm comfortable addressing that.

13 Obviously -- next question, Solicitor:
14 Obviously, we have two homicides and the allegation
15 that property is stolen as a result of those
16 homicides. I'm assuming that this is still
17 currently -- penalty-wise, still currently being
18 treated as any other murder, unlike the one that
19 y'all are going to be trying in May. Am I correct?

20 MS. FULLER: That's correct, Your Honor. At
21 this stage, there hasn't been any notice or any
22 movement forward due to the aggravating
23 circumstances --

24 THE COURT: Gotcha.

25 MS. FULLER: -- of this murder -- of these

1 murders.

2 THE COURT: All right.

3 Counselors, happy to hear from y'all on the
4 question of bond. And any matters that you have
5 concerning discovery that I might be able to help
6 you with, I'm happy to hear those, too.

7 MR. BROWN: Yes, sir. May it please the Court,
8 Your Honor?

9 THE COURT: Yes, sir.

10 MR. BROWN: Jim Brown of the Beaufort County
11 Bar with Dayne Phillips of the Lexington County Bar.

12 And, Your Honor, to let you know -- you've
13 heard my client is from Estill, which is in Hampton
14 County, the 14th Circuit. And that's how I became
15 involved, just to let you know.

16 And I would like to do a couple things: We
17 filed a motion to compel in December and a
18 supplemental motion to compel discovery at the
19 beginning of this month, February. We'd like to
20 address those as a backdrop of the bond issue.
21 Those were actually -- well, at least one of them
22 was filed first.

23 I will say we received, my understanding, ten
24 discs today. And I do point out the fact that we
25 did file a discovery request at least five months

1 ago. And, I'm assuming, if we just went through
2 those discs, we'd find out that those were in the
3 possession of the Government probably months ago,
4 for at least half of that information, because the
5 officers had the chance to go through the phone
6 calls themselves in detail and give you a summary.
7 So I'm assuming that he didn't get them this morning
8 and listen to them and summarize it. And I just
9 point that out because we've got no motion to cut
10 off his phone privileges.

11 And so, we think, at a minimum, we're entitled
12 to notice and an opportunity to respond to that
13 request. And I don't appreciate the sandbagging.

14 THE COURT: Yeah. I'm not going to really
15 address that request anyway, because I don't think
16 it's proper for me to get involved with that.
17 Sooner or later, somebody is going to be asking me
18 about Kosher meals at the detention center and
19 whether or not somebody is getting the proper nasal
20 decongestants. So I'm staying out of that. Okay?

21 MR. BROWN: Thank you, Your Honor. As to the
22 first motion to compel, there was a search warrant
23 served at my client's home in Estill. It was a
24 search warrant generated in Hampton County. It was
25 based upon the allegation of this case. And that,

1 essentially, requests a copy of the surveillance
2 videos that the search warrant suggests would have
3 footage of my client's bullet-riddled car. And we
4 don't have the video showing the bullet-riddled car;
5 we don't have anything showing a reason to why the
6 video would not show a bullet-riddled car; and we
7 don't have the information about the informant who
8 lied. And that, essentially, is what we've got.

9 Our motion, in that respect, based upon -- we
10 got a response on January 2nd that says that they
11 were looking at the video, getting it to us or
12 something. And, again, I don't know what's in that
13 stack, if that's included or not. But, assuming
14 it's not -- because I do feel like they would
15 mention that to us.

16 Assuming it doesn't include those things, Your
17 Honor, what we've essentially said is, under Rule 5,
18 if they've got evidence that would inculcate our
19 client, such as that bullet-riddled car on the
20 video, that we be entitled to it. There's very
21 little suggestion that they would not bring that
22 into court. We feel certain that they would bring
23 such a video into court showing the car with bullet
24 holes in it at his house after the murder. So we
25 believe we'd be entitled to that under Rule 5.

1 But, on the other hand, if the informant is not
2 truthful, we believe that we would be entitled to
3 that information, because this -- obviously, this
4 investigation has gotten into more circumstantial
5 evidence and less direct evidence.

6 And, at that point, I'm going to segue to this:
7 At the preliminary hearing, which was recorded by a
8 court reporter service, a very detailed hearing in
9 this case, first, some of those many details that
10 weren't revealed to the public were revealed to the
11 public. And there actually have been two court
12 hearings, including one at a bond setting, where we
13 asked the judge to defer the bond hearing when he
14 surrendered.

15 But, twice, those details have come out that
16 nobody would have heard -- which people could hear.
17 But, of importance, as far as the ID, is we were
18 never given any information about Mr. Furtick IDing
19 our client. We heard that, vaguely, here. But what
20 you really heard was that he gave a description,
21 which somebody else gave that description to ID our
22 client. And that may be good police work; we'll
23 find out. But that is not Mr. Furtick IDing our
24 client.

25 Part two: At the preliminary hearing, it's

1 shocking too, was the fact that when the police
2 arrived, Mr. Furtick was not there. Their purported
3 witness was not at the scene at the time the police
4 pulled up. Now, they mentioned that he left to make
5 a cell phone call; there was some other differences,
6 I think, that are worth going into, one of which is
7 that, at the preliminary hearing, which was
8 presented by the State under oath, that Mr. Furtick
9 chased the suspects, being two gunmen, out of the
10 apartment while engaged in gunplay with them.

11 But the most contested part of that hearing
12 and -- which we were hoping to have a dismissal of
13 some charges there, was the fact that a safe that
14 holds long rifles was, allegedly, stolen. It was
15 uncontested by the State, they admitted, that that
16 safe would require two people to carry it out;
17 meaning, that while there was a shootout inside the
18 apartment, or at least shots being fired, that the
19 two suspects who were shooting also picked up a
20 long-rifle safe, carried it out of the apartment
21 while either being chased by Mr. Furtick out of the
22 apartment or, according to the person we heard today
23 from for the first time, Mr. Furtick beat my client
24 out of the apartment and, under their version, the
25 suspect -- the other suspect ran out first,

1 Mr. Furtick second, then my client came out.

2 There's no way, under the theory we heard today,
3 that the safe was removed by my client.

4 And that's the bases for the charges regarding
5 the larceny or robbery. And so, for what it's
6 worth, that version is not plausible; that my
7 client, his size, carried a safe out in one hand,
8 shooting in the other hand, and getting into a car.
9 That's not possible.

10 Then we go back to the timeline with the phone
11 call saying that, we're coming, I'm on my way,
12 almost at your apartment at 2:01. The 911 call is
13 at 2:14. That's after Mr. Furtick allegedly has
14 been shot and left and driven somewhere else. And
15 the 2:01 is not when my client is allegedly even at
16 the apartment yet. I'm not saying it's not possible
17 to have these things happen. But, given the other
18 circumstances, it surely gives the smell that there
19 may be something else.

20 To come back to the motion to compel though, we
21 would request, under the motion to compel related to
22 the search warrant, to either get the video footage
23 that they obtained or be able to investigate the
24 informant. And Mr. Phillips and I have suggested
25 that we would take, under seal, the informant's

1 information, not even give it to my client at all,
2 as long as we're able to hire a private detective to
3 investigate the veracity of that informant and that
4 search warrant, assuming that there is no video, as
5 the informant suggests.

6 We also would ask -- and I'm going to turn it
7 over to Mr. Phillips for this next part, the
8 discovery request and for the bond request, Your
9 Honor. We would also like to point out that the
10 cell phone records tracking these two cell phones
11 seems to be the gravamen of their case against our
12 client.

13 When you boil out the ID that wasn't an ID, et
14 cetera, we're left with phone records of unknown
15 phone and one that's allegedly associated with my
16 client. And, I believe, the way I put it down is
17 that those phones were tracked -- well, one is in
18 West Columbia. And then we've got it going,
19 allegedly, back into Estill and then a purchase of
20 another phone, which we'd love to find that phone
21 number to, at a store in Estill.

22 And so we think that that information would
23 be -- that tracking information or any of that
24 information would be important to provide to us, as
25 well as the ballistics. Because what we've got

1 is -- I believe, by my count, was over six guns that
2 were obtained from the home, plus whatever was
3 stolen out of the safe, allegedly, including -- and
4 I want to make sure I get this right. I believe
5 there was an AR-15, essentially a civilian version
6 of the M-16 machine gun, found under a crib in that
7 very apartment. Nobody is asserting that that was
8 my client that brought that there.

9 And then, Your Honor, there's reference to a
10 9-millimeter, 40-caliber, 45-caliber, 380, and 223
11 cartridges or casings -- unfired cartridges or
12 casings at the scene. And that sure isn't the
13 version we heard today or the version I heard at the
14 preliminary hearing. And we don't have that
15 ballistics information.

16 I will suggest that only the 9-millimeters were
17 sent out for DNA or fingerprinting, not the ones
18 that they -- they have suggested that my client is
19 the one that fired the 9-millimeter.

20 And, lastly, Your Honor, I was absolutely
21 flabbergasted at the preliminary hearing when I
22 found out that they did no fingerprints in this
23 case, none at all. Excuse me; they fingerprinted
24 Mr. Furtick's car, but they did not fingerprint
25 anything in the apartment at all in a double-murder

1 case. So we are left with those other records.

2 And this is where I want to turn it over to
3 Mr. Phillips. And he is going to address the bond
4 concerns as well. Your Honor, I do appreciate your
5 time here today and your reasonableness concerning
6 our request. I would point out that our client did
7 submit on a surrender. He hired me for that
8 surrender. We met up here early one morning. It
9 was a Friday, because I was supposed to be at a CLE
10 and I drove back from Greenwood for that surrender.
11 And we have waited patiently. My client wanted a
12 bond, wanted a bond, wanted a bond. I told him that
13 we would waive the bond setting, figuring they would
14 have denied it anyway. But he is waiting patiently.

15 But, at this point in time, if they want to
16 give us the discovery late, we're okay with that, as
17 long as he is out of jail. And then they take as
18 long as they want to give us this information, Your
19 Honor. Thank you.

20 8THE COURT: Before I hear from you,
21 Mr. Phillips, sorry --

22 MR. PHILLIPS: Yes, sir.

23 THE COURT: But, Solicitor, let me just touch
24 on a few of the things, while they're fresh in my
25 mind, that he raised.

1 The surveillance video, was that included in
2 the packet that was provided this morning?

3 MS. FULLER: No, Your Honor.

4 THE COURT: Okay.

5 MS. FULLER: It's --

6 THE COURT: You want to speak to that then?

7 MS. FULLER: Yes, Your Honor. I responded to
8 defense counsel via e-mail, when I received the
9 written motion, indicating that we don't have
10 results yet and don't have any indication if we can
11 get into it yet; reached out to SLED -- I think my
12 detective reached out to SLED a couple weeks ago.

13 And I spoke to the agent on the case yesterday,
14 and he indicated he still had several other items in
15 queue, but he did go ahead and connect the DVR to
16 see if anything can be extracted from it and he
17 couldn't perform the extraction yesterday.

18 THE COURT: Okay.

19 MS. FULLER: And so that is still pending and I
20 don't have that to provide via motion to compel. Of
21 course, once it's available, we can turn it over or
22 turn over a report saying there's absolutely no way
23 to get into it.

24 THE COURT: The video wasn't provided. There
25 is a video then --

1 MS. FULLER: There -- the -- what the -- my
2 understanding is the informant said he saw the car
3 with bullet holes. When law enforcement executed
4 the search warrant on Mr. Ritter's residence, they
5 saw a video camera set up. They said, hey, let's
6 see if something is on there, so they retrieved it
7 in hopes that they could capture.

8 But this was several days after the murder,
9 Your Honor. I don't know what the -- don't even
10 know if there's anything on it. But it was taken by
11 law enforcement during the execution of a search
12 warrant. And so that's all we know so far. Don't
13 know if there's anything on it; don't know if we're
14 going to get anything off of it. But I can't
15 express -- I can't say there's nothing on it at this
16 point.

17 THE COURT: Okay. But let me get this right in
18 my head: The surveillance video was of the scene
19 where the homicides took place or --

20 MS. FULLER: Was at -- the surveillance video
21 was at the defendant's residence back in Estill.

22 THE COURT: Okay.

23 MS. FULLER: When they executed the search
24 warrant on his home, they noticed that he had a
25 surveillance camera on his car. So they removed the

1 DVR in hopes that it would capture something. We
2 don't know, at this time, what's on the video; we
3 don't know if there's anything even recorded. We
4 just don't know. So I have nothing at this time to
5 turn over. I know SLED is working on it. And,
6 after today's hearing, I'm supposed to get back to
7 them.

8 THE COURT: Okay. So it's a situation where it
9 was sent down to SLED and they're attempting to
10 access whatever data is on the recording?

11 MS. FULLER: That's correct, Your Honor.

12 THE COURT: Okay. All right.

13 MR. BROWN: And, if I may, Your Honor, attach a
14 copy of the search warrant as an exhibit or enter it
15 as Defendant's 1.

16 THE COURT: Sure.

17 MR. BROWN: And they provided it to us, so I'm
18 assuming they have it.

19 THE COURT: Sure.

20 MR. BROWN: There's just one line about the
21 informant.

22 THE COURT: And what is that informant about?
23 I didn't catch that, Solicitor. The informant is --
24 their involvement in this was what?

25 MS. FULLER: All I remember, Your Honor,

1 because I -- I thought we were doing just minor
2 things today. All I remember is that, from the
3 report, the informant gave a tip to local law
4 enforcement down there that they saw the defendant's
5 car. Law enforcement separately executed a search
6 warrant on the home, either looking for any evidence
7 of this crime, saw the video surveillance, and
8 retrieved it.

9 THE COURT: Okay.

10 MR. BROWN: If I can -- Your Honor, may I
11 approach --

12 THE COURT: Sure.

13 MR. BROWN: -- and have this marked?

14 THE COURT: Please, go right ahead.

15 (Defendant's Exhibit No. 1 marked for
16 identification.)

17 MR. BROWN: Thank you, Your Honor.

18 THE COURT: Okay. So law enforcement knows who
19 this informant is. And, obviously, that person
20 hasn't been disclosed or was this an anonymous tip
21 or what was it, if you know?

22 MS. FULLER: My understanding -- I know West
23 Columbia doesn't know who this informant is. This
24 came from reaching out to Estill PD and Hampton
25 County Sheriff's Department. They have someone down

1 there. They told that to their officers; the
2 officers relayed it to our officers.

3 Your Honor, then, also, the officer just
4 reminded me, on one of the jail calls, the defendant
5 has knowledge that the DVR was retrieved. And he
6 states he's not even worried about it because it
7 runs over every three days. And we, obviously,
8 removed it, the detective is saying, off his memory,
9 July 18th. This happened July 5th. So we haven't
10 put much stake in it. But we are exploring it since
11 it was retrieved and it was sent to SLED forensic
12 lab to see -- computer crimes, if they can remove
13 anything off of it.

14 THE COURT: Okay.

15 MS. FULLER: Your Honor, if I -- I know
16 Mr. Phillips has to address. But I do want to
17 clarify a few things, if I may, since we're taking
18 up discovery at this time.

19 Back on September 26th of 2018, discovery was
20 provided to defense counsel. It was 525 pages of
21 reciprocal Rule 5 and 15 additional discs of
22 discovery, including 911 calls, photographs -- tons
23 of photographs, video -- three different videos from
24 Cayce, looks like four, as well as a disc labeled
25 phone records.

1 In speaking with Mr. Phillips, I indicated
2 that, of course, it's a lot of discovery. I made my
3 way through it. I made a list for law enforcement
4 of what I noticed was missing; made that request.
5 And my practice is not to do piecemeal discovery, so
6 I will put that out there. If I get one page of
7 discovery, I'm not going to send that out as soon as
8 I get it. I like to do it in bulk. It's just
9 easier for trial purposes if it's --

10 THE COURT: To document everything, that it's
11 turned over.

12 MS. FULLER: Exactly.

13 THE COURT: I understand.

14 MS. FULLER: So once I received Defendant's
15 Motion to Compel, I was able to speak to him in
16 person, I believe, and on the phone. And I said,
17 I'm working on a bunch of stuff anyway; it may
18 overlap what you're requesting, and I'll provide it
19 to you. I knew that we were going to be here today,
20 so I -- instead of putting it into the mail to
21 Mr. Brown, I held it until today and my paralegal
22 hand-delivered it to him today.

23 That includes an additional 451 pages of
24 discovery, as well as nine discs that include some
25 of the photographs from Estill that weren't turned

1 over, the recorded audio interviews of witnesses, as
2 well as the surviving victim in this case, the jail
3 calls, the gas station video, as well as Dr. Ross'
4 autopsy photos. So that's what has been turned
5 over.

6 What -- the phone records, I believe, the disc
7 that was turned over, didn't have the exact -- had
8 the -- of the defendant's phone, didn't have all of
9 the -- what came exactly from the provider. That's
10 something we worked on this morning in sorting out,
11 and that will be in the next batch of discovery in
12 terms of -- there was a lot phone records in this
13 case. And I like to turn it over organized so they
14 know exactly -- I know exactly what I'm giving them.

15 So it's not -- when Verizon responded, they put
16 it in one. And I need to figure -- I like to
17 separate it out so they have exactly what we have.
18 And so that's where we are, Your Honor.

19 In speaking with SLED forensics in terms of the
20 guns, the ballistics, I believe initial ballistics
21 report was done. I'm not sure if it was in the
22 initial batch or this batch. So that would be --
23 that has been provided.

24 In terms of DNA and other testing that's being
25 done, I spoke with SLED. We can't fast-track every

1 case. But they said I should have initial reports,
2 hopefully, before August. And so we are waiting on
3 that.

4 I do want to also put on the record, in
5 speaking with Mr. Phillips, I indicated -- of
6 course, there is no plea offer in this case. It's a
7 double homicide. And I asked him, what track are we
8 on, expressing to him, as well, that the chief admin
9 judge would be looking closely at our docket and
10 inquired if we can set a trial date later this year,
11 November or December. And he's -- based on the bulk
12 of discovery, he's asking for -- and he can correct
13 me if I'm wrong -- a year from now, so sometime
14 early spring next year.

15 In terms of -- I'm not sure what Mr. Brown is
16 suggesting in terms of holding on -- the Government
17 holding discovery. At this point, I don't believe
18 there's any prejudice to his client, if we're
19 getting to that, in terms of the charges. Of
20 course, that will be issued at trial. I'm not sure
21 if I need to respond to any of that, because I don't
22 believe it's relevant at this time.

23 THE COURT: No. I think we're good. I'm good.

24 Mr. Phillips, let me hear from you on the
25 question of bond then, please, sir.

1 MR. PHILLIPS: Yes, Your Honor. And I'll be
2 real brief on the other supplemental motion for
3 discovery because I know we're pretty much past
4 that. But we did file a 40-page supplemental motion
5 for discovery on February 7th. One of the things --
6 as far as the issue of the trial date, addressing
7 that real quick, it's all temporal. It's all based
8 on the reason why we have Langford and the reason
9 why we have discovery, laws on discovery and
10 disclosure. It's all based on us having enough
11 notice to be prepared for a trial. So it's all
12 relative to when -- the amount of discovery, what
13 type of discovery we receive, and when we receive
14 it.

15 So, clearly, based on my discussion with the
16 assistant solicitor this morning, the ten discs that
17 we received pretty much may have some overlap, but
18 does not directly address the 40-page supplemental
19 motion for discovery. So that's just another
20 outstanding matter that's waiting to be processed.
21 It's a lot of very specific things to try to clear
22 up a lot and tie up a lot of loose ends that it's
23 missing in that initial 500-page discovery dump that
24 was given to us initially. But we'll go directly
25 into the bond now. Thank you, Your Honor.

1 Addressing the two issues that are before the
2 Court, Mr. Ritter has been in jail for 227 days; the
3 issue before the Court of whether a bond amount will
4 reasonably assure his appearance in court and
5 whether he poses an unreasonable danger to the
6 community.

7 Going directly to whether he would pose a
8 flight risk, we certainly submit his voluntary
9 surrender shows that this is a charge that he's not
10 running from. We have not heard these jail phone
11 calls that were referenced this morning. We are
12 voluntarily requesting that if a bond is given and
13 posted, that he would voluntarily submit to GPS
14 monitoring and house arrest to give -- or,
15 essentially, to ease any concern that the Court
16 would have as to where he's at and what he's doing.
17 So we believe that -- a home detention and GPS
18 monitoring is something that we are voluntarily
19 requesting in this case and would be appropriate.

20 He would live with his mother. He has an
21 incredibly supportive family that's present in the
22 courtroom sitting behind us. This is where he would
23 live, with them, again, under home detention and GPS
24 monitoring. His whereabouts would always be
25 tracked. He has incredible ties to the community,

1 strong ties, Your Honor. All his immediate family
2 live in South Carolina.

3 Other than a period of about a year and a
4 half -- he's lived in South Carolina his entire
5 life, except for about a year and a half. He has no
6 other family that's -- that he's attached to that's
7 outside of South Carolina. So strong ties to the
8 community.

9 With that, being specific, as a testament to
10 his character, his former employer with the tree
11 service that he was working at is allowing him, if
12 he was ever in that position, to go back to work.
13 Now, I know that's not what we've asked the Court
14 today. But to put you in that position that he was
15 such a reliable worker that he -- if he was able to
16 post bond and there wasn't a home detention
17 component, that he would be able to go to work.

18 With that, Your Honor, just highlighting,
19 again, that there was a voluntary surrender, so that
20 there's no competent evidence that he would pose a
21 flight risk since he turned himself in on this
22 charge from the 14th Circuit.

23 Now going directly to the unreasonable danger
24 to the community, always highlighting the fact that
25 it's the standard that's above just a reasonable

1 danger, it's unreasonable danger. He's presumed
2 innocent on these charges and he has absolutely no
3 prior criminal history.

4 Highlighting the fact that being presumed
5 innocent and having no prior criminal history,
6 there's no competent evidence to support that he
7 would pose an unreasonable danger to the community
8 when setting GPS monitoring and home detention in
9 that place. We're 227 days of pretrial
10 incarceration in this case.

11 We're at a point where, obviously, there's a
12 lot of outstanding discovery that's still being
13 processed. This case, as many murder cases do, they
14 take a very long time to be processed. And, with
15 that, if we're getting them in certain batches and
16 it's a case that's going to last another year,
17 there's no reason for someone who is being presumed
18 innocent, and we're specifically requesting this
19 information, if he's going to be under home
20 detention and GPS monitoring, for him to spend that
21 entire year in the Lexington County Detention
22 Center.

23 If he was to cut the monitor off, obviously,
24 he'd be arrested immediately and taken back to jail,
25 always having that hanging over his head during that

1 period. We believe that there's just no competent
2 evidence that he would pose a flight risk or an
3 unreasonable danger to the community based on his
4 lack of a prior record.

5 Obviously, there's a lot of discovery that was
6 given today that we have to review. And whether we
7 can -- as you can see here in the reply from
8 Mr. Brown, like many cases, there's two sides to
9 every story. And one way a phone call could be
10 construed could certainly be construed another way
11 when there's given proper context.

12 We haven't been able to review those phone
13 calls; we haven't been able to conduct an
14 independent investigation. So we're not able to
15 properly rebut any of those things that we just
16 received this morning.

17 So, based on that, we believe a reasonable bond
18 amount -- and we're going to give you a specific
19 amount, \$100,000, that we feel is appropriate in
20 this case. It's a grave case; obviously, very
21 serious charges, very serious allegations. But we
22 believe a bond amount of \$100,000 is reasonable and
23 proper in this case.

24 MS. FULLER: Your Honor, if I may, briefly. If
25 discovery is -- and I know Your Honor factors in

1 discovery in terms of setting the bond and
2 unreasonableness of keeping the defendant in
3 pretrial detention.

4 In terms of discovery, this last batch, as far
5 as my knowledge, completes, pretty much, almost
6 everything that I've requested that I noticed was
7 missing in this case. What's the bulk of this
8 40-page motion -- the bulk of it is SLED bench
9 notes, once the DNA is done. There's -- literally
10 20-something of the items listed had to do with
11 latent prints bench notes, which there's none that
12 came back.

13 The majority of the actual items that would be
14 in law enforcement possession would be covered in
15 this batch of discovery. And some items requested
16 were already turned over.

17 And in terms of other issues raised in the
18 motion, there would need to be a separate hearing in
19 terms of un-redacted discovery, in terms of
20 revealing CI information, and in terms of turning
21 over my work product to you. So I don't want Your
22 Honor to think that the State is just holding onto
23 this big bulk of discovery that would delay the
24 process. I've indicated I can be ready to resolve
25 this case this year, and I'm working towards it.

1 And I've been actively working towards that, Your
2 Honor.

3 THE COURT: Sure. Here's where we are -- and
4 I've got enough information, I think, to act on
5 this, unless somebody really has something that they
6 feel like they need to jump up and tell me.

7 As it relates to the informant, first of all,
8 what I'm hearing from you, Solicitor, is you don't
9 even know if law enforcement down in Estill got the
10 name of the individual. Obviously, that's something
11 that your investigator needs to look into, because
12 if they did not collect the identity of that
13 individual, then we just don't have it.

14 So if they do have the identity, then that's
15 probably something that's going to have to be
16 addressed at some later point in time with another
17 hearing. So that question needs, obviously, to be
18 answered.

19 You're correct; I generally do like to see
20 cases moved within a year. A case of this
21 complexity, though, I can understand where it may
22 take a little bit longer. But the key to getting
23 this ready for trial is getting the evidence to the
24 Defense and giving them sufficient time to review it
25 and have it reviewed by their experts, et cetera, in

1 order for us to move forward with this.

2 So, along those lines, please reiterate with
3 SLED again that whatever they got down there, they
4 really need to be processing it. I know that
5 they're backlogged, but a double homicide is about
6 as important as it gets. I don't know what else
7 they could be working on that would take precedence
8 over a double homicide.

9 So if they're prioritizing some fingerprints
10 that were taken off a B&E auto in Chesterfield where
11 50 bucks were stolen, then they need to get their
12 priorities in line. So I would emphasize that with
13 SLED on your next phone call, which I'm sure you'll
14 be making here shortly.

15 On the question of bond, I'm not comfortable
16 setting a bond at this particular point in time; I
17 simply am not. This can be revisited at the
18 one-year mark. I'm hoping that most of this
19 discovery will have been provided. I'll remain
20 chief admin judge, probably for the remainder of the
21 year.

22 So I'm assuming that, come July, the Defense
23 can renew this and we can address any other
24 outstanding discovery issues with an eye towards,
25 cross your fingers, getting this case resolved this

1 calendar year as opposed to next year. But, the
2 Defense is correct; they need the information and
3 they need it sooner rather than later. That's where
4 we're leaving it.

5 MS. FULLER: Thank you, Your Honor.

6 THE COURT: Thank you.

7 MR. BROWN: Thank you, Your Honor. May I just
8 ask --

9 THE COURT: Sure.

10 MR. BROWN: -- since that is -- the year mark
11 is coming up about four and a half months from
12 now --

13 THE COURT: Yeah.

14 MR. BROWN: -- we would be more comfortable,
15 given your background knowledge of this case from
16 our presentation here today, that we could direct
17 that bond hearing or bond motion back to you.

18 THE COURT: Yeah. That's fine. That's fine.
19 I think it would probably be most efficient since
20 I've already heard the facts on this. So we can
21 address this in July. And I would very much love
22 for the State to be able to tell me in July
23 everything under the sun has been processed and
24 everything has been provided, because that makes
25 life so much easier for me, from a discovery

1 standpoint.

2 Everybody needs resolution in this case though
3 and, again, I'd much prefer to see that happen this
4 year as opposed to the spring of next year. I know
5 there's a lot on tap, but we're going to need to
6 walk and chew gum here.

7 MS. FULLER: Thank you, Your Honor.

8 MR. BROWN: Thank you, Your Honor.

9 -- END OF TRANSCRIPT OF RECORD --

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1 C E R T I F I C A T E

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF LEXINGTON

5

6 I, the undersigned, Bethanie K. Creppon, Circuit
7 Court Reporter for the Eleventh Judicial Circuit of
8 the State of South Carolina, do hereby certify that
9 the foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the hearing of the
12 captioned cause, relative to appeal in the Criminal
13 Court for Lexington County, South Carolina, on the
14 26th of February, 2019.

15 I do further certify that I am neither of kin,
16 counsel, nor interest to any party hereto.

17

18

December 1, 2019

19

20

s/Bethanie K. Creppon

21

22

Bethanie K. Creppon
Circuit Court Reporter

23

24

25

1 State of South Carolina) Court of General Sessions
2 County of Lexington) Eleventh Judicial Circuit
3
4 State of South Carolina,) Transcript of Record
5 vs.) 2018A3221100460-21100479
6 Damien Lavar Ritter,)
7 Defendant.)

8

9 November 7, 2019
10 Lexington, South Carolina

11 B E F O R E:

12 The Honorable Frank Addy, Jr., Judge

13

14 A P P E A R A N C E S:

15 D. Shawn Graham, Deputy Solicitor
16 Sutania A. Fuller, Assistant Solicitor

17 On behalf of the State of South Carolina

18 James A. Brown, Jr., Esquire
19 Dayne C. Phillips, Esquire

20 On behalf of the Defendant

21

22 Stacy S. Johnson
23 Circuit Court Reporter

24

25

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1 (The following proceedings were held November 7,
2 2019, beginning at 9:37 AM.)

3 THE CLERK: Damien Ritter.

4 THE COURT: We will go back on the record, and I
5 believe this is case 2018A3221100460 to 479, Damien Lavar,
6 L-A-V-A-R, Ritter, charged with two counts of murder,
7 attempted murder, armed robbery, grand larceny, possession
8 of a weapon during the commission of a violent crime and
9 conspiracy.

10 My understanding is that we have basically a couple
11 of matters to address this morning. I have reviewed
12 my notes from the last hearing, which took place on
13 February the 26th of this year, and so I'm intimately
14 familiar with the allegations involved in this case. My
15 understanding is that the defense wishes to renew its
16 motion for bond. I did deny bond back in February. And,
17 additionally, the Court needs to address some discovery
18 matters concerning requests for electronically stored
19 information.

20 Solicitor, I assume that the victim's family is
21 present and wanted to address the Court as relates to
22 bond?

23 MS. FULLER: That's correct, Your Honor, if it's
24 appropriate for -- to take that issue up first.

25 THE COURT: Please. Sure. I'm more than happy

1 to hear from them.

2 MS. FULLER: Thank you, Your Honor.

3 First we'll hear from Ms. Ashford, and she would be
4 the mother of Samir Atkins, if you recall.

5 THE COURT: Yes, ma'am. Sorry to see you again.

6 MS. ASHFORD: Good morning. I'm asking that his
7 bond be denied. He committed a crime and he was on the
8 run for a week and a day and then he turned his self in
9 on my son's funeral. I feel like he's a flight risk to
10 society, so I'm asking can he remain where he's at,
11 please.

12 THE COURT: Thank you, ma'am. I understand your
13 position.

14 MS. FULLER: And then I believe his grandmother,
15 Ms. Betty Martin, would like to address the Court.

16 THE COURT: Certainly.

17 MS. MARTIN: I'm the grandmother of Samir Atkins.
18 I'm asking that bond be denied because every time I walk
19 out the house I have to relive that day of finding my
20 grandson and his friend on the floor. If I had went over
21 there when I started to be nosey, I might have been a
22 victim that day, too, and lost my life. I'm asking that
23 -- that bond be denied. He know what he did. He ran.

24 THE COURT: Yes, ma'am.

25 MS. FULLER: Thank you.

1 And, Your Honor, my victim advocate, Nikki Vega --

2 THE COURT: Yes, ma'am.

3 MS. FULLER: She has spoken with the remainder of
4 the victims. They're seated in the front couple of rows
5 here, Your Honor, and she would express the wishes of the
6 rest of the victims.

7 THE COURT: Sure.

8 MS. VEGA: Yes, Your Honor. The rest of the family
9 and friends of all the victims are asking that the bond
10 stay denied; that he be able to stay incarcerated until
11 we're able to go to trial. They're just reiterating what
12 Ms. Martin and Ms. Ashford already said.

13 Thank you.

14 MS. FULLER: Thank you, Your Honor.

15 And then for the record, the surviving victim is
16 present in the courtroom and her words speak for him as
17 well.

18 THE COURT: Very good.

19 When we did convene on the 26th of February,
20 Solicitor, I think that it was indicated by the defense
21 that the parties were seeking a trial sometime this
22 coming spring. Do you-all have this calendared yet or do
23 you know when you were anticipating trying this case?

24 MS. FULLER: Yes, Your Honor. We've discussed this
25 a few times. We were initially looking at December, but

1 I believe we've agreed on the second term in January, if
2 that's still correct. That January 27th term. We spoke
3 before the calendar came out and --

4 MR. BROWN: (Shakes head.)

5 MS. FULLER: Mr. Brown is shaking his head.

6 MR. BROWN: That's not -- that's not what we agreed
7 to. I'd appreciate having the opportunity to be heard on
8 this. I'd like to be heard in full, if I may?

9 THE COURT: Sure. All right. Go ahead then, please.

10 MR. BROWN: Okay. May it please the Court?

11 THE COURT: Yes, sir.

12 Mr. BROWN: Your Honor, first, we would agree with
13 one of the sentiments expressed by the victims advocate,
14 that we would like to see the matter go to trial, and, of
15 course, we're looking at it from the standpoint of this
16 is when Mr. Ritter will be acquitted of the charges. We'd
17 like to point out that the reason that the trial dates
18 keep getting pushed is the inability of the government to
19 comply with discovery, which sounds like it's actually
20 the government's own delay that's causing problems with
21 the victims' own desires, so we would ask that everybody
22 in the courtroom take notice of that because it's kind of
23 been flipped on us and as the moving party I'd like to
24 put out, Judge, right now our most important concern is
25 getting his release on bond. There is a presumption

1 after one year that it's a speedy trial concern. That
2 is even more so when someone's incarcerated, especially
3 when they're incarcerated with no bond, and so given that
4 we ask that Your Honor consider a \$100,000 bond, surety
5 bond, with electronic monitoring and house arrest.

6 He's lived all his life in Hampton County and that's
7 where he would live. His family is here. If they would
8 just stand up and raise their hands. They're the ones
9 that he'd live with. They don't live out of state, he's
10 not going out of state. He would live with them. That's
11 the family he's known.

12 Now, Your Honor, to dovetail this with both the
13 discovery concerns and the scheduling concerns, we have
14 drafted a proposed scheduling order that we believe as
15 the administrative judge we understand that you will be
16 next -- for the next six months as well, this would meet
17 all of the concerns. If Your Honor does not believe it
18 fit to give bond today, we drafted a scheduling order
19 where there'd be a 30-day window for the State to certify
20 to us that they have fully complied with Rule 5. Now
21 we're distinguishing between Rule 5 and Brady material
22 and items that are responsive to our specific requests
23 and what we would ask is the State within 30 days provide
24 certification as officers of the court that they have
25 provided every item responsive to Rule 5, essentially

1 everything that they're gonna use against us. And if
2 they don't provide that certification, then our client
3 then gets the \$100,000 bond without further hearing or
4 order of the Court except obviously we believe that
5 details of the bond itself would be more appropriate in
6 a separate bond order, but those can be conditions that
7 we -- we deal with today. Your Honor, if they don't cert
8 -- if they do certify that they've done that, then we
9 would ask and it's in the draft order that they not be
10 allowed to introduce any other evidence consistent with
11 the Rule 5 dictates after that certification unless they
12 carry the burden at a hearing to get a judge to excuse
13 their noncompliance with their own certification. That
14 would then, Your Honor, allow us to hit the third part --
15 (Telephonic interruption.)

16 THE COURT: Could someone -- check your cell phones,
17 please, if you could, and let's make sure they're on
18 vibrate at the very least, please.

19 MR. BROWN: That then would allow us to address the
20 third factor, which is the scheduling of the trial. If
21 in 30 days we have the full discovery locked down, that's
22 a great time for Mr. Phillips and I to do what lawyers
23 do when they get forensic evidence, which is to consult
24 experts. For what it's worth, Your Honor, we don't --
25 we've received expert analysis two days ago, a disk this

1 morning, very disingenuous since Your Honor said by July.
2 And for what it's worth, it looks like some of these
3 analysis -- analyses were conducted in the last week or
4 two and so we would assume -- and if they've been done
5 before that, we should have had them before this last
6 week.

7 THE COURT: Well, according to -- according to my
8 notes, counselor, and not to interrupt you, but according
9 to my notes in February ballistics was still pending,
10 DNA they were projecting August before that would be
11 completed, so I'm not quite sure where you're getting
12 the July date. I'm looking back through here.

13 MR. BROWN: July was the date we mentioned would be
14 one year of incarceration --

15 THE COURT: Okay.

16 MR. BROWN: -- and that's -- and Your Honor said we
17 could come back for bond.

18 THE COURT: Okay.

19 MR. BROWN: And obviously we would assume that we
20 would still be having to address whether or not we were
21 in compliance because here we are, Your Honor. If we had
22 hired the best expert in the world, he wouldn't have been
23 able to do anything for our trial prep even still right
24 now because we have a disk sitting on this counter. For
25 what it's worth, Mr. Phillips and I have made arrangements

1 to print -- they told us we'd be getting the complete
2 SLED file yesterday. We had made arrangements to go to a
3 24-hour facility. I brought a law clerk from Beaufort to
4 run over there and make the copies so we could go through
5 it at the wee hours of this morning. We did not get that
6 yesterday. We got it this morning so we could come in
7 here at this hearing and not be able to tell you whether
8 they've complied or not. That is the same thing they did
9 at the last hearing.

10 Your Honor, this is my twenty-third year practicing
11 law. That stuff's not by accident. It's either they
12 didn't get around to preparing until the last minute or
13 they intentionally didn't want to prepare it until the
14 last minute, but this is twice we've gotten this discovery
15 done on the day of the motion to compel. But we believe
16 our order will address that because they give us the
17 compliance. If they get Brady material, they have an
18 obligation to keep giving that to us. If it's responding
19 to our specific request, they can still give that
20 material, but in 30 days it locks it down and then in
21 our proposed scheduling order we would have a status
22 conference no later than January 15th to then set trial
23 dates.

24 THE COURT: Here's how I want to handle this, okay?
25 And the Court candidly does not have a great deal of

1 time this morning. I had anticipated Judge Benjamin
2 being able to be here and when we set this I was
3 expecting to be able to devote a great -- a great deal
4 of time to these discovery issues. I understand that
5 the State is probably gonna take -- would probably be
6 taking issue with a lot of what has been represented
7 here. What I would very much like for everyone to do is
8 since you were -- you just received that disk, here's how
9 we're gonna do this. You and Mr. Graham and Ms. Fuller
10 can find a back room and you-all can discuss what is on
11 the disk. I know that there were some metadata and some
12 other items, electronically stored information, that I
13 believe the defense felt like they were entitled to. I
14 do not know, and I don't know that the solicitor can
15 intelligently speak to how many various computers may
16 have been involved with this incident, but what I would
17 like for you to do is before we move forward with this
18 hearing and if it's necessary for the Court to address
19 this matter later on this morning or sometime this
20 afternoon or even next week in Saluda, I'm more than
21 happy to do so more fully.

22 I understand that the defense's position on bond is
23 essentially the same as it was back in February. Why
24 don't we take a moment. I'll take the matter of bond
25 under advisement. You-all can compare notes in terms of

1 what -- what the State has -- has provided to the defense
2 and then revisit this issue later on either this morning
3 or this afternoon and inform me if there's anything that
4 either the parties disagree about in terms of access to
5 discovery or information that should be provided.

6 In terms of setting a trial date, I want you-all
7 to discuss that and whenever is mutually convenient is
8 fine with the Court. So it's -- it's probably better
9 instead of the Court trying to shove a square peg into a
10 round hole, it's probably better that everyone simply sit
11 down and figure out and let me know when it is that
12 everyone's experts are gonna be available and everyone's
13 witnesses are gonna be available because the last thing I
14 want to do is set a trial date and then some SLED agent
15 or some defense expert is on vacation. That simply is
16 inefficient use of the Court's time.

17 So let us do that since everyone is here and we'll
18 be at ease until such time as the Court's intervention is
19 interested.

20 Ms. Fuller?

21 MS. FULLER: Can I respond -- put a few things on
22 the record, Your Honor?

23 THE COURT: Sure.

24 MS. FULLER: Not a full -- full response to what
25 defense counsel said.

1 THE COURT: Sure.

2 MS. FULL: And with all due respect, Your Honor, I
3 -- I really don't know if sitting down with defense
4 counsel at this point because I thought some things were
5 worked out would even be fruitful, but in terms of the
6 disk that we provided if you have the -- the defense's
7 motion, items 52 to 91, as well as Item 11, is what
8 defense requested from SLED, Your Honor. What SLED does
9 in response to that is once all testing is done, then
10 they can generate what they have requested, which I
11 haven't opened it. It's policies and procedures, it's
12 the history of the DNA analysis software, it's tons of
13 stuff that I don't even need is what they requested. So
14 a final report that was -- of evidence that was pending
15 at SLED was completed October 29th. You know I was in
16 trial and I took last week just to rest. I saw it
17 yesterday. My paralegal e-mailed it to them, the report,
18 yesterday because that's when I got back and that's when
19 I saw it. From there the -- I don't want to call her
20 the custodian, the person responsible for complying with
21 their request said now that's done, she's working on
22 finalizing it, going up the chain of command, and it
23 was finally done yesterday. I have no control over
24 that despite my request, despite stating the judge wants
25 this complied with sooner rather than later, really from

1 having all the evidence early this year to turn it around
2 by October is remarkably quick for SLED in all honesty.
3 The -- what they're stating right now in the e-mail, my
4 paralegal stated, it says note we are planning to receive
5 the complete SLED file by the end of the day and plan to
6 turn that over first thing tomorrow morning. I don't
7 know what counsel is talking about yesterday. We didn't
8 have it until yesterday afternoon.

9 So certain things, he used the word "disingenuous",
10 we have our code of ethics and our rules of professional
11 conduct and what he stood up there discussing is a blatant
12 violation in my opinion if he wants to throw it at the
13 State. So I do take offense and I respect Your Honor's
14 wishes, but I really don't think sitting down -- because
15 obviously what I thought we worked out -- they asked for
16 a spring trial date, I said December, Your Honor ordered
17 two other major trials set for November and December. I
18 can't try it -- we can't try it December, so then I said
19 the second term in January once the calendar comes out.
20 It came out a couple of months ago. That was already
21 acknowledged. So this stating that they're not gonna
22 be ready for trial because of all this issue -- and
23 concerning their discovery, the only items left to
24 discuss is items 10 and 96 on their request. I've
25 complied above and beyond what Rule 5 requires and there's

1 no Brady violation. Back in October, I e-mailed it and
2 said when they asked, I said you have all discovery that
3 I have to date. All that is left is what you requested
4 from SLED.

5 So at this point, Your Honor, the State will be
6 ready for trial January 27th and the State's position on
7 bond is that bond should be remain denied. The Defendant
8 is a flight risk and a danger to society. He executed
9 two people in cold blood. That is my position.

10 MR. BROWN: And -- and -- I'm sorry.

11 MS. FULLER: I'm not finished. I didn't cut you
12 off.

13 So, Your Honor, I would respectfully request that --
14 I will respect Your Honor if you say that we need to sit
15 down, but I will be corresponding via e-mail. I've copied
16 you on extensive, lengthy e-mails since August, September
17 trying to schedule this matter so there wouldn't be an
18 issue of causing delay, so for him to stand here and make
19 all these assertions is truly offensive.

20 But the State will be ready for trial January 27th.
21 We respectfully request that bond continue to be denied
22 and that we move forward as currently planned.

23 MR. BROWN: Your Honor, briefly in reply as the
24 moving party, I'd like to introduce as Defendant's
25 Exhibit 1 the actual 7-page contents, there's seven pages

1 of contents of what they gave us, and it is dated 12:00
2 noon yesterday. That's plenty of time to send it in all
3 the e-mails we've had.

4 And, Your Honor, I don't think I can let it go. All
5 I can say is that the State's response is like a hit dog
6 howling.

7 THE COURT: I appreciate your position. I think that
8 you're probably not privy to the fact that Ms. Fuller was
9 involved in a double homicide with me over in Edgefield
10 County that took a week to try and we really had to grind
11 that one out and then two weeks later she was involved in
12 the trial of another homicide here in Lexington County
13 that I presided over. This week I was involved with a
14 CSC, burglary first, home invasion, rape case. Ms. Fuller
15 and the Court have other things on their plate and
16 certainly Mr. Ritter's disposition or resolution of his
17 trial -- or his charges are -- are absolutely essential
18 sooner rather than later, but the Court has sympathy for
19 what Ms. Fuller has had to deal with. I would hope you
20 would have appreciation of the fact that the Court's time
21 is -- is extremely valuable and along those lines if
22 Ms. Fuller doesn't feel like it's beneficial to -- to sit
23 down and simply review what's on the disk, then I'm gonna
24 ask Mr. Graham to do so and the two of you-all can discuss
25 when this case is going to be tried.

1 So the matter of bond will remain under advisement.
2 I'm sure that there's a conference room somewhere that we
3 can access. Let's see what we can agree to and at least
4 perhaps review what was provided to the defense. It
5 sounds like as soon as the State was able to -- to pay
6 the appropriate attention to this and get the information
7 from SLED. So I'm not saying -- I think what we have
8 here is a failure to communicate. It's as simple as that.
9 A great line from Coolhand Luke and so let's all maintain
10 our exposure and maintain our courtesy and find a nice
11 conference room where everyone can sit down, okay?

12 We'll reconvene, if necessary, at a later point today,
13 all right? Thank you.

14 MR. BROWN: Thank you, Your Honor.

15 MS. FULLER: Thank you, Your Honor.

16 (Whereupon, the proceedings were adjourned at
17 9:58 AM.)

18 (Back on the record at 12:13 PM.)

19 THE COURT: All right. We're gonna switch back and
20 forward to the first case we heard this morning about
21 ten minutes to get this sorted out concerning the ESI,
22 which was requested pursuant to paragraph ninety something
23 of the Defendant's motion to compel. I have reviewed,
24 again, the motion, I've reviewed the orders that were
25 issued by Judge Hood and another judge concerning the ESI

1 information.

2 My biggest concern with the logistics of this, I
3 think -- was it Cayce that made this case or was it
4 somebody else? Who made --

5 MS. FULLER: West --

6 MR. PHILLIPS: West Columbia, Your Honor.

7 THE COURT: West Columbia. Six of one, half a dozen
8 of the other.

9 I understand the defense wants basically metadata
10 in order to determine if any changes were made to any of
11 the documentation in this case, the incident reports and
12 things of that nature. I do understand the holdings of
13 Judge Hood and apparently two of my brethren on the bench
14 have -- have authorized this before.

15 Logistically, Solicitor, what problems does the State
16 anticipate with this request?

17 MS. FULLER: Thank you, Your Honor.

18 I guess the State's position would be once our case
19 it would be essential for the issues when you read the
20 factual recitation and the procedural history of those
21 cases, and even Judge Hood's opinion acknowledged that it
22 was a novel issue, but I think they were able to assert
23 that they in -- in Richland County obtained different
24 versions of a witness's statement, one was unsigned, and
25 so they wanted the ESI to actually see what the true --

1 what changes were made and all that, and essentially we
2 don't have that in this case. They haven't alleged that
3 there's any errors in anything of that nature and the --
4 my reading of their motion I believe when they conferenced
5 during the break they narrowed down what their actual
6 scope is, but if you read the entire motion it requested
7 quite a lot, the computer panels, the who, what, where,
8 when, and who had access to them, but there's just been no
9 allegation that there's been any changes to anything in
10 this discovery.

11 Also there's in their request for my -- for work
12 product for Your Honor to review that as well, and that's
13 something I would object to. Their definition of the
14 State in their motion listed the solicitor's office, so
15 if there's any -- been ever discussion or my direction
16 to law enforcement to do something in the case, they're
17 saying that they're entitled for -- entitled to that
18 under Rule 5 and Brady, and I would just disagree with
19 that.

20 You have heard me say this before. I always go
21 back to the rules. I read the rule and there's nothing
22 in there that says that they're entitled to my e-mail
23 communications to law enforcement. There's even caselaw
24 that says a direction -- I'll site that case actually.

25 THE COURT: I think I'm familiar with the one that

1 you're --

2 MS. FULLER: I believe it's Meyers.

3 THE COURT: Yeah, that's the one.

4 MS. FULLER: Work product. There was a letter
5 from the solicitor to the chief of police that was not
6 discoverable. So it just seems like a fishing expedition
7 and that's not what Brady intended. So I'm not sure if
8 there's a specific request, but a blanketed we just want
9 to see if this happened. And then also my concern is for
10 the request as it comes -- relates to my office is the
11 documents prepared in this case. I'll argue that's work
12 product and if we turn over that metadata it would include
13 then access to my thoughts essentially or if there's any
14 trackings, any comments going back and forth between
15 myself, co-counsel, it would just give them unfettered
16 access and that's not what Brady suggests or requires.

17 And I believe in one of their cases that they cited
18 in response to supporting their reason for my work product,
19 that opinion even says defendant's right to discover
20 exculpatory evidence does not include the unsupervised
21 authority to search through the Commonwealth's files,
22 and that's in one of the cases that they've cited.

23 So I know this is novel in the -- in the world of
24 criminal -- the criminal justice system. Rule 5 is very
25 limited discovery as it compares to civil where I know

1 they deal with the E discovery and ESI all the time,
2 but in that situation the courts have been limited to
3 as well, so it's not like an unfettered access to other
4 companies' metadata --

5 THE COURT: Sure.

6 MS. FULLER: -- so I just don't think that should
7 transcend. And in those particular cases that -- my
8 interpretation is, one, it doesn't seem like -- and I
9 respect other offices, it wasn't even really hard fought,
10 and there was actually issues in the discovery that they
11 had and procedurally there were issues with -- and I
12 could be wrong, you can look at the case, but in reading
13 it there were issues with statements being duplicates
14 and the Court, I believe Judge J. Newman, reviewed it and
15 noted that there were different versions of the written
16 document.

17 THE COURT: I understand your -- I understand your
18 position. I think you -- apparently you've narrowed your
19 request somewhat. Exactly what is that that you're for?

20 MR. PHILLIPS: So also specifically e-mails is one
21 of the biggest things. E-mails related to the
22 investigators' work. As far as specific work product,
23 the reason that provision's in there, is if the
24 Solicitor's office designates specific evidence as work
25 product, that is something that is submitted to the

1 Court for an in-camera review. Not that we are asking
2 for a blank work product dump, but specifically if there
3 is evidence that the State feels that falls under this
4 request and it is work product, under Pennsylvania v.
5 Ritchie that is supposed to be submitted to Your Honor
6 for an in-camera review.

7 And specifically we're not focussed on Rule 5 or
8 even say not only specifically for Brady purposes, but
9 on the cases that in my opinion the whole point of this
10 is Kyles v. Whitley and everything that goes with pure
11 impeachment evidence. Essentially under due process we
12 have afforded a constitutional right to provide a
13 meaningful full and complete defense. As the United
14 States Supreme Court has stated, the opportunity to
15 present a full and complete defense includes, quote, a
16 defendant's privilege to request and obtain material
17 evidence from the State, and then specifically if you
18 kind of even take a step back from the right to present
19 a full and complete defense, and that's to obtain
20 impeachment evidence. And so when you're reading Kyles
21 v. Whitley, any evidence that would go to attack the
22 State's case, the credibility of the State's witnesses is
23 at issue, and when you have specific communications from
24 the investigators in this case who will testify that is
25 riddled with potential impeachment evidence and it's not

1 the State to be the safeguard of whether that's relevant
2 versus the impeachment value of it for us to review based
3 on our questions and providing a theory of defense, a
4 theme of defense, that's based on the evidence that's
5 presented.

6 To give a little bit of an explanation, there was
7 this one case that I had, a murder case, not too long
8 ago, there was an e-mail from a prosecutor to the SLED
9 agent who did DNA and it specifically said some things,
10 in my opinion, crossed the line as far as giving too
11 much information about the specific type of evidence,
12 the location of where DNA should be found, in an e-mail
13 about testing that exact evidence. We would not have
14 known that that e-mail existed had I not requested those
15 communications and although on its face it appears to be
16 a fishing expedition, that is the only way to know the
17 unknown is to obtain it, to review it, to conduct an
18 independent investigation from the defense side to know
19 what we can defend against and what we can use to provide
20 a full and complete defense. So without obtaining this
21 information we're essentially denied that right. We're
22 denied the Fifth Amendment and Fourteenth Amendment right
23 under the due process laws and Article 1, Section 3 and 14
24 of the South Carolina Constitution to provide a full and
25 complete defense, but then it also triggers your Sixth

1 Amendment right to confrontation because I'm unable to
2 properly cross-examine witnesses without having this
3 information to use for potential impeachment evidence.
4 If there's specific communication is provided that
5 ultimately goes to the heart of one of the critical pieces
6 of evidence, that ultimately can be questioned through
7 the investigator and provided as far as impeachment
8 evidence when the jury has to weigh the credibility of
9 the witness.

10 And I can go deeper in the law, but you told me just
11 a second ago that you've read the motion, you've read the
12 orders, and so specifically the case that I have the most
13 obviously personal connection with is the order provided
14 by Judge Hood. I was the attorney in that case when he
15 provided it in Aiken and that case is much different in
16 my opinion than the case that was referenced by opposing
17 counsel as far as the one with Judge Newman in Richland
18 County.

19 THE COURT: All right. Let -- let me strike to the
20 heart of this. The two cases that you handed up where
21 Judge Hood and Judge Newman signed these orders, in both
22 of these there was something squirrely. In the Aiken
23 case, apparently there was an affair taking place between
24 the Aiken County sheriff and one of the magistrates, which
25 I'm sure was of concern to their respective spouses and

1 probably to the defendant involved in this case because
2 obviously Judge Hood signed that order. In the case that
3 Judge Newman heard, first it looks like the State, you
4 know, never responded to a preservation letter and, more
5 importantly, the defendant in that case was able to
6 demonstrate irregularities, shall we say, in a lot of what
7 was -- what had already been produced and I'm not hearing
8 that -- that there's some allegation of sexual impropriety
9 in this case or that maybe there's --

10 MR. PHILLIPS: No, Your Honor, but -- I apologize.
11 I'll strike to the heart of the matter.

12 THE COURT: Yeah.

13 MR. PHILLIPS: There's a confidential informant
14 that's in this case that provided critical information.
15 There's potentially two main areas that provided police
16 with probable cause to arrest the defendant and one of
17 those was through this DVR that was referenced that now
18 SLED says they have been unable to open or review, but
19 when you review the evidence it's pretty clear that this
20 video that they say exists in this DVR shows what is
21 purported in the evidence the defendant's vehicle with
22 bullet holes, but at this point despite what the discovery
23 says the DVR is unable -- unable to be viewed and so we're
24 not able to go through that.

25 Now to take a step back.

1 THE COURT: It can't be recovered? There's no way
2 to recover the data on that or --

3 MR. PHILLIPS: That's what's been provided.

4 THE COURT: I'm sorry?

5 MR. PHILLIPS: That's what's been indicated to us
6 and that there's a confidential informant that's tied
7 with this video who provided information to the
8 investigators in Hampton County. We don't have his
9 identification and I know the Solicitor's office in this
10 case has sent a personal investigator -- their own
11 investigator down there to try to get information about
12 this confidential informant and has been unsuccessful, so
13 there's --

14 THE COURT: I thought I'd issued an order previously
15 in this case ordering that the CI's name be sealed or
16 something like that. We still don't know who the CI is?

17 MS. FULLER: Your Honor, I can -- I can speak to
18 that. So you do recall somewhat -- somewhat of that. So
19 back in February this came up as a separate motion to
20 compel the DVR and at that hearing the investigator was
21 present. I even had opportunity to ask him about it. I
22 don't think the two things were happening at the same
23 time. So the search warrant on the house and I didn't
24 -- don't have the exact date, but it wasn't close in time
25 to the information potentially of some person saying this

1 to law enforcement, that they saw defendant's car with
2 bullet holes in it. I can't corroborate that. My
3 investigator, who's out sick today with a sick child,
4 reached out -- before even the defense requested, I wanted
5 to know can that be substantiated, and there's nothing
6 that I have. I don't know who the CI is. I don't even
7 know if it's really a CI. I'm not familiar with Hampton
8 County, but it just seems like how we have in some of
9 our smaller counties people just talking and somehow it
10 got to law enforcement, they said it on the phone to a
11 West Columbia officer, he typed it in his report. He
12 tried to substantiate that, that some CI saw his car come
13 back there that night with bullet holes in it, and that
14 wasn't substantiated and that's what I can represent to
15 the Court right now.

16 In terms of the DVR, when they -- once they had
17 enough probable cause because the defendant was identified
18 in a photo lineup as the person who shot the -- from the
19 surviving victim, so it's not just the PC. There was no
20 -- it's my understanding, they can point it out in
21 discovery, I don't recall that the CI was part of the
22 PC for the -- for the arrest of this defendant.

23 THE COURT: Okay.

24 MS. FULLER: But at that point they execute a search
25 warrant a week or so later on the home, they see a DVR

1 and they take it and the officer reported to me when I
2 asked him in court that day when we had that issue come
3 up was he took it just in case he could see what was on
4 it, but there was no indication that they watched it
5 because I asked him and they sent it to SLED to be
6 examined. After the hearing you asked me to call over
7 to SLED because there were cell phones that hadn't been
8 extracted and, in fact, when I called about the DVR, they
9 said they'd push it to the top of the list and then I got
10 word that they couldn't access the DVR.

11 So I don't have -- unless I've been given bad
12 information, but the information that I've acquired by
13 your direction was did anyone see the DVR, no one said
14 they watched it. We sent -- I had my investigator and
15 the West Columbia officer follow up down there in Hampton,
16 Estill, and maybe another agency for their -- their
17 assisting agency reports and they didn't have but one and
18 that was turned over and it doesn't have CI information.
19 I spoke with our investigator during the break because
20 he's home with a sick child just to see firsthand what
21 you remember and he said I mentioned the CI to them and
22 they acted like they didn't know what I was talking about
23 and so I said well, I'll represent that to the Court
24 today. When you come in tomorrow, let's follow up one
25 more time down there just to clear that up and make sure

1 there's no issues.

2 MR. GRAHAM: Judge, if I can add something real
3 quick I think that addresses exactly what you said. My
4 understanding the incident occurred July 5, 2018. The
5 arrest warrants were obtained on that date; is that
6 correct?

7 MS. FULLER: Uh-huh.

8 MR. GRAHAM: So whatever happened in Hampton was
9 later and it had nothing to do with why he was arrested
10 and my understanding is no evidence came from anything
11 from any CI. At this time we don't know who the CI is,
12 we don't have any information, we didn't get any search
13 warrants to use anything, there's nothing that exists.
14 So it goes back to -- again, we don't -- to your question,
15 there's no irregularity to try to track down anything.

16 MR. PHILLIPS: And, Your Honor, this -- this isn't a
17 probable cause hearing. We're not reviewing whether it
18 exists like for -- you know, like a preliminary hearing.
19 The main issue is whether there's significant possible
20 impeach evidence that exists and there is an irregularity.
21 We had in discovery that there was a CI who had made an
22 identification and now based on the further investigation
23 conducted by the solicitor's office there is no CI.

24 THE COURT: What does your investigation reveal, the
25 -- your investigator that I assume you sent down there to

1 try and find out more about this CI? They're -- they're
2 now maintaining that no CI exists and I'm not gonna send
3 the State on a fool's errand to chase a ghost because
4 they're maintaining there is no CI.

5 MR. PHILLIPS: Well --

6 THE COURT: Now if you -- if you were to indicate to
7 me hey, our investigator when down to Hampton and what
8 we're hearing is that this guy named KiKi was the CI and
9 here's an affidavit from so and so that said that Kiki was
10 somehow involved in this and then I would have a little
11 bit more to go on, but I'm not gonna send someone --
12 absent more I'm not gonna have the State chasing ghosts
13 is what I'm saying.

14 Now if you send an investigator down there, maybe
15 you haven't had a chance to do that yet or you were hoping
16 to get more information as a result of this hearing before
17 you were to dispatch that investigator -- -

18 MR. PHILLIPS: And two things. There is a statement
19 in the discovery, and the State can correct me if I'm
20 wrong, from the investigator in that area who -- who said
21 that it existed and if they're now saying something
22 different, that's impeachment. And the reason why the
23 electronically stored information, specifically like
24 e-mails and text messages, it could show that they did
25 know, that there was communications with this person,

1 that they did have communications with other law
2 enforcement agencies about this specific person and
3 through their investigation, and that's the critical
4 impeachment evidence that I would get to. When you met
5 with the solicitor's office's investigator, you said
6 there was no confidential informant. On such and such
7 date this e-mail proves you contacted West Columbia
8 Police Department about there being a confidential
9 informant that you specifically referenced. You
10 understand how that would play out in court and that
11 that would go to the heart of the credibility of that
12 investigator and their investigation and the prosecution's
13 case.

14 THE COURT: Here's what we're gonna do then. I don't
15 know the name of this investigator. I don't know who he
16 is. I've not spoken to him. So obviously whoever this
17 investigator is if he's now backtracking on the question
18 of whether there was a CI, he'll need to provide some
19 affirmative statement to that effect; that there is not
20 a CI involved in this case, and what I will let you do is
21 if -- what I'm gonna need -- because the Court's concern
22 is down the line ultimately, and I'm just thinking a few
23 -- you know, three or four moves ahead, somebody's gonna
24 have an objection to you guys walking into the police
25 department and putting a gig chip in a computer and

1 hitting download, okay? So there is some concerns about
2 the manner in which you access the metadata, the scope of
3 it and everything else.

4 If this was a case like we had in Aiken or like
5 Judge Newman had where something squirrely has already
6 been demonstrated, I would be much more inclined to grant
7 your -- your motion, and I may still grant your motion,
8 but I need, first of all, for the defense to address how
9 it is logistically that you're going to separate the
10 wheat from the chaff, the stuff that's only relevant to
11 this case as opposed to the other stuff that might be out
12 there on a hard drive in other cases, okay, so that's the
13 first thing I need to do.

14 The second thing I'm gonna need you to do is provide
15 me with more information about how this CI thing is so
16 squirrely because I'm hearing you're saying it's -- it's
17 unusual, that it's similar to Aiken, it's similar to
18 Judge Newman's order, I'm not seeing that. So I'll give
19 you a chance to -- to lay that out factually in greater
20 detail by way of a motion.

21 And in terms of the Court -- in terms of you
22 requesting that the Court review the material in-camera,
23 I'll think about that. I probably -- and I will tell you
24 why I think that's not a -- it's not something that the
25 Court should be doing. First of you all, I don't know

1 about this case like you guys know about this case, so
2 I'm looking for a needle in a haystack and I'm not even
3 sure what the needle is, okay? I don't know what's
4 relevant, I don't know anything about these cases until I
5 sit down and I start trying them. So for me or any judge
6 to go through a voluminous amount of e-mails and that
7 kind of a thing when I don't know enough about the defense
8 or the allegations to intelligently decide if something
9 is relevant, it's an impossible task. I think you
10 understand what I'm getting at. So that's why, you know,
11 basically I -- in other cases I've ordered -- like when a
12 victim goes and does a forensic interview, there's that
13 case that came out a few years ago which set up a very
14 unworkable system where the Court's supposed to review it
15 in-camera. How's the Court gonna do that if it doesn't
16 know what's relevant, all right; it doesn't know what
17 the allegations are, it doesn't know what the possible
18 defense is, it doesn't know what the witness's prior
19 statements are. You know, you can't judge relevance
20 without that information, so that's the biggest hurdle
21 that you have in getting me or some other judge to -- to
22 review communications and, of course, I'm very loathe to
23 interfere in anything that's attorney/client; be that
24 between the State and the law enforcement agency or between
25 a defense firm and their client. So we've got practical

1 concerns and then, of course, I've got the ethical and
2 legal concerns.

3 So if you would address those for me by way of a
4 motion factually how -- how that's gonna operate, how
5 you're gonna accomplish that and expand, if you could, on
6 all this information about the CI because I'm hearing from
7 them he doesn't exist and if he doesn't exist, I'm not
8 gonna force them -- I mean, they can't turn over something
9 that doesn't exist.

10 So that's where we are. If -- just at your leisure
11 if you could perhaps brief that for me.

12 MR. PHILLIPS: And I understand Your Honor's concern
13 and I think that once we show you as far as the specific
14 statement from the investigator and seeing the conflict
15 of the inconsistency of that, I think maybe that's what
16 Your Honor just needs to see laid out. And specifically
17 what's happened in the other cases is that the solicitor's
18 office has procured the information, provided it to the
19 presiding judge and then the judge, again, determined
20 whether it could be released.

21 THE COURT: I understand that. Those judges
22 apparently have a lot more time on their hands than I do
23 and that's probably because they're doing nothing but
24 civil, I'm doing nothing but criminal due to my not living
25 a good life and being punished by God, so -- so that's

1 where we are.

2 MR. BROWN: Your Honor, may I briefly just interject
3 something not related to the ESI, but it is related to
4 the CI?

5 THE COURT: I'm supposed to meet someone in ten
6 minutes. I have not seen him in some time, so you've got
7 twenty seconds.

8 MR. BROWN: Twenty seconds. On July 9, 2018,
9 information was received from Investigator Singleton from
10 the Hampton sheriff's department that a confidential
11 informant witnessed Mr. Ritter's Tahoe with bullet holes
12 in it earlier that day at the Ritter's home, [REDACTED] Roberts,
13 in Estill, South Carolina, period, and then it's sworn --
14 signed and sworn to by Investigator Singleton under oath
15 to a court in this case and --

16 THE COURT: I understand. Use of the -- forgive me.

17 MR. BROWN: I'm sorry.

18 THE COURT: We are out of time. Use of the word
19 "CI" may have been somewhat reckless. They could have
20 meant a tipster, they could have meant somebody who walked
21 up to them on the street. I had a case in Laurens County
22 where the CI was just a complete stranger, never got his
23 name and they got a search warrant, which I suppressed,
24 because hey, I think so and so is out there making meth
25 behind his house and then they go out there without a

1 search warrant, do a knock and talk and I say nope, nope,
2 nope.

3 So I don't know if it's reckless use of language or
4 what. Fortunately your co-counsel and you will be able
5 to lay all that out in the memorandum, which I will be
6 receiving in the coming weeks.

7 MR. PHILLIPS: And the bond issue is under
8 advisement?

9 THE COURT: The bond issue is under advisement.

10 MR. PHILLIPS: Thank you, Your Honor.

11 THE COURT: You-all have a lovely afternoon.

12 (Whereupon, the proceedings were concluded at
13 12:37 PM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Eleventh Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and complete transcript of record of all the
proceedings had and the evidence introduced in the hearing
of the captioned case in Circuit Court on the 7th day of
November, 2019.

This transcript may contain quoted material. Such
material is reproduced as read by the speaker.

I do further certify that I am neither of kin,
counsel, nor have an interest to any party hereto.

December 2, 2019

1st Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

1 State of South Carolina) Court of General Sessions
2 County of Lexington) Eleventh Judicial Circuit
3
4 State of South Carolina,) Transcript of Record
5 vs.) 2018A3221100460-21100479
6 Damien Lavar Ritter,)
7 Defendant.)

8
9 December 4, 2019
10 Lexington, South Carolina

11 B E F O R E:

12 The Honorable Frank Addy, Jr., Judge

13
14 A P P E A R A N C E S:

15 Sutania A. Fuller, Assistant Solicitor
16 On behalf of the State of South Carolina

17 James A. Brown, Jr., Esquire
18 Dayne C. Phillips, Esquire
19 On behalf of the Defendant

20
21 Stacy S. Johnson
22 Circuit Court Reporter
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I N D E X

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E X H I B I T S

Court's 1 Third Supplemental Motion 26

Court's 2 Fourth Supplemental Motion 26

Court's 3 Defendant's Response to Order 26

1 (The following proceedings were held December 4,
2 2019, beginning at 12:10 PM.)

3 BAILIFF: All rise. Court's back in session.

4 THE COURT: Thank you. Have a seat, please.

5 So we'll go back on the record, if we can, in the
6 State versus Damien Ritter. This is a matter that I
7 touched earlier last month and I have had a chance to
8 review the motions that have been filed and my previous
9 order. And I appreciate everyone being willing to
10 start this a little bit early. I finished -- my trial
11 resulted in a plea and I was willing to try and take a
12 little bit of the load off of Judge Keesley and since
13 I touched this previously, he thought it may be a good
14 idea if I heard the hearing -- or hearings today.

15 I know that we have on deck a Schmerber matter from
16 the State. I don't know if there's any objection from
17 the defense on that. We also, of course, have the issue
18 of the confidential informant and the other collateral
19 issues that we touched on November the 4th.

20 The basis for the Schmerber, you put it in your
21 motion, but do you want to put it on the record briefly?

22 MS. FULLER: Thank you, Your Honor.

23 And I haven't had one before you. Are you
24 requesting testimony or are you willing to stand on
25 the affidavit? The officer and the investigator, Paige

1 McCraw, is here to actually collect the standard should
2 Your Honor grant the motion.

3 THE COURT: Let's handle it this way. Do you-all
4 have any objection to -- to the DNA?

5 MR. BROWN: We do, Your Honor.

6 THE COURT: Okay. What's the nature of the
7 objection, if I may?

8 MR. BROWN: That we believe, in part, my client
9 was identified through the statement made by a person
10 that gave information to Investigator Perry Singleton
11 and we'd like that information before we can delve into
12 whether there's probable cause at all regarding my
13 client being the person identified.

14 They have unknown DNA in their latent DNA. We
15 concede that. So they have two items that they have
16 not attributed DNA to. Now, interestingly, you know,
17 we don't know that they ran the DNA through CODIS, and
18 that would be the second objection. Because if our
19 client wasn't there, there's no probable cause that
20 they're gonna find the source of the latent DNA in my
21 client's body, and that goes back to the informant's
22 identity, and so we think that while Your Honor can
23 hear their presentation today that, quite frankly, we
24 need to be able to offer -- because we can offer actual
25 evidence and not just go off of their evidence, but

1 let us offer the evidence regarding what the informant
2 really said after we get a chance to interview him. And
3 I'm gonna use informant because I don't know how else
4 to refer to him, the tipster informant, and so we think
5 that's part one.

6 But part two, they haven't taken a less intrusive
7 step of running it through CODIS that we know of.

8 THE COURT: Okay. Well, Solicitor, go ahead,
9 please.

10 MS. FULLER: Thank you, Your Honor.

11 In terms of the standard, all that's before the
12 Court in terms of the State's motion in terms of
13 Schmerber and collecting the Defendant's standard in
14 this case, we must show probable cause that the crime
15 existed, and it's laid out in the affidavit and the
16 officer is here and he can just publish the affidavit
17 to the Court. We also must set forth reasons to believe
18 that it will be relevant and material evidence. We did
19 file the DNA report that we -- we talked about at the
20 last hearing that was released on October 29th, and in
21 that -- I'm not sure if -- this is the new system,
22 STRmix. I'm not sure if you've been able to dive into
23 it, but looking at Items 5 and 31, those two items,
24 we're looking for an unidentified individual. There is
25 DNA suitable for comparison there. And just to cover

1 our bases at trial, we do need to go ahead and collect
2 the Defendant's standard so we can include or exclude
3 him on those two items, Your Honor.

4 We must show the Court that there's a safe and
5 reliable method that will be used to secure the bodily
6 sample in this case. We do have Investigator Paige
7 McCraw present who would actually collect the standard
8 and she would be able to testify and explain to the
9 Court her method and that it is safe and reliable and
10 very minimally intrusive and the one she uses is not
11 intrusive at all since the swabs would be collected from
12 the inside of the Defendant's mouth.

13 Also, Your Honor, your -- in the probable cause
14 determination, you also balance the seriousness of
15 the crime, which we know is a double homicide and
16 attempted murder, the importance of the evidence in its
17 investigation, and that's very apparent from the DNA
18 report that we do have two items that have unidentified
19 DNA.

20 The availability of an alternative less intrusive
21 means of obtaining the evidence. In this case, Your
22 Honor, when it comes to that particular threshold
23 question, it doesn't have to be any method in this case.
24 Here we're selecting the inside of the cheeks and we --
25 our argument is it's the least intrusive method and the

1 most reliable to do. It's not necessarily a -- commonly
2 I'd say it's a one to one comparison, but we know it's
3 more involved than that, but that's essentially what
4 you're doing, taking the Defendant's DNA and comparing
5 it to what evidence we have.

6 Your Honor, I think balancing all that, the
7 affidavit lays out and my motion lays out and what we'll
8 be able to show here should Your Honor need testimony,
9 is that we've gone through every step, we've identified
10 that there is items. We didn't just do this in the
11 beginning before we know that there's anything to compare
12 it to. We ran the analysis, we do now know that there
13 are two unidentified standards on two items, and I
14 believe it's appropriate for us to move.

15 The issues that defense counsel is raising can be
16 addressed with a subsequent order of today. I sent
17 Mr. Phillips an e-mail detailing what needs to be taken
18 up. I think that can be taken up at the appropriate
19 time, the CI issue, all of that. What we do have that's
20 laid out is probable cause. We have an identification
21 that was made on July 5th, July 6th the warrant was taken
22 out, in 2018, identifying Damien Ritter as the shooter
23 in this case.

24 That's the threshold question. That's the
25 threshold. Did a crime occur? Do we have probable

1 cause the Defendant did it? We have that. Anything
2 else that may come up that the defense has indicated
3 does not negate the probable cause that exists.

4 And so I think at this point the State's motion is
5 proper. I think probable cause has been established and
6 with the affidavit, the DNA analysis and my motion that's
7 been filed in the clerk's office, I would request -- I
8 have a copy to make it also a Court's exhibit for this
9 proceeding, and we can stand on the affidavit or I can
10 call the officer to present essentially what's in the
11 affidavit.

12 THE COURT: Okay. Let me ask this. I don't know
13 that there's any dispute really that the method of
14 taking a cheek swab is minimally intrusive. It's not
15 like when I first started practicing you actually used
16 a needle to draw blood and that kind of thing, so I
17 don't know that there's any argument that I'm gonna
18 hear. I'd be surprised if I heard an argument that
19 this was somehow dangerous or not minimally intrusive
20 or otherwise safe and reliable.

21 Which items is it that we're -- that we're concerned
22 with on the report again? I missed that.

23 MS. FULLER: I apologize, Your Honor. And I'm
24 gonna flip to it to make sure I'm not misspeaking, but
25 I believe it's Item 5 --

1 THE COURT: Swab from front door sill?

2 MS. FULLER: That's correct, Your Honor. There's
3 one unknown in that sample. And then Item 31, a swab
4 from the silver ring on kitchen -- there is an identified
5 -- there's DNA profile suitable for comparison was
6 developed and then there is -- they were able to eliminate
7 -- I guess I'll start first. SLED has standards from the
8 surviving victim, as well as the deceased in an autopsy
9 that was performed, and then they had a known standard
10 attributed to Elzie Mack. All three were eliminated
11 from Item 31, so you have an unidentified individual
12 contributing to that standard. All of the other ones
13 that were submitted, Your Honor, were either not suitable
14 or an identification was made to either Elzie Mack, to
15 Samir Atkins or Rodney Furtick or they were eliminated
16 and there isn't enough to test anything else.

17 MR. BROWN: Your Honor, we stipulate that it is a
18 minimally intrusive means.

19 THE COURT: Right.

20 MR. BROWN: If we could be heard as to the rest of
21 it in more detail.

22 THE COURT: Certainly. The initial objection that
23 you have as it relates to the CI, my understanding is
24 that this -- these items were -- these items of evidence
25 were collected independent of any sort of information

1 that the CI may have --

2 MS. FULLER: That's correct, Your Honor. The crime
3 scene was processed on July 5th of 2018.

4 THE COURT: Okay. I think that -- you know, I
5 understand that you may be making some sort of fruit of
6 the poisonous tree or motion to suppress as it relates to
7 the -- to the discrepancies concerning the confidential
8 informant, but it as relates to this information -- well,
9 let me -- let me ask the question that counsel asked.

10 Is there a reason that you-all haven't run this
11 through CODIS yet?

12 MS. FULLER: Your Honor, I'm gonna give the answer
13 as I understand it, but I'll leave it to the expert.
14 Certain items are not CODIS eligible due to -- what is
15 the word they use -- the integrity of the system. So
16 if it's -- so certain items like this where you have
17 multiple people who could have had contact with the
18 item, then their policy is it's not CODIS eligible. I
19 know when I asked the question about running it through
20 CODIS early on -- let me consult with Investigator Deas
21 on this. I want to make sure I'm giving the exact --
22 I wasn't prepared to argue that CODIS was the least
23 intrusive means, but I don't want to misquote when I say
24 this.

25 THE COURT: Sure.

1 (Discussion off the record.)

2 MS. FULLER: Your Honor, he's not sure. He didn't
3 know about that, but I -- I don't want to misspeak,
4 but I -- I want to say that the items were not CODIS
5 eligible. I don't want to be held to that because I've
6 had so many conversations with DNA on different cases,
7 but that's always one of my questions is since he would
8 be in CODIS for his arrest, if it was there, so if I can
9 get back to Your Honor on that.

10 THE COURT: Sure.

11 MS. FULLER: I'll call the analyst and ask just to
12 be sure, but I know there's standards and protocol and
13 certain things are simply not CODIS eligible.

14 THE COURT: But you believe that the Defendant
15 would be in the CODIS system?

16 MS. FULLER: He would have been -- he should have
17 been in CODIS once he was booked into the detention
18 center on these charges since these are charges --
19 felony charges that would be eligible to be entered
20 into CODIS.

21 THE COURT: Right.

22 MR. BROWN: And if we may be heard on that.

23 THE COURT: Yeah. Go ahead.

24 MR. BROWN: I actually asked my client that very
25 question in -- that's what I was asking him back in the

1 back. They did not take his DNA --

2 MS. FULLER: Okay.

3 MR. BROWN: -- and we would agree that it was
4 eligible under the booking procedure part because that
5 was actually -- if he had given it, that would have been
6 my response, Judge, to this, is that they already have
7 his sample.

8 MS. FULLER: Can I ask you a question? They did
9 not do a buccal swab of his mouth?

10 MR. BROWN: According to my client, they did not.
11 And it's -- for what it's worth in my experience as a
12 lawyer in the last few years is they sometimes do and
13 sometimes don't.

14 MS. FULLER: Okay.

15 THE COURT: But he has a prior conviction or some
16 sort of other conviction that would have --

17 MS. FULLER: I don't believe he has any --

18 THE COURT: -- or he's not even in the system.
19 Okay. Well, that -- that renders CODIS moot then if
20 he's -- because he's shaking his head that he's not
21 even in the CODIS system, so.

22 MR. BROWN: That's right. But, Your Honor, our
23 argument is this. The CODIS system has a ton of people
24 in it and so they're trying to narrow it down to probable
25 cause to look at his body, and we know this much. This

1 is probably a little beyond the facts that have been
2 presented here, but this apartment was a drug dealing
3 apartment and there were lots of people coming and going
4 because that's the nature of the drug dealing business
5 is that you have people to stop by. That was one of
6 the reasons, and we believe, they didn't take any
7 fingerprints in this case inside the apartment at least.
8 That's what we were told in the sworn testimony at the
9 preliminary hearing. So the idea was we didn't take any
10 fingerprints because it would come up with so much
11 information it would not be probative, and that's what
12 we've got here, is that we've got the same idea, the
13 same amount of people that may have touched and left
14 fingerprints, the same amount of people who may have
15 touched these items to leave DNA. And so, quite frankly,
16 until they run it through CODIS and eliminate that, they
17 still have every single person that could have visited
18 potentially leaving these same items. Because what I
19 haven't heard as to the items is that they were unique
20 to this day or event. So if they found some DNA on the
21 door handle for the refrigerator, that doesn't mean it
22 had anything to do with this day, and so they're trying
23 to take that fact and say it's probative to the crime.

24 Because we agree there's probable cause there was
25 a crime committed that day. We're saying there's not

1 probable cause that our client left that DNA there.
2 That's really the question. I mean, if it was a CSC
3 case and there was a condom in the trash can from three
4 weeks earlier that dried out, that wouldn't be probative
5 to whether there was a sexual assault on that date
6 because it would be stale -- stale evidence to go back to.

7 Now that dovetails -- and I'm gonna let Mr. Phillips
8 talk a little bit about STRmix and the suitability of
9 entering stuff into CODIS, but before that I want to
10 mention one other thing. And I stand to be corrected
11 on this, but from my review, I don't even see where
12 they eliminated it to half of the population because I
13 don't see where there's a Y chromosome in the latent
14 sample, and I may be wrong on that.

15 MS. FULLER: Your Honor, before we go onto the next
16 argument just to make sure we're on the same page here,
17 I disagree with the standard before, Your Honor. You're
18 looking at probable cause that a crime existed, probable
19 cause that the Defendant committed the crime. That's
20 where we are. I respect counsel's opinion, but it's --
21 it's not as complicated as it needs to be or not --

22 THE COURT: I understand your position.

23 MS. FULLER: Okay.

24 THE COURT: I do understand what the law requires
25 that the Court consider and obviously there's other

1 evidence that led to the arrest of the Defendant that's
2 spelled out in your affidavit that we -- you know, that
3 I assume has already been, of course, made privy to the
4 defense and everything.

5 You wanted to weigh in on this?

6 MR. PHILLIPS: I do want to be heard on STRmix.
7 So there are challenges around the county as to the
8 admissibility of STRmix. There has been, I believe, a
9 successful challenge. In my own personal experience in
10 a murder case we had where the traditional DNA analysis
11 was done and the report came out and it excluded the
12 Defendant and then a STRmix report was then later done
13 prior to trial and then it -- or at least it was a
14 mixture, inconclusive, and then a STRmix report was
15 done and then it specifically identified the client I
16 had in that case.

17 Going into the fact that how STRmix works on
18 algorithms that are not shared, and I know Your Honor's
19 probably at least vaguely familiar with how the -- the
20 basis of STRmix works, so we challenge the very basis of
21 using a STRmix report to get to this point to establish
22 probable cause to then trigger the Schmerber hearing.
23 They have not performed a traditional DNA analysis to
24 show that that would have a different inconsistent
25 essentially conclusion in this case.

1 Obviously I'm not -- these arguments have no
2 bearing on the arguments that we just presented, but we
3 have a basis of challenging the STRmix report in its
4 very nature being used to establish probable cause to
5 get to this point.

6 MR. BROWN: And that goes back to what I think --
7 it goes right back to the -- we don't even have it's a
8 Y DNA or a Y -- XY sample that's been identified.

9 THE COURT: Well, I'm assuming that that's because
10 of their standard policy that they're not gonna run
11 something unless they have something to compare it to.
12 Is that --

13 MR. BROWN: Well, they did run it and compared it
14 to the other three people.

15 THE COURT: Oh, okay. True.

16 MS. FULLER: That is not -- I don't want to say
17 generally that. I asked if they could specify the X or
18 Y with STRmix and the proposition sets, how it's set up
19 now, this is the protocol of how they do it. So for
20 consistency purposes, the integrity of the system, they're
21 consistent with how they report their proposition sets.

22 I hear counsels' opinion and their arguments,
23 Your Honor. I think for the purposes of Schmerber we're
24 getting a little too far away. Challenging the DNA
25 evidence is something that can come at trial. What I

1 need to show the Court, and I hate to keep just going
2 back to it, but in State v. Jenkins, to show that the
3 suspect's DNA is relevant, the State must show that
4 other DNA evidence in this case exists that we can
5 compare it to.

6 So whichever system we use, I'm showing the Court
7 that Items 5 and 31 are -- have unidentified individuals.
8 I've established through that affidavit that Defendant
9 -- that a crime occurred and that probable cause exists
10 that the Defendant committed this crime and we've agreed
11 that the method is safe and reliable. We know the crime
12 is serious. I believe that we're at a proper stage to
13 have the order granted -- the motion granted and the
14 issues challenging STRmix we can definitely address at
15 the appropriate time if there's a suppression of the
16 DNA evidence at trial. I just don't believe for the
17 threshold question of probable cause that that is --
18 that is appropriate right now at this setting unless
19 Your Honor tells me different and at that point I would
20 need SLED here to actually explain that more than I can.

21 THE COURT: I understand.

22 MS. FULLER: I rely on the experts for that.

23 THE COURT: Item 31, silver ring on the kitchen
24 floor, is just like a ring like you would --

25 MS. FULLER: No, Your Honor. From looking at the

1 photograph, I can't a hundred percent say where it's
2 from. It looks like, you know, in my -- in my humble
3 opinion, I can't tell you where it's from. It looks
4 like the bottom of a lamp. There was a struggle, so
5 things were knocked over, and I think it was -- it's
6 just a big -- I don't want to say ball, but different
7 things at the bottom, so it looks like just something
8 attached to another object that was thrown on the ground
9 in the struggle --

10 THE COURT: I see.

11 MS. FULLER: -- and on the photograph it looks
12 like there's actually blood on it, and so that's what
13 that appears to me. I think one of the officers thought
14 it may be from like the oven or somewhere -- a kitchen
15 thing because there's a kitchen and then the sitting
16 area outside the kitchen, so it was found on the floor
17 there and there's some blood on it.

18 THE COURT: Okay.

19 MR. BROWN: Your Honor, is it the blood that
20 they're saying or the ring that has DNA or is it the
21 blood DNA? That's -- I mean, it's slightly different.

22 THE COURT: I'm hearing it's -- I'm hearing it's
23 DNA. Whether it's coming from blood, touch or whatever,
24 I don't know if that's terribly germane to the -- to the
25 issue before the Court.

1 MR. BROWN: I do understand that, but it does maybe
2 down the road become an issue.

3 THE COURT: It could, but that -- that's probably
4 an issue for another day.

5 You wanted the last word on this?

6 MR. PHILLIPS: Thank you, Your Honor.

7 To be more specific, under Article 1, Section 10 of
8 the South Carolina Constitution, we are granted greater
9 protection under the invasions of -- against unreasonable
10 invasions of privacy in South Carolina. State versus
11 Counts, State versus Forrester, is kind of the case that
12 started this, is showing that in South Carolina we have
13 an extra provision that the Fourth Amendment doesn't
14 have, and it's against unreasonable invasions of privacy,
15 and it's greater protection than even what the Fourth
16 Amendment provides is here in South Carolina.

17 This is a search. We can call it Schmerber, we
18 can call it Jenkins, we can go through any -- it is
19 a search under the Fourth Amendment, which still
20 triggers under South Carolina under Article 1,
21 Section 10, this greater protection of an invasion --
22 unreasonable invasion of privacy. So we're arguing
23 that has a higher threshold, a higher burden for the
24 State to prove, and with that they have not run this
25 DNA under the traditional DNA analysis. We have

1 significant issues with there not being -- again, it
2 run against other Y -- or, excuse me, under STRmix,
3 as well as the basis of an overall admissibility
4 challenge.

5 As to the validity, again, when you're looking
6 at 702 challenges and we're attacking the validity
7 essentially through the admissibility of scientific
8 evidence, you're looking at accuracy, repeatability,
9 all those things, and if we have a report that is not
10 scientifically accurate or should not be used, it
11 cannot establish the probable cause, and I think maybe
12 SLED does need to be involved so we can have a proper
13 record for the appellate court to address this issue,
14 and so as we go through that, it hasn't been run even
15 through CODIS.

16 So if we take two steps back, the State hasn't
17 run the DNA through CODIS to eliminate. And, again,
18 when we're looking at Article 1, Section 10 to have
19 that higher burden of an invasion -- an unreasonable
20 invasion of privacy, at a very minimum the State should
21 have run it through CODIS to eliminate other possible
22 known suspects.

23 THE COURT: That would simply eliminate everybody
24 who's in CODIS because your client is not in CODIS, so
25 that's what I'm -- I'm hearing, and I don't know that

1 that's really the burden on the -- the State does not
2 have to -- it seems to me that you're suggesting that
3 the State has an obligation to eliminate every other
4 convicted felon who's ever been convicted of a crime
5 in South Carolina who's provided DNA to CODIS before
6 they can then ask for a sample from your client, and
7 that's not the legal standard.

8 MR. BROWN: And, Your Honor -- and let me suggest
9 this. I don't know that it would move into -- let's
10 put it a different way. If CODIS had the magic answer
11 in it, if it had a DNA that matched this DNA, obviously
12 not then being my client, it would be exculpatory
13 information and it's in their exclusive possession and
14 that they have a duty to seek that out.

15 THE COURT: Which I would certainly -- this is
16 gonna play out in one of two ways. If the Court were
17 to grant and conclude that your client should provide
18 a buccal swab, if the Court were to conclude that that
19 is appropriate at this stage, then it will either be a
20 match or it will not be a match. If it is a match, I'm
21 assuming that there will be a 702 challenge as to the
22 reliability of the scientific evidence, the methodology
23 used by STRmix, et cetera, et cetera, and that's a
24 matter correctly for another day because we -- we would
25 need a full testimonial hearing potentially on that --

1 on that question. If it does not match your client,
2 then you could very well request that a full CODIS --
3 CODIS search be done and if that is possible, then I
4 presume they'll do it and if it's not possible, then
5 they can explain why they cannot do it.

6 MR. BROWN: And, Your Honor, that was actually
7 exactly where I was going because I was gonna say
8 without waiving our objections, if you're gonna order
9 our client to give the sample, if you'd also just
10 include in the order that if it is suitable for CODIS
11 entry and is not our client, that they then run it
12 through CODIS and provide any exculpatory information.

13 THE COURT: Sure. Let's find out if it's your
14 client first and then we can take the next step.

15 MS. FULLER: Thank you, Your Honor.

16 THE COURT: Because it's clear to me that there
17 is probable cause for this. We have a crime, there's
18 been eyewitness identification of your client as the
19 perpetrator of the crime. There's no dispute that
20 the method of collecting it is safe and reliable, and
21 clearly there is seriousness to the offense of murder.
22 If the DNA -- Items 5 or 31, if there is useable DNA
23 which -- which matches Mr. Ritter, then that makes this
24 evidence very important and potentially it's very
25 important to the defense if it does not match him and

1 that it indicates perhaps somebody else was there in
2 the house; especially if we're talking about Item 31 and
3 it's blood on a ring from a lamp that was thrown or used
4 in self-defense. So this is one of those that can cut
5 either way.

6 I appreciate the enhanced protections concerning
7 the South Carolina Constitution and our right to privacy
8 and I -- I would generally agree with counsel that we
9 do have greater protections under the South Carolina
10 Constitution than the Federal Constitution, but I don't
11 believe that those protections are implicated by this
12 Court's order in that clearly there's probable cause
13 to authorize the gathering of the sample and I don't
14 find this an invasion of privacy or collection of DNA
15 to be unreasonable under the facts and circumstances as
16 enunciated by the Solicitor in her affidavit, et cetera.

17 So that would be my ruling on that.

18 MR. BROWN: Yes, sir, Your Honor.

19 Can we ask that your order also include one other
20 provision?

21 THE COURT: Sure.

22 MR. BROWN: Would they also -- assuming that --
23 whether one matches or not, would they also put in
24 there whether the items match each other?

25 MS. FULLER: Your Honor, the -- so we have separate

1 issues here. I have a proposed order granting the motion
2 to collect the standard. What they're requesting would
3 be a subsequent order if Your Honor grants that because
4 that will be an order directed to someone else, not the
5 person you would be directing this order to --

6 THE COURT: Right.

7 MS. FULLER: -- which would be West Columbia
8 collecting it. They're making a request of SLED, so
9 that would be -- those are two separate issues and I
10 think, like Your Honor indicated, would be more
11 appropriate once the results come back.

12 THE COURT: So that I under -- so that I understand
13 what you're asking is, is to perform an analysis to
14 determine whether items -- the DNA found on Items 5
15 and 31 are from the same contributor?

16 MR. BROWN: Yes, sir.

17 THE COURT: Okay.

18 MR. BROWN: Now if they both match our client,
19 that goes without saying that they're the same.

20 THE COURT: Let's handle it this way. I don't
21 think that that's an unreasonable request. The
22 solicitor is not unreasonable. She may very well
23 consent to that once the results are back --

24 MR. BROWN: Yes, sir.

25 THE COURT: -- and I don't think that that

1 necessarily is terribly unreasonable, but let's do
2 this one step at a time.

3 MR. BROWN: Yes, sir.

4 THE COURT: Let's find out if perhaps your client
5 is the contributor, and if he's not, then we'll take the
6 next step, okay?

7 MR. BROWN: Thank you, Your Honor.

8 MS. FULLER: Your Honor, may I approach?

9 THE COURT: Please.

10 MS. FULLER: And permission for the investigator
11 to collect the standard now?

12 THE COURT: Sure. Thank you for coming.

13 MS. FULLER: Is there a space that she can use?

14 THE DEPUTY: Yes.

15 MS. FULLER: And, Your Honor, for the record we
16 don't have a clerk, so by signature of the order now
17 and then I'll file it after the proceeding, but still
18 authorizing her to collect the standards now.

19 THE COURT: Yeah, that's fine. She can go ahead
20 -- she can go ahead and collect the sample.

21 MR. BROWN: Your Honor, if we can just say -- if
22 he's gonna -- if we're gonna argue more motions, if he
23 can remain. That way --

24 THE COURT: Sure.

25 MR. BROWN: Or we can take a break and do this,

1 but I'd like him to be present for the motions.

2 THE COURT: This will take two seconds. Go ahead
3 and collect the sample and we'll -- I'll just sit here,
4 okay?

5 MS. FULLER: Thank you, Your Honor. I'll go get
6 this filed.

7 THE COURT: That's fine.

8 The record will reflect that I signed the order
9 prior to the sample being collected.

10 (Pause in proceedings.)

11 MR. PHILLIPS: I wanted to hand up some of the
12 newer stuff that you might not have printed.

13 THE COURT: Yeah, I've got that.

14 (Court's Exhibit Number 1, 2 and 3 were marked
15 for identification.)

16 THE COURT: Let's do this. Before we launch into
17 the rest of this -- let's go off the record here, if
18 we could. We're gonna be off the record for a moment.

19 (Off the record discussion.)

20 (Whereupon, a luncheon recess was taken at
21 12:44 PM.)

22 (Back on the record at 2:14 PM.)

23 BAILIFF: Please come to order. Court is back in
24 session.

25 THE COURT: Thanks. Have a seat, please.

1 Okay. We're going back on the record in the State
2 versus Damien Ritter who, of course, is present with
3 counsel. We had a few other matters I think we need to
4 touch on. I saw you-all talking when I came in here.
5 Anything that we've got worked out or anything that we
6 need to do?

7 MS. FULLER: I don't think we necessarily got it
8 worked out. Mr. Brown indicated he wanted to talk to
9 Mr. Phillips. We were trying -- I was trying to propose
10 a few things in regards to what's left, but I know he
11 wanted to talk it over.

12 THE COURT: Sure.

13 MR. BROWN: Yeah, I don't know that we've reached
14 an agreement, but I will say it did have to do, Your
15 Honor, with the informant tipster person and -- but I
16 don't believe that we can agree because there's some
17 contingencies, I'll just put it that way, about that. We
18 think we'd still like to have a Franks hearing and the
19 identity of the material witness, which are two different
20 things.

21 THE COURT: Right. I assume we're not in a position
22 to move forward with the Franks hearing necessarily at
23 this point, correct?

24 MS. FULLER: That would be the State's position,
25 Your Honor. One -- one reason is we didn't have enough

1 time to even get the witnesses here and then another
2 thing that I laid out in my e-mail, I'm not sure if you
3 got to review that yet, was what we're looking at in
4 that search warrant, the items that were seized at the
5 house, was that DVR, a .380, magazines -- and I think
6 two magazines, maybe three magazines. That's all that
7 was seized.

8 At the current time as we stand here nothing of
9 evidentiary value that I can move in, but once I got
10 their motion I went ahead and sent the magazines and the
11 firearm that was seized to SLED for testing, so that went
12 probably -- last week was Thanksgiving, so maybe the week
13 before. It was sometime right after the last hearing I
14 went ahead and got those things sent for testing just so
15 there isn't anything left to do.

16 The reason why it wasn't sent before is because
17 from my understanding the murder weapon in this case is
18 believed to be a 9-millimeter. So when law enforcement
19 seized the .380, I was not interested in it, I didn't
20 think it would be relevant, so my point, I can't even
21 move it into evidence because Your Honor would ask me
22 what's the relevance of this gun, but just to address
23 any issues and make sure everything's done, I went ahead
24 and sent it.

25 In terms of that DVR, you may remember we've had

1 two hearings on it. We couldn't get into it. It's
2 password protected. I requested a transcript from both
3 prior hearings so I'm accurate in what I represented to
4 the Court, and it's still the same now, is I don't even
5 believe that there will be anything probative on the DVR,
6 but since it keeps coming up, I'd ask Your Honor if you
7 would entertain an investigative order. I don't need
8 defense counsel's consent to that, but we just located
9 -- I spoke to an attorney in Pennsylvania who represents
10 Night Owl, who is the manufacturer of the DVR system
11 that was at Ritter's residence last year in July, and
12 he's indicated to me -- or a court order ordering them
13 to provided an administrative password or otherwise
14 bypass the password on that DVR. They would just need
15 the serial number and maybe -- both numbers I included
16 in the order that they would request; that at that point
17 they would entertain providing that information to West
18 Columbia law enforcement for them to go into the DVR and
19 retrieve anything that's on it.

20 So that's something I'm prepared to do, but in
21 terms of the search warrant, at the current time there's
22 no evidence for me to introduce from it so I wasn't --
23 wasn't too keen on just taking up the Court's time on
24 something -- moving to suppress something that there's
25 nothing I'm seeking to introduce yet. But based on their

1 motions and their correspondences, there's obviously
2 something there that they want and I'm not in a position
3 to figure out why they want it or what they need it for,
4 but I'm in the position to assist as much as possible.
5 And so I have the officer here, a similar affidavit to
6 the Schmerber, just additional factfinding that he would
7 be willing to present to the Court in a proposed order
8 that we could send to Night Owl to get into that DVR.

9 The problem with having a Franks hearing now, which
10 I -- so the State's position, of course, is that we still
11 have probable cause in the search warrant and we have
12 the CI issue to take up as well, is it's just premature.
13 Motions to suppress would be more appropriate for the
14 trial judge. I'm not sure if that's gonna be Your Honor
15 or a different judge and I think it would be more
16 appropriate closer in time to trial -- or before trial
17 and not this far in advance, especially since we have no
18 evidence to introduce from it at this current time.

19 THE COURT: Yeah, let's -- let's try and take those
20 up in piecemeal. The DVR, is she accurate in that that's
21 something that you-all do want explored because if --

22 MR. BROWN: Your Honor, we didn't realize that this
23 was gonna be before Your Honor today. I'll just start
24 with that.

25 MR. PHILLIPS: I mean, I'll just -- the reason why

1 we request those items be essentially disclosed through
2 discovery and the reason we want to go through that -- go
3 down the rabbit hole was it's specifically referenced
4 through the discovery, part and parcel with the search
5 warrant that was issued, through the investigator,
6 Singleton, which is tied to the CI issue, goes directly
7 to support, again, the credibility of what the CI said he
8 saw and the information that was provided. That was, of
9 course, whether the -- again, the CI or whoever this
10 individual may be, even if he exists or doesn't exist,
11 and then, of course, the credibility of the investigator
12 based on that determination. It's to ensure that a full
13 investigation is done because what we didn't want to
14 happen was something later down the road that's occurred
15 in other cases where the State then seeks to test
16 additional information that hasn't been tested that's
17 in their -- you know, in their possession, and so when
18 we ask for that to be looked into, it's to ensure that
19 this doesn't have an issue that occurs for subsequent
20 discovery prior to trial where we get, say, the video
21 from the DVR a month out from the trial. And obviously
22 we're not saying that the trial would not be moved or
23 anything like that. It's just to ensure that the case
24 is fully investigated and our arguments that we can
25 present at trial are -- are allowed so we can tell the

1 judge. If he was to say I'm not gonna allow you to argue
2 certain things about the investigation, we can show where
3 we've tried to have certain pieces of evidence tested.

4 MR. BROWN: And, Judge, talking about the -- besides
5 the 1200 pages of discovery that's referenced, this case
6 has a pathologist regarding two deceased, multiple
7 ballistics issues, telephone dumps from who knows how
8 many telephones, videos from however many spots that
9 they've picked video cameras that they're gonna have to
10 bring in chain of custody and prove the authentication
11 on the video as required by law and then ballistics, and
12 we're marching down the road where can end up with a
13 week's worth of pre-trial on an issue in this case
14 regarding the search warrant that we think is pretty
15 straightforward.

16 They swore out a search warrant based on an
17 affidavit that said there was an informant. Your Honor
18 has found or held in an order there is no informant. To
19 me, that's -- that's our showing right now as far as
20 suppression.

21 THE COURT: And I understand your position. My
22 question is more fundamental. If the items that were
23 recovered from the search warrant aren't gonna be sought
24 to be introduced by the State and are not germane to any
25 issue involved in this case, then the Frank's hearing is

1 unnecessary.

2 MR. BROWN: But she hasn't said that. We actually
3 asked her if she would just agree that none of that would
4 come in --

5 THE COURT: Right.

6 MR. BROWN: -- and she said she could not do it
7 while it's still being analyzed.

8 MS. FULLER: Well, Your Honor, so prior to -- prior
9 to his e-mail and the motion, I had no interest in
10 Estill, South Carolina. I'm just being honest. And I
11 said that at prior hearings, though we couldn't get into
12 the DVR, I wasn't interested in it, the gun I wasn't
13 interested in it. What sparked it and now why the case
14 is now open again is once he's put it in writing that it
15 is a material issue, the gun and everything seized from
16 the house, I believe just to protect the future of this
17 proceedings, he's identified a material issue, now it
18 needs to be fully explored, and so that's why I detailed
19 out in my e-mail to you, as well as defense counsel, so
20 at that point I sent the gun to SLED. I need to get that
21 report back. And for all we know, it might be the murder
22 weapon and they've given it to me. I don't think it is
23 because I don't think a 9-millimeter can be fired from a
24 .380. I attempted to test it out, but I didn't. I
25 didn't want to get in trouble, but I don't know. I'll

1 wait for the firearms exam to come back. Hopefully,
2 it's back within the next few weeks.

3 In terms of the DVR, now that we know because
4 they've raised it twice now, I wasn't pursuing it, I
5 didn't think anything would be on it, but now that
6 they've identified in writing it's material, we have to
7 explore it, and now if something comes back on it, hey,
8 it may help the State, it may help the defense, so.

9 THE COURT: All right. Let me ask it this way.
10 You do you-all want them to analyze the DNR {sic} or are
11 you consenting to the Court issuing that order to have
12 the DNR unlocked and whatever else --

13 MR. PHILLIPS: And I guess where we're at, the
14 reason we had to put it in the discovery request is
15 because we didn't know she wasn't going to try to seek
16 to introduce any of that information.

17 THE COURT: Okay.

18 MR. PHILLIPS: But now that we know that, if she
19 says she's not gonna introduce it, then we can all agree
20 that it's a -- if that's -- we can say for a fact none
21 of that is coming in and it won't be referenced.

22 THE COURT: I'm hearing that -- I'm hearing that
23 she doesn't really care about the DVR. Out of an
24 abundance of caution, she already sent the guns down
25 and odds are they're gonna come back as nothing germane

1 or relevant to this case, and so assuming that that is
2 the case I'm hearing that you don't want the DNR -- DVR
3 analyzed.

4 MR. PHILLIPS: Well, we don't -- we don't care in
5 the sense that the problem that gets triggered in a
6 trial is a witness will testify about that. Somehow it
7 will come out that well, there was this DVR that was
8 seized and then we can't address it fully because, one,
9 it was never analyzed and, two, it turns into the
10 problem of all the evidence hasn't been processed by the
11 State, which is why we requested it to be processed.

12 MR. BROWN: And -- and here's the thing, Your Honor.
13 They alone know whether or not they are gonna seek to use
14 this stuff. Now that knowledge may still be contingent
15 upon the analysis, but I don't think we can turn around
16 and waive any kind of challenge on the search like by a
17 pig in poke as my grandma used to say.

18 THE COURT: Okay. I'm -- I'm still looking for a
19 straight answer. I need a --

20 MR. BROWN: Okay. We are challenging the search
21 and the admissibility of any of the information and I
22 don't believe that we can consent to the search of
23 the Night Owl box, the electronics, without somehow or
24 another waiving the search to get the box.

25 THE COURT: All right. So you -- so you don't want

1 the Night Owl box searched.

2 MR. BROWN: Well, we're not consenting to it
3 because that was fruit of the poisonous tree, the
4 unlawful search.

5 MS. FULLER: Your Honor, I can probably save this.

6 THE COURT: Well, we're --

7 MS. FULLER: The way the investigation can proceed,
8 I really -- I don't need their consent to go into the
9 Night Owl. It can just be as a normal order you sign
10 by law enforcement when they want cell phones searched
11 and things of that nature, and that puts them in a
12 little pickle to get them boxed in, I -- I know it isn't
13 getting a clearcut answer, but I understand them not
14 wanting to be boxed in. I do believe I will survive
15 the Franks, so I'm not concerned with that because
16 there's probable cause elsewhere in the warrant, but
17 we're not taking that up today. I'm just -- to answer
18 your question, I think we can off the record --

19 MR. BROWN: Judge, for them to give cause -- sorry.

20 THE COURT: Yeah, let her go and then --

21 MS. FULLER: I think -- to answer your question, I
22 think -- my position for the future of this proceeding
23 since it's been identified in writing that it's a
24 material issue, I can't ignore that, and I think it's
25 appropriate for the officer to swear out an affidavit

1 and get an order from you. It doesn't have to be on
2 the record. It's just, like a normal investigative
3 order to go into the DVR.

4 So at this point I can't tell you there's any
5 evidence in the search warrant to be suppressed, so
6 that's why I think the hearing right now would be
7 premature since technically they forced the reopening
8 of what was seized in that search warrant, Your Honor.

9 I'm just being candid. That's just my position.
10 I've got to think about the future of this case. When
11 someone identifies a material issue, I'm not one to say
12 it's not material. That's not my job. My job is to
13 follow up on it.

14 MR. BROWN: And, Judge, just briefly, to explain
15 kind of the issue that we have as defense counsel,
16 they're now asking for an order to get inside the
17 electronic device. They would have to have cause that
18 there was some -- they'd have to have probable cause that
19 there's evidence on that device, which the only cause
20 we've seen is the informant's cause that he saw the truck
21 there, which put us right back at the very decision you
22 have to make, which is, is there a probable cause to get
23 into the house to get the Night Owl box and then that
24 would be the same cause arguably to get the order to
25 search the Night Owl electronic piece.

1 THE COURT: Well, here's -- here's how I'm
2 interpreting their argument. They weren't gonna go
3 there, but then the defense says this is relevant
4 evidence that hasn't been explored yet. I mean, was
5 that said somewhere in a filing that you-all submitted?
6 I mean --

7 MR. BROWN: We submitted in a footnote that while
8 on the face it appears two caliber bullets are different,
9 the two cal -- the two bullets found at the place,
10 compared to the bullet fragment at the incident sight,
11 the ones found during the search of the home in Hampton,
12 they were analyzed, it says it was a damaged bullet,
13 and that's what I put it in here. So we have a damaged
14 bullet --

15 THE COURT: Forget the bullets. We're talking
16 about the DVR.

17 MR. PHILLIPS: I can be specific with the DVR.

18 THE COURT: Help me.

19 MR. PHILLIPS: We filed a supplemental motion of
20 discovery requesting disclosure of any contents of the
21 box, just like any other defense attorney would do when
22 you see a piece of evidence listed in discovery and you
23 realize you do not have that, it hasn't been turned
24 over, it has not been disclosed. I specifically listed
25 it for disclosure.

1 THE COURT: All right. That is -- then that
2 answers my question. If you-all want it and you need
3 to analyze it, then I will give an order because they
4 have requested that it be analyzed. Whether it's
5 admissible is still subject to the Franks hearing
6 and the potential for a ruling that the product of
7 that search be suppressed, but if they asked for it,
8 everybody now wants it I guess, so.

9 MR. PHILLIPS: So to be -- to be specific and that
10 we don't waive any appellate issues because I know this
11 seems to be the issue, so we don't waive the appellate
12 issue, the reason it was asked is because we don't know
13 whether they had it or not and so you have to ask --
14 specifically ask for it or you don't get it. And,
15 unfortunately, that's not what the law is, but that's
16 what happens in South Carolina --

17 MR. BROWN: We -- we didn't ask them to analyze it.
18 We said give us the video from it.

19 MR. PHILLIPS: Right.

20 MS. FULLER: And they filed a motion -- and they
21 filed a separate motion to compel on top of that, Your
22 Honor.

23 MR. BROWN: The video. The video that they had,
24 which the response would be we weren't able to get
25 inside the video, and we've never followed up on it. I

1 think that's where it's at.

2 MS. FULLER: I think that's the confusion because
3 we did address it and it came up again and that was what
4 I fleshed out in my --

5 MR. BROWN: I don't think we -- I don't think we
6 ever asked for the contents of the Night Owl video.

7 MS. FULLER: It was the first motion to compel.

8 MR. BROWN: That's correct, and then after -- and
9 at that time we had no discovery, Judge, at all in the
10 case.

11 MS. FULLER: No. No.

12 THE COURT: Let me ask this. Let me ask something
13 more basic. Night Owl. What are we talking about? What
14 is potentially on this thing?

15 MS. FULLER: Your Honor, the Night Owl DVR was
16 recovered at the Defendant's residence.

17 THE COURT: Okay.

18 MS. FULLER: When the officer, who is here, he can
19 answer any questions, when he goes to execute the search
20 warrant on July 18th, they see a screen and it's live
21 video filming and so it's a great -- he's like jackpot,
22 maybe there's something on it, they power it down, they
23 seize it. They attempt to execute a search warrant to
24 get into it, they couldn't get into it. They tried
25 Night Owl. They rejected the --

1 THE COURT: So this is a home security system
2 kind of thing?

3 MS. FULLER: Uh-huh, at the Defendant's residence.

4 THE COURT: Okay.

5 MR. BROWN: That's it.

6 MR. PHILLIPS: And we didn't receive the Night Owl
7 response -- the company's response that they wouldn't
8 turn it over until that prior hearing when this was all
9 triggered. If we would have received that from the very
10 get-go, if we would have known -- and, again, you can't
11 know the unknown when you're -- when a defense attorney
12 is trying to make sure they can be fully prepared. You
13 know, essentially --

14 THE COURT: Sure. So more likely than not this --
15 and it's just -- the cameras are from like outside house
16 showing the entry way?

17 MS. FULLER: That's correct, Your Honor.

18 THE COURT: More often than not it's gonna show a
19 dog scratching at a door or the cat being fed on the
20 front stoop, the mailman coming and dropping stuff in
21 the slot of the house and a guy walking in and out or
22 something.

23 MS. FULLER: We don't know.

24 MR. PHILLIPS: It should have no evidentiary value.

25 MR. BROWN: Or -- or according to a tipster

1 informant, it will show a bullet-riddled vehicle.

2 THE COURT: Your investigator says it might have
3 more --

4 INVESTIGATOR DEAS: May I speak, Your Honor?

5 THE COURT: Well, yeah, talk to her first. Talk
6 to Ms. Fuller first.

7 (Discussion off the record.)

8 MS. FULLER: Your Honor, he was just explaining
9 that when he could see the live feed, it was the full
10 driveway, so it was just not the porch, but you can see
11 vehicles coming and going.

12 THE COURT: Right.

13 MS. FULLER: So potentially it could be evidence,
14 if this material witness manifests, that can go towards
15 their potential case. So I think it's been raised more
16 than once now, Your Honor. It was raised in the motion
17 to compel, it was raised in a subsequent supplemental
18 discovery and it was an issue that came up at the last
19 hearing as well, so.

20 MR. BROWN: It was -- it was never -- we never
21 asked for an analysis. If Your Honor -- because we're
22 back to the thing, if we consent to an analysis of the
23 box, we waive the complaint about getting the box.

24 THE COURT: I don't believe you necessarily do.
25 I think you could -- you could say we take no position

1 on the analysis, but any -- any fruits -- we still
2 maintain that the warrant was issued improperly and
3 that anything of evidentiary value on the box, which
4 I'm hearing is probably nothing, so. I'm just inclined
5 -- you know, the flip side of this is that obviously at
6 trial you're not gonna be able to -- to make the argument
7 well, Solicitor, you didn't -- or officer, you didn't
8 get this box analyzed and, you know, I'm not gonna let
9 you have your cake and eat it, too.

10 So if -- if you anticipate that argument coming up
11 at trial and if it's necessary for the State to analyze
12 it in order to blunt that argument, then I'm more than
13 happy to let the Solicitor go on this fishing expedition,
14 but if this is something that's not gonna be germane or
15 relevant and we're just gonna be looking at cats eating
16 on the front porch, I really don't want to send anybody
17 to the trouble of doing all this if more likely than not
18 there's nothing of evidentiary value on it because this
19 scene is in Hampton County, the whole shooting took
20 place up here, so.

21 MR. BROWN: And, Judge, that's our very point; is
22 that for there to be cause that there's something of
23 evidentiary value on the box, now the only information
24 I know about is the informant tipster's statement
25 because there's nobody else that puts my client or a

1 bullet-riddled vehicle in Hampton County except that.

2 MR. PHILLIPS: Or at the residence.

3 MR. BROWN: Or at the residence.

4 THE COURT: Yeah, but, I mean, that's -- that's a
5 different issue entirely. At some point -- from what I
6 understand about this and, of course, I've just read
7 the facts, but apparently there was some -- there was
8 testimony that fire was returned, that shots were put
9 into the side of the Tahoe, correct me if I'm wrong, so
10 the Tahoe of the assailants was hit with gunfire, so it
11 would have bullet holes. You-all then got a still or
12 video of the Tahoe from some location here in Lexington.
13 I think you got the tag off of the Tahoe and it came
14 back to, I guess -- was it the Defendant or somebody he
15 knows or his family?

16 MS. FULLER: No, the -- so they got the car. Once
17 they got his name and date of birth, they were able to
18 get his tag and confirm that he drives that Tahoe --
19 run the DL -- the DMV records, confirm he drives that
20 similar make and model, they were able to find a
21 previous LPR hit from the month prior to confirm the
22 color of the vehicle, so that's what that was. But
23 there is video in West Columbia at -- I think leaving
24 through Cayce at the traffic circle -- multiple, okay,
25 at the traffic that picks up -- those cameras are

1 really good actually -- that picks up the vehicle
2 leaving West Columbia and heading back.

3 THE COURT: Okay.

4 MS. FULLER: And then also what the officer would
5 have been able to swear out to you in his report is the
6 cell phone records in this case should reveal that the
7 phone associated with Ritter returns to Estill after
8 the murders and then we can put him going to Augusta
9 where the witness in Augusta who's provided in discovery
10 described seeing a bullet hole in Ritter's windshield.

11 THE COURT: That's -- that's before we ever get
12 back to Hampton County and we're dealing with the CI,
13 right?

14 MS. FULLER: Before we get there?

15 THE COURT: Before he returns to Hampton County
16 and we have this whole issue with the search warrant
17 and the CI?

18 MS. FULLER: Oh, no, no. No, no, Your Honor. So
19 let's -- so the murders happen July 5th. The murder
20 warrant for the Defendant came out July 6th.

21 THE COURT: Right.

22 MS. FULLER: The information that the nickname
23 Black and the description matching was Damien Ritter
24 also came out July 6th. There's media outlets and now
25 he's plastered -- they're looking for Damien Ritter. On

1 July 9th, that's when Singleton receives that tip on
2 Ritter's whereabouts, but they don't locate him that day
3 and when that tip was provided, it provided additional
4 information that the car he was -- he there with his
5 Tahoe and it had bullet holes in it. Then on the 13th
6 he turned himself in. The search warrant on the house
7 wasn't until the 18th.

8 So he was already identified as a suspect, they had
9 all intentions of searching his house regardless of what
10 some tipster said. That wasn't the purpose of searching.
11 When they pulled up down there, they saw that he had a
12 camera system and was like oh, cool, maybe -- I shouldn't
13 have said that, Your Honor, but they saw the camera
14 system and thought maybe there will be something of
15 evidentiary value. And what I expressed at the first
16 court hearing is listening to his jail calls, his mom
17 or aunt, someone tells him that they took your DVR and
18 he said I don't know why they want that for, it loops
19 over every three days.

20 So once I heard that, I'm like there's no need to
21 pursue this any further, but it kept coming up in
22 discussions, the information of the search warrant,
23 moving to suppress the search warrant that seized the
24 DVR, wanting the DVR, and so it's just become too much
25 of an issue for me to just let it go and not pursue it

1 all the way. We can say we tested it and we can move
2 forward and the record is protected and the appellate
3 court can see that there wasn't an issue left on the
4 table that we didn't explore. I think at this point we
5 have to do it.

6 THE COURT: Okay. I guess you're right. The
7 affidavit and everything is in order and the order for
8 the nice people at Night Owl to --

9 MS. FULLER: Yes, Your Honor. For the record,
10 Detective Matt Deas is present in the courtroom. He
11 did swear out an affidavit. It's fairly similar to the
12 one you read, just adding on the additional probable
13 cause for the search of the DVR.

14 THE COURT: Do you want to look at it?

15 MR. PHILLIPS: We have not. Do we have one?

16 MS. FULLER: You would not have this yet because
17 it's not presented yet.

18 THE COURT: Do you want to -- do you want to look
19 at it first here?

20 MR. BROWN: Please, Your Honor.

21 THE COURT: You-all go ahead and take a look at it.

22 MS. FULLER: Yeah, investigative search warrant
23 orders aren't turned over in advance, so.

24 MR. PHILLIPS: Right. This is -- and since it's
25 not with our consent, it's purely one-sided, then there

1 shouldn't be an issue as far the waiving.

2 THE COURT: Right.

3 MR. PHILLIPS: Is that Your Honor's position?

4 THE COURT: That would be my understanding and you
5 would still -- with the understanding that you have the
6 right to challenge the fruits of the search.

7 MR. PHILLIPS: The only thing would be, I guess,
8 and it will all be addressed during the Franks hearing,
9 is that Number 16 --

10 MS. FULLER: Can I see?

11 MR. PHILLIPS: -- during the investigation law
12 enforcement received information that Ritter's Tahoe was
13 observed with bullet holes at his residence in Estill
14 and then it says cell phone records reveal that the
15 phone associated with Ritter returns to Estill. So that
16 -- that line right there would be referencing the whole
17 issue we have with the CI.

18 THE COURT: Correct, but at the same time if --
19 my point is simply this. If it turns out that nothing
20 evidentiary comes of any of this, then it's a nonissue
21 and there's no need for a Franks hearing. If it turns
22 out that the .380 and the DVR do have something of
23 evidentiary value, then we have a Franks hearing. If
24 it's detrimental to the defense and it's if helpful to
25 the defense, then we don't. So it stands to reason that

1 at the very least for the reasons that the Solicitor
2 put on the record a few moments ago, and it seems to be
3 a recurring theme, I think it's appropriate in light of
4 everything to go ahead and have this analyzed. That
5 is subject, of course, to you-all's Franks objection,
6 et cetera, so.

7 MR. BROWN: And, Your Honor, kind of as a corollary,
8 which I think the Franks hearing would maybe resolve this
9 kind of backdrop issue, but I -- I still can't tell you
10 at almost 49 years old that I understand how there's not
11 an informant, but there is an informant. And this is
12 something I couldn't go tell me 23-year-old son who's
13 looking to go to law school who sat in this last hearing,
14 how it can be both ways and that we're not entitled with
15 that flag there and the scales of justice to get a
16 straight answer about whether there's an informant or not
17 because that's -- that's -- I mean, the truth is what
18 everything in court's based on and those are mutually
19 exclusive statements.

20 THE COURT: I understand. I imagine we're about
21 to get an explanation on that, but I'm trying to do
22 this --

23 MR. BROWN: Yes, sir.

24 THE COURT: -- in somewhat of an orderly fashion.

25 MR. BROWN: Now that order that got signed

1 references Paragraph 16, but I mean --

2 THE COURT: That's really not necessary to the
3 order so far as I'm concerned.

4 MR. BROWN: Well, I agree. And if Your Honor kind
5 of struck that, you might still have cause, but it kind
6 of reenforces some finding that there is information
7 from an informant because, quite frankly -- and this is
8 my take, Your Honor, if I had to guess, personally just
9 guess, there is no informant and that somebody just
10 decided it was time to go into the house. Now I did
11 not impune anybody in this courtroom because but I don't
12 think they're the ones that say, but I, frankly, don't
13 believe there was ever a human being that told any law
14 enforcement officer anything about a bullet-riddled
15 vehicle in Hampton.

16 THE COURT: Sure. I understand your position on
17 that. I've signed the order. If --

18 MR. BROWN: Yes, sir.

19 THE COURT: If, as a result -- if the Court
20 ultimately concludes that the material -- and, again,
21 I'm stating the obvious here, so there's no point in us
22 continuing to argue this --

23 MR. BROWN: Yes, sir.

24 THE COURT: -- that if the Court concludes that the
25 affidavit was issued in bad faith, if the DVR contains

1 a photo of your client standing in front of the camera
2 with a big piece of poster paper saying I'm very happy
3 that I committed the vicious murder in Lexington County
4 on such and such date of persons A and B and he signs
5 his name and he has a notary there signing it, if the
6 search was bad, then that's not coming into evidence. If
7 the search was good, then that is coming into evidence.
8 So either way what the Court signed today was appropriate.
9 So we'll find out what's on there and it's only three
10 days' worth of information and we don't need to argue
11 this -- that point further. That's kind of my point.

12 MS. FULLER: Thank you, Your Honor.

13 THE COURT: So I've signed that. It's here on the
14 bench. You can retrieve it whenever you want.

15 MS. FULLER: Thank you, Your Honor.

16 THE COURT: The -- on the question of the CI, just
17 -- Solicitor, what did happen there? Because -- because
18 apparently we went from CI to no CI to a CI, so what
19 happened?

20 MS. FULLER: Your Honor, I was told that there is
21 no confidential informant in this case. I don't know
22 if the term of art or the usage -- my understanding is
23 it is a person who gave information, not a confidential
24 informant in the sense of when you speak to the officer
25 he's never worked for him, he's never bought drugs for

1 him, he's never been a part of any transaction where a
2 crime was charged, and so his statement was he's not a
3 confidential informant.

4 In his affidavit at your request that he e-mailed
5 over to our office, he states that -- and I'm jumping
6 down to the relevant portion, he said West Columbia
7 investigators indicated that they were looking for
8 Ritter who was a person of interest in a shooting. He
9 said during the time that I was assisting the West
10 Columbia Police Department, I received a call from an
11 unpaid confidential source. I was known -- I have known
12 this source for approximately eight years during which
13 time he has provided reliable information to me. The
14 information that he was -- has provided has been accurate
15 and valuable during the course of several investigations.
16 I have been able to independently corroborate the
17 information. In this particular investigation, the source
18 had been made aware that we were looking for Mr. Ritter.
19 Without provocation he called me and simply provided me
20 with information on where Mr. Ritter was located, which
21 was his residence at [REDACTED] Roberts Street in Estill, South
22 Carolina, and that there was a vehicle associated with
23 Mr. Ritter, a red or burgundy in color Tahoe, that had
24 visible bullet holes in it that was in Hampton County.
25 This information was given to West Columbia department

1 investigators in this same manner I received it. The
2 phone call was not solicited, therefore, it was not
3 recorded. I have not recorded any conversations with
4 this source of information. I have not used this
5 source in any transaction that required audio or video
6 recording. I have not used this source as a witness in
7 any case.

8 So after my conversation, I directed him to do an
9 affidavit. This is what he produced. I turned it over
10 exactly how he produced it. So my understanding is that
11 there is a person who has given information in the past,
12 but not someone who has actually worked as a documented
13 confidential informant. So I'm assuming that when he
14 relayed that information to us, it's not a CI, it's
15 simply he's not a CI because he's not someone he's used
16 in the investigation of crimes in the past, it's someone
17 who provided him tip information. And so that is what I
18 represented to the Court as that this person is simply
19 not a CI because that's what I was told.

20 My understanding is I asked if you have the name
21 of the person, which now, of course, from the affidavit
22 I know he's known for eight years, so he does. Is there
23 a reason why you're not providing that name, he wishes
24 to remain anonymous and doesn't want to be involved.

25 And so that's where we are and that's all I can

1 explain, Your Honor. Everything that I've expressed to
2 the Court in prior hearings is what I've been informed.
3 Prior to you walking in, what I was approaching counsel
4 about was we disagree on whether it's a confidential
5 informant versus a mere tipster. I expressed the
6 timeline -- I stated the timeline earlier. Ritter was
7 already a suspect. His name was on every media source
8 come July 6th. When the information -- they knew he was
9 from Estill. They ran a -- the criminal intelligence
10 unit on information. You can see all his addresses in
11 Estill. They knew he was from Hampton County. They
12 elicited help -- solicited help from Hampton County to
13 locate him. Hampton County did their own things to
14 help locate him. That was the whole purpose of even
15 contacting anybody down there was have you seen Ritter,
16 there's warrants for his arrest, we need to arrest him.
17 It wasn't to help in the investigation of the crime, it
18 wasn't necessarily in that set. I think -- I misspoke.
19 They wanted to also know who else was involved. There
20 are two unidentified individuals that we believe are
21 involved in this case and so was any information that
22 can help solve or identify the other two people.

23 So that's how that all played out. The information
24 by this tipster had nothing to do with identifying
25 Damien Ritter as a suspect in this case since warrants

1 were already obtained and so I think that's where some
2 of the arguments in my mind get confusing as if law
3 enforcement relied on that information.

4 Also executing the search warrant on the house,
5 that also gets confusing because they weren't relying on
6 this person stating the car was there is the reason for
7 searching. I -- almost all my cases where -- at least
8 that's what I want law enforcement to do. When someone
9 has committed a crime, get a search warrant for their
10 house because you may find evidence of that crime,
11 whether it be the gun, clothes they were wearing,
12 bookbags, anything that could be relevant. So my
13 position is that obtaining a search warrant was gonna
14 happen. In the probable cause for it, which is very
15 lengthy and we're not going into that necessarily today
16 with the Franks hearing, but they had grounds to search
17 the house because he was a suspect in the crime and they
18 were looking for evidence of the crime. It had nothing
19 necessarily solely to do with this tipster, and so that's
20 kind of where we are, Your Honor.

21 What I proposed to them was since I have not been
22 told who this person is, they're identifying this person
23 as a material witness in their case, is that we get an
24 order from the Court ordering law enforcement down there
25 to provide us the name of the people who gave this tip

1 information and that we provide that -- that that be
2 provided just to myself, counsel and the Court under
3 seal since obviously there is a concern for safety when
4 an officer wouldn't even tell me who they spoke with.
5 And so -- and that's where we are.

6 And I know there's a lot of caselaw that balances
7 the safety of people giving information and defense
8 counsels disagree under what body of law we argue this
9 under because you've got your confidential informant,
10 which there's still a privilege there, there has to be
11 grounds for that disclosure as well, but then I'm arguing
12 he's a tipster, they're saying he's a material witness.
13 I'm not one to say he's not material to their case and so
14 what I'm willing to do is -- or consent to is Your Honor
15 ordering -- issuing an order requiring Singleton to
16 disclose who he spoke to and that be provided to us and
17 not provided to the Defendant himself.

18 THE COURT: Give me two seconds here. One second,
19 please.

20 All right, Solicitor. A quick question of you.
21 The Tahoe -- the Tahoe with the bullet holes --

22 MS. FULLER: Yes, Your Honor.

23 THE COURT: -- when they executed the search
24 warrant, was the Tahoe there?

25 MS. FULLER: No, the -- the car has never been

1 recovered.

2 THE COURT: Oh, okay.

3 MS. FULLER: What's your thought process?

4 THE COURT: So it's never been recovered? It's
5 just they took it to -- drove it to the levee and dumped
6 it in something?

7 MS. FULLER: We have not been able to find that
8 car. I mean, we have some indication of what may have
9 happened to it, but we have no knowledge.

10 THE COURT: Okay. So the -- all right. Let's
11 just call him the con -- let's just call him the CI.
12 We're gonna use that nomenclature, and that's not as a
13 term of art, we're just gonna call him a CI instead of
14 a confidential source because it's -- it's just sort of
15 back and forth. So the only thing that they would have
16 been germane to during the course of this investigation
17 was probable cause for the search warrant that we've
18 already discussed, and we put a pin in the Franks issue
19 and let that hang just out there, and potentially the
20 fact that the confidential informant saw the Defendant
21 driving the Chevy Tahoe somewhere in Estill, South --
22 Estill?

23 MS. FULLER: That's right. At his house on Roberts
24 Street.

25 THE COURT: All right. So that would be the only

1 evidentiary value of -- of potentially knowing the
2 CI's name; am I correct?

3 MS. FULLER: That's my understanding.

4 MR. BROWN: No, sir, Your Honor.

5 THE COURT: Okay.

6 MS. FULLER: No?

7 MR. BROWN: Respectfully, if I may advocate our
8 client's position of why it's necessary, not the
9 State's position.

10 THE COURT: Yes. I understand. I'm just trying
11 to figure out what the State has and how this all fits
12 in.

13 MR. BROWN: I see two way this pans out. We go
14 interview Mr. Confidential Informant and he verifies or
15 stands by a statement that he saw our client in his car
16 at his house after this incident with -- the red Tahoe
17 with bullet holes in it. That is the exact prototypical
18 lay witness that a defense lawyer has to interview to
19 know what the bad witnesses would say in court. Because
20 they haven't said they're not gonna call him. He doesn't
21 want to be involved, right? If that becomes an issue, if
22 we argue in court our client's vehicle never got struck
23 by a bullet, et cetera, I think that they'd be fallen
24 short if they didn't bring the guy in and so --

25 THE COURT: Fair enough. What's the other point?

1 MR. BROWN: All right. The other way, if he says
2 I never said that, I talked to Perry Singleton and told
3 him I sat out in front of Ritter's house all day and
4 never saw a red Tahoe coming and then we've got a little
5 different situation where law enforcement is, I would
6 say, taking steps to manufacture evidence in a case --
7 and yes, I have to say, manufacture evidence, and that
8 might be admissible to show the integrity of the law
9 enforcement investigation, which is the classic footnote
10 in Kyles v. Whitley from Justice Souter who said that
11 that is -- I think he said the quintessential classic
12 defense is to impugn the State's investigation.

13 THE COURT: Correct. I've got no problem with
14 that. Here's how that could potentially play out
15 though. First, I acknowledge that Estill is not a big
16 thriving metropolis like Greenwood or Laurens County,
17 so everybody in Estill knows everybody else in Estill,
18 and presumably your client is from Estill, and so, yes,
19 the Court shares the concern that we're talking about
20 Estill, South Carolina, and as soon as this guy's name
21 becomes known or girl's name becomes known, everybody's
22 gonna know that they're the ones potentially who snitched
23 on Damien Ritter and we all know that snitches get
24 stitches and sometimes that's just a -- you know, if
25 you're a genuine CI and you're working off charges and

1 you're, you know, throwing your friends under the bus,
2 then maybe you deserve to get stitches, but just John Q.
3 Public who happens to be on the road with a Chevy Tahoe
4 driving down it with bullet holes in it, he probably --
5 assuming that he's, you know, not that kind of a CI, he
6 probably doesn't need to get stitches.

7 So their solution is a fair one in my opinion,
8 okay? So any disclosure of the confidential informant
9 -- because I agree with you. There's been enough
10 discrepancy over this issue to warrant the disclosure
11 of that individual, but at no point in time is that
12 individual's disclosure -- or the identity of that
13 individual at no point in time does that go any
14 further --

15 MR. BROWN: Yes, sir.

16 THE COURT: -- than you and your investigator.
17 It cannot go back to your client, it cannot go to your
18 client's family --

19 MR. BROWN: Yes, sir.

20 THE COURT: -- and that's how it simply has to
21 be --

22 MR. BROWN: We respect that, Your Honor.

23 THE COURT: -- because we are talking Estill and
24 -- it would be different if it was Richland, but we're
25 talking Estill, so the Solicitor's suggestion is probably

1 a fair one on how to handle that.

2 MR. BROWN: And, Your Honor, as to the material
3 witness identity on that motion, we accept your ruling on
4 that and we'll abide by that restriction or protective
5 order just like, for what it's worth, I've done in
6 Federal court over the last twenty years as well.

7 THE COURT: Sure. Okay.

8 MR. BROWN: Thank you, Your Honor, on that.

9 THE COURT: Not a problem.

10 MR. BROWN: Now I do believe Mr. Phillips would
11 like to make a motion somewhat related to the
12 discrepancy. I'll put it that way.

13 THE COURT: All right.

14 MR. PHILLIPS: So obviously at the prior hearing
15 we discussed the electronically stored information
16 request and that's one of the last things that we kind
17 of have pending out there and you said to identify the
18 unusual issue. Well, throughout the course of this we
19 have the unusual issue of, one, looking at the original
20 affidavit that was provided to get a search warrant
21 where it was listed and named as a confidential informant,
22 then after the prior hearing and understanding that what
23 was presented to the Court is there was no CI, we get a
24 second affidavit switching it to a source and then we,
25 of course, have the State's presentation to Your Honor

1 that there was no CI. We have potentially a pile of
2 critical impeachment evidence that could be tied to
3 electronically stored information. And, again, you
4 cannot know the unknown. And I know the easy thing for
5 the other side in asking for electronically stored
6 information is to say it's a fishing expedition, but the
7 problem is we now have identified an unusual situation
8 to Your Honor, one so much that you believed from the
9 prior time -- from the prior hearing on November 7th
10 that there was no CI that you put it in an order
11 specifically referencing the electronically stored
12 information and making -- because of this discrepancy
13 making the State get a second affidavit from this
14 individual. And so the electronically stored information
15 could potentially because we -- again, until you see it
16 and we get to see where the relevance of impeachment
17 evidence is, even if it's small, to attack the integrity,
18 again, of the investigation or, again, the credibility of
19 the State's case, if there is any e-mail or text message
20 that comes from Investigator Singleton or an investigator
21 from West Columbia Police Department or the investigator
22 from the Solicitor's office because all three have had
23 discussions regarding this individual, this confidential
24 informant, that doesn't match with what's been presented
25 either in a sworn affidavit or what's been presented to

1 the Court is classic critical impeachment evidence that
2 needs to be presented during trial.

3 Of course, that's our -- we have to have that, to
4 be the gatekeeper of determining what's relevant and
5 what questions to ask, but we are denied the opportunity
6 to present a full and complete defense and denied an
7 opportunity to provide proper confrontation of witnesses
8 when we are denied that impeachment evidence and that's
9 why Kyles is such an important case for being able to
10 present that impeachment evidence in trial or be able
11 to obtain so we can present it.

12 THE COURT: Okay. And I agree with you generally
13 speaking. As a general principle of law, I agree with
14 you. The thing is though if the sole discrepancy, the
15 sole strangeness to this case is the CI, and, again,
16 the Aiken case that you-all cited last time dealt with
17 an affair between a sheriff and a magistrate. The other
18 -- you know, that was weird. The Richland case had some
19 strangeness to it. Assuming that the strangeness in
20 this case is limited to that CI, then what we are talking
21 about is not necessarily access to all the metadata from
22 ever agency that touched this case, what we're talking
23 about is, is basically information perhaps from down in
24 the lower part of the state in Hampton County as opposed
25 to a full-blown exploration of every hard drive and the

1 metadata that was used for prior incident reports or
2 something else.

3 Am I not incorrect?

4 MR. PHILLIPS: So generally I don't believe that
5 should be the standard. I believe the standard should
6 be that we should get it just like in a ten thousand
7 dollar soft tissue wreck case, but I do understand that
8 we do have --

9 THE COURT: A soft tissue wreck case -- I hear you.
10 The soft tissue wreck case doesn't involve the kind of
11 confidential stuff that's gonna be on a hard drive, so.

12 MR. PHILLIPS: Well, I mean -- and some of it's --
13 when it comes to the investigation, you know, it has to
14 give way to his constitutional rights and so our -- our
15 position is this, that if we are in the position where
16 the only way we are going to get a court order granting
17 that electronically stored information is to limit the
18 scope of that to all communications electronic like
19 e-mails, text messages from both -- or from all three
20 related to this confidential informant of the Hampton
21 County Sheriff's Department or -- and that investigator,
22 anything related to this CI, the West Columbia Police
23 Department or sheriff's office and their investigator
24 related to the CI, and the investigator at the
25 Solicitor's office who's had discussions with those

1 agencies regarding this CI. And, again, I don't -- I
2 hate to waive anything beyond that, but if that's in
3 the position that we're able to obtain that information
4 and we are put between a rock and a hard place, the only
5 way to obtain that information, we need that information
6 to defend our client potentially on impeachment evidence
7 because we have identified an issue.

8 THE COURT: My only concern with that is that the
9 CI's role in this is so very limited, especially if
10 there's nothing that comes from the analysis of the
11 .380 and from the analysis of the home security system.
12 So if there's nothing of evidentiary value from those
13 two items, and we don't know that yet, and you're gonna
14 get the name of the CI, so the only other value the CI
15 might have is on the day of trial, and you'll get a
16 chance to know this before trial obviously because I've
17 said what we're gonna do with that, but on the day of
18 trial they may come in and say yes, I saw Mr. Ritter
19 driving a blue Tahoe that had bullet holes in the side
20 of the car, so that's really the only thing -- the only
21 thing.

22 MR. PHILLIPS: Well, there could be an issue where
23 -- and, again, this is -- again, you don't know the
24 unknown, but we're just trying to pick scenarios. What
25 if there was an issue where Investigator Singleton told

1 the investigator from the West Columbia Police Department
2 there actually wasn't a CI and, guess what, we now have
3 an e-mail or a text message proving that, then I can
4 impugn the character of that investigator. I'm not
5 saying that that's what we're gonna do, but if we had
6 that, and I have no reason to believe that it would be
7 there, but we'd be denied the opportunity to investigate
8 that.

9 MR. BROWN: And, Your Honor, for the first time
10 today, and I say that because I'm sure somewhere I
11 missed it, there's been talk of a second shooter for a
12 long time, but I just wrote in quotes there are two
13 unidentified individuals involved. Now I don't know if
14 they're saying one was later identified as Mr. Ritter or
15 they're saying that they're down in Estill looking for
16 two other people, but --

17 MR. PHILLIPS: And we don't have any -- that's the
18 first we've heard of that.

19 MR. BROWN: That's the first we've heard of it and
20 this is -- and I'm -- this is just the way I understood
21 it, this was somewhere in a communication with Hampton
22 County, and I'm assuming not all of it's on the telephone
23 because we don't do it that way anymore. I mean, I even
24 tell my clients don't call my office, send a question by
25 e-mail so I can answer by e-mail and I don't have to be

1 available when you call the office. That's just the way
2 we communicate in modern days.

3 THE COURT: Well -- all right.

4 MS. FULLER: Your Honor, if I can verify something?

5 THE COURT: Yes, ma'am. Go ahead. Sure.

6 MS. FULLER: I wasn't -- I had to double check if
7 I said two shooters. I don't want to be mis -- be
8 confused. There was only -- it's always been one
9 shooter, two additional people present. We have a
10 driver and someone else who came to the house and
11 that's --

12 THE COURT: So others who may be aiding and betting,
13 but not --

14 MS. FULLER: Yeah, and that's been in discovery
15 since they got -- they turned over their letter of rep
16 on -- that he was on the case September 21st and he got
17 discovery September 26th, so he's -- within five days
18 of us getting his letter of rep he's always had that
19 information. That's been in there since September 26th
20 of 2018, so I don't -- I'm not sure if I said two
21 shooters. I don't think I said two shooters. I'm pretty
22 sure it's always been one shooter and two unidentified
23 co-defendants.

24 THE COURT: I think you -- what I heard, and I
25 didn't write it down, but what I heard was two other

1 people who were involved with this --

2 MS. FULLER: Right.

3 THE COURT: -- and I didn't -- I didn't characterize
4 them in my mind as shooters or --

5 MS. FULLER: Okay.

6 MR. BROWN: You referred to it as if there's a
7 second gunman.

8 THE COURT: Okay. Well, on the question of the
9 CI issue, Solicitor, what -- what is your position on
10 that and did they -- did they communicate with you by
11 telephone when you spoke to the officer down there?

12 MS. FULLER: Yeah, every time I spoke was by phone.
13 The only time I want to say was e-mail was when we got
14 the affidavit. I'm pretty sure because I didn't have
15 their e-mail address when I talked to them on the phone
16 and that's when -- that's all that, but my concern,
17 Your Honor, is regardless of this information that was
18 received by law enforcement entering into the search
19 warrant, I still believe we have a valid search. It
20 wasn't the cause -- the only cause for the search and
21 so I don't want that to be lost in this.

22 And then also my position with electronically
23 stored information is I have a duty under Rule 5 and
24 under Brady to turn over everything that I have. If the
25 argument is impeachment, they have their impeachment.

1 I don't -- I mean, they have a sentence in a search
2 warrant affidavit and they have the other affidavit that
3 you directed -- the Court directed me to have Singleton
4 write and if we come to a Franks hearing, they're gonna
5 have Singleton on that stand to cross-examine, so
6 impeachment is covered. I really -- I know defense
7 counsel already said this, but it is really a fishing
8 expedition. My position is that one little thing that
9 was communicated via phone now gives them cause to
10 access everything in this case, and I know they said
11 they will narrow the scope, but I don't think it still
12 rises to the level of unfettered access to our files;
13 law enforcement files, West Columbia files, Estill files,
14 and then to -- if I can be honest, I would think if
15 they're gonna have access to Hampton, Estill, West
16 Columbia, the sheriff's department, SLED, all of that,
17 that their counsel should be heard on that issue because
18 now we're dealing with going into their systems. And I
19 know we're responsible for what they have, but they're
20 also separate entities, so I think their general counsel
21 should be heard on their position on ESI when it comes
22 to this stuff as well.

23 THE COURT: I have a brilliant idea of how we can
24 perhaps leave this for the moment because obviously
25 I've said okay, that the CI, their identity can be

1 shared with the defense. If they say you're crazy, I
2 never heard of Investigator Singleton, once you send
3 your investigator down there and they say what, I've
4 never heard of him, I don't know Mr. Ritter, I don't
5 know what kind of car he drives, that's the biggest
6 bunch of BS, and by the way, here's my passport that
7 shows that in July of 2018 I was on a 2-month long trip
8 to France so I wasn't even in Estill to show -- or to see
9 the Defendant driving this Tahoe, okay, if that's what
10 he says, then Houston, we have a problem and obviously
11 something was made up somewhere along the line, they
12 have a point, perhaps they get more information. If he
13 says look, yeah, I don't want to be involved in this,
14 but I saw him and I called the cops and I told the cops
15 what I saw, then maybe Houston, we don't have a problem,
16 okay?

17 So the CI's identity is gonna be turned over. Since
18 he's the linchpin, the very reason that the defense
19 maintains that this case is peculiar enough to warrant
20 the level of investigation that they are requesting,
21 once you-all have had a chance to talk with him, we'll
22 see what he has to say and we will take it from there.
23 So that's what I need to do.

24 MS. FULLER: Your Honor, can I say one thing? I
25 do also want to -- just in my experience when I've had

1 anonymous tips or people coming forward, it takes them
2 a while to even admit that they said anything to law
3 enforcement, so I get that, but I just wanted to --

4 THE COURT: I understand.

5 MS. FULLER: I know we'll cross that bridge when
6 we get there, but I --

7 THE COURT: It is not -- it is not lost on me and
8 it has occurred to me that the CI might all of a sudden
9 tell you-all to go you know what yourselves, that he
10 ain't talking to anybody, and that might happen, it may
11 not happen, I don't know, but I've given up trying to
12 predict the future. We'll see what he has to say after
13 people talk to him. It would probably be best if people
14 not just parachute down there and start knocking on
15 his door or whatever, but you've got to give him the
16 courtesy of letting him know that you're gonna be coming
17 by. Let's treat this person with some measure of
18 respect and however you-all figure out you're gonna do
19 an interview of him, just make sure the other side is
20 aware of what's going on, okay?

21 MS. FULLER: Thank you, Your Honor.

22 MR. PHILLIPS: Thank you, Your Honor.

23 THE COURT: That's where we're gonna leave that.
24 If it turns out that they deny any knowledge of it and
25 that they actually were in France in July, then, yeah,

1 you're gonna get some more information, okay?

2 MS. FULLER: Thank you, Your Honor.

3 MR. PHILLIPS: I'm not asking anymore. I'm just
4 for appellate -- under Pennsylvania v. Ritchie for us to
5 preserve for appellate review, that information would
6 have to be presented to Your Honor and held. That way
7 the appellate court knows the value of it so we won't be
8 hit in a position of harmless error where -- or error
9 preservation for that matter where the information has
10 to at least be gathered if Your Honor -- since Your
11 Honor has just ruled at this point against us. That to
12 preserve the issue, the evidence has to be collected and
13 placed under seal.

14 THE COURT: I understand that. One of the things
15 that I asked was okay, how are we going to do this and
16 separate other pending cases? I am not gonna allow any
17 investigator to go to the West Columbia Police Department
18 or the police department in Hampton, the sheriff's office
19 in Hampton, and simply download every single file, and I
20 don't know how to trust someone to only access aspects
21 of this case without potentially going in and accessing
22 aspects of the other cases, and I doubt you are gonna
23 trust the agencies to voluntarily --

24 MR. PHILLIPS: I do trust them and that was -- in
25 the case I had in Aiken where we did electronically --

1 discover electronically stored information, Judge Hood
2 said if you want I'm gonna have them procure it for you
3 and then send it to me and review it under seal, I know
4 we discussed that, but they did do it on their own and
5 I did not have an independent person collect the
6 information because they are law enforcement officers.

7 THE COURT: Well, we're gonna see if all of this
8 isn't a bunch of -- we're gonna see if there's anything
9 to all of this. Again, the fifty cent question as a
10 practical matter is whether there was anything of
11 evidentiary value gathered as a result of the search,
12 that's question number one, and question number two is
13 okay, who's this guy who saw him driving the Tahoe. So
14 if there's nothing that came from the search that's
15 gonna be used at trial or that's useful to anybody, it's
16 a nonissue, no need to back up everybody's hard drive.
17 If the guy says I never spoke to Singleton, you know,
18 that could be problematic. If he says yeah, yeah, I
19 did speak to Singleton.

20 But, again, you know, even -- I'm hearing this
21 is such a small part of the case. I understand your
22 position. We'll see where it goes. At this point in
23 time I'm not making any definitive ruling, but there's
24 got to be more of a showing of relevance in my mind to
25 warrant this kind of, A, intrusion and, B, imposition,

1 okay? So that's what my ruling on that is going to be.
2 We're sort of --

3 MS. FULLER: Thank you, Your Honor.

4 THE COURT: -- we're sort of sticking a pin in
5 that one and we're gonna see what comes from the SLED
6 analysis of the .380 and the -- and the Night Owl and
7 we'll see what the guy in Estill says.

8 MS. FULLER: Thank you, Your Honor.

9 I think the last thing on defense's list that we
10 need to -- we discussed they filed additional motions.
11 I think you saw that. I approached them and told them
12 where it is in discovery, so I don't think we need to
13 make a record of it, but if something else comes up,
14 we can. The only other thing is they're requesting
15 disciplinary records of relevant law enforcement
16 officers and SLED. They just said all -- everyone who
17 touched the case. Usually in the past when we get these
18 requests, it's tailored to a certain person, but this
19 is everyone who touched -- every analyst, everyone who
20 handled it, and the way it's done -- I'm not sure how
21 Your Honor does it because I haven't had this before you,
22 is the general counsel handles that, hands you a file,
23 you review it and determine what needs to be turned over.
24 It's defense's motion, so I don't know if they want to
25 be -- it's their discovery request. I'm not sure what

1 they're looking for.

2 THE COURT: Yeah, let me -- do you want to speak
3 to that at this point?

4 MR. PHILLIPS: I'm fine with the status quo of
5 general counsel provides you with their disciplinary
6 records. And, Your Honor, again, in Pennsylvania v.
7 Ritchie, I hate to place the burden on you, but
8 unfortunately that's where heavy lies the crown; is
9 that you have to make the determination that there is
10 the impeachment evidence there for us to review for that
11 witness.

12 THE COURT: And I love that and the problem with
13 that in a lot of the cases that come out which ask for
14 an in-camera review by the Court is that that presupposes
15 that the Court is privy to all the information that you
16 have and that the Solicitor has and has an in-depth
17 understanding of not only the prosecution's evidence
18 and the defense evidence, and it's impossible for me to
19 obtain that until such time -- and even after I try the
20 case I'm not gonna have the same level of detailed
21 knowledge that you have. You've talked to your client.
22 I can't talk to your client. I don't know what he's
23 told you. They've talked to the witnesses, I don't know
24 what they told them.

25 So, yeah, the fatal flaw in that kind of line of

1 reasoning or -- you know, is that I know what I'm looking
2 for. There's no way for the Court to realize what its
3 looking for in those kinds of situations.

4 So let's do it this way. I'm assuming that the
5 primary people that you would be seeking this kind of
6 information on would be like the lead investigator that
7 really was carrying the heavy load, right?

8 MS. FULLER: They listed twenty-nine people and
9 anyone else --

10 MR. PHILLIPS: I mean, if they're gonna testify
11 and they have complaints that go to their character or
12 their credibility, that would be admissible in court,
13 but that's --

14 MR. BROWN: That's like Brighton. We're right back
15 at Brighton.

16 MR. PHILLIPS: I mean, specifically, again, in the
17 Aiken case -- and I know I keep referring to this Aiken
18 trafficking case, an officer in that case had posted
19 some racist stuff on Facebook, and I'll just call it
20 what it is, and he had been admonished by his -- you
21 know, by the troop and he was no longer a trooper and he
22 went to Aiken and then they didn't turn it over to me
23 and then I found out that they didn't turn it over to
24 me and that became a big issue and so the main issue is
25 that's the kind of stuff that would be in a personnel

1 file that I'm asking for, if that's the case. If he has
2 been reprimanded and disciplined or any of these people,
3 that's -- that's the purpose for it.

4 THE COURT: I mean, my experience is that every
5 law enforcement officer at some point in time has had
6 a letter of caution or something placed in their file.
7 What I would really prefer that you do is get with the
8 Solicitor -- and not every SLED agent. Like the DNA
9 person, you don't need some sort of disciplinary record
10 for them, okay, it's scientific testimony, so. I could
11 see desiring it on the chief investigator from West
12 Columbia, maybe on a few other witnesses that were really
13 key, but chain witnesses obviously you don't need it on.
14 If they're chain witnesses, then hopefully we'll get a
15 stipulation of the chain anyway, so figure out who the
16 -- no? Maybe?

17 MS. FULLER: I would -- I would love that.

18 THE COURT: We're gonna get a stipulation on the
19 chain if I try this thing perhaps, but we'll -- figure
20 out who it is that you really want the information on.
21 I might ask that the Solicitor look at simply providing
22 that to you under seal and with the understanding that
23 its admissibility would be something that we would
24 discuss at trial prior to the officer taking the stand.
25 If it's -- if it's it hey, you had a fender bender in

1 your vehicle today, you need to exercise more caution
2 when driving your state-issued --

3 MR. PHILLIPS: I don't care -- I don't care about
4 that stuff.

5 THE COURT: Yeah. Exactly. If it's --

6 MR. BROWN: That's like my driving.

7 THE COURT: Right. If it's hey, look you tried to
8 frame this person for murder and they didn't actually
9 commit the crime, that was really bad, so we're gonna
10 demote you, that's probably gonna be fair game, but I
11 don't think you're gonna find that, so.

12 MS. FULLER: Your Honor, just on -- also to make
13 sure it's clear, so when it comes to the officers'
14 personnel files, we don't request them. And even when
15 there's been prior hearings, we don't even look at them.
16 The way it works here is if there's something that comes
17 up as relates to the case, they know to tell us, send us
18 a letter from their IA or their -- however, each agency
19 lets us know if someone's done something as it relates
20 to truthfulness or anything and they send it to us. I
21 don't have that for any of my officers currently in this
22 case, and I will send it out, so I just want you to --
23 because usually general counsel takes their position as
24 far as their personnel records.

25 THE COURT: Let me ask this right now. Have you

1 identified the folks that you really feel are the key
2 ones, the key investigators in this case, the ones that
3 have the most to say?

4 MR. BROWN: Well, we just got a large batch of
5 discovery.

6 THE COURT: I know, but --

7 MR. PHILLIPS: I mean --

8 MS. FULLER: Wait, that's not true.

9 THE COURT: Well, I know --

10 MR. BROWN: No, no, no. No, no. On the 7th.
11 We're not trying to -- well, for what it's worth, let's
12 see, a week was Thanksgiving and, let's see, I think I
13 had a Federal brief due after that, so it's kind of like
14 yesterday.

15 MS. FULLER: Oh, you're talking about the SLED
16 disc? That's not large. That's all you requested.
17 That's not --

18 THE COURT: From what you got, from what you've
19 seen, from reading the incident report, which I assume
20 you have reviewed, do you know who your primary witnesses
21 are that you'd be interested in this information on?

22 MR. BROWN: All the ones that they're gonna put up
23 that are gonna give primary non-chain testimony.

24 THE COURT: Okay. So that would be the investigator,
25 the responding officer --

1 MR. BROWN: The one who took statements from
2 Mr. Furtick.

3 THE COURT: Okay.

4 MR. BROWN: That's their live witness. They claim
5 to have one -- one witness to the incident. So anybody
6 that talked to him at any point in time because he was
7 interviewed more than once.

8 MR. PHILLIPS: And to go back, I know the Solicitor's
9 position was that they don't review those in prior cases.
10 We went through this -- again, going back to that Aiken
11 case, they have an -- prosecutors have an obligation, a
12 duty, to look it at impeachment -- potential impeachment
13 evidence of each one of their witnesses that they're
14 gonna to put on the witness stand, and that's why it must
15 be turned over. So if there are officers that have those
16 issues where -- that there, they actually have a duty to
17 review that and make sure to disclose it. They do. The
18 law in my opinion is pretty firm on that and Judge Hood
19 agreed.

20 THE COURT: I respect him. He's a nice guy. I
21 don't know. I'm trying to figure out how best to deal
22 with this because I don't necessarily -- I don't want
23 to be wading through an officer's personnel file and
24 I've never been asked to do it in-camera. I was never
25 asked really except in one case.

1 MR. PHILLIPS: Well, I mean, specifically in that
2 case if I wouldn't have asked for it, we wouldn't have
3 known that this stuff happened, he was reprimanded and
4 then he testified at a trial and denied it ever happened.

5 THE COURT: Sure. How did you say that general
6 counsel wants to deal with this?

7 MS. FULLER: Your Honor, I've personally never had
8 this come up. I asked other -- I asked Deputy Solicitor
9 Susan Mayes how she's had it. She's had it happen once.
10 This is not like a normal discovery request.

11 THE COURT: Yeah.

12 MS. FULLER: So one time she said it happened, I
13 think it was Judge McMahon, and general counsel brought
14 the file, handed it to him because it was a limited
15 one-person request, and he reviewed it and determined
16 if there was any impeachment value in it. So it doesn't
17 -- this request does not happen often. I was just
18 trying to figure out how it's dealt with generally in
19 our office.

20 THE COURT: Okay. Let's do this. You-all --

21 MR. BROWN: May I make a suggestion about us
22 identifying it?

23 THE COURT: Sure.

24 MR. BROWN: If they have a witness list that
25 they're gonna have at the time of voir dire, we can go

1 through and mark it up.

2 MS. FULLER: Just general practice, Your Honor, I
3 prep a case a month before. This has been a lot extra,
4 so I won't have a witness list until then.

5 THE COURT: This is how we're gonna handle it.

6 MR. BROWN: Yes, sir.

7 THE COURT: Figure out the three ones that are key
8 ones, okay? If you want more than three, you're gonna
9 have talk to me, but I am not gonna go looking through
10 twenty-eight officers' files for disciplinary issues.
11 Pick out the three that you think would be most germane
12 to this case, the ones who have the most involvement on
13 behalf of the State or are key to the State's case in
14 chief and once you've identified those three, Solicitor,
15 if you would ask -- once you get those three names, if
16 you would ask their agency heads to allow it to be --
17 allow you to do a consent order where it is just for
18 you-all's eyes only again with all copies to be returned
19 or destroyed upon the conclusion of the trial. If they
20 see something that they want to cross somebody on, then
21 it can be dealt with pre-trial by the trial judge or
22 immediately prior to the witness taking the stand, okay?
23 And that relieves the Court of the obligation of doing
24 the impossible like I was explaining a minute ago. So
25 you can get three. That's fair.

1 MR. PHILLIPS: And we can make a compelling argument
2 if we have others?

3 THE COURT: Yeah, if you've got another one, yeah,
4 but --

5 MR. PHILLIPS: I understand, Your Honor.

6 THE COURT: We're gonna try this in a week and
7 that means that we're gonna -- it's gonna be the chief
8 investigator, the person who took the statements.

9 MS. FULLER: Maybe CSI? I don't know.

10 THE COURT: Yeah, and then some other person.

11 MS. FULLER: Okay.

12 MR. PHILLIPS: I'm with you as far as not beating
13 a dead horse.

14 THE COURT: Right. So that's how we'll handle
15 that. With the consent of the police chief or agency
16 head, sheriff, it can be done by way of consent
17 confidentiality order because if there's nothing there
18 that's particularly damning or impeachable, then there's
19 nothing there and --

20 MS. FULLER: Can I make a selfish request?

21 THE COURT: Sure.

22 MS. FULLER: Can I have like forty-five days? I've
23 got other cases I need to work on.

24 THE COURT: Sure. Yeah, that's fine. They have
25 to figure out which witness they're gonna want and so I

1 doubt that they're gonna have that list to you before
2 the end of the year anyway.

3 MR. PHILLIPS: Understood. And with the -- since
4 the pin is in the ESI, can there be an order from the
5 Court as far as preservation with Hampton County of the
6 electronically stored information and the other agencies?
7 Because I came into one case where the judge was starting
8 to kind of think about it and the Solicitor's office was
9 able he to tell him, look, it's all -- it's nonexistent.

10 THE COURT: Okay. I have no -- I have no issue
11 with issuing an order directed to Hampton County at this
12 point in time, and Hampton alone, that they preserve any
13 information that they may have related to this case
14 that's stored on any server or hard drive or gig chip,
15 okay? I've got no problem with authorizing that. If
16 you'll prepare just a very brief order to that effect.
17 And, again, it's case specific with this. I'm not gonna
18 require them to forever not erase junk e-mail, but it
19 has to be case specific to this; that, yes, we want it
20 preserved until such time as we have ruled on that --
21 or the Court's had a chance to rule on that issue.
22 That's fair.

23 MR. PHILLIPS: Thank you, Your Honor.

24 MR. BROWN: I have housekeeping issue related to
25 my schedule.

1 THE COURT: Sure.

2 MR. BROWN: I've been, again, invited to go to
3 the Fourth Circuit at the end of January.

4 THE COURT: Say hey to Henry Floyd for me, okay?

5 MR. BROWN: Yes. Yes, sir. And I was gonna say
6 if I could just -- not schedule a hearing. I've got an
7 order of protection in Beaufort from the 21st of January
8 through February 7th. It's the week before and the week
9 after and the week of arguments. They haven't given us
10 a date during the week of arguments, so I don't even know
11 the day, but I did not do an order of protection here
12 because this is my only case.

13 MS. FULLER: That's fine.

14 THE COURT: It's not a problem. I don't see a
15 problem with that, so you're protected.

16 MR. BROWN: Thank you, Your Honor.

17 THE COURT: All right. You-all have a safe drive
18 back. Take care. Thank you.

19 MR. BROWN: Thank you, Your Honor.

20 MS. FULLER: Thank you.

21 MR. BROWN: Merry Christmas.

22 THE COURT: Thank you, sir.

23 (Whereupon, the proceedings were concluded at
24 3:32 PM.)
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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Eleventh Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a true,
accurate and complete transcript of record of all the
proceedings had and the evidence introduced in the hearing
of the captioned case in Circuit Court on the 4th day of
December, 2019.

This transcript may contain quoted material. Such
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I do further certify that I am neither of kin,
counsel, nor have an interest to any party hereto.

January 21, 2020

Is/ Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

1 State of South Carolina) Court of General Sessions
2 County of Lexington) Eleventh Judicial Circuit

3

4 State of South Carolina,) Transcript of Record
5)
6 vs.) 2019-GS-32-02887
7) 2019-GS-32-02888
8 Damien Lavar Ritter,) 2019-GS-32-02889
9) 2019-GS-32-02890
10) 2019-GS-32-02891
11) 2019-GS-32-02892
12) 2019-GS-32-02893
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15

16 September 9, 2020
17 Lexington, South Carolina
18 (Via WebEx Videoconferencing)

19

20 B E F O R E:

21

22 The Honorable Frank R. Addy, Jr., Judge

23

24 A P P E A R A N C E S:

25 Sutania A. Fuller, Assistant Solicitor

On behalf of the State of South Carolina

James A. Brown, Jr., Esquire

Dayne C. Phillips, Esquire

On behalf of the Defendant

Stacy S. Johnson

Circuit Court Reporter

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Certificate of Reporter

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E X H I B I T S

NO EXHIBITS WERE INTRODUCED

1 (The following proceedings were held September 9,
2 2020, beginning at 9:05 AM.)

3 THE COURT: Okay. We're going on the record. It
4 is 9:05 on Wednesday, September the 9th, and we are
5 addressing matters by way of remote videoconferencing
6 from Lexington and I think that the first case up is
7 Damien Ritter.

8 Mr. Ritter, can you hear me okay, sir?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. Mr. Ritter, my name is
11 Frank Addy. I think I handled a few matters involving
12 your case some time ago and I believe that the purpose
13 this morning of us assembling here is to revisit the
14 issue of your bond.

15 Can you hear me okay, sir?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Okay. Mr. Ritter, your lawyers are
18 appearing from their offices, so if at any point in
19 time during the course of the bond hearing you need to
20 speak with them, I need you just -- just to stop me or
21 whoever's speaking and I'll let -- mute the microphone
22 and you can put in a confidential phone call to them
23 and discuss this case with them or whatever it is you
24 need to relay to them, okay, sir?

25 THE DEFENDANT: All right.

1 THE COURT: All right. Solicitor, I think you did
2 forward me the warrants yesterday involving Mr. Ritter's
3 case and I am familiar with the underlying facts. I
4 know we've had several hearings on this previously about
5 various procedural aspects of it and motions that will
6 need to be heard prior to trial.

7 I'm happy to let you say anything that you need to
8 say concerning the facts or if the -- the victims are
9 present, certainly anything that they may want to say
10 concerning the issue of bond.

11 MS. FULLER: Yes, Your Honor.

12 I -- I know this is defense's motion and I know
13 they filed a written motion. I wasn't sure if they had
14 anything to add that I would want to respond to since
15 you are familiar with the facts of the case, so I would
16 respectfully request that they make their arguments
17 first so I don't go twice essentially. So I'm not sure
18 if they have additional arguments outside of their
19 written motion, if that's okay?

20 THE COURT: Sure. I've got no problem with that.

21 Mr. Phillips, Mr. Brown, let me hear you. I know
22 that this case has definitely dragged on longer than
23 you -- than anyone had anticipated due to circumstances,
24 but that's obviously put Mr. Ritter in very tough spot.
25 But let me hear you on the issue of bond, if I could,

1 please.

2 MR. BROWN: Your Honor, if I may at least start
3 out because Dayne may have something to chime in since
4 he did draft the motion. I would like to point out,
5 Your Honor may not be aware of this, but Mr. Ritter
6 did turn himself in and he does have no record and he
7 is a South Carolinian and would ask to live back in
8 Hampton county, which is not the county where this is
9 alleged to have occurred.

10 And so we think after the passage of twenty-six
11 months since his surrender, in fact, I think Monday or
12 in roughly a week would be twenty-six months, that --
13 that he --

14 MR. PHILLIPS: It's been 789 days. It's been
15 789 days.

16 MR. BROWN: And -- and although it's a serious
17 charge and a bond is -- a personal recognizance bond
18 is not in the nature of the allegations, some bond at
19 some point would seem appropriate for a person with no
20 record or his first, you know, charge, and we would ask
21 that Your Honor consider posting or -- or setting a
22 bond that would allow him to post it and still assure
23 the Court that he would return and maybe conditions such
24 as electronic monitoring or house arrest which would
25 reduce the chance of any kind of issues about community

1 danger.

2 We have abided by all of the rules regarding
3 redacted materials. We still have not yet discussed
4 with our client twenty-six months into the case who
5 some of the players were that were consulted by law
6 enforcement abiding by the Court's order, we have
7 not sought to break that yet, so that instills the
8 confidence of the case, and so we think that some
9 bond is appropriate.

10 I mean, I'll -- I'll be honest. I've had a
11 client get a million dollar bond set in court, even
12 the U.S. Marshal class, but -- but some bond we think
13 would be appropriate at this point in time.

14 And I would like to note that I've been contacted
15 by his mother and she asked about attending the hearing.
16 I asked her to come here, she had to work. She asked
17 if she could get the link and out of an abundance of
18 caution I did not send it to her and I told her I was
19 not allowed to, but I would point out that she has made
20 a point to be at every court hearing. She was even at
21 his surrender. She would be the person that he would
22 be living with. She's the one that hired me.

23 And so we believe all of those things mitigate in
24 favor of a bond and so I will kind of end my part with
25 this.

1 Judge Buckner always said ask me -- or tell me
2 what you're asking for. We're asking for a bond in the
3 amount of a hundred thousand to \$150,000 with electronic
4 monitoring and house arrest if Your Honor believes that
5 that's appropriate. I know some judges are not in favor
6 of those things for whatever reasons. I know there's a
7 lot of stuff about who gets to do the monitoring and all
8 of that, it's a political sideshow, but irregardless
9 that's what we would ask Your Honor for.

10 And I'm not sure if Mr. Phillips has anything else
11 he'd like to put out there, but, otherwise, Your Honor,
12 I think that that's -- that's what we'd like to present.

13 MR. PHILLIPS: Your Honor, if I could just --
14 obviously not totally echo Jim in the sense that I don't
15 want to repeat him, but in addressing those two issues
16 that are always before the Court, you know, whether the
17 bond amount will reasonably assure his appearance in
18 court, I do believe the hundred to a hundred and fifty
19 thousand dollar bond would assure his appearance in
20 court, especially considering that we're voluntarily
21 requesting and have no issue with the Court placing him
22 on home detention and GPS electronic monitoring to take
23 away any concerns or hesitation or heartburn that would
24 be to provide a bond in this case.

25 I think that kind of dovetails into the fact

1 that he did, and I would echo this part, voluntarily
2 surrender. If he was gonna run, he would have fled
3 from prosecution and he did not. He did turn himself
4 in on a double homicide case, which I think goes to the
5 fact that there's no evidence that he would be a risk
6 of flight in this case.

7 As far as whether he would pose an unreasonable
8 danger to the community, remember it's that higher
9 threshold of unreasonable danger to the community. In
10 addition to the fact that he is presumed innocent on
11 this case, based on his lack of a prior record there's
12 no criminal history to show he's any type of a violent
13 person that would pose that higher -- crossing that
14 higher threshold of an unreasonable danger to a specific
15 person or the community.

16 And one thing I wanted to highlight is the fact
17 that, you know, another material change in circumstances,
18 not just the 789 days of pre-trial incarceration, is the
19 fact that with what we all know is -- what we've lived
20 in is this -- now with COVID, him being incarcerated and
21 -- during this time. Obviously some people would say
22 that it doesn't increase his risk and we would certainly
23 argue that it does. He's certainly -- and -- and, you
24 know, as far as a minority group that's affected
25 disproportionately by COVID and being incarcerated

1 with the kind of turnstile amount of people because
2 I've talked to Mr. Ritter about whether they've had him
3 in a dorm or, you know, in a pod where there wasn't a
4 lot of movement of people coming in and out and he said
5 that's not the case, that there are people -- you know,
6 they're not having the people that have more serious
7 charges that are less likely to bond out all in one
8 place, but where he's at he said there has been plenty
9 of frequent flyers coming in and out through that kind
10 of revolving door of a detention center and so that puts
11 him at an increased risk to contract the virus as well.
12 Obviously home detention, GPS monitoring, you'll know
13 his whereabouts at all times.

14 With that just, again, to echo, he's got
15 incredibly supportive family, incredibly strong ties
16 to the community. I think both -- both prongs that need
17 to be hit are here. Plus, you know, the fact that it's
18 been 789 days. And I know that's -- we would have
19 already tried this case had there not been a pandemic,
20 but I think given everything that we've touched on, that
21 kind of given the circumstances, the hundred, hundred
22 and fifty thousand dollar bond, GPS monitoring, home
23 detention is reasonable in this case.

24 THE COURT: Okay. Thank you.

25 Solicitor, let me hear from you.

1 And just so that we don't get feedback and let's
2 make it easier for the court reporter, Mr. Brown, would
3 you mute yourself just for a moment? Thank you.

4 Ms. Fuller.

5 MS. FULLER: Thank you. Thank you, Judge.

6 Just on -- as we requested previously, just to put
7 just the general briefly on the record in response to
8 defense's motion, this mur -- these murders and attempted
9 murder did occur back on July 5th of 2018 at the Glenn
10 Street Apartments in West Columbia, Your Honor. You may
11 recall that this was an execution-style murder. The two
12 victims were shot pointblank one time in the head and
13 the surviving victim was -- the firearm was pointed at
14 him and but for its jamming this would have been a triple
15 homicide.

16 After this occurred, Mr. Ritter did flee West
17 Columbia and head back down to Estill. Phone records
18 place him leaving the state of South Carolina for
19 multiple days prior to turning himself in. So in terms
20 of a flight risk, I would argue that he has proven that
21 he would leave the state of South Carolina since he did
22 so after these murders occurred. He did, however, turn
23 himself in once he sought counsel.

24 I do want to point out in preparing for this case,
25 and when I say recent I'm talking about back in March

1 prior to our trial date, it's typical for me in these
2 cases to request a bunch of jail calls. I may listen
3 to them all, I may not have the opportunity to listen
4 to them all. They've all been provided in discovery.

5 One thing I want to point out in terms of flight
6 risk, one comment that Ritter -- I don't remember the
7 exact date and time, but one thing I recall him saying
8 is that if he knew it was gonna be like this he wouldn't
9 have turned himself in, and I refer to that as being
10 incarcerated at this time because he was talking about
11 going up for a bond and thought he'd have a bond by now.

12 Also I want -- and, Your Honor, you've been very
13 involved in this so you're aware, that our jail
14 population is significantly less than it was back in --
15 before COVID in March and in February. We are down to
16 maybe two hundred or so inmates if I -- general sessions
17 inmates if I can say that based on the last numbers that
18 I saw.

19 I also want you to know that only serious violent
20 offenders and sex offenders are the majority of the ones
21 still left incarcerated. The ones that are coming in on
22 bench warrants and new charges are few because almost
23 every other week we've been processing those as quickly
24 as we can, kind of what we call the low hanging fruit
25 in this case.

1 I would venture out to say that you're looking at
2 Damien Ritter, who's probably one of the worst of the
3 worst still incarcerated in Lexington County Detention
4 Center. I mean, this could have surely been a triple
5 homicide.

6 Also on the jail calls in preparing for court,
7 which was speaking to when we had trial dates, I heard
8 Ritter talking to his friend about an ex-girlfriend's
9 boyfriend and he talked when he gets out that he would,
10 in what I interpreted it to be, assault him. Whether it
11 was joking or in jest, I don't take those things lightly
12 in terms of you're incarcerated for a violent crime, but
13 yet you're talking about activity that you would do upon
14 release.

15 At his previous bond hearing back -- I think it
16 was last year, February, I was able to point out to
17 the Court that there were conversations that Ritter had
18 about drug activity, moving things by drones into the
19 prison and things of that sort, so he did not cease
20 his criminal activity while being incarcerated on such
21 serious charges.

22 Also since -- Damien Ritter does not have any
23 criminal convictions, but what had been provided in
24 discovery is we have reports in different investigations
25 where he was a person of interest or hanging with people

1 with violent tendencies or guns. So although he has not
2 been convicted of previous crimes, it is not to say he
3 has not had any encounters with law enforcement.

4 Your Honor, this is a case where the State was
5 interested in going to trial back in December of '19,
6 if you remember in the October hearing that blew up
7 really badly, and then we agreed on a trial date of
8 March. This isn't a delay on the State's part. I've
9 been interested. I told the family I want to bring
10 them closure because this is the most serious case on
11 my docket, someone who would do such a thing. I believe
12 in the strength of this case. We have a surviving
13 witness and other evidence that supports his conviction.
14 I understand that he is innocent until proven guilty,
15 but based on what you have in your toolkit, Your Honor,
16 taking in the totality of the circumstances, the weight
17 of the evidence, as well as defendant's conduct while
18 incarcerated and after this murder occurred, that --
19 that I can respectfully request Your Honor to deny bond.

20 In terms of the COVID exposure, I know you've been
21 involved in this, the jail has done what they can in
22 terms of isolating inmates who have become positive in
23 terms of COVID, including there are masks provided at
24 the facility -- (transmission interruption) -- and
25 Mr. Ritter with one as well. They've taken as many

1 precautions as they can to comply with CDC guidelines
2 as best as possible and control the spread of COVID.
3 Statewide, I saw the numbers yesterday, we're at the
4 lowest we've been in last several months. I'm not
5 saying that we're out of the -- out of it yet, and
6 there's talk of a vaccine, but I think we're getting
7 somewhat close to resuming some sense of normalcy
8 within our courts. We know that trials are starting
9 up this month.

10 In terms of resolving this case, I know that it
11 would be sometime probably early -- early next year.
12 The State can be ready whenever Your Honor says go.
13 This isn't a -- a situation where I'll be the one
14 requesting a delay. I'll do what I have to do to get
15 this case off the ground whenever Your Honor sets it.

16 So at this point, Your Honor, I would respectfully
17 request that bond be denied. I do believe that Ritter
18 is a danger to our community. This is a case where
19 he's exposed to life and the State is requesting life
20 in this case and that, too, makes him a flight risk.
21 What he did was a total disregard for life and someone
22 like him does not belong out in society to do this again
23 to someone else.

24 All the victims are present. I would just -- I
25 expressed to the -- my victim advocate to let them know

1 that you're aware of their position, but I know that
2 they just were interested. They do want to just briefly
3 be heard, Your Honor. They -- only two people I believe
4 will be speaking and they will keep it short, Your Honor.

5 THE COURT: Certainly. I'm happy to hear anything
6 that they want to tell me.

7 MS. FULLER: Thank you, Your Honor.

8 Ms. Ashford, if you can unmute your microphone.

9 This is gonna be the mother of Samir Atkins, which
10 was the first victim, the homeowner in this case.

11 MS. ASHFORD: Good morning, everyone.

12 I'm asking that Damien Ritter remain incarcerated.
13 I feel like he's a flight risk. He turned himself in a
14 week later. He was on the run for a week and he turned
15 himself in a week later after he committed his crime.
16 He executed my son and I feel like a person that killed
17 two people, why would a bond be set? I'm asking you
18 please let him remain right where he's at and think about
19 what he did. He don't need to be out on the street to
20 harm any more people.

21 Thank you.

22 THE COURT: Thank you, ma'am.

23 And you said there was another family member
24 present, Ms. Fuller, that wanted to say something?

25 MS. FULLER: Yes. I'm double-checking the

1 participants list to make sure she's on.

2 If you can hear me, if you want to speak now you
3 can unmute your mic. I'm not seeing your video on.

4 I apologize, Ms. Moore. I'm not -- but I know
5 she would reiterate, and all victims that are present,
6 that bond be denied in this case.

7 I know the officer was on. He just e-mailed me.
8 He was present. Actually, I'm not sure if he got his
9 video to work, Your Honor, but we would all collectively
10 respectfully request that bond continue to be denied in
11 this case.

12 THE COURT: Okay. I understand the State's position
13 and I think we're getting a little bit of feedback from
14 the jail there. I don't know if that's -- I see the door
15 is closed, but it sounds like we've got -- okay. That --
16 that took care of it.

17 I -- I kind of want the detention center mic to
18 remain open though in case -- in case the lawyers --
19 or in case the individual needs to speak with his
20 attorneys, but -- all right. I'm not hearing it now.

21 Mr. Brown, Mr. Phillips, I usually give the defense
22 last word and obviously it's axiomatic that -- that
23 Mr. Ritter is presumed innocent of these charges, so
24 obviously I understand that much of the State's argument
25 presupposes that he's guilty of these charges, but

1 obviously under the law he's presumed innocent, so.

2 But I'm happy to hear anything you want to tell me.

3 MR. BROWN: Just -- just briefly because there
4 was heavy on the facts. There are sworn statements
5 at least in July of 2018 in which the surviving
6 witness -- (transmission interruption) -- on law
7 enforcement as a perpetrator of this crime. The reason
8 I point that out is I don't know if the facts of the
9 events are crystal clear, Your Honor. I just point
10 that out. That's after they had discussions with the
11 surviving witness and they swore that he was the second
12 participant in this act and, of course, they changed
13 their mind and I think that you have to take the facts
14 that they've given with a grain of salt.

15 I appreciate it, Your Honor.

16 MS. FULLER: Your Honor, I would state that I don't
17 believe that -- I think Mr. Brown's confusing portions
18 of an affidavit in the record, but that's not the case.
19 The surviving victim has never been considered a
20 perpetrator. They were speaking of the second victim
21 that walked in, but there was no confusion ever with
22 the surviving victim.

23 MR. BROWN: There were multiple search warrant
24 affidavits in which the surviving witness is sworn to
25 be the second alleged gunman and it's not on one day

1 and it's not with one officer.

2 THE COURT: All right. I understand fully.

3 All right. I'm gonna take the matter under
4 advisement.

5 Mr. Ritter, I'll --- I'll be getting an order to
6 your attorney in the coming days.

7 Solicitor, I do -- like we've discussed previously,
8 I think our last conference on this was two or three
9 weeks ago, but we do need to look at trying this case as
10 -- as you suggest, sooner rather than later. Obviously
11 everyone was ready to go at the first of the year and
12 we were hoping this would go in March and circumstance
13 beyond our control prevented that, but I -- as we've
14 discussed, I would very much like to use a target date
15 of January or February or possibly as late as March.
16 Hopefully things will have stabilized and we will have
17 gotten back into the routine of resolving cases by trial
18 by that point in time, so.

19 Mr. Ritter, your lawyers will be in touch with
20 you, sir. I will be issuing an order in this case
21 and it will probably come out sometime, if not this
22 afternoon, then tomorrow, okay, sir?

23 THE DEFENDANT: All right.

24 THE COURT: All right. Take care of yourself,
25 Mr. Ritter.

1 THE DEFENDANT: All right. You, too.

2 THE COURT: Yes, sir.

3 MR. BROWN: Thank you, Your Honor.

4 MR. PHILLIPS: Thank you, Your Honor.

5 (Whereupon, the proceedings were concluded at
6 9:25 AM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Eleventh Judicial Circuit of the State of
South Carolina, do hereby certify that the foregoing
is a true, accurate and complete transcript of record
of all the proceedings had and the evidence introduced
in the hearing of the captioned case in Circuit Court
on the 9th day of September, 2020, and transcribed by
me to the best of my ability.

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conducted remotely via videoconferencing.

I do further certify that I am neither of kin,
counsel, nor have an interest to any party hereto.

August 10, 2021

/s/ Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

1 State of South Carolina) Court of General Sessions
2 County of Lexington) Eleventh Judicial Circuit

3

4 State of South Carolina,) Transcript of Record
5 vs.) 2019-GS-32-02887
6 Damien Lavar Ritter,) 2019-GS-32-02888
7 Defendant.) 2019-GS-32-02889
8) 2019-GS-32-02890
9) 2019-GS-32-02891
10) 2019-GS-32-02892
11) 2019-GS-32-02893

12

13 October 22, 2020
14 Lexington, South Carolina

15 B E F O R E:

16 The Honorable Frank R. Addy, Jr., Judge

17

18 A P P E A R A N C E S:

19 Sutania A. Fuller, Assistant Solicitor
20 Samuel R. Hubbard, III, Eleventh Circuit Solicitor

21 On behalf of the State of South Carolina

22

23 James A. Brown, Jr., Esquire
24 Dayne C. Phillips, Esquire

25 On behalf of the Defendant

26

27

28 Stacy S. Johnson
29 Circuit Court Reporter

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31

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1 (The following proceedings were held October 22,
13:37:52 2 2020, beginning at 1:37 PM.)

13:37:52 3 BAILIFF: All rise. Court is now in session. The
13:37:56 4 Honorable Frank Addy presiding.

13:37:58 5 THE COURT: Thank you. Please have a seat.

13:39:51 6 All right, everyone. If we're ready to go on the
13:39:55 7 record, we'll go ahead and go on the record. And this
13:39:58 8 is, of course, the State versus Damien Ritter. Case
13:40:04 9 19-GS-32-2887 through 2893. And I'm assuming the court
13:40:10 10 reporter has gotten everyone's biographical information.

13:40:15 11 We've a couple of motions that we need to address.
13:40:18 12 One is involving, of course, a Franks hearing. I think
13:40:23 13 there's also a motion to compel and a few other
13:40:31 14 housekeeping matters that we probably need to take up
13:40:34 15 at some point in time.

13:40:35 16 I was thinking that the Franks hearing might be the
13:40:38 17 most meaty, for lack of a better phrase, hearing that we
13:40:44 18 kind of needed to address, so I was looking at perhaps
13:40:48 19 proceeding with that first if that's kind of how we were
13:40:51 20 planning on doing it.

13:40:54 21 MR. BROWN: We're prepared to go forward, Your
13:40:57 22 Honor, and our informant -- the alleged informant is
13:40:59 23 here.

13:40:59 24 THE COURT: Okay. There was some -- my clerk told
13:41:00 25 me before I came out here that maybe there's been some

13:41:03 1 issue with the confidential informant and the subpoena
13:41:07 2 or am I mistaken?

13:41:07 3 MR. BROWN: I sent an e-mail about an hour ago when
13:41:07 4 we left Mr. Phillips' office because we were unable to
13:41:12 5 reach him and he had provided a statement that he would
13:41:15 6 not be coming here and, lo and behold, he's here.

13:41:19 7 THE COURT: Okay. Very good.

13:41:19 8 MS. FULLER: Yes, Your Honor. I was actually gonna
13:41:22 9 request if we can hear my motion to compel first and the
13:41:26 10 reason being is I think it would directly relate to the
13:41:29 11 other issues with the suppression hearing.

13:41:29 12 THE COURT: Okay.

13:41:30 13 MS. FULLER: If we could get to the bottom of that,
13:41:32 14 then it would tie in better to the motion to suppress.

13:41:36 15 THE COURT: Sure.

13:41:37 16 MS. FULLER: And just for the record, I know I
13:41:40 17 mentioned this in the status conference, I don't believe
13:41:42 18 there has been a showing for a Franks hearing yet and
13:41:45 19 so I do want to develop a full record on that for both
13:41:48 20 the State's benefit and the defense's benefit when the
13:41:51 21 -- the case goes up on appeal.

13:41:54 22 THE COURT: Right. Well -- well, my anticipation
13:41:56 23 is that -- and I do know -- I am familiar factually with
13:41:59 24 the background and some of the -- shall we characterize
13:42:06 25 it as irregularities, but I was planning on doing it by

13:42:09 1 the book and I think that they have the -- the threshold
13:42:11 2 obligation, I believe, obviously of showing some
13:42:13 3 irregularity that would -- that would implicate Franks or
13:42:16 4 the line of cases in Franks.

13:42:20 5 MS. FULLER: Thank you, Your Honor.

13:42:21 6 THE COURT: So I assume we're okay with that,
13:42:23 7 Mr. Brown?

13:42:25 8 MR. BROWN: We're ready to go forward. And yes --
13:42:28 9 yes, sir.

13:42:28 10 THE COURT: Let me hear her motion to compel first.
13:42:28 11 She tells me maybe it will clarify things and then we'll
13:42:32 12 move forward with you guys, if that's okay?

13:42:32 13 MR. BROWN: Mr. Phillips will be doing lead on that,
13:42:36 14 but, Your Honor, I would in Your Honor's discretion on
13:42:39 15 how court is run here, but our informant, you know, has
13:42:41 16 complained of having his job and sitting out there. The
13:42:44 17 motion to compel involves me and Mr. Phillips --

13:42:44 18 THE COURT: Okay.

13:42:47 19 MR. BROWN: -- personally and we have four witnesses
13:42:50 20 subpoenaed that are -- in fact, three of them are my
13:42:57 21 client's family members who can't sit in the courtroom.

13:43:00 22 THE COURT: Okay. Your motion to compel relates to
13:43:03 23 the conduct of the e-mail discussions that we've had
13:43:05 24 before?

13:43:05 25 MS. FULLER: Yes, Your Honor. And before we go

13:43:07 1 into it, I had mentioned to Mr. Brown that I was gonna
13:43:12 2 ask the three witnesses that I had subpoenaed to be here
13:43:15 3 today, the defendant's family members, to be outside for
13:43:20 4 even the discussion of this portion and I'll be prepared
13:43:23 5 to explain why if we're going forward with mine first and
13:43:29 6 have them exit the courtroom just for this first motion.

13:43:30 7 THE COURT: Okay. Mr. Phillips.

13:43:31 8 MR. PHILLIPS: I'm just a little confused how the
13:43:34 9 motion to compel relates to the Franks hearing. I don't
13:43:37 10 believe there's any overlap.

13:43:39 11 THE COURT: The motion to compel relates to a
13:43:42 12 conversation about the Tahoe or something and jail calls
13:43:44 13 or something.

13:43:45 14 MS. FULLER: I was trying to avoid mentioning it
13:43:48 15 directly in front of the family prior to, Your Honor, so
13:43:50 16 that we can --

13:43:52 17 MR. BROWN: And, Your Honor, if we may, our Franks
13:43:54 18 is related to an informant that is not a family member
13:43:59 19 and it relates to the detective who's dead who's not a
13:44:01 20 family member and none of those people were on the jail
13:44:05 21 phone call and they have asked explicitly in their motion
13:44:08 22 for the defense counsel to answer a question.

13:44:10 23 THE COURT: All right. Let's do this. Ask those
13:44:12 24 witnesses just to step outside for a few moments. I
13:44:15 25 assume that the confidential informant, the person with

13:44:18 1 the subpoena thing, is not necessarily privy to all of
13:44:22 2 this, so maybe they don't need to step outside, but the
13:44:26 3 family members who are, let's -- let's ask that they
13:44:29 4 just step outside briefly. I'm gonna let her put on the
13:44:34 5 record what she wants to put on the record and then we'll
13:44:36 6 go straight to you guys.

13:44:36 7 MR. PHILLIPS: So we need to have them step out?

13:44:39 8 THE COURT: Just for a few moments, please.

13:44:42 9 MS. FULLER: And, for the record, I subpoenaed
13:44:47 10 Andrena Maxwell, Loretta Warren and Annette Maxwell,
13:44:48 11 and those are the three I'll be requesting to stand out
13:44:54 12 of the courtroom for my matter.

13:44:54 13 (Whereupon, the requested individuals stepped out
13:45:08 14 of the courtroom.)

13:45:08 15 THE COURT: Okay. Go right ahead.

13:45:10 16 MS. FULLER: Thank you, Your Honor.

13:45:11 17 Your Honor, if you recall, my motion to compel
13:45:14 18 started from an e-mail chain back on -- finally to you
13:45:19 19 on March 12th of 2020, earlier this year. I indicated
13:45:23 20 to you that I had -- I don't think I stated it in here,
13:45:26 21 but my basis was based on good faith, that upon listening
13:45:30 22 to the jail calls while preparing for the March 23rd
13:45:34 23 trial date, the Defendant asked an individual to talk to
13:45:36 24 his lawyer about the vehicle. I specifically asked
13:45:39 25 Mr. Brown did anyone other than your client communicate

13:45:42 1 with you regarding Mr. Ritter's SUV that law enforcement
13:45:47 2 has never been able to locate question mark. If so,
13:45:50 3 what was the substance of this communication and who was
13:45:53 4 this individual that the communication occurred with.

13:45:56 5 Your Honor, in preparation for trial, and I'm gonna
13:45:59 6 turn over summaries of different conversations, as well
13:46:02 7 as a -- right now on the record, four different documents
13:46:08 8 where -- where we have attempted based on your status
13:46:14 9 conference to speak with those three individuals; Loretta
13:46:18 10 Warren, Andrena Maxwell and Annette Maxwell because after
13:46:24 11 status conference and I indicated that this was a matter
13:46:28 12 that you -- there was some suggestion that we find -- try
13:46:29 13 to find the answer another way.

13:46:31 14 What I just turned over to them documents law
13:46:34 15 enforcement's efforts of trying to speak with these
13:46:36 16 individuals and they would not speak with us and this
13:46:39 17 has been going on, I believe, since October 2nd of this
13:46:42 18 year.

13:46:43 19 In preparing for trial back in March, the week
13:46:46 20 before trial, we did speak with Ms. Loretta and
13:46:49 21 Ms. Andrena and we did not have -- did not have the rest
13:46:55 22 of the jail calls really tagged out or documented out
13:46:59 23 for me to actually probe them more directly about my
13:47:03 24 question, but now that I do I've subpoenaed them to be
13:47:06 25 here so that we can get to the bottom of it once and

13:47:09 1 for all.

13:47:10 2 The issue as I see it, Your Honor, is if you
13:47:13 3 recall, and I've taken the time to go back through all
13:47:15 4 the transcripts from our first hearing back in February,
13:47:19 5 from the first hearing Mr. Brown was solicited that --
13:47:23 6 or stated that he has not received anything about the
13:47:29 7 informant that lied. If you remember in November, that's
13:47:31 8 when the issue came up with the search warrant, the --
13:47:34 9 whether it was a CI, a tipster, material witness,
13:47:39 10 whomever, whatever the classification of this individual
13:47:41 11 was, they were wanting this individual's name to
13:47:46 12 investigate the informant over the statement as it
13:47:49 13 relates to the Tahoe.

13:47:50 14 In these hearings and in my review of the transcript,
13:47:54 15 I recalled, and the transcript verified, you had asked
13:47:58 16 the court -- the courtroom where is the truck, where is
13:48:02 17 the Tahoe, and I said we haven't recovered it and defense
13:48:07 18 didn't respond. Understandably, if their client expressed
13:48:14 19 to them where this truck is, I would not be asking this
13:48:17 20 question, but here you have on a jail call, and I was
13:48:20 21 able to identify a couple of others and I have Brenda
13:48:25 22 Snellgrove here in the courtroom prepared to authenticate
13:48:28 23 them so we can publish them today, is multiple times the
13:48:32 24 Defendant refers to his cousin Andrena the first time to
13:48:36 25 talk to his mother about talking to the lawyer about if

13:48:41 1 she can drive the truck. The next one she said did you
13:48:46 2 ask -- tell Loretta to ask the lawyer about the truck.
13:48:51 3 Later on in September, he's talking to one of his
13:48:55 4 girlfriends and he states to her you act like you don't
13:48:57 5 want to drive the truck. Then the following week he's
13:49:01 6 talking to another one and that person states tell your
13:49:05 7 momma to let me hold the truck and he says you'll have
13:49:09 8 to put insurance on it.

13:49:11 9 When the case was -- early on in the investigation,
13:49:13 10 you know our efforts to try to find this truck, we did
13:49:16 11 discover that the insurance actually lapsed, so I do have
13:49:20 12 a good faith basis to believe that he is referring to
13:49:24 13 this SUV that we have not been able to locate, the --
13:49:28 14 the one that is really at the heart of the search warrant
13:49:32 15 issue because it's whether the informant lied about seeing
13:49:37 16 the truck with bullet holes. That's what they -- that's
13:49:42 17 what the transcripts are laden -- laden with is this
13:49:44 18 bullet-riddled vehicle.

13:49:44 19 Also in one of the arguments Mr. Brown said something
13:49:48 20 along the lines of you know the truck may turn up with no
13:49:51 21 bullet holes, and I'm paraphrasing, but that was the
13:49:55 22 suggestion in the courtroom to attack the credibility of
13:49:57 23 this informant and so I wanted an opportunity to get to
13:50:00 24 the bottom of this and that's why I subpoenaed those
13:50:03 25 witnesses here to question them individually on the

13:50:05 1 stand about this truck and that is my good faith basis
13:50:09 2 for wanting to do so today, Your Honor.

13:50:11 3 Thank you.

13:50:11 4 THE COURT: All right. What you-all's position on
13:50:13 5 this?

13:50:13 6 MR. PHILLIPS: Specifically, Your Honor, the State
13:50:17 7 has not met any threshold to have the hearing in the
13:50:20 8 sense that -- or at least to pursue the motion to compel.
13:50:23 9 They've not provided any legal basis that we have the
13:50:27 10 duty to provide this information. They've not provided
13:50:30 11 any factual basis or legal precedent that says we have
13:50:34 12 to provide any type of information specifically to the
13:50:38 13 motion to compel.

13:50:40 14 There is the issue specifically that the State does
13:50:47 15 have a burden before, I think, bringing the motion to
13:50:48 16 compel to show that they have information linking -- I
13:50:52 17 mean, I'm having to contain myself because it's an
13:50:55 18 ethical aspersion to me that I have information and I've
13:51:02 19 obstructed justice, and so I take that very seriously,
13:51:07 20 and the State without having any evidence, at least not
13:51:12 21 what's presented to us, to linking the defense to having
13:51:14 22 this information, I think is absurd, and I think they
13:51:18 23 have to present that threshold information before they
13:51:20 24 can file a motion to compel.

13:51:21 25 THE COURT: And maybe I did turn to Mr. Phillips

13:51:23 1 a little bit early. What are you -- the fifty cent
13:51:27 2 question is, what are you seeking here? If you're
13:51:30 3 asking for counsel to say something that they may have
13:51:35 4 learned about during the course of their investigation
13:51:37 5 or during the course of their representation of the
13:51:41 6 Defendant, then that's one thing. If you're asking to
13:51:46 7 question Maxwell times two and Warren, that's another,
13:51:54 8 and then that's -- that's subdivided into two different
13:51:57 9 questions; is it appropriate to do it here in court or
13:52:07 10 should you undertake some other investigative method,
13:52:13 11 which brings us to the next question of if we do it in
13:52:17 12 court and they simply take the stand and take the Fifth,
13:52:22 13 where does that leave us?

13:52:25 14 What exactly are you asking me to do and what do
13:52:28 15 you have authority -- what authority do you have that
13:52:30 16 backs up that request?

13:52:32 17 MS. FULLER: Yes, Your Honor. In terms of
13:52:34 18 questioning -- so it is two-part like you pointed out.
13:52:37 19 The fact that I could not get them last -- within this
13:52:40 20 last several weeks to question them about this, the
13:52:44 21 only way I got anything out of them was by serving the
13:52:48 22 subpoenas and it left me no choice but to do it here
13:52:52 23 today, and is to put them on the stand to review what
13:52:56 24 I've discovered and have them answer definitively my
13:53:01 25 question. Depending on how they answer, then I think

13:53:04 1 it goes directly to my motion to compel.

13:53:09 2 In terms of my basis, my basis is only on -- based
13:53:11 3 on the July 19th jail call, July 24th, September 1st and
13:53:16 4 September 6th. My understanding at this time because
13:53:18 5 he's still talking about the preliminary hearing is when
13:53:23 6 just Mr. Brown was on this case.

13:53:26 7 I'm not suggesting anything. I tried to get an
13:53:30 8 answer via e-mail and I was told essentially I'm unable
13:53:33 9 to assist with your investigation. Prior to --

13:53:36 10 THE COURT: Which would be -- which would be
13:53:37 11 exactly the answer I would give if I was in his position
13:53:41 12 because --

13:53:41 13 MS. FULLER: So -- that's correct. And so I reached
13:53:44 14 out to several different people who -- and got feedback
13:53:47 15 and spoke to from my office and what the best course of
13:53:52 16 action is because this truck is the root of the other
13:53:55 17 motions to suppress, whether or not it exists, and I
13:53:58 18 feel as though I'm entitled -- the State is entitled to
13:54:01 19 know about this truck and the fact that he's talking to
13:54:03 20 family members about it, I -- that's why I asked defense
13:54:07 21 counsel did anyone other than your client.

13:54:09 22 In terms of what we're tiptoeing around is this
13:54:14 23 attorney/client privilege and it simply does not exist
13:54:17 24 with communications with -- as it terms of Loretta,
13:54:22 25 Annette and Andrena. Their conversations are not

13:54:27 1 protected at all law. There is even case law that
13:54:29 2 says to establish the attorney/client privilege, it
13:54:31 3 must be shown that the relationship between the parties
13:54:32 4 was that of the attorney and the client and that the
13:54:34 5 communications were of a confidential nature.

13:54:37 6 There's also case law that says any voluntary
13:54:41 7 disclosure by a client to a third party waives the
13:54:45 8 attorney/client privilege not only as to the specific
13:54:47 9 communication disclosed, but also to all communications
13:54:50 10 between the same attorney and the same client on the
13:54:53 11 same subject.

13:54:54 12 THE COURT: But that's -- that's a different --
13:54:55 13 that's a different animal entirely. That's a situation
13:54:58 14 where the client -- if an attorney were to directly
13:55:03 15 quote their client in correspondence, okay, that would
13:55:09 16 constitute a waiver of attorney/client privilege. If
13:55:12 17 there was a direct quote of some kind. If a client
13:55:15 18 speaks to some other third party not their lawyer, then
13:55:18 19 that's outside of attorney/client privilege. I would
13:55:22 20 generally agree with that. And you've got the cell --
13:55:24 21 the recordings from the jail, okay?

13:55:26 22 Mr. Phillips is jumping -- or chomping at the bit
13:55:31 23 over there and I'm gonna go to you in a second.

13:55:33 24 Again, are you asking -- let's deal with the
13:55:36 25 threshold question. Are you asking the Court in some

13:55:40 1 way, shape or form to compel counsel for the defense
13:55:44 2 to answer your question? Yes or no?

13:55:46 3 MS. FULLER: Yes.

13:55:47 4 THE COURT: Okay. Mr. Phillips.

13:55:48 5 MR. PHILLIPS: Thank you, Your Honor.

13:55:49 6 The attorney/client privilege argument is a red
13:55:54 7 herring. Your Honor correctly identified that. They've
13:55:58 8 -- the State has not established that a communication
13:56:00 9 exists. I wish we had criminal depositions in South
13:56:03 10 Carolina. That's what they seek to conduct via this
13:56:06 11 hearing is a criminal deposition. Bottom line is
13:56:10 12 they're fishing for information that they can't get
13:56:12 13 through their own investigation through an underhanded
13:56:15 14 implication that we are obstructing justice and they
13:56:18 15 haven't established that a communication even exists.

13:56:22 16 There's no law cited, no rule cited by the State
13:56:27 17 saying we have a duty because they haven't even
13:56:30 18 established that there is a communication that we know
13:56:33 19 about. There's no basis in facts or law to support this
13:56:36 20 request and this motion to compel is beyond the pale.

13:56:41 21 THE COURT: Can you cite me authority for the
13:56:43 22 proposition that it is proper for the State to ask the
13:56:48 23 defendant's attorney to answer the question? Case law.

13:56:54 24 MS. FULLER: The question -- the question that I
13:56:56 25 asked -- well, the -- the body of attorney/client cases

13:57:00 1 address whether or not -- that these were cases where
13:57:04 2 attorneys were called to testify and the Court has
13:57:06 3 analyzed this very question and so what I'm asking is
13:57:10 4 definitely a novel situation for me and many in my
13:57:13 5 office, is based on this jail call -- I tried to avoid
13:57:17 6 this by coming and filing this motion. I took so long
13:57:20 7 to file a written motion. I only did so at the request
13:57:24 8 of the defense and at direction of the Court. So --

13:57:27 9 THE COURT: My question was very specific. What
13:57:29 10 authority do you have?

13:57:30 11 MS. FULLER: So case law, the cases that I cited
13:57:34 12 about attorney/client privilege, State v. Love,
13:57:37 13 Marshall v. Marshall, goes into the fact that the
13:57:40 14 communication is not privileged. It's not to be kept
13:57:41 15 confi -- like if he spoke about those -- about the truck
13:57:45 16 with a third party, my inquiry here of the -- and I
13:57:52 17 don't want to compare this to a civil deposition, but
13:57:56 18 I've tried to gain this information by other means which
13:57:59 19 is what the Court suggested during a status conference,
13:58:02 20 and I have not been able to do so, and so my only course
13:58:06 21 of action was subpoenaing the people on the call and that
13:58:09 22 was referred to on the call so I can ask them the
13:58:13 23 pointblank questions about this vehicle and about if
13:58:15 24 there was communication with Mr. Brown.

13:58:18 25 THE COURT: Okay. I took ethics from John Freeman

13:58:23 1 and he's widely regarded as probably the best ethics
13:58:28 2 expert in South Carolina and he posed this scenario to
13:58:31 3 the class on one occasion. A client comes to you as an
13:58:35 4 attorney with a gun. The client says to you I just used
13:58:37 5 this gun to shoot my wife, hands the gun over to you,
13:58:42 6 what is your ethical obligation? Well, you've got a
13:58:45 7 couple of them. The first thing is obviously you've got
13:58:50 8 an ethical obligation your client. You can't go running
13:58:54 9 off to the police saying a man just walked into my office
13:58:57 10 who's my client and he said he shot his wife. So that's
13:58:58 11 what you cannot do. You cannot hold onto the gun
13:59:04 12 indefinitely. You're allowed to keep the gun for a
13:59:05 13 period of time and run some tests on it. Ultimately
13:59:06 14 though you are in possession of the fruits of a crime
13:59:10 15 or some criminal element and you have an obligation
13:59:13 16 ultimately to get that gun to law enforcement even though
13:59:15 17 you can't rat your client out. So what do you do then,
13:59:19 18 okay? You can keep it, you can run tests on the gun,
13:59:20 19 but how do you get it to law enforcement without being
13:59:23 20 traced back to you? Simply put you go to another
13:59:26 21 attorney, create an attorney/client relationship with
13:59:28 22 that attorney, hand him the gun, tell him he has an
13:59:31 23 obligation to turn it into the police, but he cannot
13:59:33 24 tell them where it came from. At that point in time
13:59:37 25 you've complied with all your ethical obligations.

13:59:40 1 You're asking me to basically go behind -- and I'll
13:59:45 2 be happy to look at Love if you want to hand up the case
13:59:49 3 or a citation. You have asked me to do something that
13:59:52 4 to my knowledge no judge has ever been asked to do before
13:59:56 5 and that is ask a lawyer to either talk about what their
14:00:03 6 client told them or to reveal work product.

14:00:06 7 Assuming for a moment that their client did tell
14:00:09 8 them something about the Tahoe, that's clearly
14:00:12 9 attorney/client privilege. If based on conversations
14:00:15 10 that they had with their client some other witness came
14:00:20 11 forward or they interviewed some other witness about the
14:00:23 12 Tahoe, that is work product. Either way it's covered
14:00:27 13 by attorney/client privilege, correct? How is it not?

14:00:32 14 MS. FULLER: When it comes to the actual location
14:00:37 15 and information about the truck, the -- so when I'm
14:00:41 16 looking at 1.6 -- attorney/client privilege is not in
14:00:45 17 the rules, right, so it's the client/lawyer relationship,
14:00:49 18 1.6 is the duty of confidentiality, but the courts have
14:00:51 19 looked at the public interest and the administration of
14:00:55 20 justice and balancing the confidential nature. Not all
14:01:00 21 -- not all communications about -- with an attorney is
14:01:02 22 considered privileged, and I'm not asking -- my ask is
14:01:05 23 not what Damien Ritter said to defense counsel, my ask
14:01:11 24 is someone other than. Based on listening to this call
14:01:14 25 where he asked his mother and Loretta to ask if you can

14:01:17 1 drive the truck, I wanted to know the content of that,
14:01:20 2 and I believe I do have -- just like I ask anyone, a
14:01:24 3 right to ask, and I don't believe that's work product.

14:01:26 4 THE COURT: All right. You haven't shown any
14:01:29 5 indication that these people actually communicated with
14:01:31 6 these attorneys and you're asking them to give you an
14:01:36 7 affirmative answer one way or another whether -- what
14:01:39 8 they have done during the course of their investigation.
14:01:41 9 This is all work product.

14:01:44 10 MS. FULLER: Well, my ask today was to ask those
14:01:47 11 witnesses here and if the answer is no -- defense
14:01:49 12 counsel would not answer my question.

14:01:49 13 THE COURT: Okay.

14:01:51 14 MS. FULLER: I do not know the answer to the
14:01:53 15 question and it was simple. I tried to handle it by
14:01:57 16 e-mail out of the courtroom and it has not been answered.
14:02:00 17 It has been avoided and is basically I'm not saying yes,
14:02:03 18 I'm not saying no. I'm not saying anything.

14:02:56 19 THE COURT: All right. Attorney/client -- here's
14:02:59 20 another point. Attorney/client privilege is owned by
14:03:00 21 the client, not the attorney.

14:03:02 22 MS. FULLER: Yes.

14:03:02 23 THE COURT: How can you show a waiver on behalf of
14:03:05 24 a client?

14:03:06 25 MS. FULLER: Once he's communicated with a third

14:03:09 1 party voluntarily, and that's Marshall v. Marshall,
14:03:12 2 which is cited in State v. Jackson and U.S. v. Jones.
14:03:12 3 It says any voluntary disclosure by a client to a
14:03:16 4 third party waives the attorney/client privilege not
14:03:18 5 only to that specific communication, but all -- to all
14:03:21 6 communications on that -- between that same attorney
14:03:23 7 and the same client on the same subject.

14:03:25 8 Judge, I did not bring this lightly. I read some
14:03:29 9 literature on it, I looked at State v. Green, which is
14:03:32 10 the same scenario that you said Freeman presented. The
14:03:36 11 client -- the potential -- well, the client comes in,
14:03:39 12 leaves his possessions in the attorney's office, he goes
14:03:43 13 to turn them in, he comes back, he's going through it,
14:03:47 14 he finds the murder weapon, he turns it in.

14:03:50 15 The problem that happened in that case is at trial
14:03:52 16 the State called that attorney chain, that was the issue,
14:03:55 17 where did the gun come from, and there was a ruling that
14:03:58 18 you cannot state it came from the attorney, you cannot
14:04:01 19 say that it came from the -- that he even represented to
14:04:04 20 the defendant, and that's not what I'm asking. That's --
14:04:06 21 that's a totally different scenario here. It's a totally
14:04:10 22 different scenario here, Judge. I'm literally wanting to
14:04:15 23 know did a third party discuss with you the whereabouts of
14:04:18 24 this truck. Did a third party ask you can I drive this
14:04:21 25 truck. That's not work product. That is something I'm

14:04:23 1 entitled to do. And I'm not trying to raise the ethical
14:04:28 2 -- ethic roots here -- the ethical rules here, I'm just
14:04:29 3 trying to get to the bottom of it and then we take the
14:04:32 4 next step. That is not what I'm looking for. This is
14:04:35 5 something I tried to handle -- I didn't even try to bring
14:04:36 6 it to you. I went to Mr. Brown directly because the jail
14:04:41 7 calls stemmed from July 19th of 2018. He was the only one
14:04:45 8 on the case at the time. That was my basis of doing this
14:04:48 9 because if you remember and if you go through the
14:04:50 10 transcripts every hearing has been about this truck. You
14:04:53 11 even said well, where's the truck, just go look at it, does
14:04:57 12 it have bullet holes in it, but here it is and you want to
14:05:00 13 have for him to go show a burden on -- to have a Franks
14:05:04 14 hearing on a statement where my affiant is deceased, right,
14:05:09 15 have a Franks hearing questioning this truck, did the --
14:05:12 16 did someone really see the truck with bullet holes in it.
14:05:16 17 They -- they identified in a written motion that the fact
14:05:18 18 that someone said they saw bullet holes in this truck is a
14:05:22 19 material issue. That's the only reason why I agreed to
14:05:26 20 turn over the person's name under seal.

14:05:29 21 THE COURT: I don't disagree that the existence of
14:05:31 22 the truck and whether it has bullet holes in it is
14:05:35 23 relevant. I agree. And I agree that could be germane
14:05:40 24 to a lot of stuff. The problem I've got is the means
14:05:44 25 by which you are seeking to obtain this information.

14:05:50 1 That is the -- that that is the problem.

14:05:51 2 Mr. Phillips.

14:05:53 3 MR. PHILLIPS: Not to rehash, but the State has
14:06:00 4 not established the existence of a statement. The
14:06:05 5 State seeks -- as you said of it being a novel issue,
14:06:09 6 any time the State believes they compare evidence from
14:06:12 7 a jail phone call in the future if we're saying that
14:06:15 8 this is gonna be the standard where the word lawyer
14:06:18 9 and evidence is mentioned that at that point we -- the
14:06:21 10 State could request a hearing and have a judge demand
14:06:24 11 the lawyers to be questioned.

14:06:27 12 That creates an absolute -- it doesn't defy law or
14:06:35 13 logic and we don't have, one, an established duty that's
14:06:37 14 been presented by the State or a basis in fact and law,
14:06:42 15 and they can't establish either one because as you said
14:06:44 16 it's such a novel issue because it doesn't exist.

14:06:48 17 THE COURT: I appreciate the State's motion. I'm
14:06:51 18 -- I'll --

14:06:51 19 MS. FULLER: Your Honor, just briefly because I --
14:06:56 20 I don't want to mention the rule, but when you look
14:07:00 21 at...

14:07:06 22 (Discussion between counsel.)

14:07:31 23 MS. FULLER: Your Honor, I'll leave --

14:07:32 24 THE COURT: Yes, ma'am.

14:07:33 25 MS. FULLER: -- leave the issue alone for now.

14:07:36 1 The issue I'm sure of the truck is gonna come up again
14:07:39 2 and those witnesses will still be fair game in terms of
14:07:44 3 the existence of this truck.

14:07:46 4 THE COURT: Very good.

14:07:46 5 Well, the motion to compel any sort of statement or
14:07:49 6 any comment from defense counsel as far as the question
14:07:55 7 that you posed back in that March e-mail, that motion's
14:07:59 8 denied.

14:08:00 9 MS. FULLER: Okay.

14:08:01 10 THE COURT: All right. Let's -- let's move forward
14:08:02 11 with the Franks hearing because we need to go ahead and
14:08:05 12 get that done here.

14:08:13 13 The ball is in your court.

14:08:13 14 MR. BROWN: May it please the Court, Your Honor?
14:08:15 15 And I apologize. You may hear some creaking of the
14:08:19 16 tin man because I'm a little rusty without being in the
14:08:21 17 courtroom very often, but essentially we think we have
14:08:24 18 met the burden and what I would like to do first is to
14:08:26 19 draw your attention back to your order that was issued,
14:08:31 20 I believe, following the December hearing where you
14:08:35 21 indicated that a Franks hearing at that point was
14:08:38 22 premature and I'm gonna come back at this time because
14:08:42 23 we have been once knocking at the door of trial and,
14:08:47 24 of course, it was our intention back on March 16th --
14:08:51 25 and if I may, Your Honor, I -- I would prefer to remove

14:08:53 1 my mask.

14:08:55 2 THE COURT: Sure. Yeah, you can.

14:08:56 3 MR. BROWN: Yes, sir. Thank you.

14:08:57 4 So on March 16th, that's when court was cancelled,
14:09:01 5 that was the week for trial, and we figured the Franks
14:09:04 6 motion would come up then and so what we originally
14:09:07 7 presented back at that time is that there is a search
14:09:09 8 warrant, and I've got a copy that I'd like to mark as
14:09:13 9 Defense A and hand up. And I certainly have a copy for
14:09:15 10 the State if they'd like one. And I actually took it
14:09:19 11 straight out of the discovery, so it's got the Bates
14:09:23 12 stamping on it.

14:09:25 13 And if I may I approach and just mark this as
14:09:27 14 Defendant's 1 or --

14:09:34 15 THE COURT REPORTER: Yeah, one.

14:09:34 16 (Defendant's Exhibit Number 1 was marked for
14:09:34 17 identification.)

14:09:37 18 MR. BROWN: And if I just may hand up State's 1,
14:09:39 19 and it's the search warrant, Your Honor, and in that
14:09:47 20 search warrant there's a discussion about the truck,
14:09:48 21 but more importantly there's a discussion about a
14:09:51 22 person who allegedly saw the truck at an address in
14:09:54 23 Estill, which for the record, is in Hampton county, and
14:09:57 24 it gives an address of [REDACTED] -- there is a discussion
14:10:01 25 earlier and it may become some issue that [REDACTED] is also

14:10:05 1 listed as [REDACTED] Roberts. That is in the Bates-stamped
14:10:12 2 page 116 and talks -- it starts and talks about the
14:10:15 3 truck being seen. It goes over to page 117 Bates
14:10:21 4 stamped and says that information received from
14:10:24 5 Investigator Singleton from the Hampton County Sheriff's
14:10:27 6 Office that a confidential informant witnessed
14:10:31 7 Mr. Ritter's Tahoe with bullet holes in it earlier that
14:10:32 8 day at Ritter's home located at [REDACTED] Roberts in Estill,
14:10:36 9 South Carolina, and I point that out. We believe that
14:10:40 10 that statement is false. That statement was made with
14:10:45 11 reckless disregard at the minimum or deliberately falsely
14:10:50 12 made and, quite honestly, Your Honor, and we would have
14:10:53 13 said the same thing in March, on March 23rd without any
14:10:56 14 intervening death, we don't believe that anybody told
14:11:00 15 Mr. Singleton that at all. Period. And I don't mind
14:11:05 16 saying it.

14:11:06 17 All right. Now what we've done -- I think that
14:11:09 18 gets us over the Franks threshold and what I'm gonna
14:11:13 19 hand up is Your Honor's order signed on November 11th,
14:11:17 20 there's a copy, and I'm gonna mark this one as
14:11:21 21 Defendant's 2.

14:11:21 22 MR. BROWN: If I may approach, Your Honor.

14:11:21 23 (Defendant's Exhibit Number 2 was marked for
14:11:36 24 identification.)

14:11:36 25 MR. BROWN: And, quite frankly, Your Honor, it

14:11:40 1 starts on the very last line of the first page and it
14:11:46 2 goes to the end of the same sentence on the next page.
14:11:46 3 The State explained, and I -- once the court reconvened
14:11:49 4 on this case comma the State explained that having been
14:11:51 5 in contact with law enforcement in Hampton county, there
14:11:56 6 actually was no CI.

14:11:59 7 And, Your Honor, that is the law of the case and
14:12:01 8 I say that because I know we don't have interlocutory
14:12:05 9 appeals and there's no -- not been a request for
14:12:08 10 reconsideration or anything else. And, Your Honor,
14:12:10 11 besides the fact that it is the law of the case that
14:12:13 12 you found as a finding of fact, it is a statement or an
14:12:16 13 admission by a party opponent. Besides the prosecutor
14:12:22 14 saying in open court there is no CI, I don't know what
14:12:25 15 else would be an admission by a party opponent.

14:12:28 16 And so, Your Honor, this is the threshold because
14:12:31 17 we believe -- and, of course, Your Honor, if we're wrong
14:12:35 18 on this it doesn't matter about us making the threshold,
14:12:38 19 but we believe if you take the statement out about the
14:12:41 20 informant witnessing the Tahoe at that location, which
14:12:45 21 is on page 117 of the search warrant, we believe when
14:12:48 22 the information that was attributed to the informant is
14:12:52 23 struck, that there's not probable cause left, and so we
14:12:55 24 believe that those two combined -- because it's struck
14:12:58 25 that there's no probable cause and in the order there

14:13:01 1 was no CI, which means there is no informant to have
14:13:06 2 made this statement.

14:13:08 3 And there was discussions, if Your Honor will
14:13:12 4 recall, about there possibly being a mere tipster and
14:13:16 5 that, Your Honor, preceded the State's statement that
14:13:19 6 there was no CI, which preceded your order that there
14:13:24 7 was no CI, and those are directly contradictory.
14:13:29 8 They're -- let me see if I can say it and use Bill
14:13:32 9 Clinton's words, they are mutually exclusive, and so
14:13:35 10 we can't have no CI and a CI and we believe that's the
14:13:39 11 threshold that's required.

14:13:42 12 Now we have more to show the threshold, but it
14:13:44 13 involves putting the informant up and so we're kind
14:13:49 14 of in this chicken and egg. I mean, we're gonna
14:13:50 15 essentially get the Franks hearing to have the decision
14:13:51 16 about whether we get the Franks hearing.

14:13:52 17 THE COURT: Well, I think I've previously
14:13:55 18 telegraphed that -- and let me clear up the record a
14:13:59 19 little bit. What I -- what I find in the order -- or
14:14:00 20 what I said in the order of November the 11th of last
14:14:06 21 year, I basically was parroting what had been
14:14:12 22 represented to the Court by the solicitor, and I don't
14:14:20 23 know that that's necessarily -- I don't know that you
14:14:23 24 could characterize that statement that you quoted from
14:14:30 25 my order as being the law of the case so to speak

14:14:32 1 because basically it was used as an explanation as to
14:14:38 2 kind of -- or a narrative. We were talking about a bond
14:14:41 3 order, so if anything it's probably dicta, but at the
14:14:45 4 very least what happened was there was a representation
14:14:50 5 that there wasn't a CI, I asked for the affidavit, then
14:14:54 6 apparently there was some kind of person who we now have
14:14:57 7 the identity of and the officer is now dead, so as far
14:15:03 8 as you characterizing that finding in the bond order as
14:15:07 9 being the law of the case, I -- I think that's probably
14:15:10 10 a little bit -- a little bit of an aggressive posture
14:15:14 11 and probably isn't really the -- the case, so.

14:15:19 12 And I -- I know that the solicitor may want to
14:15:25 13 respond, but I've already telegraphed that there was
14:15:31 14 enough unusual activity in this affidavit in my opinion
14:15:36 15 to warrant a Franks hearing. It is kind of a chicken
14:15:40 16 and egg kind of a thing and even if I were to say that
14:15:43 17 there's not enough to warrant a Franks hearing, you're
14:15:47 18 still entitled to proffer the very testimony that you
14:15:50 19 would then present during the course of a Franks hearing,
14:15:53 20 so it may be best just to go ahead and have the Franks
14:15:56 21 hearing since the proffer is gonna have to be made
14:15:56 22 anyway, but before I do that I will give Ms. Fuller a
14:16:00 23 chance to speak if she needs to or wants to.

14:16:02 24 MS. FULLER: I do want to. Thank you, Your Honor.

14:16:03 25 THE COURT: Sure.

14:16:04 1 MS. FULLER: Your Honor, just to -- to be clear on
14:16:06 2 what I said, when I did get your order and the quote
14:16:09 3 there is no CI, I didn't think it was something I needed
14:16:12 4 to challenge because there's transcripts for that. In
14:16:15 5 reviewing the case, I actually did control find from
14:16:17 6 Bethanie's transcript and there is no quote from me
14:16:21 7 saying directly there is no CI. And, of course, that's
14:16:24 8 the understanding, but what I said to the Court was on
14:16:27 9 that particular day my investigator wasn't -- wasn't in,
14:16:29 10 but he reached out and the way it was is like well, what
14:16:33 11 are you talking about there's no CI and I said I don't
14:16:36 12 know who the CI is, I don't even know if it's really a
14:16:39 13 CI, meaning the legal classification of a CI. There has
14:16:43 14 never been a question, and you can look at all the
14:16:45 15 transcripts of the record that we have, three hearings,
14:16:48 16 there has never been a question that the statement was
14:16:51 17 made. It's always been an issue how do we classify the
14:16:55 18 person who made statement. Even in -- like I said
14:17:00 19 earlier in the February hearing before there was an
14:17:01 20 issue of classification of the person, Mr. Brown
14:17:03 21 actually said I don't even have information on the
14:17:07 22 informant that lied. It wasn't until November that it
14:17:11 23 turned into the officer lied and I read the entire
14:17:15 24 transcript to make sure to see where I am in my timing.
14:17:18 25 It wasn't until after the issue where I expressed to

14:17:21 1 the Court okay, Your Honor, yes, this is what I -- you
14:17:24 2 were like what happened and I explained to you what
14:17:27 3 happened. But there has never been a situation -- even
14:17:30 4 with Singleton's affidavit, he then referred to the
14:17:34 5 person as a confidential source. He's never once
14:17:40 6 changed getting the statement.

14:17:42 7 And in terms of Franks and understanding that he
14:17:47 8 would have to proffer this, I still don't think he's
14:17:50 9 made a substantial preliminary showing that a false
14:17:54 10 statement knowingly and intentionally was made or with
14:17:58 11 reckless regard. And in Franks, Franks goes on to
14:18:03 12 describe that the affidavit is based on truthful showing
14:18:07 13 -- a truthful showing and it's not truthful in the sense
14:18:09 14 that everything -- there's hearsay in the affidavit,
14:18:12 15 that everything contained is actually a fact that would
14:18:15 16 be proven, it just means that when the affiant swore it
14:18:19 17 out and made it that he believed it to be true. They
14:18:21 18 haven't made a showing that Singleton did not believe
14:18:24 19 the statement to be true. They haven't even made a
14:18:27 20 showing that the Singleton didn't get the statement --
14:18:29 21 didn't receive that statement. I get there's been an
14:18:31 22 issue with two words and Franks requires him to identify
14:18:35 23 the contested portion of the affidavit. Is it the word
14:18:40 24 confidential informant, so he just put a mere witness
14:18:43 25 or is it the sentence? I don't know. The motion

14:18:47 1 doesn't say. It quotes the whole thing. If he's
14:18:50 2 quoting the whole thing, that's different, but what's
14:18:52 3 been argued at every other hearing is CI, no CI, mere
14:18:59 4 tipster, not a tipster, whomever it is, so is the
14:19:03 5 challenge the verbiage or that the entire statement was
14:19:05 6 never made?

14:19:06 7 THE COURT: Well, part of it is that they used the
14:19:10 8 term of art confidential informant in the affidavit and
14:19:14 9 confidential informant is a term of art in the business
14:19:14 10 that we are in.

14:19:14 11 MS. FULLER: Right.

14:19:16 12 THE COURT: It's different from witness, it's
14:19:18 13 different from a tipster, you know. He could have used
14:19:23 14 witness, he used confidential informant. Confidential
14:19:28 15 informant denotes a certain gravitas, a certain
14:19:31 16 reliability, they've been proven reliable in the past.

14:19:34 17 You want to respond?

14:19:36 18 MR. BROWN: I do, Your Honor.

14:19:36 19 (Defendant's Exhibit Number 3 was marked for
14:19:36 20 identification.)

14:19:37 21 MR. BROWN: And actually I think I can satisfy her
14:19:39 22 concern.

14:19:40 23 I'm passing up what I've marked as Defendant's 3.
14:19:43 24 This is actually a statement signed by Mr. Adkins given
14:19:49 25 to my private investigator, Your Honor, and Mr. Adkins

14:19:51 1 is here. I will point out that the statement is signed
14:19:54 2 but not notarized, but that page that is notarized is
14:19:59 3 the service of the subpoena that was done at the very
14:20:02 4 same time but it's on the detective's own proof of
14:20:06 5 service and the one that's on the back of the normal
14:20:10 6 Rule 13 subpoenas.

14:20:13 7 Your Honor, in short version if you go down to the
14:20:16 8 statement provided by phone and it says I was in contact
14:20:20 9 with two detectives from West Columbia PD, one an older
14:20:24 10 black male and the other a younger white male. I do not
14:20:28 11 recall their names. Both arrived by themselves. No
14:20:31 12 other officer was with them. I told the detectives I
14:20:35 13 haul cars, but have nothing to do with the investigation.
14:20:38 14 I do know who Officer Perry is -- was and never talked to
14:20:43 15 him or was questioned about this case.

14:20:47 16 Now, Your Honor, on November 11th when we had that
14:20:51 17 hearing when there was not a discussion about whether
14:20:53 18 the statement was just practically made up, we didn't
14:20:57 19 even know the fellow's name was John Adkins.

14:21:00 20 THE COURT: And just so that the record is clear,
14:21:03 21 that is the name that ultimately the officer, who's now
14:21:06 22 deceased, I think conveyed to the solicitor as being
14:21:09 23 the witness slash confidential informant, whatever
14:21:14 24 nomenclature you choose to use, that is the same
14:21:16 25 person.

14:21:16 1 Okay.

14:21:18 2 MR. BROWN: Yes, sir.

14:21:19 3 So now that we knew it and we've talked to him
14:21:22 4 -- and for what it's worth, Your Honor, there's more
14:21:23 5 evidence I wish to hand up at some point in time, but
14:21:24 6 there are notes from a January 27, 2020, interview,
14:21:30 7 and if Your Honor would like, I'll go ahead and put
14:21:33 8 forth --

14:21:33 9 THE COURT: Let's do this. Why don't we call
14:21:35 10 Mr. Adkins.

14:21:35 11 MR. BROWN: Yes, sir.

14:21:36 12 THE COURT: He's here, he's missing work and we
14:21:38 13 probably need to get the ball rolling on testimony,
14:21:38 14 so go right ahead.

14:21:38 15 MR. BROWN: Absolutely.

14:21:52 16 THE COURT: And I understand that this is subject
14:21:54 17 to the State's objection, but at the very least a proffer
14:21:56 18 would have to be made as I've previously explained, so
14:21:58 19 we may as well go ahead and take testimony.

14:22:29 20 MR. BROWN: If you'll come on up, I believe they're
14:22:32 21 gonna swear you in right here.

14:22:32 22 (Whereupon, John Adkins was duly sworn by the
14:22:39 23 Clerk of Court.)

14:22:39 24 THE WITNESS: Yes, ma'am.

14:22:42 25 THE CLERK: All right. If you'll have a seat

14:22:44 1 and state your name for the record and spell your last
14:22:47 2 name, please.

14:22:48 3 THE COURT: Right over here, please.

14:22:56 4 Pull that mic down just a hair. There you go.

14:23:05 5 And state your name, please.

14:23:06 6 THE WITNESS: It's John Adkins. John, J-O-H-N.

14:23:12 7 A-D-K-I-N-S.

14:23:13 8 THE COURT: And you can take your mask off while
14:23:16 9 on the stand, if you want, okay?

14:23:17 10 MR. BROWN: May it please the Court, Your Honor?

14:23:19 11 And do you -- do you mind if I stay at the table? Thank
14:23:19 12 you.

14:23:22 13 Mr. Adkins -- and, Your Honor, if you'd like to
14:23:25 14 start the questioning, I don't want it to be -- or all
15 right.

16 JOHN ADKINS,

17 having been duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BROWN:

14:23:26 20 Q. Mr. Adkins, let me ask you this. Have you ever met me
14:23:28 21 before today?

14:23:29 22 A. No, sir.

14:23:30 23 Q. And did you ever meet me before, let's say, thirty
14:23:34 24 minutes ago?

14:23:34 25 A. No, sir.

14:23:35 1 Q. All right. And we spoke to you downstairs and it was
14:23:38 2 in front of all the officers at the metal detectors?

14:23:41 3 A. Yes, sir.

14:23:41 4 Q. And then you rode the elevator by yourself and we rode
14:23:46 5 in a separate elevator?

14:23:48 6 A. Yes, sir.

14:23:49 7 Q. Have I ever told you what to say?

14:23:49 8 A. No, sir.

14:23:52 9 Q. Okay. All right. And do you have any information
14:23:53 10 that I told Mr. Ritter that you were the informant before
14:23:57 11 your name came up in today's hearing?

14:23:59 12 A. No, sir.

14:24:00 13 Q. All right. Now I'm gonna ask you to take a look at
14:24:02 14 what's been marked as Defendant's 1, which is a search
14:24:08 15 warrant, and if you would look at what's marked as page 116
14:24:14 16 and 117. And I'm gonna ask you, do you see -- it's very
14:24:23 17 small type, and I apologize, but with my eyes it takes a
14:24:26 18 long time to read it, but...

14:24:27 19 And I apologize. It's at the very top.

14:24:31 20 THE COURT: All right. Do you want him to start at
14:24:40 21 116?

14:24:41 22 MR. BROWN: Well, I'm gonna get you to turn over
14:24:43 23 to 117, but I wanted you to see the entirety of that
14:24:45 24 statement.

14:24:46 25 Thank you, Your Honor.

14:24:46 1 BY MR. BROWN:

14:24:47 2 Q. And you don't need to read it all. You're welcome to,
14:24:50 3 but I wanted you to see whole two pages of it. And do you
14:24:53 4 see where it's marked Attachment A, part 1 of 2? At the
14:24:58 5 very top it says that on the left. And I'm gonna -- I'm
14:25:02 6 gonna walk up a little closer. Maybe I can see if I can
14:25:06 7 get this ELMO to come up here, if I may.

14:25:06 8 I'm not sure if that activates the screen or not.

14:25:06 9 THE COURT: I don't know.

14:25:18 10 MR. BROWN: And I'm just gonna do this.

14:25:18 11 THE COURT: Yeah.

14:25:18 12 BY MR. BROWN:

14:25:19 13 Q. Do you see a page that looks like this? And I don't
14:25:21 14 want to get too close. I apologize. Do you see a page
14:25:22 15 that says 116 right here?

14:25:24 16 A. Yes, sir.

14:25:25 17 Q. All right. And I apologize I'm baby stepping you
14:25:28 18 here, but do you see where it says Attachment Part A, 1
14:25:31 19 of 2?

14:25:32 20 A. Yes, sir.

14:25:32 21 Q. All right. If you'll turn over to the next page and
14:25:36 22 do you see that says Attachment A, Part 2 of 2?

14:25:40 23 A. Yes, sir.

14:25:41 24 Q. Okay. And if you will go down to the line -- the
14:25:44 25 second line at the end that says on July 9th.

14:25:45 1 A. Yes, sir.

14:25:46 2 Q. Okay. And do you want to take a chance and just read
14:25:51 3 that sentence there?

14:25:52 4 A. On July the 9th, 2018, information was received from
14:25:57 5 an individual, I guess, Singleton -- Singleton from the
14:26:04 6 Hampton County Sheriff's Office that a confidential
14:26:09 7 informant witnessed Mr. Ritter's Tahoe with bullet holes in
14:26:12 8 it earlier that day at Ritter's home located at [REDACTED] Roberts
14:26:14 9 in Estill, South Carolina.

14:26:17 10 Q. And that's -- and that's good enough. Let me ask you,
14:26:20 11 did you make that statement to Investigator Singleton?

14:26:24 12 A. No, sir.

14:26:24 13 Q. Are you that informant he's talking about?

14:26:27 14 A. No, sir.

14:26:28 15 Q. Okay. Did you call him sometime between July 5th,
14:26:36 16 July 9th --

14:26:37 17 A. No, sir.

14:26:37 18 Q. -- and tell him that you had seen a burgundy truck
14:26:42 19 with bullet holes in it?

14:26:44 20 A. No, sir.

14:26:45 21 Q. Would you tell His Honor how you know Perry Singleton?

14:26:51 22 A. Well, actually during that time I was dating his
14:26:54 23 sister and I -- actually I haul cars --

14:26:56 24 Q. Yes, sir.

14:26:57 25 A. -- so that's how my name's getting -- I don't even

14:27:01 1 know how my name's getting called in this, right? Just
14:27:03 2 because I haul cars and I'm only down in that area that
14:27:08 3 haul cars, that don't mean that I knew vehicles or
14:27:11 4 whatever, seen vehicles or whatever.

14:27:12 5 Q. How many times have you told somebody associated with
14:27:14 6 law enforcement that you did not have anything to do with
14:27:18 7 that statement?

14:27:19 8 A. Numerous of times. It was -- I don't know. It was
14:27:23 9 two detectives that came down to Estill and I told them the
14:27:28 10 same thing then, the same thing now. I don't know -- I
14:27:32 11 don't know nothing about this, so I don't know why my name
14:27:35 12 is being called a witness, so if it said something about I
14:27:38 13 gave some statement to Singleton or whatever, they should
14:27:44 14 have it on file, tell them to produce that and show me.

14:27:47 15 Q. Let me ask you this. Did you call my office at some
14:27:50 16 point in time after they came to see you and said you don't
14:27:53 17 know why you became involved in this case?

14:27:55 18 A. Yes, sir.

14:27:56 19 Q. Okay. Has your name ever been John Scott?

14:27:59 20 A. No, sir.

14:27:59 21 Q. Okay. And that's not your middle name?

14:28:02 22 A. No, sir.

14:28:03 23 Q. Is Scott in any way related to your name?

14:28:07 24 A. My dad's name is John Henry Scott.

14:28:08 25 Q. Okay. And that's -- how old is your dad?

14:28:11 1 A. Probably about 54.

14:28:13 2 Q. Okay. And now Perry Singleton, did he know the
14:28:17 3 difference between you and your father?

14:28:20 4 A. Of course.

14:28:21 5 Q. Okay. All right. And did you have a discussion with
14:28:23 6 -- with Investigator Singleton about being included in this
14:28:29 7 affidavit? Like after -- after they came and spoke to you,
14:28:33 8 did you ask Investigator Singleton why he was giving your
14:28:37 9 name up like this?

14:28:38 10 A. No, sir.

14:28:39 11 Q. You never said anything about why am I being listed as
14:28:43 12 an informant or why are they saying it's me?

14:28:46 13 A. Oh, yes, sir.

14:28:47 14 Q. And what did you tell him?

14:28:48 15 A. I asked him -- I asked him why my name was being
14:28:52 16 called saying I gave information or whatever. He -- his
14:28:55 17 words to me, he don't know, but he said I don't know, boy.
14:28:58 18 I guess because you haul cars or whatever, maybe, you know,
14:29:02 19 you -- you moved the vehicle.

14:29:03 20 Q. So basically he says he put your name as the informant
14:29:07 21 because he thought maybe you had hauled the car that day?

14:29:10 22 A. Yes, sir.

14:29:10 23 Q. And for the record, hauling cars, you mean that you
14:29:13 24 run a tow -- a tow company?

14:29:15 25 A. Yeah, I transport cars.

14:29:17 1 Q. Transport cars. Yes, sir. And so -- okay. Did --
14:29:23 2 did you tell the detectives or anybody else who asked any
14:29:27 3 of that when you were at the Estill police department at
14:29:31 4 the time that we had a subpoena served on you to come to
14:29:35 5 today's hearing?

14:29:37 6 A. You said I told them what?

14:29:39 7 Q. Did you tell that to them? Did you mention to the
14:29:43 8 chief of the Estill police -- do you remember telling them
14:29:46 9 you didn't know nothing about it and you told everybody
14:29:49 10 that?

14:29:49 11 A. Yes, sir.

14:29:51 12 Q. Okay. And they were witnesses to that statement,
14:29:53 13 weren't they?

14:29:53 14 A. Yes, sir.

14:29:53 15 Q. And do you remember which -- was it Officer Maner?

14:29:56 16 A. Yes, sir.

14:29:57 17 Q. And chief Alex Williams?

14:29:58 18 A. Yes, sir.

14:29:59 19 Q. And they witnessed you saying that you didn't have
14:30:02 20 anything to do with this case?

14:30:03 21 A. Yes, sir.

14:30:04 22 Q. Okay. Did they charge you with making a false
14:30:07 23 statement?

14:30:07 24 A. No, sir.

14:30:07 25 Q. All right. Were you standing in front of them?

14:30:10 1 A. Yes, sir.

14:30:10 2 Q. And was there anybody representing Mr. Ritter --

14:30:14 3 MS. FULLER: Objection, Your Honor. I -- I know

14:30:17 4 it's just pre-trial, but it's gone on so long. He's --

14:30:19 5 it's a lot of leading and it's his witness.

14:30:22 6 THE COURT: Okay. Well --

14:30:25 7 MR. BROWN: I don't -- I don't mind asking direct

14:30:28 8 questions. It's gonna be a lot longer.

14:30:31 9 THE COURT: I know.

14:30:31 10 MS. FULLER: I mean --

14:30:32 11 THE COURT: Sustained in part. You can lead on

14:30:34 12 the unimportant stuff, but otherwise ask open questions

14:30:38 13 on the meaty things, okay?

14:30:38 14 BY MR. BROWN:

14:30:41 15 Q. What did they tell you about any false statements that
14:30:43 16 you might be making?

14:30:44 17 A. I -- I don't know. It was something about jail time
14:30:48 18 and all that or something or whatever, but I...

14:30:52 19 Q. And who told you there would be jail time if false
14:30:56 20 statements were made?

14:30:56 21 A. Mr. Maner and I can't recall the chief's name and all
14:31:01 22 that.

14:31:01 23 Q. And do you still stand by this statement despite the
14:31:05 24 fact that you've been warned by law enforcement that you
14:31:07 25 could be charged with that?

14:31:08 1 A. Yes, sir.

14:31:09 2 Q. And is what you're saying here today the truth?

14:31:11 3 A. Yes, sir.

14:31:12 4 Q. Now the name of Sing -- of Investigator Singleton's
14:31:21 5 sister, do you remember who that was?

14:31:24 6 A. Ogretta Singleton.

14:31:30 7 Q. You got it. And do you remember them speaking to
14:31:36 8 Ogretta maybe or you speaking to them back in January of
14:31:37 9 this year before COVID?

14:31:40 10 A. What do you mean speak to them?

14:31:42 11 Q. When you spoke to some investigators, do you know
14:31:43 12 whether they spoke to Ogretta?

14:31:45 13 A. I think she told me they -- they called her phone or
14:31:47 14 something like that.

14:31:48 15 Q. Okay. All right. And is that the same day you met
14:31:52 16 with the -- the white and black police officer?

14:31:56 17 A. I'm -- I'm not sure. I'm not sure if that was the
14:32:00 18 same day that they called her phone. I -- I think it was
14:32:03 19 that same day that she told me they called her phone and
14:32:08 20 when they called me I was actually out.

14:32:08 21 Q. At Dr. Tire maybe?

14:32:11 22 A. I was already out driving -- driving the truck or
14:32:12 23 whatever and I couldn't give them like sure time that I was
14:32:16 24 gonna meet them or whatever that they wanted to come down,
14:32:19 25 so I gave them -- I gave them time for them to come down.

14:32:22 1 Q. And did you meet with them at the Estill police
14:32:25 2 department that day?

14:32:25 3 A. I met them at Dr. Tire and they preferred that we go
14:32:30 4 to Estill police department.

14:32:31 5 Q. Fair enough. And would you say that was between
14:32:33 6 roughly 11:24 and 12:55 on that day? Like 11:30 to 1:00?

14:32:39 7 A. I'm not sure.

14:32:40 8 Q. Does that sound about right?

14:32:42 9 A. I guess.

14:32:43 10 Q. And did you maybe say something like you dated one of
14:32:48 11 Damien's cousins, Sasha?

14:32:48 12 A. Yes.

14:32:52 13 Q. And you still date Sasha and you have a baby due in
14:32:52 14 May?

14:32:54 15 A. Yes, sir.

14:32:54 16 Q. Okay. Is that baby born?

14:32:56 17 A. Yes, sir.

14:32:57 18 Q. Everything good?

14:32:58 19 A. Yes, sir.

14:32:58 20 Q. All right. And then it says something about when
14:33:00 21 talking to Lieutenant Craig Smith. Do you -- was
14:33:03 22 Lieutenant Craig Smith there that day?

14:33:04 23 A. Yes, sir. I -- I talked with him.

14:33:07 24 Q. And you spoke with them about a different incident,
14:33:10 25 didn't you?

14:33:11 1 A. Yes, sir.

14:33:11 2 Q. Okay. And that had to do with somebody victimizing
14:33:14 3 you?

14:33:14 4 A. Yes, sir. I mean, that -- that had nothing to do with
14:33:17 5 this situation.

14:33:18 6 Q. But it's not like you have a problem speaking to law
14:33:21 7 enforcement about concerns if you have them?

14:33:23 8 A. Yes, sir.

14:33:23 9 Q. Okay. And you volunteered that? Did they ask you
14:33:28 10 about that or did you volunteer that when you were -- at
14:33:30 11 the meeting with the investigators?

14:33:31 12 A. I -- they had that information.

14:33:35 13 Q. Okay. And did you tell them that you last talked to
14:33:38 14 Singleton a while ago?

14:33:41 15 A. Yes, sir. And they -- they asked to see my phone and
14:33:46 16 I gave them my phone and they told me they ran my phone
14:33:48 17 records and all. I mean --

14:33:50 18 Q. They ran your phone records to see if you had called
14:33:54 19 Damien Ritter or whether you'd called Perry Singleton?

14:33:57 20 A. I don't know. I mean, it didn't matter if it was
14:34:00 21 either one of them. I don't have Damien's number and I got
14:34:03 22 Perry -- I got Perry's number, but they couldn't -- they
14:34:04 23 can't produce a date of them saying that I called -- I
14:34:07 24 called him.

14:34:07 25 Q. So let me make sure I understand this. You have Perry

14:34:11 1 Singleton's phone number in your contacts?

14:34:13 2 A. Yes, sir.

14:34:13 3 Q. And they could not find in your phone records where
14:34:16 4 you had called that number?

14:34:17 5 A. Yes, sir.

14:34:17 6 Q. All right. And did you, in fact, say at the end of
14:34:21 7 that interview I didn't see Damien or his truck between the
14:34:26 8 murders and his arrest?

14:34:28 9 A. Yes, sir.

14:34:28 10 Q. Is there any question about that then when you talked
14:34:34 11 to them?

14:34:35 12 A. No, sir.

14:34:36 13 Q. Is there anything now that you look back on that
14:34:39 14 statement that you made in January of this year that makes
14:34:43 15 you think that that statement's wrong?

14:34:45 16 A. No, sir.

14:34:46 17 Q. So you thought it was the truth then and you still
14:34:49 18 believe it's the truth?

14:34:49 19 A. I don't believe it is true.

14:34:52 20 Q. You don't believe that you ever spoke to Perry
14:34:55 21 Singleton?

14:34:56 22 A. No, I never spoke to him about it.

14:34:58 23 Q. And you never told him you saw a burgundy Tahoe with
14:35:03 24 bullet holes in it at Mr. Ritter's house?

14:35:06 25 A. No.

14:35:07 1 Q. And you weren't an informant to that?

14:35:09 2 A. No, sir.

14:35:09 3 Q. And did you ever actually see the burgundy Tahoe with
14:35:14 4 bullet holes in it at Damien Ritter's house?

14:35:15 5 A. No, sir.

14:35:16 6 Q. Have you ever told me where the truck was?

14:35:18 7 A. No, sir.

14:35:18 8 Q. Okay.

14:35:20 9 MR. BROWN: I beg the Court's indulgence.

14:35:26 10 Your Honor, certainly if I've missed some
14:35:28 11 questions, I apologize, and we would certainly ask
14:35:30 12 that you ask the questions I may not have asked that
14:35:32 13 you might still have, Your Honor.

14:35:34 14 THE COURT: I appreciate that. I'm staying out
14:35:36 15 of it.

14:35:37 16 Ms. Fuller.

14:35:38 17 MS. FULLER: Thank you, Your Honor.

14:35:38 18 CROSS-EXAMINATION

14:35:38 19 BY MS. FULLER

14:35:41 20 Q. Just briefly, how do you know Damien?

14:35:48 21 A. I know him from around about. I mean, it's a small
14:35:52 22 town, Estill.

14:35:53 23 Q. How long have you known Damien Ritter?

14:35:56 24 A. Practically all my life.

14:35:59 25 Q. And how old are you?

14:36:00 1 A. Thirty-four.

14:36:00 2 Q. And are you related to Damien Ritter?

14:36:05 3 A. No, ma'am.

14:36:05 4 Q. No relationship whatsoever?

14:36:08 5 A. No, ma'am.

14:36:09 6 Q. And where did Damien live back in July of 2018?

14:36:12 7 A. I don't know where he stay at.

14:36:14 8 Q. But he lived in Estill? You know that?

14:36:18 9 A. Yes.

14:36:18 10 Q. And did you live in Estill at the time?

14:36:21 11 A. I stay in Garnett.

14:36:22 12 Q. And how far is that?

14:36:24 13 A. About seven, eight miles.

14:36:25 14 Q. How often did you see Damien Ritter back in 2018?

14:36:29 15 A. I don't -- I don't know. I be on the road. I be

14:36:35 16 hauling calls.

14:36:36 17 Q. How often did you see Damien Ritter back in 2018?

14:36:40 18 A. I said I don't know. I don't --

14:36:41 19 Q. One time?

14:36:42 20 A. I mean, a few times or --

14:36:46 21 Q. So from -- let's say from January to July of 2018, you

14:36:51 22 saw him a few times, so that's less than five?

14:36:54 23 A. Yes, I guess. I don't -- I don't try to keep a date

14:36:56 24 or time about how many times I see somebody.

14:36:59 25 Q. No, I'm just trying to understand is this a regular --

14:37:02 1 like do you see him regularly?

14:37:04 2 A. No.

14:37:04 3 Q. Okay. But during that time period that you saw him,
14:37:08 4 did you know what kind of vehicle he was driving?

14:37:11 5 A. No, I don't pay attention to what people be driving.

14:37:15 6 Q. Okay. I'll just be specific. Did you know that he
14:37:17 7 drove a burgundy Tahoe?

14:37:20 8 A. I have no clue.

14:37:21 9 Q. You've never known him to drive a burgundy Tahoe?

14:37:26 10 A. No, ma'am.

14:37:26 11 Q. Back in 2018 when you spoke to law enforcement, you --
14:37:31 12 you told law enforcement that you didn't find out about the
14:37:36 13 murders until the morning after, correct?

14:37:40 14 A. Yes.

14:37:41 15 Q. And when you say morning, is your understanding of
14:37:46 16 morning the period before 12:00?

14:37:49 17 A. Yes.

14:37:49 18 Q. So the murders happen on July 5th of 2018 and it's
14:37:53 19 your testimony you didn't hear about the murders until
14:37:56 20 before 12:00 on July 6th of 2018, correct?

14:37:59 21 A. I'm not sure of the dates or whatever about. I mean,
14:38:02 22 it's --

14:38:03 23 Q. So the next -- the day after the murders before 12:00
14:38:07 24 is when you heard about the murders, correct?

14:38:09 25 A. I'm not sure. I can't -- I can't remember that far

14:38:12 1 back. I mean, that's two years ago. I don't -- I don't
14:38:15 2 know.
14:38:15 3 Q. Okay. I'll back -- I'll just ask again. I'm not
14:38:16 4 asking a trick question.
14:38:17 5 A. I know. I mean, I don't know.
14:38:19 6 Q. So is it correct that you told law enforcement that
14:38:22 7 you heard about the murders the morning after the murders?
14:38:27 8 A. Ever heard the news?
14:38:30 9 Q. It's a question and I just need an answer, a straight
14:38:33 10 answer.
14:38:33 11 A. Yes.
14:38:34 12 Q. Yes or no?
14:38:35 13 A. Yes.
14:38:36 14 Q. So you told law enforcement that you heard about the
14:38:38 15 murders before 12:00 the day after the murders?
14:38:43 16 A. No.
14:38:44 17 Q. Okay. So when did you hear about the murders?
14:38:47 18 A. I don't know the date that I heard about the murders.
14:38:52 19 Q. Defense just asked you and you answered the question,
14:39:06 20 so I'm just trying to make sure I heard the answer.
14:39:09 21 When I heard about the murders it was the morning
14:39:12 22 after it happened.
14:39:15 23 Did you make that statement? Yes or no?
14:39:17 24 A. Yes.
14:39:17 25 Q. So the morning after, is your definition of morning

14:39:23 1 before 12:00?

14:39:24 2 A. I don't remember the times.

14:39:25 3 Q. I'm not asking you the time.

14:39:26 4 A. Well, I don't remember. You're saying before 12:00,

14:39:29 5 so I don't remember the times.

14:39:30 6 Q. No. No. What hours would you consider morning hours?

14:39:40 7 A. Really it's -- I don't remember the time and so you

14:39:43 8 can't -- you're not gonna make me sit here and act like I

14:39:45 9 remember the time, which that I don't, so.

14:39:50 10 Q. Right. That's fine.

14:39:50 11 A. I mean, I get there, I look -- I look on my news feed.

14:39:53 12 I look on my news feed on my phone because I always have

14:39:55 13 my phone in my hand or wherever I am and everything else

14:40:00 14 hauling cars. I looked and it ran across. What I'm

14:40:03 15 saying, it ran across the -- the screen, so that's when I

14:40:04 16 found out anything about it.

14:40:06 17 Q. So your testimony today is that you didn't hear about

14:40:10 18 the murders the morning after the murders?

14:40:12 19 A. Yes, I heard about it the morning after the murders.

14:40:16 20 Q. And so the morning after the murders you heard about

14:40:21 21 the murders and you heard Damien Ritter committed the

14:40:24 22 murders?

14:40:25 23 A. No.

14:40:25 24 Q. How did you hear about the murders?

14:40:27 25 A. The news.

14:40:28 1 Q. So what was on the news?

14:40:30 2 A. I mean, this whole situation here don't got nothing to
14:40:35 3 do with me, so I don't even know why I'm really here on
14:40:38 4 this -- this stand or whatever. I don't know nothing about
14:40:41 5 it and that's -- what I'm saying, that's that and so, I
14:40:41 6 mean, right now I'm really getting aggravated about it, you
14:40:45 7 know what I'm saying, because it's got nothing to do and
14:40:47 8 I'm losing my time on my job and not me getting paid and
14:40:52 9 everything. So, I mean, I don't feel like I should go any
14:40:54 10 further with it. I feel like I'm done.

14:40:56 11 Q. I understand. When did you hear that Damien Ritter
14:41:01 12 committed the murders?

14:41:02 13 A. I never heard he committed the murders.

14:41:06 14 Q. Okay. So -- I'm just trying to understand. So what
14:41:08 15 you heard about was that the murders happened? It was on
14:41:10 16 the news in Estill that murders happened in West Columbia?

14:41:12 17 A. It wasn't on the news in Estill. I tell you I -- I
14:41:16 18 comes -- I come up here to Columbia to get loaded.

14:41:18 19 Q. Okay.

14:41:19 20 A. So, of course, I'm -- I'm sitting here, I'm watching
14:41:23 21 -- I'm saying I'm watching the news in Gaston here or
14:41:25 22 whatever. It comes on -- it comes down like I say on my
14:41:28 23 news feed. If you've got an iPhone, it comes down, you
14:41:33 24 know, on your news feed and everything.

14:41:33 25 Q. Okay.

14:41:34 1 A. So I get there and I watch it. Like I'm saying, I
14:41:35 2 watch the news pretty much to see what's going on.
14:41:37 3 Q. Okay. So this is -- you said Apple?
14:41:41 4 A. I watches the news. I look down and I'm seeing my
14:41:45 5 news feed.
14:41:46 6 Q. What news feed? I'm trying to understand. Like
14:41:48 7 Facebook news feed or you have an app for news?
14:41:48 8 A. I didn't have no Facebook then.
14:41:53 9 Q. Okay. So the rest of your statement says I saw a lot
14:41:56 10 of law enforcement coming down while I was heading up to
14:42:02 11 Cola. Is that correct or not?
14:42:05 12 A. That wasn't that day.
14:42:07 13 Q. So the whole statement says I heard about the murders,
14:42:11 14 it was the morning after it happened. I saw a lot of law
14:42:15 15 enforcement coming down while I was heading up to Cola.
14:42:19 16 What are you referring to then?
14:42:21 17 A. Where is Cola?
14:42:25 18 Q. Columbia.
14:42:27 19 A. I mean, yeah. I mean, law enforcement could be going
14:42:32 20 to -- going anywhere. I just see law enforcement going
14:42:35 21 down, yeah.
14:42:35 22 Q. So the -- when you mentioned you saw -- when you told
14:42:40 23 law enforcement that you saw law enforcement coming down,
14:42:43 24 you're not talking about as it relates to the murders?
14:42:46 25 A. No.

14:42:48 1 Q. What were you talking -- you just made that statement
14:42:50 2 for no reason?

14:42:52 3 A. I mean, if I see law enforcement on the road, they
14:42:54 4 coming down -- they're coming down 321, I don't know where
14:42:58 5 they're going at or where they --

14:43:00 6 Q. But how did that relate to when you found out about
14:43:04 7 the murders? That's what I'm trying to understand.

14:43:04 8 A. I don't know how that relates to it. They asked me a
14:43:08 9 question and I gave them -- I gave an answer.

14:43:11 10 Q. So you did not see law enforcement coming down the day
14:43:14 11 after the murders?

14:43:15 12 A. Law enforcement was -- I don't know where they was
14:43:17 13 going, so all I'm gonna say is they coming down.

14:43:20 14 Q. Okay. Prior to the murders happening, when was the
14:43:24 15 last time you saw Damien Ritter?

14:43:26 16 A. I don't know. That was so long ago. I don't know.
14:43:31 17 I don't know if -- I don't know if it was two weeks before
14:43:34 18 or a month or what. I don't know.

14:43:36 19 Q. In terms of your relationship with Perry Singleton,
14:43:58 20 you indicated to defense that you were dating his sister.
14:44:01 21 So that's correct, right?

14:44:03 22 A. Yes.

14:44:03 23 Q. And the phone number you had then, is it the same
14:44:07 24 phone number you have now?

14:44:08 25 A. No.

14:44:09 1 Q. What number did you have back in 2018?

14:44:11 2 A. [REDACTED].

14:44:16 3 Q. And that's the number that you would -- that Perry
14:44:21 4 Singleton would have had for you then?

14:44:23 5 A. Yes.

14:44:23 6 Q. How would you describe your relationship with Perry
14:44:32 7 Singleton?

14:44:34 8 A. It wasn't none. I couldn't stand him either.

14:44:38 9 Q. Okay. So are you -- I guess what I'm trying to
14:44:46 10 understand is why you?

14:44:48 11 A. I don't know. That's what -- that's what I want to
14:44:53 12 know. I mean...

14:44:54 13 Q. So you're -- you want this Court to believe that an
14:44:58 14 officer with over thirty years in experience pointed you
14:45:03 15 out out of everyone in Estill?

14:45:06 16 A. Last time I checked if -- if I'm a police -- if I'm
14:45:13 17 a police officer and I get an informant to give me some
14:45:16 18 information, last time I checked I would get them to give
14:45:20 19 me a statement instead of being a he said, she said. So
14:45:25 20 basically what it is right now is a he said, she said, but
14:45:26 21 you don't actually have a statement that say that I say
14:45:29 22 that, so that's basically what this is.

14:45:32 23 Q. What was my question?

14:45:33 24 A. Why would this officer point me out out of all people?

14:45:39 25 Q. Okay. And what was your answer?

14:45:40 1 A. It's basically a he said, she said because, I mean, if
14:45:43 2 it's -- if you're gonna give me a statement, last time I
14:45:46 3 checked that they would -- if you're law enforcement and
14:45:48 4 somebody's gonna give you a statement about something like
14:45:51 5 that, don't you -- don't you think they give them a little
14:45:53 6 form to fill out or whatever and write your statement about
14:45:57 7 what you see and what happened?

14:45:58 8 Q. So you're familiar with how law enforcement works?

14:46:02 9 A. Yeah.

14:46:02 10 Q. Have you been an informant before?

14:46:05 11 A. Never.

14:46:05 12 Q. You've never called in a tip before?

14:46:08 13 A. Never.

14:46:08 14 Q. So how are you familiar with how law enforcement
14:46:11 15 works?

14:46:11 16 A. Because I've been in trouble before.

14:46:12 17 Q. Okay. What have you been in trouble for?

14:46:13 18 A. That's not this Court's concern.

14:46:15 19 Q. Yes, it is.

14:46:16 20 A. No, it's not.

14:46:17 21 Q. What have you been in trouble for?

14:46:21 22 THE COURT: Answer the question, please, if you
14:46:24 23 don't mind.

14:46:24 24 BY MS. FULLER:

14:46:28 25 Q. What have you been in trouble for?

14:46:30 1 A. Driving under suspension.

14:46:33 2 Q. What about your theft crimes? Do you have a

14:46:36 3 conviction from 2010 for a larceny?

14:46:40 4 A. Yes.

14:46:41 5 Q. So when I asked you what you've been in trouble for, I

14:46:47 6 need to know it all. What else?

14:46:49 7 A. I don't know it all.

14:46:49 8 Q. How long have you been getting in trouble with the

14:46:52 9 police?

14:46:52 10 A. What's that got to do with this -- this whole

14:46:56 11 situation here?

14:46:57 12 Q. Because you're on the stand and I'm asking you a

14:46:59 13 question.

14:46:59 14 A. Because right now I feel like I need to hire me my own

14:47:04 15 attorney.

14:47:04 16 THE COURT: Let's do this. You've got has rap

14:47:08 17 sheet. Why don't you ask him if -- what he's been --

14:47:10 18 if he's been convicted of X or Y and just stick to the

14:47:15 19 convictions.

14:47:15 20 BY MS. FULLER:

14:47:15 21 Q. So do you have that conviction in 2010 for larceny?

14:47:19 22 A. No, I don't have it.

14:47:20 23 Q. Do you have a conviction for larceny?

14:47:22 24 A. Yes.

14:47:23 25 Q. Okay. In 2011, did you get convicted for another

14:47:31 1 common law offense, as well as resisting?

14:47:35 2 A. Yes.

14:47:35 3 Q. And that would be resisting law enforcement?

14:47:41 4 A. What, resisting arrest?

14:47:43 5 Q. Yes.

14:47:43 6 A. I don't remember that.

14:47:46 7 Q. Was a law enforcement officer attempting to arrest
14:47:48 8 you?

14:47:49 9 A. Yes.

14:47:49 10 Q. And you resisted?

14:47:51 11 A. Well, maybe so if it's on there.

14:47:53 12 Q. And your criminal history goes back a pretty long
14:47:59 13 time, correct, and your interactions with law enforcement?

14:48:01 14 A. I haven't been in trouble since -- I ain't been in
14:48:03 15 trouble since 2011, so.

14:48:15 16 MS. FULLER: No further questions, Your Honor.

14:48:17 17 THE COURT: Any redirect?

14:48:18 18 MR. BROWN: Very briefly, Your Honor.

14:48:18 19 REDIRECT EXAMINATION

14:48:18 20 BY MR. BROWN:

14:48:21 21 Q. You mentioned the number [REDACTED], and that's the
14:48:25 22 number you had in 2018?

14:48:26 23 A. Yes, sir.

14:48:27 24 Q. And that's the number you also had when the
14:48:30 25 investigators met with you in January of 2020?

14:48:33 1 A. Yes, sir.

14:48:34 2 Q. And that's the same number that was on the phone that

14:48:36 3 they looked at that day?

14:48:38 4 A. Yes, sir.

14:48:38 5 Q. Okay. And approximately when did you change the

14:48:43 6 number between January and now?

14:48:45 7 A. Probably about two months ago.

14:48:50 8 Q. Okay. Fair enough.

14:48:51 9 All right. And did they tell you they actually pulled

14:48:53 10 your phone records?

14:48:55 11 A. Yeah, they tell me that. I should have went after

14:48:58 12 them then because they didn't have no right -- they didn't

14:49:00 13 -- they pulled my phone records without my consent.

14:49:02 14 Q. Let me make sure I understand this. So did you tell

14:49:05 15 them hey, look, you've got my records and that ain't fair

14:49:08 16 because they're my private records?

14:49:09 17 A. No, I didn't tell them that day.

14:49:09 18 Q. Did they show the records?

14:49:11 19 A. No.

14:49:12 20 Q. Okay. And -- but you did let them through the phone,

14:49:15 21 didn't you?

14:49:15 22 A. Yes.

14:49:15 23 Q. And no question they had a chance to look at the

14:49:17 24 number to make sure that was the number on your phone?

14:49:19 25 A. Yes, sir.

14:49:20 1 Q. And to get the serial number off your phone?

14:49:20 2 A. Yes.

14:49:22 3 Q. They could have?

14:49:23 4 A. Yes.

14:49:23 5 Q. Okay. And what did they say about the ability to
14:49:26 6 seize your phone and take it into evidence?

14:49:29 7 A. They ain't never mentioned any of that.

14:49:34 8 Q. Okay. They never said look, we just need to take
14:49:36 9 it so we can have a forensic tech download all the
14:49:40 10 information off of it?

14:49:40 11 A. They didn't tell me that.

14:49:42 12 Q. And speaking of resisting, if they would have said
14:49:45 13 we're gonna seize your phone as evidence, would you have
14:49:48 14 resisted and fought them over it or would you have let them
14:49:51 15 have the phone?

14:49:52 16 A. I mean, I run a business out -- out of my phone,
14:49:55 17 so, yeah, I would have -- I would have resisted then or
14:49:57 18 whatever until I could -- I mean, they were welcome to
14:50:01 19 follow me to get another phone and get everything
14:50:04 20 transferred over because I don't got nothing to --

14:50:04 21 Q. You weren't gonna get arrested over it, were you?

14:50:07 22 A. No, sir.

14:50:07 23 Q. All right. And let's see. Never been an informant
14:50:12 24 before. Ever given tips to Perry Singleton?

14:50:16 25 A. Never.

14:50:17 1 Q. And -- and I've got to come back to this. You said
14:50:21 2 you don't like him either. I take it that means he didn't
14:50:27 3 like you?

14:50:27 4 A. Yes, sir.

14:50:27 5 Q. And would the fact that he didn't like you have
14:50:32 6 anything to do with the previous relationship with his
14:50:39 7 sister?

14:50:40 8 A. To make a long story -- to make a long story short, it
14:50:46 9 was -- some of the stuff that's on my record is because of
14:50:48 10 him and -- and things that I ain't had nothing to do with,
14:50:53 11 so that's why, you know, I'm saying he figured I'll get
14:50:56 12 back at him for even dating his sister.

14:51:00 13 Q. Let me ask you this. So what was your opinion of the
14:51:04 14 trustworthiness of Mr. Singleton's word?

14:51:07 15 MS. FULLER: Outside of cross, Your Honor.

14:51:11 16 THE COURT: Overruled.

14:51:13 17 BY MR. BROWN:

14:51:13 18 Q. What's your opinion of whether or not Perry Singleton
14:51:16 19 tells the truth?

14:51:17 20 MS. FULLER: Objection, Your Honor. Opinion
14:51:19 21 testimony is not proper.

14:51:20 22 THE COURT: It's not -- I think he's offering
14:51:21 23 it to demonstrate whether this person would confide
14:51:25 24 into Singleton as opposed to a general opinion, but
14:51:28 25 he's trying to -- that's the reason he's offering it,

14:51:32 1 not for whether or not Singleton is actually reliable
14:51:36 2 or truthful.

14:51:38 3 So if you'd answer the question.

14:51:38 4 BY MR. BROWN:

14:51:38 5 Q. What's your opinion about whether he's been truthful
14:51:41 6 about you before 2018?

14:51:43 7 A. He wasn't. That's why a lot of the stuff that's on
14:51:47 8 my record is because I was young back then and didn't know
14:51:51 9 no -- didn't know nothing about. If I'd known what I know
14:51:52 10 now, I'd hire an attorney and then none of that stuff would
14:51:56 11 be one there.

14:51:56 12 Q. So he lied and put charges on you?

14:51:58 13 A. Yes, sir.

14:51:59 14 Q. And would you say it's fair to say he lied and put
14:52:03 15 this informant tip on you, too?

14:52:05 16 A. Yes, sir.

14:52:06 17 MR. BROWN: Your Honor, I don't have any other
14:52:08 18 questions.

14:52:09 19 THE COURT: Recross?

14:52:10 20 MS. FULLER: None, Your Honor.

14:52:11 21 THE COURT: All right. Sir, thank you very much.
14:52:17 22 You can step down.

14:52:17 23 And do you still have that exhibit? Thank you
14:52:19 24 very much. Take care.

14:52:19 25 MR. BROWN: And, Your Honor, we -- we would ask

14:52:21 1 that he be excused from our subpoena.

14:52:24 2 THE COURT: You're free to go. If it's necessary
14:52:26 3 to reconvene this hearing or have you come back, okay,
14:52:30 4 they be in touch with you, but you're free to go and
14:52:33 5 thank you very much for coming, sir.

14:52:33 6 (Witness excused.)

14:52:37 7 THE COURT: All right. Let's take five minutes
14:52:40 8 for ourselves and then we'll keep going. We'll be at
14:52:46 9 ease for a few minutes.

14:52:47 10 (Recess taken at 2:52 PM.)

14:52:47 11 (Back on the record at 3:13 PM.)

15:13:45 12 BAILIFF: Please keep your seats. Court will now
15:13:47 13 come to order.

15:13:59 14 THE COURT: Okay. We're going back on the record
15:14:01 15 in the State versus Ritter and, Mr. Brown, you-all have
15:14:07 16 additional witnesses on this question?

15:14:11 17 MR. BROWN: I -- I would like to question the
15:14:14 18 investigator who did the interview with Mr. Adkins,
15:14:18 19 please, if that's okay?

15:14:18 20 THE COURT: All right. Call him. Sure.

15:14:24 21 And we're doing this without a jury, so why don't
15:14:28 22 you just come on up and I'll swear you, okay?

15:14:31 23 INVESTIGATOR DAES: Yes, sir.

15:14:31 24 (Whereupon, Matthew Daes was duly sworn by the
15:14:31 25 Court.)

15:14:32 1 THE COURT: Have a seat and just give us your
15:14:36 2 name, please.

15:14:37 3 THE WITNESS: My name's Matthew Daes. Daes, D-A-E-S.

15:14:42 4 THE COURT: I'm gonna need you to scoot a little
15:14:44 5 closer to that microphone.

15:14:44 6 (Defendant's Exhibit Number 4 was marked for
15:14:47 7 identification.)

15:14:47 8 MR. BROWN: And, Your Honor, I'm gonna hand up
15:14:49 9 what has been premarked as Defendant's 4 and it's a set
15:14:52 10 of documents from the State and if I may present those
15:14:57 11 to the witness, Your Honor.

15:14:58 12 THE COURT: Sure.

15:14:58 13 MATTHEW DAES,

15:14:58 14 having been duly sworn, testified as follows:

15:14:58 15 DIRECT EXAMINATION

15:14:58 16 BY MR. BROWN:

15:15:06 17 Q. And, Investigator Daes, do you know an Investigator
15:15:09 18 Aldridge?

15:15:09 19 A. Yes, sir.

15:15:10 20 Q. Okay. Can you briefly tell the Court what was his
15:15:14 21 role on July 9, 2018, how about that, in this case?

15:15:19 22 A. It's my understanding that while we were investigating
15:15:22 23 other leads -- that while I was investigating other leads,
15:15:27 24 that he made contact with someone at the Hampton County
15:15:30 25 Sheriff's Office and ended up talking to -- I guess it was

15:15:34 1 Captain or Lieutenant Singleton.

15:15:38 2 Q. Okay. And do you see the note that's marked with the
15:15:42 3 Bates stamping 50 to 451?

15:15:48 4 A. Yes, sir.

15:15:48 5 Q. Okay. And are you aware of any other notes,
15:15:52 6 handwritten notes, regarding that phone call at 8:56?

15:15:56 7 A. I recognize this sheet of paper for 8:56. If you're
15:16:02 8 referring to just this conversation of 8:56, I believe
15:16:05 9 it's just this one.

15:16:06 10 Q. Okay. And what I'm asking is are there any other
15:16:09 11 notes before the January 27, 2020, interview?

15:16:13 12 A. If I can take a second to look?

15:16:15 13 Q. Yes, sir. Involving that Perry Singleton information.

15:16:33 14 A. So the question you're asking me is are there any
15:16:37 15 other notes regarding conversations that Investigator
15:16:39 16 Aldridge had with Singleton prior to my January 20th of
15:16:43 17 this year interview with Adkins?

15:16:46 18 Q. Well, sure. Actually even a little broader than that.
15:16:52 19 Any notes about discussions with Investigator Singleton,
15:16:56 20 how about, at all? Although we're focussed here on the
15:17:01 21 informant, Mr. Adkins, and the search of the house in
15:17:08 22 Estill, but, sure, do got anything else with Perry
15:17:11 23 Singleton on it?

15:17:13 24 A. I have -- I have notes from Investigator Aldridge
15:17:22 25 where on July 6th at 0902 hours that he spoke with

15:17:27 1 Singleton at Hampton County Sheriff's Office.

15:17:31 2 Q. And who initiated that call?

15:17:33 3 A. It appears as though Investigator Aldridge did. He
15:17:38 4 said I called Hampton County Sheriff's Office.

15:17:40 5 Q. Okay. And what was the purpose of that phone call?

15:17:43 6 A. Investigator Aldridge wrote in his notes that I called
15:17:54 7 Hampton County Sheriff's Office in reference to a request
15:17:57 8 to assist in identifying Damien, a/k/a Black.

15:18:07 9 Q. Now I want to make clear the name, Damien, a/k/a
15:18:10 10 Black, was that given by Mr. Singleton or given to
15:18:10 11 Mr. Singleton by Investigator Aldridge?

15:18:16 12 A. I can't answer that. I don't know.

15:18:17 13 Q. How does the note read?

15:18:19 14 MS. FULLER: Your Honor, he just said he can't
15:18:21 15 answer that.

15:18:22 16 THE COURT: I'm sorry?

15:18:23 17 MS. FULLER: I said he just -- the officer just
15:18:25 18 said he can't answer that question.

15:18:28 19 THE COURT: You can't answer that question?

15:18:30 20 THE WITNESS: Well, if his question is how did
15:18:36 21 it come up, was the name given to him or did Singleton
15:18:36 22 give the name, I wasn't present for the conversation
15:18:36 23 and I don't know.

15:18:37 24 MR. BROWN: Bingo.

15:18:37 25 THE COURT: How does that read? Just how does it

15:18:39 1 read again?

15:18:39 2 MR. BROWN: Sure.

15:18:39 3 THE WITNESS: Do you want me to read through
15:18:43 4 and find pertinent parts or do you want me to read
15:18:43 5 all of it?

15:18:44 6 THE COURT: Just that part that you just referenced
15:18:46 7 a few moments go.

15:18:47 8 THE WITNESS: He said I called Hampton County
15:18:49 9 Sheriff's Office in reference to a request to assist
15:18:52 10 in identifying Damien, a/k/a Black. I spoke with
15:19:00 11 Detective Singleton with HCSO and provided him with the
15:19:02 12 following descriptions and then --

15:19:02 13 BY MR. BROWN:

15:19:04 14 Q. So you-all were looking for the identity of Damien,
15:19:09 15 a/k/a Black? I say you-all. West Columbia Police
15:19:13 16 Department was trying to put a name with that partial name?

15:19:20 17 A. It appears that that is true based off of some
15:19:25 18 collaborative information that the detective initially came
15:19:29 19 up with, yes.

15:19:29 20 Q. Okay. All right. So is there any information that
15:19:31 21 you have that Investigator Singleton first called to give
15:19:36 22 Mr. Ritter's name to West Columbia?

15:19:38 23 A. I don't -- I'm not aware of any information where
15:19:42 24 Investigator Singleton first called us to give information.

15:19:46 25 Q. You got it. Okay. Fair enough. Any calls that

15:19:50 1 you're aware of or communications between July 6, 2018, and
15:19:55 2 July 9, 2018?

15:20:08 3 A. Well, the call at 9:02 was Investigator Aldridge
15:20:12 4 inquiring about a Damien, a/k/a Black with some
15:20:17 5 particulars, and then Detective Singleton according to
15:20:20 6 Investigator Aldridge's notes said that he would get back
15:20:23 7 in touch with him and at 9:32 it looks as though Singleton
15:20:27 8 called Investigator Aldridge back.

15:20:30 9 Q. And what were the contents of that call?

15:20:32 10 A. I received a call from [REDACTED] and spoke with
15:20:38 11 Detective Singleton who advised that Black is Damien Ritter
15:20:41 12 and it gives a date of birth here of [REDACTED]-1992.

15:20:47 13 Q. Okay. Any information -- any other information that's
15:20:52 14 relevant to this Franks hearing in that set of notes?

15:20:57 15 A. I -- to be honest with you, this is my first time ever
15:21:04 16 hearing of a Franks hearing and so I don't --

15:21:06 17 Q. Sure. Excuse me. About the search warrant affidavit
15:21:08 18 and the confidential informant. Is there anything in there
15:21:08 19 about the confidential informant in -- in those notes from
15:21:12 20 that day?

15:21:12 21 MS. FULLER: Your Honor, it doesn't matter if it's
15:21:14 22 pre-trial. I just want to make sure the record is clear
15:21:17 23 that this isn't proper coming from -- he's asking another
15:21:20 24 officer about another officer's notes, but I know it's
15:21:25 25 just you so I just want it to be noted on the record

15:21:29 1 that this is something that shouldn't happen in a trial
15:21:34 2 situation, but he should have subpoenaed Aldridge if
15:21:34 3 he had questions for Aldridge.

15:21:36 4 THE COURT: Sure. All right.

15:21:37 5 MR. BROWN: I can -- I can try to tie it in a
15:21:39 6 little bit, Your Honor.

15:21:39 7 BY MR. BROWN:

15:21:39 8 Q. Do you believe Officer -- Investigator Aldridge is
15:21:41 9 truthful?

15:21:42 10 A. Yes, I believe Investigator Aldridge.

15:21:44 11 Q. And do you trust the notes that he takes to be true?

15:21:47 12 A. Yes, sir.

15:21:47 13 Q. And have you based your actions in this case in part
15:21:50 14 on his notes?

15:21:51 15 A. I trust the things that he said to me in this case,
15:21:55 16 yes.

15:21:55 17 Q. Do you have any reason to believe those notes are not
15:21:58 18 true?

15:21:59 19 A. No.

15:22:02 20 MR. BROWN: I don't know if her objection is
15:22:04 21 hearsay, but I think that's what I could tie it to up
15:22:08 22 to meaning not hearsay under the definition.

15:22:10 23 THE COURT: Well, this is non-jury. I'll separate
15:22:13 24 the wheat from the chaff.

15:22:13 25 Go ahead.

15:22:16 1 MR. BROWN: Thank you, Your Honor.

15:22:16 2 BY MR. BROWN:

15:22:17 3 Q. Let me go back. Anything about the informant in that
15:22:17 4 -- the notes on that day, which I have as January -- or,
15:22:21 5 excuse me, July 6, 2018?

15:23:06 6 A. From the notes dated July 6th, I don't see any
15:23:09 7 reference of a CI.

15:23:10 8 Q. All right. Any -- any other notes with Aldridge
15:23:13 9 speaking to Singleton until July 9th? How about that?

15:23:20 10 A. The only notes that I have from Investigator Aldridge
15:23:25 11 involving Singleton would be from July 6th and July 9th.

15:23:31 12 Q. Fair enough. And do you recall Investigator Singleton
15:23:38 13 providing an affidavit in November, November 14th, 2019?

15:23:46 14 A. Investigator Singleton providing an affidavit in
15:23:51 15 November of 2019?

15:23:53 16 Q. Yes, sir.

15:23:53 17 A. Right off the top of my head, no, sir.

15:23:56 18 Q. Okay. Fair enough. And do you recall any attempts to
15:24:00 19 get information concerning the informant?

15:24:03 20 A. I recall going down to -- I recall going down to
15:24:12 21 Estill to interview John Adkins.

15:24:15 22 Q. Okay. All right. How about any communications with
15:24:17 23 the Hampton County Sheriff's Department?

15:24:20 24 A. Me personally?

15:24:20 25 Q. Yes, sir.

15:24:21 1 A. The only communications I've had with Hampton County
15:24:24 2 would be in terms of coordinating going down for the search
15:24:29 3 warrant on July 18th I think it was and then any subsequent
15:24:36 4 trips I took down there and then also from the day that I
15:24:40 5 spoke with John Adkins.

15:24:41 6 Q. All right. In between the day you spoke with John
15:24:46 7 Adkins and the search warrant, did you have any
15:24:49 8 conversations with Hampton County, specifically
15:24:50 9 Investigator Singleton, about the informant?

15:24:53 10 A. Between talking with Mr. Adkins and -- and today,
15:24:57 11 no. Nothing.

15:24:58 12 Q. Okay. Nothing else? You-all did the search. Next
15:25:02 13 thing you know you went down there in January of 2020?

15:25:06 14 A. I think -- I thought your question was between
15:25:08 15 speaking with Mr. Adkins and now have I had any
15:25:10 16 conversations --

15:25:10 17 Q. No, sir. I was going backwards. And I apologize.
15:25:14 18 So between July of 2018 and your trip down there -- when
15:25:18 19 you did the search in Estill in July of 2018, did you ever
15:25:23 20 speak with Investigator Singleton specifically or anyone at
15:25:27 21 the Hampton County Sheriff's Department about the informant
15:25:30 22 or a question of whether there was one or his identity
15:25:35 23 before you went down on January 27, 2020?

15:25:37 24 A. No, I -- I don't believe that I ever explored the idea
15:25:43 25 of a CI.

15:25:44 1 Q. Okay. Never had a conversation with him or anything
15:25:46 2 else?

15:25:47 3 A. I don't believe so.

15:25:50 4 Q. Okay.

15:25:50 5 (Defendant's Exhibit Number 5 was marked for
15:25:50 6 identification.)

15:25:51 7 MR. BROWN: And so I'm gonna ask you to take a
15:25:54 8 look at what's been marked as Defendant's 5. If I
15:25:58 9 may pass that up and...

15:25:58 10 BY MR. BROWN:

15:26:10 11 Q. Okay. Have you ever seen that before?

15:26:12 12 A. No, sir. I don't believe so.

15:26:14 13 Q. Okay.

15:26:16 14 All right. Now I'm gonna ask you to take a look back
15:26:23 15 at Defendant's 4. Does that have a set of notes in there
15:26:27 16 that are listed as page 89 of 112? Do you see that?

15:26:33 17 A. Yes, sir.

15:26:33 18 Q. And then do you see the next one is an unnumbered page
15:26:36 19 that says Dr. Tire?

15:26:38 20 A. Yes, sir.

15:26:39 21 Q. Okay. And then there's one that says page 91?

15:26:50 22 A. Yes.

15:26:51 23 Q. And then one that says 92?

15:26:56 24 A. Yes, sir.

15:26:56 25 Q. And then one that says 93?

15:27:00 1 A. Yes, sir.

15:27:01 2 Q. And then 94?

15:27:02 3 A. Yes, sir.

15:27:03 4 Q. All right. And then 95?

15:27:06 5 A. Yes.

15:27:06 6 Q. Okay.

15:27:07 7 All right. Are those attachments to notes that you

15:27:10 8 made?

15:27:11 9 A. Yes, and I -- thinking back to the question that you

15:27:16 10 gave before now, yeah, before going down there I was told

15:27:18 11 information that -- that we had information on who the CI

15:27:21 12 was and I did call him and he gave me the name, I think,

15:27:24 13 John Scott.

15:27:25 14 Q. Okay. And to make sure, John Scott? Your voice

15:27:32 15 trailed off there. Did you say John Scott? I know you're

15:27:37 16 looking, but did you actually say that just then?

15:27:39 17 A. Yes.

15:27:39 18 Q. Okay. You wouldn't in any way be misrepresenting the

15:28:00 19 fact that Mr. Singleton told you John Scott, would you?

15:28:03 20 A. No. I believe that he did tell me that the name was

15:28:06 21 John Scott. I think -- in fact, I think that he told me

15:28:09 22 John Lavon Scott.

15:28:09 23 Q. John who?

15:28:11 24 A. Lavon Scott, I believe.

15:28:11 25 Q. Fair enough. Fair enough. Okay.

15:28:14 1 All right. And you actually wrote notes on
15:28:17 2 January 27th of 2020 to that effect?

15:28:19 3 A. Yes, sir.

15:28:19 4 Q. Okay. And that's contained in Defense 4 just so
15:28:25 5 His Honor can see it later if he needs to?

15:28:27 6 A. Yes, sir.

15:28:27 7 Q. Okay. And you've got a time of 8:57?

15:28:30 8 A. Yes, sir.

15:28:30 9 Q. And you have a phone number of Mr. Scott at

15:28:34 10 [REDACTED]?

15:28:37 11 A. I don't remember offhand if that number would have
15:28:38 12 been for Singleton or for John Scott.

15:28:40 13 Q. Okay. Did you just hear Mr. Adkins give that as his
15:28:44 14 phone number?

15:28:44 15 A. I don't recall the number he said, but if you're
15:28:47 16 saying that's the number that he gave...

15:28:49 17 Q. Okay. Fair enough.

15:28:50 18 All right. And the reason I ask this is there's a lot
15:28:52 19 of detail on that page in there. You've got a date, a
15:28:55 20 time, 8:57, you've got a phone number, you've got a name
15:28:59 21 John Scott with an insertion of Lavon as a middle name?

15:29:04 22 A. Yes, sir.

15:29:04 23 Q. Okay. So it's not like it's a mistake that Scott's
15:29:08 24 in there?

15:29:08 25 A. No, sir. That's -- that's what I was given.

15:29:12 1 Q. Okay. Fair enough.

15:29:13 2 And Mr. Singleton said Mr. Scott dated his sister?

15:29:18 3 A. Yes, sir.

15:29:18 4 Q. All right. Fair enough.

15:29:21 5 Now the discussion you had with Investigator Singleton
15:29:23 6 that led to this trip, was that closer to January 27th or
15:29:29 7 closer to November 14th?

15:29:32 8 A. The -- from -- the only conversations that I've ever
15:29:38 9 had with Investigator Singleton would have been once I was
15:29:42 10 given information that hey, we know the identity of -- the
15:29:47 11 possible identity of who the informant is and so I called
15:29:50 12 to see if I could get some more information from Singleton
15:29:54 13 just to help me track him down so I could speak with him.

15:29:58 14 Q. All right. So who -- I'm just trying to piece this
15:30:02 15 together. Was there some discussion about the name John
15:30:07 16 Scott before you showed up in Estill at 8:57 in the
15:30:12 17 morning?

15:30:12 18 A. That is not me being in Estill at 8:57 in the morning.
15:30:16 19 I believe that's me talking on the phone with Investigator
15:30:19 20 Singleton. It says on the third bullet point Perry
15:30:24 21 Singleton said John Scott dated his sister, so that was --
15:30:28 22 that was by telephone.

15:30:29 23 Q. Well, let me -- let me go down because there is
15:30:32 24 something I can't decipher.

15:30:32 25 A. Yes, sir.

15:30:34 1 Q. At 9:26 it says I called something CSD, which is
15:30:37 2 something county sheriff's department. What's the first
15:30:41 3 initial? What county is that?

15:30:42 4 A. I'm thinking that that is LCSD, Lexington County,
15:30:46 5 because I think that there was a history of John Scott
15:30:49 6 in the Lexington County Sheriff's Department, I think.

15:30:50 7 Q. Okay. All right.

15:30:53 8 And is that John Scott who's really John Adkins or is
15:30:59 9 that John Scott the dad?

15:31:01 10 A. I'm not sure.

15:31:02 11 Q. Okay. And how did you get information that the
15:31:07 12 Lexington sheriff's department would have reports on him?

15:31:10 13 A. I'm not sure. I don't have it notated here. I don't
15:31:17 14 remember how I found out that they would have reports on
15:31:20 15 it. It was either by a SCIEX search possibly or -- that's
15:31:24 16 the only thing I can think of that it would be.

15:31:26 17 Q. And was this your boss that told you to call Mr. --
15:31:30 18 Investigator Singleton that morning?

15:31:31 19 A. My boss was the go between in terms of saying hey, the
15:31:36 20 solicitor's office has been in touch, apparently there's
15:31:37 21 some information about the --

15:31:38 22 Q. Who -- who was that?

15:31:39 23 A. I believe Captain Wade told me that. Captain Wade.

15:31:42 24 Q. Captain Wade?

15:31:42 25 A. Yes, sir.

15:31:43 1 Q. Okay. Fair enough.

15:31:51 2 Do you know what time you arrived there down in
15:31:54 3 Estill? Excuse me.

15:32:07 4 A. I was at Estill PD with John Adkins at 12:55 on
15:32:11 5 January 27th of this year.

15:32:11 6 Q. Okay. Is that -- I'm just trying to piece it together
15:32:13 7 because the other one -- you don't have a location on the
15:32:14 8 rest of these things, do you? Above that. Your entries
15:32:18 9 above that don't have the location, do they?

15:32:20 10 A. No, sir.

15:32:21 11 Q. All right. Did you drive straight to Estill PD?

15:32:24 12 A. I don't think so. I think I met John Adkins at
15:32:26 13 Dr. Tire.

15:32:26 14 Q. Okay. Did -- and is that the Dr. Tire in Estill or
15:32:30 15 Hampton?

15:32:31 16 A. I believe it was -- it was very close to Estill PD.

15:32:37 17 Q. Okay. Closer to Estill than in Hampton?

15:32:40 18 A. I would imagine so. Yes, sir.

15:32:42 19 Q. Okay. I mean, you drive through the woods to Hampton
15:32:43 20 and then through the woods from Hampton to Estill. Is that
15:32:49 21 kinda how you get there? I live down that way, so I'm not
15:32:51 22 trying to disparage you.

15:32:52 23 Okay. So fair enough. You went to Dr. Tire. Who
15:32:55 24 went with you?

15:32:56 25 A. Captain Wade.

15:32:57 1 Q. Okay. And what was Captain Wade's other involvement
15:33:07 2 generally with interviewing witnesses in this case?

15:33:07 3 A. It's -- with some exceptions it's usually that two
15:33:10 4 investigators go to interview someone.

15:33:13 5 Q. Right, but did he -- did he interview any other
15:33:15 6 witnesses in this case?

15:33:16 7 A. I don't believe so. I think that John Adkins -- oh,
15:33:18 8 in this entire case did he interview?

15:33:21 9 Q. Yeah.

15:33:21 10 A. I'm not sure if he did or not. Well, he did. He
15:33:24 11 interviewed someone in Augusta with me as well.

15:33:28 12 Q. You're the lead on this case?

15:33:40 13 A. I am, sir.

15:33:41 14 Q. All right. And I'm trying to get to this, when is
15:33:44 15 it that the lead detective's boss gets involved in an
15:33:48 16 interview as opposed to the lead detective as support?

15:33:52 17 A. I've -- I've worked with Captain Wade for many years.
15:33:55 18 It's not uncommon for us to interview together.

15:33:59 19 Q. Right. I don't mean it like that, but I'm just trying
15:34:03 20 to find what is common with a lead investigator getting a
15:34:04 21 supervisor to ride with him as opposed to a subordinate?

15:34:08 22 A. As I said before, it's commonplace for me to work with
15:34:12 23 Captain Wade. It happens regularly that I interview people
15:34:14 24 then, too.

15:34:14 25 Q. Right. But on the cases where you're the lead, how

15:34:17 1 many times does he get involved in the investigation of the
15:34:20 2 witnesses?

15:34:20 3 A. I've been in investigations for a total of about
15:34:24 4 seven years and it's been too many times to count. I
15:34:28 5 couldn't give you a number on how many times he's helped me
15:34:31 6 when I've been a lead and vise versa.

15:34:33 7 Q. Out of curiosity, if there was a disagreement who
15:34:37 8 would be the lead?

15:34:38 9 A. If there was a disagreement about what?

15:34:39 10 Q. A disagreement about the course of the investigation.
15:34:42 11 When you're out in the field, who would be the lead
15:34:45 12 investigator at that point?

15:34:45 13 A. Well, I'm just a Detective III. He's a captain. He
15:34:50 14 would always have authority over me. I guess I'm not
15:34:53 15 sure what your question is in terms of how to handle a
15:34:56 16 disagreement.

15:34:57 17 Q. So, generally speaking, you're the lead on this case,
15:35:00 18 but when the captain rides down there he's the lead?

15:35:03 19 A. I wouldn't necessarily say that's a fact. I -- I know
15:35:06 20 more about this case.

15:35:09 21 Q. I understand that, but what I'm trying to find out
15:35:11 22 is when you go down to do an interview and if there's a
15:35:14 23 question about going to Estill or staying at Dr. Tire, who
15:35:19 24 would make that call? You or Captain Wade?

15:35:22 25 A. Although he was my superior at the time, our role in

15:35:27 1 working together was mutual and equal.

15:35:29 2 Q. Okay. And which one would be the driving the car?

15:35:33 3 Because that's the way my wife and I are, too. I drive and
15:35:33 4 she directs.

15:35:34 5 A. Are you speaking literally or metaphorically about
15:35:38 6 who's driving the car? Like in terms --

15:35:38 7 Q. How about metaphorical?

15:35:40 8 A. Metaphorical, if there was, we were working on that
15:35:42 9 case together equally.

15:35:44 10 Q. Okay. There wasn't anything special with concern
15:35:46 11 about any reluctance from Singleton to talk with you-all?

15:35:51 12 A. Could you repeat that?

15:35:53 13 Q. Captain Wade didn't become involved because of the
15:35:56 14 reluctance that Detective Singleton expressed about
15:36:01 15 providing the name?

15:36:01 16 A. No, Captain Wade just came down to do the interview
15:36:05 17 with me.

15:36:05 18 Q. All right. Well, let me ask you this. If you look at
15:36:10 19 the back of what's marked as Number 4 --

15:36:18 20 A. Oh, the very back page?

15:36:21 21 Q. The very back two pages.

15:36:23 22 A. Yes, sir.

15:36:23 23 (Court's Exhibit Number 1 was marked for
15:36:23 24 identification.)

15:36:23 25 MR. BROWN: And, Your Honor, for what it's worth,

15:36:25 1 we have not shown this to our client. It is now a
15:36:30 2 Court exhibit. It says defense eyes only.
15:36:30 3 BY MR. BROWN:
15:36:34 4 Q. Do you see that two pages?
15:36:35 5 A. I see it.
15:36:37 6 Q. Okay. All right. Who expressed to the prosecutor's
15:36:42 7 office Detective Singleton's reluctance to give the name?
15:36:47 8 A. Could you repeat that one more time?
15:36:47 9 Q. All right. Would you read please --
15:36:47 10 A. Sure.
15:36:48 11 Q. -- starting with the second sentence that begins
15:36:51 12 Detective Singleton until the end of that sentence.
15:36:55 13 A. You said this is on that?
15:36:55 14 Q. Yes, sir.
15:37:03 15 A. This page right here?
15:37:05 16 Q. It's in Defendant's 4, the back two pages.
15:37:09 17 A. Yes.
15:37:09 18 Q. It starts January 27, 2020, defense counsel eyes only.
15:37:12 19 A. I see it.
15:37:13 20 Q. All right. Do you -- the first sentence says I hope
15:37:16 21 all is well period.
15:37:17 22 A. Okay.
15:37:18 23 Q. You don't have to read it aloud, you're welcome to
15:37:21 24 read it yourself --
15:37:21 25 A. Okay.

15:37:22 1 Q. -- but would you read the next sentence.

15:37:23 2 A. I hope all's well. Detective Singleton with the
15:37:27 3 Hampton County Sheriff's Department has been extremely
15:37:30 4 reluctant to provide me with the name of the individual
15:37:32 5 that he spoke with while West Columbia Police Department
15:37:33 6 were looking for your client back in July of 2018.

15:37:37 7 Q. Okay. All right. Was that reluctance expressed to
15:37:45 8 you first?

15:37:45 9 A. I don't know if -- I don't know in what order that
15:37:48 10 that reluctance was expressed to me, but I did know that --
15:37:53 11 that he was reluctant to provide that information.

15:37:56 12 Q. Let me go the other way and it may ask for some
15:38:00 13 speculation, do you know who told the prosecutor who wrote
15:38:03 14 this letter that the Detective Singleton had expressed
15:38:08 15 reluctance to speak with the West Columbia Police
15:38:08 16 Department?

15:38:09 17 A. No, I don't know who that first person was.

15:38:11 18 Q. You didn't call the prosecutor?

15:38:13 19 A. To tell them that he was reluctant to provide
15:38:17 20 information, no.

15:38:18 21 Q. You didn't tell them. Do you know whether Captain
15:38:23 22 Wade did?

15:38:24 23 A. I don't know.

15:38:24 24 Q. Are you aware -- have you ever seen this letter
15:38:25 25 before?

15:38:25 1 A. Never.

15:38:26 2 Q. Would you say that Detective Singleton was reluctant
15:38:30 3 when you spoke with him?

15:38:31 4 A. When I spoke with him, he didn't provide any
15:38:35 5 resistance to me. He was very polite and answered my
15:38:39 6 questions.

15:38:39 7 Q. Okay. Are you aware of any, quote, extreme -- I'll
15:38:45 8 take that L-Y and put it in parentheses, reluctance?

15:38:49 9 A. I was told that there was reluctance, but I don't know
15:38:53 10 what was said and what qualified that. Just that I was
15:38:56 11 told that there was.

15:38:56 12 Q. You got it. Who told you that?

15:38:59 13 A. I don't recall.

15:38:59 14 Q. Where would you have that in your notes?

15:39:01 15 A. I don't know that I -- I don't think that I would have
15:39:04 16 that in my notes saying that he was reluctant. I think
15:39:08 17 it's just some conversation that was told to me that I
15:39:10 18 recall that I was told that he wasn't wanting to give that
15:39:12 19 up.

15:39:12 20 Q. Okay. So bear with me. You put the important stuff
15:39:15 21 in the notes?

15:39:16 22 A. I did.

15:39:16 23 Q. All right. And the other stuff it's not that
15:39:18 24 important so it doesn't really matter if you forget it,
15:39:21 25 right?

15:39:21 1 A. No, because it's impossible to write down everything
15:39:24 2 in a case that was -- that is said.

15:39:25 3 Q. Okay. So is this -- would that be an important
15:39:28 4 concern of yours?

15:39:30 5 A. That he was reluctant? Yes, that's definitely
15:39:33 6 something to look at.

15:39:35 7 Q. Okay. But you didn't write it down. You know that?

15:39:37 8 A. I don't think that I wrote down the words he was
15:39:40 9 reluctant or expressed that sentiment that he was reluctant
15:39:41 10 to hand it over.

15:39:41 11 Q. And you didn't tell the prosecutor's office that?

15:39:44 12 A. No, I didn't send that message.

15:39:46 13 Q. And you weren't with Captain Wade when he said that?

15:39:51 14 A. No.

15:39:51 15 Q. You-all weren't like in the car and he made a phone
15:39:55 16 call?

15:39:55 17 A. I don't recall Captain Wade making a phone call
15:39:58 18 stating to them that he was reluctant.

15:40:00 19 Q. Okay. All right. And then do you recall the sheriff
15:40:04 20 of Hampton County getting involved?

15:40:08 21 A. I recall talk of that.

15:40:10 22 Q. I'm sorry?

15:40:11 23 A. Yes, I recall talk of that.

15:40:13 24 Q. Okay. Can you explain what you mean by talk?

15:40:17 25 A. I -- I recall in the same way that I was told that

15:40:20 1 there was resistance from Singleton, I -- I remember being
15:40:24 2 told that the sheriff became involved.

15:40:28 3 Q. Okay. And just like the question about who told you
15:40:30 4 about the reluctance, who told you about the sheriff
15:40:34 5 getting involved?

15:40:35 6 A. I don't recall where this talk came from.

15:40:38 7 Q. All right. And just to make sure I understand this,
15:40:39 8 you don't have any notes about the sheriff getting involved
15:40:41 9 either?

15:40:41 10 A. No, I wouldn't think that would be in my notes. No,
15:40:46 11 sir. I don't recall -- I don't recall putting that in my
15:40:48 12 notes, no.

15:40:48 13 Q. Do you think that's important now?

15:40:51 14 A. No.

15:40:51 15 Q. Okay. Fair enough.

15:40:55 16 All right. And did Detective Singleton flat refuse at
15:41:03 17 some point in time to give you information?

15:41:05 18 A. No, I've never talked with him and him telling me I'm
15:41:10 19 not giving you information.

15:41:11 20 Q. All right. So let me get this straight. You speak
15:41:13 21 with him at 8:57 on these notes?

15:41:16 22 A. Are you talking about the day that I went to Dr. Tire?

15:41:18 23 Q. On January 27, 2020, is that the date of the notes?

15:41:22 24 A. Yeah, I talked with him on that day.

15:41:24 25 Q. All right. And is that the very same day of this memo

15:41:29 1 to defense counsel?

15:41:30 2 A. It appears to be.

15:41:31 3 Q. All right. So help me put which one came first.

15:41:36 4 A. I don't know. I don't know about those times unless
15:41:39 5 the letter is timed. I mean, I would assume that based off
15:41:42 6 of the fact that His Honor wrote this letter on January
15:41:45 7 27th, that this was information that happened on 26th or
15:41:49 8 before.

15:41:49 9 Q. Fair enough. Fair enough.

15:41:52 10 Okay. So when there's a statement in here that this
15:41:55 11 information came over the phone on Friday while attending
15:42:00 12 the bar convention, that would be the Friday before
15:42:03 13 January 27, 2020, then?

15:42:04 14 A. Okay.

15:42:05 15 Q. That's your take on it? Why don't you do me a favor?
15:42:09 16 Why don't you look down in the lower part of the first page
15:42:13 17 of that letter, all right --

15:42:14 18 A. Okay.

15:42:14 19 Q. -- to the part that starts with -- and I apologize --
15:42:26 20 we had to get his sheriff involved.

15:42:30 21 A. Is that in the last paragraph or in the first
15:42:33 22 paragraph?

15:42:33 23 Q. No, it's in that first paragraph about midway. It's
15:42:40 24 the sentence after Detective Singleton. Not the first
15:42:42 25 sentence with Detective Singleton.

15:42:46 1 MS. FULLER: Your Honor, I don't know how much
15:42:49 2 longer defense counsel is gonna go on. The letter
15:42:52 3 he is referring to is a letter that I wrote at your
15:42:56 4 direction and I copied your chambers, so you should
15:42:59 5 have received a copy of this letter, too. If there's
15:43:03 6 a pointed question at me, we can cut to the chase,
15:43:06 7 but asking an officer who just saw this letter for
15:43:06 8 the first time and questioning him, I just don't know
15:43:06 9 how much longer and we've got other matters to handle.

15:43:14 10 THE COURT: Okay.

15:43:14 11 MR. BROWN: I can try to shorten it up a little
15:43:14 12 bit. I mean, we're actually at a good point here.

15:43:14 13 BY MR. BROWN:

15:43:17 14 Q. So let me ask you this. When they mentioned that --
15:43:20 15 at the time of the writing of the letter that nobody had
15:43:23 16 spoken to the informant yet, can you help me figure out how
15:43:34 17 the conversation happened on January 24th with the sheriff
15:43:41 18 and Perry Singleton and the prosecutor's office or whoever
15:43:46 19 was -- they were speaking to because that Friday was
15:43:50 20 January 24th and then January 27th is a Monday and then
15:43:55 21 you're on the phone with him on a Monday and it looks like
15:43:58 22 at 12:00 that day you've already met with him at Dr. Tire,
15:44:02 23 but somewhere in this letter it says at the time of writing
15:44:05 24 this letter we have not made contact with the individual.

15:44:09 25 So is it clear that somewhere before January 27th

15:44:13 1 there was some communications between some investigating
15:44:19 2 executive branch agency in this circuit and the Hampton
15:44:24 3 County Sheriff's Department?

15:44:24 4 A. I can't speak to what was said outside of my presence.
15:44:29 5 I have no idea. I just know I was given information and I
15:44:30 6 followed up on it.

15:44:32 7 Q. All right. And I'm gonna move on. You can't offer
15:44:35 8 that. I'm gonna move on.

15:44:35 9 All right. Fair enough.

15:44:36 10 Now let me ask you this. Did you pull the phone
15:44:38 11 records of Mr. Adkins?

15:44:39 12 A. No, sir.

15:44:40 13 Q. You did not. You-all were just telling him that to
15:44:45 14 see if he would change his story?

15:44:47 15 A. To the best of my recollection, the conversation would
15:44:50 16 have -- about that would have gone something to the effect
15:44:53 17 of would me checking your phone records show that you're
15:44:57 18 not telling me the full truth.

15:44:59 19 Q. And what was his response?

15:45:01 20 A. He let me look in his phone and I saw that there was
15:45:05 21 -- there were no phone calls.

15:45:06 22 Q. And that satisfied your inquiry?

15:45:08 23 A. He answered my question.

15:45:09 24 Q. As to whether or not the phone records that you
15:45:12 25 observed in the phone, did that satisfy the question about

15:45:15 1 whether there had been a phone call made from that phone to
15:45:19 2 Investigator Singleton?

15:45:20 3 A. You can never be completely sure until you get the
15:45:23 4 phone records. He could have deleted it.

15:45:25 5 Q. Right. And did you get the phone records?

15:45:27 6 A. I didn't.

15:45:27 7 Q. Because that satisfied your curiosity on it, didn't
15:45:31 8 it?

15:45:31 9 A. I didn't see, you know, the need to go forward with
15:45:36 10 any more investigation on that.

15:45:37 11 Q. Because that satisfied your need at that time, didn't
15:45:40 12 it?

15:45:41 13 A. I just didn't get phone records.

15:45:43 14 Q. Was that just malfeasance?

15:45:45 15 A. Pardon?

15:45:46 16 Q. Was that a shortcoming in your investigative duties?

15:45:50 17 A. I don't believe so. I don't believe so.

15:45:51 18 Q. Okay. That was enough? I mean, look, I'm trying to
15:45:54 19 find out is it enough information that we should rely on
15:45:58 20 the search of his phone or is it something we need to look
15:46:01 21 into more?

15:46:02 22 A. I didn't go and get the phone records afterwards.

15:46:06 23 Q. And now in hindsight would it have been better to get
15:46:13 24 phone records or was looking through his phone enough?

15:46:16 25 A. I mean, you can always get more information. If I had

15:46:18 1 seen more in the phone records, we could take a look at
15:46:20 2 that.

15:46:20 3 Q. Well, I'm gonna take the answer. I don't know if it's
15:46:23 4 responsive, but I'm gonna move on.

15:46:24 5 When he asked you -- or when you asked him about
15:46:27 6 seeing the -- the car, did he tell you I didn't see Damien
15:46:35 7 or his truck between the murders and his arrest?

15:46:39 8 A. If you'd give me a moment, I'd like to go back and
15:46:42 9 look at my notes.

15:46:43 10 Q. I'll gonna direct you to page 92 for my question, but
15:46:46 11 please look through all of your notes.

15:46:53 12 A. Could you repeat your question?

15:46:55 13 Q. Yes, sir.

15:46:55 14 Did Mr. Adkins tell you on January 27, 2020, at the
15:46:59 15 Estill police department sometime after 12:55, I'm assuming
15:47:06 16 PM, that I didn't see Damien or his truck between the
15:47:10 17 murders or his arrest?

15:47:11 18 A. That's correct.

15:47:11 19 Q. All right. And it's written as I. Did you write that
15:47:16 20 or did he write that?

15:47:19 21 A. If I could read that, I could tell you.

15:47:19 22 Q. Absolutely.

15:47:22 23 A. This is me writing down what he's saying. That's I as
15:47:25 24 in John Adkins.

15:47:27 25 Q. You got it. Fair enough. Okay.

15:47:28 1 All right. And I am gonna ask this. The unnumbered
15:47:32 2 page, is that -- does that fit sequentially between 89 and
15:47:37 3 91? I'm asking as a matter of housekeeping.

15:47:40 4 A. I'm happy to look at my notes, they're in order. I
15:47:44 5 can tell you if you want me to have a look at that.

15:47:45 6 Q. Well, I tell you what. I would like you to do that,
15:47:48 7 but you don't have to do it right now.

15:47:48 8 A. Okay.

15:47:50 9 Q. I mean, that's just -- I have this unnumbered page and
15:47:53 10 it seems to fit.

15:47:54 11 A. Sure.

15:47:55 12 Q. All right. Any other notes of this interview?

15:47:57 13 A. I do not believe so. I've turned over all my notes
15:47:59 14 from that interview to Solicitor Fuller.

15:48:04 15 Q. You've got it.

15:48:05 16 Okay. Now what did the Estill police department tell
15:48:11 17 Mr. Adkins about being honest with you?

15:48:14 18 A. I don't really recall a conversation. I think that
15:48:17 19 there was an officer -- there had to have been an officer
15:48:23 20 there because he led us into the interview, but I don't
15:48:23 21 remember anything about the conversation with them.

15:48:24 22 Q. Okay. Could he have said something like you've got to
15:48:28 23 be honest or they're gonna charge you with lying to the
15:48:31 24 cops?

15:48:31 25 A. He could have said that.

15:48:33 1 Q. Fair enough. And did he ever change his story?

15:48:34 2 A. John Adkins maintained that he didn't tell Singleton
15:48:38 3 about anyone.

15:48:38 4 Q. What did he tell you about the -- again, how did he
15:48:42 5 characterize the relationship between him and Perry
15:48:45 6 Singleton?

15:48:45 7 A. I don't recall there really being any expression of
15:48:49 8 how he felt.

15:48:59 9 Q. Did you ask him why would he make this up and lie
15:49:03 10 about you being an informant?

15:49:03 11 A. Yeah, that was part of the conversation. I asked him
15:49:06 12 why would he say that that was you if it wasn't.

15:49:07 13 Q. And what did he tell you-all then?

15:49:10 14 A. If I can go back and look at my notes.

15:49:13 15 Q. Please.

15:49:56 16 A. I believe that he told me that he doesn't know why
15:50:00 17 Singleton would say that.

15:50:02 18 Q. Were you aware that Perry Singleton actually put
15:50:06 19 charges on Mr. Adkins before?

15:50:08 20 A. I'm not aware of that fact other than him saying it
15:50:12 21 just now.

15:50:12 22 Q. Okay. Fair enough. Investigator Singleton never told
15:50:16 23 you-all that?

15:50:17 24 A. No, he never told me that.

15:50:19 25 Q. And did you-all ever ask him about the prior times he

15:50:22 1 had been used as an informant?

15:50:23 2 A. I did not have any conversation with Singleton about
15:50:27 3 prior uses of him as an informant.

15:50:30 4 Q. Okay. Were you aware that this was all related to a
15:50:33 5 challenge to the search warrant?

15:50:35 6 A. Could you repeat that?

15:50:36 7 Q. Sure. Were you aware of our challenge we had made to
15:50:41 8 the search warrant?

15:50:41 9 A. If there was a hearing before January 27th about
15:50:46 10 challenging the search warrant and the existence of the
15:50:50 11 CI, yeah. Yeah.

15:50:51 12 Q. Got it. Okay.

15:50:53 13 And then you wrote -- I guess still for the defense
15:51:00 14 eyes only letter there's a little one-page snippet from a
15:51:06 15 report. Does that look like you memorializing your notes
15:51:11 16 into a report?

15:51:12 17 A. Yes.

15:51:12 18 Q. Okay. Fair enough.

15:51:13 19 A. No, no, no. This is not me that typed this.

15:51:15 20 Q. Who typed this up?

15:51:16 21 A. I would have to pull the reports. It should have a
15:51:21 22 name at the bottom of it if you have the full one and not
15:51:23 23 just the partial of it.

15:51:24 24 Q. Is that your law enforcement --

15:51:25 25 A. I believe that it's gonna be -- I believe it would be

15:51:26 1 Captain Wade that wrote that report.

15:51:28 2 Q. Okay. Did he take notes?

15:51:32 3 A. I do not know.

15:51:34 4 Q. You don't remember whether he took notes?

15:51:38 5 A. I don't remember watching him and whether or not he
15:51:41 6 took notes.

15:51:42 7 Q. Okay. All right. As to whether or not Mr. Adkins
15:51:44 8 saw Mr. Ritter's vehicle -- bullet-riddled vehicle at
15:51:50 9 the house, is this report potentially by Captain Wade
15:51:54 10 consistent with your notes?

15:51:56 11 A. Yes, this is factual.

15:52:22 12 Q. All right. And the last thing, when Mr. Adkins then
15:52:27 13 said before I give a polygraph test I want to talk to my
15:52:33 14 lawyer, is that after he was told that he'd be arrested for
15:52:35 15 giving false information?

15:52:36 16 A. I don't recall anyone ever saying that he'd be
15:52:38 17 arrested for false information. He told -- he actually
15:52:39 18 started writing out his statement form and then said I'd
15:52:44 19 actually like to -- he said something to the effect of I'd
15:52:48 20 actually like to have my attorney present before I write a
15:52:49 21 statement, so he went outside and called his attorney and
15:52:52 22 then we ended the interview.

15:52:54 23 Q. Fair Enough.

15:52:55 24 MR. BROWN: Your Honor, I don't have anymore
15:52:57 25 questions of this witness. I would ask this. At some

15:52:59 1 point can we ask that my client's family come in? I

15:53:03 2 mean, he's --

15:53:03 3 THE COURT: Yes, they can come on back in.

15:53:07 4 MR. BROWN: Thank you.

15:53:13 5 THE COURT: Cross.

15:53:13 6 MS. FULLER: Yes, just one.

15:53:13 7 CROSS-EXAMINATION

15:53:13 8 BY MS. FULLER:

15:53:16 9 Q. Looking at the packet defense counsel handed up to you
15:53:20 10 that began with Detective Aldridge's notes --

15:53:20 11 A. Yes, ma'am.

15:53:23 12 Q. -- earlier, you testified that you'd believe anything
15:53:25 13 in terms of this investigation that Aldridge said to you?

15:53:29 14 A. I do.

15:53:29 15 Q. And if he recorded something it would have been true
15:53:32 16 and accurate?

15:53:33 17 A. Yes.

15:53:33 18 Q. And you can speak into the mic. I apologize.

15:53:36 19 A. I'm sorry.

15:53:37 20 Q. So when Detective Aldridge wrote in his note that he
15:53:42 21 received a call from Detective Singleton who advised that
15:53:46 22 the suspect vehicle was seen at [REDACTED] Roberts in Estill by a
15:53:49 23 CI, you believe that Aldridge received this phone call?

15:53:51 24 A. If he put that in there and told me that's what he
15:53:55 25 did, then it happened.

15:53:56 1 Q. And the further down he said -- later on in the middle
15:53:59 2 of it he said the same CI advised him that, referring to
15:54:03 3 Dr. -- I mean, I think Detective Solomon, advised him that
15:54:08 4 the vehicle had bullet holes in it.

15:54:11 5 A. Yeah, I believe that that happened.

15:54:13 6 Q. So if Aldridge wrote that down, you believe that he
15:54:16 7 received a call with that information?

15:54:16 8 A. Yes, ma'am.

15:54:18 9 MS. FULLER: Okay. That's it, Your Honor.

15:54:19 10 THE COURT: Do you have anything else?

15:54:19 11 MR. BROWN: I'm sorry?

15:54:20 12 THE COURT: Do you have something?

15:54:21 13 MR. BROWN: Nothing further.

15:54:23 14 THE COURT: Thank you. Make sure you don't take
15:54:24 15 the exhibits.

15:54:26 16 THE WITNESS: Thank you.

15:54:26 17 THE COURT: Perfect.

15:54:26 18 (Witness excused.)

15:54:30 19 THE COURT: Do you-all have another witness?

15:54:32 20 MR. BROWN: Well. I would ask that the custodian
15:54:36 21 of the records from the Hampton County Sheriff's
15:54:39 22 Department, I guess, take the stand and bring the
15:54:40 23 records in. And we served a Rosa Orr, she's a records
15:54:44 24 assistant, and I'm not sure who they would designate,
15:54:47 25 so I'm not sure who should be appearing here.

15:54:50 1 THE COURT: Is there any dispute as to the accuracy
15:54:53 2 of any records that would be in her possession?

15:54:57 3 MR. BROWN: Well, we don't have them.

15:54:57 4 THE COURT: Oh.

15:55:00 5 MR. BROWN: Are there any records from Hampton
15:55:02 6 County regarding John Adkins being an informant?

15:55:05 7 THE COURT: Okay. Let's -- whoever is here as
15:55:07 8 representative of Hampton county records custodian?
15:55:12 9 Anyone?

15:55:12 10 MR. BROWN: Your Honor, we would now move to mark
15:55:16 11 as Defendant's 6 our affidavit of service and then as
15:55:20 12 Defendant's 7, our subpoena and our subpoena packet.

15:55:32 13 THE COURT: You-all haven't heard from the nice
15:55:34 14 people in the custodian of records office for the
15:55:38 15 Hampton County Sheriff's Office, I guess?

15:55:41 16 MS. FULLER: No, Your Honor.

15:55:41 17 THE COURT: All right. It sounds like that will
15:55:43 18 have to wait until another day.

15:55:45 19 MR. BROWN: Well, actually I was gonna ask Your
15:55:45 20 Honor -- I mean, if you don't mind my law clerk stepping
15:55:49 21 out to make a phone call to my investigator who served
15:55:52 22 them, who is a retired Beaufort County sheriff's deputy,
15:55:56 23 to see if they've maybe gotten lost?

15:55:56 24 THE COURT: Okay.

15:55:59 25 MR. BROWN: Otherwise, we would ask the Court to

15:56:03 1 help us enforce the subpoena.

15:56:03 2 THE COURT: Right, but I'm not gonna issue a
15:56:06 3 bench warrant for the Hampton County Sheriff's Office,
15:56:08 4 so.

15:56:08 5 MR. BROWN: No, what I mean is that we can call
15:56:10 6 first and then maybe somebody with a little more
15:56:15 7 gravitas than the Law Office of Jim Brown --

15:56:18 8 THE COURT: I'm certain that your clerk or your
15:56:21 9 assistant's phone call to them will probably jog their
15:56:21 10 memory and he can express my appreciation when at some
15:56:24 11 future point in time they grace us with their presence.

15:56:28 12 MR. BROWN: Thank you, Your Honor. If I may just
15:56:30 13 approach to put 6 and 7 here.

15:56:33 14 THE COURT: Sure.

15:56:33 15 (Defendant's Exhibit Number 6 and Defendant's
15:56:33 16 Exhibit Number 7 were marked for identification.)

15:56:39 17 MR. BROWN: And, Your Honor, with that one caveat,
15:56:42 18 that's our presentation of evidence for our Franks
15:56:46 19 hearing.

15:56:46 20 THE COURT: Okay.

15:56:46 21 MR. BROWN: We would obviously have called --

15:56:48 22 THE COURT: Right.

15:56:50 23 MR. BROWN: -- the detective himself.

15:56:52 24 THE COURT: All right. We don't have the Hampton
15:56:54 25 County records yet, but do you-all have anyone that you

15:56:56 1 intend to call in reply on this issue?

15:57:05 2 MS. FULLER: Not for this preliminary determination.
15:57:07 3 No, Your Honor.

15:57:07 4 THE COURT: Okay. The Hampton records custodian,
15:57:13 5 are you -- are you calling that person anticipation
15:57:17 6 of he or she testifying that at no point in time has
15:57:22 7 Mr. Adkins ever worked as confidential informant? Is
15:57:26 8 that what you anticipate eliciting from them?

15:57:29 9 MR. BROWN: Yes, sir.

15:57:29 10 THE COURT: Okay.

15:57:31 11 MR. BROWN: We believe that there will be no
15:57:32 12 records.

15:57:37 13 THE COURT: Okay. If Hampton County were to
15:57:40 14 relate to the solicitor's office that there are no
15:57:43 15 records indicating that Mr. Adkins ever worked as a
15:57:45 16 confidential informant, would the State be willing
15:57:48 17 and the parties be willing to stipulate to that fact?
15:57:50 18 Would we be good on that?

15:57:50 19 MR. HUBBARD: Yes, sir.

15:57:52 20 THE COURT: All right.

15:57:52 21 MR. BROWN: We would, too, Your Honor.

15:57:54 22 THE COURT: We may not need them.

15:57:56 23 All right.

15:57:57 24 MR. BROWN: The last thing as a matter of
15:57:59 25 housekeeping, the magistrate who signed the search

15:58:02 1 warrant is here. We would have usually not subpoenaed
15:58:06 2 her. I've had a lot of resistance in Beaufort county,
15:58:11 3 but she gave a statement to an investigator from the
15:58:11 4 prosecutor's office, so out of an abundance of caution.
15:58:12 5 She is sitting behind the prosecutor's office in the
15:58:14 6 second row of the gallery and she's in the blue shirt
15:58:17 7 and I just want to point that out. Again, we've closed
15:58:21 8 ours, but we want you to know that she was here.

15:58:23 9 THE COURT: Okay.

15:58:24 10 MR. BROWN: And she's released from our subpoena.

15:58:27 11 THE COURT: All right. Thank you so much for
15:58:28 12 coming. I hope you enjoyed the trip.

15:58:29 13 You don't intend to call her?

15:58:32 14 MS. FULLER: Your Honor, I don't believe there's
15:58:34 15 -- for this preliminary determination, no, but if
15:58:38 16 you're requiring a full evidentiary hearing, then,
15:58:40 17 of course, I'd go forward with proving the affidavit,
15:58:43 18 but...

15:58:43 19 THE COURT: Okay. Very good.

15:58:45 20 Thank you very much, ma'am. If you want to beat
15:58:48 21 traffic, you're welcome to do so. I appreciate you
15:58:50 22 coming and hope we didn't inconvenience you too much.

15:59:04 23 Okay. For purposes of this hearing I think that
15:59:06 24 we are limited to the initial showing. Am I incorrect
15:59:13 25 that -- are we all on the same page as far as that's

15:59:17 1 concerned?

15:59:18 2 MR. BROWN: Your Honor, we -- we believe we've
15:59:21 3 -- and I've got some case law that doesn't talk about
15:59:23 4 the initial showing, it actually what I would say shows
15:59:26 5 a lot less and gets a reversal from then just Chief
15:59:31 6 Justice Pleicones in one case --

15:59:31 7 THE COURT: Okay.

15:59:34 8 MR. BROWN: -- and so if I may -- and we don't --
15:59:37 9 I'll be honest, without more information we're proving
15:59:41 10 an absence of evidence.

15:59:41 11 THE COURT: Right.

15:59:45 12 MR. BROWN: So without more information we have
15:59:47 13 put up our Franks evidence to you.

15:59:48 14 THE COURT: All right. Let me -- let me hear your
15:59:51 15 argument and then deal with the question of Franks.

15:59:54 16 MR. BROWN: Yes, sir.

15:59:55 17 All right. A, we believe if the confidential
15:59:57 18 informant information is taken out, and, I'm doing it
16:00:01 19 in reverse, there's not probable cause left to search
16:00:03 20 the house.

16:00:06 21 And we'll concede this. It's Mr. Ritter's house.
16:00:11 22 We're trying to meet here square on the merits of our
16:00:15 23 argument. We concede it's his house. We concede that
16:00:19 24 he was a suspect, but getting into the house -- and
16:00:25 25 there's been a lot of talk about the DVR. There are

16:00:31 1 other items, if Your Honor will recall. One being a
16:00:34 2 gun that was part of our original motion for suppression,
16:00:37 3 and the gun was a .380 and they had a fired bullet that
16:00:44 4 was normally from -- if I get this right -- a .38, which
16:00:49 5 I've been told includes 9 millimeters, and not to be
16:00:53 6 wonky because I don't know this much, I was on the rifle
16:00:56 7 team and we shot .22's, but I think a .380 is a .357 and
16:01:02 8 a .38 is a point .355 and I think a 9 millimeter's a
16:01:06 9 point .355, so that gun may or may play an issue. I
16:01:11 10 don't think there's been a match to it so to speak, but
16:01:12 11 it's more than the DVR, Your Honor, because we do have
16:01:15 12 a motion regarding the search of the DVR as well, but
16:01:20 13 -- beyond just the search of the house to get the DVR.
16:01:24 14 But that's our beginning point.

16:01:25 15 The second point. If, in fact, this is based upon
16:01:28 16 the informant, Your Honor -- that the probable cause
16:01:32 17 is based on the informant and, in fact, there was no
16:01:35 18 informant period, as in Mr. Adkins never told them
16:01:40 19 anything, and since there's been no other name, ergo,
16:01:43 20 nobody told Perry Singleton anything and then Perry
16:01:48 21 Singleton didn't himself witness it, which he didn't
16:01:50 22 say, then we believe that there's been a false statement
16:01:56 23 made to the magistrate, that it was intentional or with
16:02:00 24 deliberate recklessness as to the falsehood. I mean,
16:02:04 25 that second part I can't even say. He put in there

16:02:07 1 somebody told him this stuff and he later said it's John
16:02:12 2 Adkins in a sworn affidavit. I mean, that's -- that's
16:02:23 3 a falsehood. It's a lie. And so -- I mean, that's
16:02:24 4 Franks. We show there's something false, you excise
16:02:27 5 it out of there, there's no cause left.

16:02:29 6 Now we would point out and my able co-counsel who
16:02:33 7 is by the way the attorney who was victorious in one of
16:02:37 8 the cases I cite, which for the record I was corrected
16:02:41 9 that my cite to State v. Robinson is the wrong State v.
16:02:44 10 Robinson and the State v. Robinson I need to be citing
16:02:47 11 is -- and I'm gonna mess it up again -- is State v.
16:02:52 12 Robinson at 415 SC 600.

16:03:00 13 MR. HUBBARD: Your Honor --

16:03:02 14 MR. BROWN: And that's a Supreme Court case and
16:03:04 15 they cite Jones, but one of the things I want to point
16:03:07 16 out is we also believe that when there's a search
16:03:09 17 warrant affidavit based solely on information provided
16:03:12 18 by a confidential informant, it must contain information
16:03:14 19 supporting the credibility of the informant and the
16:03:17 20 basis of his knowledge, and that's a little different
16:03:20 21 than Franks, and they put in this that the informant has
16:03:25 22 worked with this detective before and been reliable in
16:03:29 23 the past.

16:03:34 24 And so, Your Honor -- that's right. So we -- so
16:03:36 25 we -- for what it's worth, and I'm not doing a good

16:03:38 1 job, Your Honor, because I'm getting poked over here,
16:03:42 2 but the short version we believe that's a separate
16:03:44 3 challenge here even if Mr. Adkins made this statement
16:03:48 4 to Mr. Singleton, it's false that he was reliable, and
16:03:53 5 we believe that they don't satisfy the probable cause
16:03:57 6 standard and, of course, it's Illinois versus Gates
16:04:02 7 through State v. Robinson, and I know I'm -- boy, I just
16:04:07 8 butchered a lot of case law in between, but if it's --
16:04:12 9 the search warrant's based solely on the information
16:04:14 10 provided by a confidential informant, then that warrant
16:04:16 11 affidavit must contain information supporting the
16:04:18 12 credibility of the informant and his basis of knowledge,
16:04:21 13 and we believe they now fail there.

16:04:23 14 And we didn't file that yet, Judge, because if
16:04:26 15 Your Honor will recall we just got the name of this guy.
16:04:29 16 Until January 27th the State thought it was John Scott
16:04:34 17 and so now it's John Adkins and, of course, that's where
16:04:38 18 we were sixty days before trial -- fifty-seven days
16:04:41 19 before trial. And -- and that's right. And now we
16:04:46 20 wanted the sworn testimony and we find out there's no
16:04:50 21 evidence of the credibility of the informant. They
16:04:55 22 tried to impeach him. They can't say he's credible.
16:04:56 23 That's assuming Mr. Adkins is the informant. I mean,
16:04:58 24 they impeached him until the cows came home with a DUS
16:05:01 25 and a larceny and I guess a resisting. And so if he's

16:05:08 1 not credible and there's no basis of knowledge, they
16:05:11 2 haven't used him before, there's no evidence he's been
16:05:16 3 used before. Perry Singleton had said that in his
16:05:18 4 affidavit, and so that's a separate argument.

16:05:21 5 But in Robinson, Your Honor, I would also point
16:05:26 6 out that that's a Franks case, and I've got a copy if
16:05:26 7 I may approach?

16:05:26 8 THE COURT: Please.

16:05:30 9 MR. BROWN: And, again, I apologize my motion cites
16:05:32 10 the wrong Robinson.

16:05:34 11 So in short version, that involved a control buy,
16:05:34 12 and I'm gonna butcher this, but essentially the cop --
16:05:41 13 the officer didn't see the informant go make this buy,
16:05:45 14 that's the short version, but he told the magistrate he
16:05:50 15 did. Now that's -- now in Robinson they cite State v.
16:05:54 16 Jones and, Your Honor, I think that gives us a little
16:05:57 17 mileage on this tipster-type stuff. I also think it's,
16:06:01 18 of course, the fact that we've showed enough to get a
16:06:04 19 Franks hearing.

16:06:06 20 And if I may hand up State v. Jones.

16:06:09 21 And, Your Honor, Jones was convicted by -- in a
16:06:14 22 trial presided over by Judge Westbrook, and in that case
16:06:18 23 it went up to the -- the court, and the short version,
16:06:22 24 the Court of Appeals reversed and then Pleicones wrote
16:06:26 25 an opinion affirming the reversal. In short version,

16:06:30 1 it is a material difference, and that's my words, when
16:06:34 2 they say it was an agent that did the -- that provided
16:06:39 3 the information in the affidavit when, in fact, it was
16:06:42 4 an informant, and the court -- as Your Honor kind of
16:06:46 5 mentioned, there's a big difference between a tipster
16:06:49 6 and a CI and then a big difference here between -- in
16:06:52 7 Jones between an agent and a CI, and so, you know, if
16:06:56 8 Mr. Adkins isn't an informant, if he's a tipster, we
16:07:03 9 would suggest the analogy applies, but understand
16:07:06 10 that's assuming there's a finding that he did make
16:07:09 11 some statement, I'm talking about Investigator
16:07:14 12 Singleton, and that is not our position. Again, our
16:07:18 13 position is Mr. Adkins never has said anything as a
16:07:20 14 tipster or an informant to Investigator Singleton and
16:07:23 15 did not do so at this time either.

16:07:25 16 And, Your Honor, if I may confer with co-counsel,
16:07:28 17 that's that -- that's our argument as to Franks. And
16:07:33 18 the corollary challenge which there's not probable cause
16:07:38 19 under Illinois v. Gates with the reliability, the basis
16:07:41 20 of knowledge and credibility of the informant.

16:07:43 21 And if I may just take a moment before I finish.

16:07:43 22 (Discussion between defense counsel.)

16:07:57 23 MR. BROWN: And I probably glossed over it because
16:07:59 24 my co-counsel wants me to talk about it, but that's
16:08:02 25 exactly why we needed the custodian of records to bring

16:08:06 1 these records here. And -- and I will say this. So
16:08:08 2 Investigator Singleton may not have taken any notes
16:08:10 3 before the other times that Mr. Adkins did this stuff,
16:08:14 4 but I would assume after he provides this affidavit
16:08:17 5 that's marked as Defense 5, Lord have mercy, there
16:08:21 6 should be a file at the sheriff's department with this
16:08:25 7 affidavit in it. I mean, did he just do it at his
16:08:27 8 house and zip it on over and hope it'd never come back
16:08:31 9 to him? I mean, surely he did a report there, Judge.
16:08:37 10 I mean, this search warrant they got should be in a
16:08:38 11 file somewhere as assisting another agency.

16:08:53 12 Your Honor, that is it. We would at some point
16:08:55 13 need two rulings because those are separate matters and
16:09:00 14 I do have another challenge to the search of the DVR.
16:09:00 15 It appears it was regarding a motion that we filed --
16:09:07 16 and now I'm trying to reorganize my papers, but there
16:09:08 17 was a motion we filed --

16:09:09 18 MS. FULLER: Your Honor, I don't mean to interrupt.
16:09:12 19 Can we do one motion at a time?

16:09:15 20 MR. BROWN: Absolutely. Absolutely. I just wanted
16:09:16 21 as a matter of housekeeping. It may not -- we thought
16:09:18 22 it was filed, it was drafted and served on February 10th.
16:09:21 23 I believe it was filed because generally we do the
16:09:25 24 letter -- because I will do those letters and generally
16:09:28 25 the letter goes to the clerk, copied to everyone else;

16:09:30 1 however, Your Honor, there's a chance that we served
16:09:33 2 and did not file it. I say a chance because they didn't
16:09:36 3 see it, but we do have it.

16:09:38 4 MS. FULLER: Right, Mr. Brown. I searched
16:09:41 5 through, but it may be in there. There's so many that
16:09:42 6 I --

16:09:42 7 MR. BROWN: And we agree and I have it today. It's
16:09:45 8 very short. It's actually on an issue of law, not --
16:09:47 9 not a factual issue, and absolutely I agree that it's
16:09:50 10 for them to go, it's not for us, but I did want to say
16:09:54 11 that that loops in on this search, but that's for the
16:09:57 12 DVR search only.

16:09:58 13 Thank you, Your Honor.

16:09:58 14 THE COURT: Thank you.

16:10:00 15 Solicitor, you wanted to respond?

16:10:02 16 MS. FULLER: Yes, Your Honor.

16:10:03 17 Your Honor, in looking at Franks, and I said this
16:10:05 18 before, the one thing Franks -- Franks also stands for
16:10:07 19 is that there is a presumption of validity, which I
16:10:11 20 know Your Honor knows, I'm just making a record, with
16:10:15 21 respect to the warrant affidavit and to overcome that
16:10:16 22 presumption as I previously stated they must allege a
16:10:19 23 deliberate falsehood. During their presentation, I
16:10:23 24 didn't see anything that went towards proving a
16:10:26 25 deliberate falsehood.

16:10:27 1 Your Honor, it's already marked as an exhibit here,
16:10:31 2 so I'll just publish the affidavit, which I think is
16:10:34 3 important. The affidavit that Lieutenant Perry Singleton
16:10:39 4 drafted at the direction of the Court in one of his
16:10:43 5 orders he talked about he's been an investigator for
16:10:45 6 twenty years. He concluded the South Carolina Criminal
16:10:49 7 Justice Academy, he's received trainings, he's worked
16:10:52 8 in various capacities in homicide cases, attempted
16:10:57 9 murders.

16:10:59 10 He goes onto on July 9th he assisted West Columbia.
16:11:03 11 They gave them the description a/k/a Black was interested
16:11:04 12 -- was a person of interest in a shooting that occurred
16:11:06 13 on July 5th. Further down he goes down and says during
16:11:09 14 this time that I was assisting West Columbia, I received
16:11:14 15 a call from an unpaid confidential informant source. I
16:11:17 16 have known this source for approximately eight years,
16:11:19 17 during which time he has been -- he has then provided
16:11:23 18 reliable information to me. The information that he was
16:11:26 19 provided has been accurate and valuable during the
16:11:29 20 course of several investigations. I have a been able
16:11:30 21 to independently corroborate the information provided
16:11:34 22 by this source. In this particular investigation, the
16:11:37 23 source had made aware -- had made aware that they were
16:11:40 24 looking for Mr. Ritter on an active warrant. Without
16:11:42 25 provocation he called me and simply provided me with the

16:11:46 1 information on where Damien Ritter was located at his
16:11:49 2 residence and that the vehicle, a red burgundy in color
16:11:54 3 Tahoe, located there in Hampton county. He said this
16:11:59 4 information was given to West Columbia investigators
16:12:02 5 in the same manner. He said the phone call from the
16:12:05 6 source was not solicited; therefore, it was not
16:12:08 7 recorded. I have not recorded any conversations with
16:12:11 8 this source of information. I have not used this source
16:12:14 9 in any transactions that required audio or video
16:12:18 10 recordings. I have not used this source as a witness
16:12:20 11 in any cases that our agency has been involved in and I
16:12:24 12 do not have any records on this source.

16:12:26 13 So I think it's important to note that even in
16:12:30 14 Lieutenant Perry Singleton's, unpaid confidential
16:12:35 15 source, confidential informant, a mere tipster as I've
16:12:38 16 argued before. He says that this person has not
16:12:40 17 actually formally worked, that he has just provided him
16:12:40 18 information, which just commonly I heard Your Honor
16:12:47 19 refer to as just -- I don't want to use it that way,
16:12:48 20 but just a snitch. It's someone who has randomly
16:12:52 21 provided law enforcement with information.

16:12:54 22 Arguing -- before I get to the actual law in this
16:12:58 23 case, the testimony of Mr. Adkins is coming from someone
16:13:02 24 with a history with law enforcement. He expressed here
16:13:07 25 his disdain of Perry Singleton.

16:13:11 1 THE COURT: I understand. No offense, but, I mean,
16:13:13 2 a witness that on a case that I tried two weeks ago had
16:13:16 3 a -- a witness for the State, had a very long rap sheet.
16:13:19 4 So, I mean, it cuts both ways.

16:13:21 5 MS. FULLER: That's correct, Your Honor.

16:13:23 6 THE COURT: I mean, nobody's -- very few Boy Scouts
16:13:26 7 enter this courtroom and I haven't seen a nun once, so
16:13:27 8 that's where we are.

16:13:28 9 MS. FULLER: Yes, Your Honor.

16:13:29 10 He -- he expressed that he's known Mr. Ritter all
16:13:34 11 his life and he's a friend and so my point is this is
16:13:36 12 a small community. If he were to come up here and
16:13:38 13 actually confirm the statement, I don't know. Perry
16:13:42 14 Singleton gave us the name John Scott. He said Scott
16:13:44 15 is his dad's last name. His dad's name is John Scott.
16:13:47 16 We don't know.

16:13:48 17 The point is what he elicited from Aldridge was
16:13:53 18 the call came in. We have Perry Singleton's affidavit
16:13:57 19 saying that he received the information. We have --
16:13:59 20 nowhere has it been attacked that the statement wasn't
16:14:04 21 truly made. If the statement isn't true, it is not the
16:14:10 22 issue in Franks per se. It is the fact that he -- when
16:14:14 23 he presented the affidavit to the magistrate, he believed
16:14:17 24 it to be true, and I don't think they have met their
16:14:19 25 burden of showing.

16:14:20 1 In looking at Robinson, Robinson's a drug case.
16:14:25 2 When you look at murder cases, homicide cases similar
16:14:28 3 to State v. Herring where they searched a home because
16:14:35 4 I think that's what they were trying to get at because
16:14:38 5 he was a suspect. When the Court looks at the search
16:14:41 6 warrant, they're looking at was the why in that
16:14:44 7 affidavit, so was there a connection that Mr. Ritter
16:14:47 8 committed this crime, and they haven't attacked the rest
16:14:47 9 of the affidavit. The entire affidavit lays out that
16:14:52 10 Mr. Furtick identified Damien Ritter in a photo lineup
16:14:52 11 that he committed this crime.

16:14:56 12 Let's say following Franks we remove --

16:14:57 13 THE COURT: We're not -- we're not there yet --

16:14:57 14 MS. FULLER: Okay.

16:14:59 15 THE COURT: -- because we're at the initial --
16:15:01 16 we're at the initial do we go to a full-blown Franks
16:15:05 17 hearing and if -- if I were to agree with the defense
16:15:08 18 that that portion of the affidavit that relates to the
16:15:12 19 confidential informant needs to be excised, we then go
16:15:14 20 to the next step and that's is there enough other
16:15:18 21 competent evidence or competent testimony in the
16:15:21 22 affidavit to otherwise support the issue of the search
16:15:24 23 warrant.

16:15:24 24 MS. FULLER: Thank you, Your Honor.

16:15:24 25 THE COURT: So we're not there yet.

16:15:26 1 Let me zero in on this. Here's what I've got a
16:15:30 2 problem with and you read it a moment ago and it was
16:15:34 3 what I wanted to ask you about. Halfway through the
16:15:35 4 second part of the affidavit, here's the description,
16:15:38 5 okay? And this is from Lieutenant Singleton. During
16:15:44 6 this time -- during the time that I was assisting the
16:15:47 7 West Columbia Police Department, I received a call from
16:15:50 8 an unpaid confidential informant source. I've known this
16:15:53 9 source for approximately eight years during which time
16:15:56 10 he has provided -- has been provided, sic, reliable
16:16:02 11 information to me. The information that he has provided
16:16:05 12 has been accurate and valuable during the course of
16:16:08 13 several investigations. I've been able to independently
16:16:12 14 corroborate the information provided by this source by
16:16:13 15 evidence and/or witnesses' statements.

16:16:15 16 Okay. Now skip down to the last part. The phone
16:16:21 17 call was -- from the source was not solicited; therefore,
16:16:25 18 it was not recorded. I've not recorded any conversations
16:16:27 19 with this source of information. I've not used this
16:16:30 20 source in any transaction that require audio or video
16:16:34 21 recording. I have not used this source as a witness in
16:16:37 22 any case that our agency has been involved in. I do not
16:16:41 23 have any records on this source.

16:16:43 24 Next to the last sentence. How does that jibe with
16:16:47 25 he's provided information in several investigations

16:16:50 1 which is reliable. The verbiage halfway through that
16:16:55 2 second paragraph is verbatim what you hear in a
16:16:58 3 warrant where you're using a confidential informant
16:17:01 4 in a drug transaction, okay? That's verbatim language.
16:17:07 5 And then the last two or three sentences backtracks on
16:17:11 6 that a hundred percent. Those two statements cannot
16:17:14 7 both be true by definition. And I don't know what to
16:17:19 8 make of this affidavit. I mean, honestly. And I'm
16:17:22 9 hearing that we've got a -- the initial name was John
16:17:25 10 Scott and then it becomes John somebody else and then
16:17:28 11 I'm dealing with the strangeness of we called down
16:17:32 12 there; oh, that was just a mistake, there is no
16:17:35 13 confidential informant. Oh, there is a confidential
16:17:37 14 informant. Oh, they're not really a confidential
16:17:39 15 informant, they're just somebody who gave us a phone
16:17:41 16 call, just a tipster, and then the person who apparently
16:17:45 17 is supposed to be the tipster comes up here and testifies
16:17:49 18 that not only did he not offer the tip, but Singleton
16:17:54 19 and he didn't even like each other.

16:17:58 20 I understand that it's Estill. I understand that
16:18:02 21 snitches get stitches. I got all that. I think they've
16:18:07 22 shown enough to warrant a Franks hearing. If this had
16:18:11 23 been cut and died, oh, a simple mistake -- I cannot
16:18:15 24 square that affidavit with the -- the affidavit that was
16:18:17 25 given on November 14th, I can't square that internally

16:18:22 1 and I certainty cannot square it with the affidavit that
16:18:26 2 was given in support of search warrant. That's the
16:18:28 3 problem I have. And perhaps the Court needs more
16:18:31 4 information, but assuming that this guy is not truly
16:18:34 5 a confidential informant and there's no record of him
16:18:36 6 ever operating as such in Hampton county and assuming
16:18:46 7 -- and we're behind a rock and a hard place here because
16:18:51 8 Singleton's dead, but none of this adds up. It doesn't
16:18:56 9 add up the least sufficient for them to get a Franks
16:19:01 10 hearing. I mean, I can't --

16:19:04 11 MR. HUBBARD: Your Honor, may I be heard?

16:19:04 12 THE COURT: Yes.

16:19:05 13 MR. HUBBARD: I've gotten in here late. I'll tell
16:19:06 14 you how I feel about it. First of all, having dealt
16:19:06 15 with a lot of small agencies, I can't get any officers
16:19:09 16 to really understand what tipster versus CI versus --
16:19:13 17 it's a term of art for you and me. For your small town
16:19:19 18 cops, it's really not. It's all one and the same. They
16:19:22 19 look at me with glazed eyes when I start trying to hone
16:19:25 20 down what have you actually talked about. But let's get
16:19:25 21 passed that. The bottom line is when he starts talking
16:19:28 22 about he's used this person for information before,
16:19:30 23 actually it sounded like he's known each this guy for a
16:19:34 24 while whether they like each other or not, but he didn't
16:19:37 25 actually -- he took information, but then he went to

16:19:40 1 other sources to see is this information reliable.
16:19:43 2 That's who he used, these other sources if he's used
16:19:47 3 anybody, because he clearly never put this man up on
16:19:50 4 the stand and from what I'm seeing he never used him
16:19:54 5 for like drug transactions. That's when you would wire
16:19:57 6 somebody up. But getting past that, so he's gotten
16:20:00 7 information from this guy and he's corroborated it in
16:20:02 8 the past and that type of information has been useful.
16:20:04 9 I don't see that as being contradictory at the end of
16:20:07 10 the day saying but I never used him. I've known
16:20:09 11 officers that have done that a lot. You get your wino
16:20:11 12 on the street, go talk to them, then they know who to
16:20:14 13 go to, somebody they're more comfortable putting on the
16:20:18 14 stand. That happens a lot and they would never put the
16:20:22 15 wino up on the stand because he would be eviscerated.

16:20:26 16 The other thing that strikes me about this guy is
16:20:29 17 he's got a beef with the officer. Well, we've got a
16:20:32 18 dead man. We can't put up his view. This guy says he
16:20:36 19 set me up in the past. We don't know if that's true,
16:20:38 20 we don't know, but he's got the convenience of being
16:20:42 21 able to say a dead guy did this to me and no one can
16:20:46 22 say otherwise. You've got to believe this -- this man
16:20:49 23 that took the stand today.

16:20:51 24 And I know there was confusion about John Scott
16:20:54 25 versus, you know, the man that actually testified, but

16:20:57 1 it was his dad, his dad has that name. It doesn't
16:21:02 2 sound like there's -- we're in the ball park here and
16:21:07 3 the exploration was the reason why they got to this guy
16:21:10 4 is they -- because this Singleton said he dated my
16:21:11 5 sister, so that's why -- and he also said he's thirty
16:21:14 6 years old.

16:21:14 7 So that's how we got there, Judge, but at the end
16:21:14 8 of the day --

16:21:17 9 THE COURT: I know, yeah, but Scott and Adkins are
16:21:20 10 two different names and this guy's been dating --

16:21:21 11 MR. HUBBARD: The same family.

16:21:23 12 THE COURT: -- his sister and...

16:21:25 13 If it was Frank Addy, okay, there are three of us.
16:21:26 14 My dad who's dead --

16:21:29 15 MR. HUBBARD: Same here.

16:21:31 16 THE COURT: Yeah, so you know what I'm talking
16:21:33 17 about.

16:21:33 18 MR. HUBBARD: People call for Sam and they don't
16:21:36 19 know who they want to talk to.

16:21:37 20 THE COURT: My problem by the affidavit, he's been
16:21:38 21 an officer for twenty years.

16:21:38 22 MR. HUBBARD: Right.

16:21:39 23 THE COURT: By that time he knows the difference
16:21:41 24 between a tipster and a CI or at least he should. I
16:21:46 25 don't care if it's in Hampton county, but if he's been

16:21:48 1 working narcotics or anywhere close to narcotics he
16:21:50 2 knows what a CI is, he knows what a tipster is, he
16:21:55 3 knows what an anonymous source is. This isn't rocket
16:21:57 4 science and if he's been doing it for twenty years like his
16:21:59 5 affidavit says, he knows the difference.

16:22:00 6 I appreciate your argument. You may very well be
16:22:04 7 right, but the witness has come up here and said I never
16:22:08 8 spoke to this man, there's no evidence that any phone
16:22:11 9 calls were placed. Clearly that's part of it because
16:22:13 10 the officer said I got a phone call. Everybody's got
16:22:17 11 cells nowadays and nobody has a landline. It's probably
16:22:23 12 from his cell phone if he did make that call. The
16:22:25 13 affidavit is crystal clear as to what it says. I saw
16:22:27 14 that car at this address on this particular date. And,
16:22:32 15 of course, it's somewhat telling that the car wasn't
16:22:35 16 found at that particular address, so.

16:22:39 17 MR. HUBBARD: But what we are forgetting though
16:22:41 18 it's the right make, model, color, and -- and this guy
16:22:48 19 volunteered that. He got the right car for the right
16:22:52 20 guy, so, but what you got from him on the stand was I
16:23:01 21 have a reason to dislike this officer and that you have
16:23:04 22 to believe him to discredit a dead guy who can't defend
16:23:07 23 himself and we're sitting here trying to parse does a
16:23:09 24 small town cop know CI versus tipster. And we can
16:23:09 25 assume maybe he should, I agree with you there, but,

16:23:14 1 Judge, that's why I do trainings all the time for these
16:23:15 2 guys because I can tell you there's a lot they don't
16:23:18 3 know. They can go through the academy a hundred times,
16:23:22 4 and that's just -- that's just reality.

16:23:23 5 THE COURT: I understand your point. Mine is much
16:23:26 6 more basic. For purposes of a Franks hearing -- let's
16:23:30 7 go at this a different way.

16:23:32 8 If we had gone forward with this trial when we had
16:23:36 9 anticipated scheduling it and if the State had secured
16:23:39 10 a conviction, at this point in time if we were arguing
16:23:43 11 this issue now we would be dealing with a motion for a
16:23:47 12 new trial based on after-discovered evidence, okay?

16:23:51 13 MR. HUBBARD: Sure. There's no doubt a motion
16:23:51 14 would be made.

16:23:52 15 THE COURT: Exactly. But for -- but for this
16:23:54 16 information which was subsequently conveyed, we would
16:23:56 17 have asked for a Franks hearing and because we went to
16:23:58 18 trial in March and all this stuff didn't come out until
16:24:02 19 later and it wasn't discoverable until later, we're
16:24:05 20 asking for a new trial, Judge, and I would probably --
16:24:09 21 or some judge would probably give it to them, but --

16:24:12 22 MR. HUBBARD: And, Your Honor, I would say this.
16:24:14 23 In an abundance of caution, I'd understand why you would
16:24:17 24 and I understand going into a Franks hearing now. I'm
16:24:19 25 not -- I'm not saying we should. I guess what I'm

16:24:22 1 saying is you've got to assume your officer is a liar
16:24:27 2 because you've got -- if you can give multiple readings
16:24:30 3 to an affidavit of a dead man, then -- then it's hard
16:24:35 4 to say he's -- for purposes once we get into Franks
16:24:39 5 that nothing should be believed because he's a liar.
16:24:42 6 Now that's -- that's what we're waiting to hear, how
16:24:44 7 they can make that -- that spin now.

16:24:46 8 THE COURT: The standard is either deliberate or
16:24:49 9 reckless and I have not made any determination or
16:24:53 10 finding as to whether this was deliberate or whether
16:24:57 11 this was necessarily reckless. That's the ultimate
16:25:01 12 decision, that's the ultimate call, the ultimate verdict
16:25:07 13 post-Franks hearing, whether it was deliberate or
16:25:11 14 whether it was recklessly made. The only question for
16:25:14 15 me today is whether a sufficient showing's been made to
16:25:18 16 warrant further inquiry on this exact question, okay?

16:25:22 17 MR. HUBBARD: Yes, sir.

16:25:24 18 THE COURT: And you wanted to say something just
16:25:25 19 as I'm about to rule in your favor?

16:25:27 20 MR. PHILLIPS: No, Your Honor.

16:25:27 21 THE COURT: Okay.

16:25:28 22 MR. PHILLIPS: That was actually gonna be my
16:25:30 23 question, is if you were, I would have no -- no further
16:25:33 24 argument.

16:25:33 25 THE COURT: All right. Very good. We will move

16:25:35 1 forward with a full-blown Franks hearing at a later
16:25:38 2 point in time. Of course, we've got the testimony
16:25:41 3 already of the individuals who have testified. I
16:25:46 4 don't know if you-all intend to recall the, quote
16:25:48 5 unquote, CI or not, but we've got a transcript of
16:25:53 6 that.

16:25:53 7 MR. BROWN: We would ask, Your Honor -- and I'm
16:25:55 8 not trying to interrupt -- because we don't want to
16:25:57 9 bring him back, we get a copy of the transcript, but
16:25:59 10 we now move into twenty-eight months later my client's
16:26:08 11 clearly gone from nineteen and poor to nineteen and
16:26:10 12 indigent and it's one thing to order a transcript, it's
16:26:14 13 another thing to order a transcript and expedite it
16:26:16 14 and everything else.

16:26:18 15 THE COURT: Okay. I don't know how quickly we're
16:26:20 16 gonna be able to reconvene this, so don't ask for it
16:26:22 17 expedited and simply ask for the money, okay? You know
16:26:26 18 how to reach me.

16:26:28 19 MR. BROWN: Yes, sir.

16:26:32 20 THE COURT: All right. Now I want to make it
16:26:33 21 crystal clear that the Court has not made any ultimate
16:26:37 22 ruling on the ultimate question in Franks versus
16:26:39 23 Delaware. That is for a later point in time. I've
16:26:42 24 simply ruled that the defense has made a sufficient
16:26:45 25 showing as to warrant a full hearing where we're gonna

16:26:48 1 hear from a lot more people I'm quite certain.

16:26:54 2 All right. We've got the Defendant's motion to
16:26:56 3 suppress evidence that was obtained in an unreasonable
16:27:01 4 manner. May I respectfully suggest that perhaps that's
16:27:05 5 best addressed at a later point in time because that
16:27:07 6 evidence, I think, was seized from the house. If the
16:27:10 7 Court were to find that the affidavit was recklessly or
16:27:13 8 deliberately falsified and if the Court were to suppress
16:27:17 9 any fruits of that search, then that would render moot
16:27:21 10 that particular motion, so I don't think we need to deal
16:27:24 11 with that.

16:27:24 12 MR. BROWN: It would and we will stand on our motion
16:27:27 13 just that we -- as we filed it, Your Honor.

16:27:29 14 THE COURT: Good enough.

16:28:08 15 Hold on. That's sort of been dealt with.

16:28:18 16 Have I dealt with Defendant's third supplemental
16:28:22 17 motion to compel exculpatory information concerning
16:28:26 18 persons of interest?

16:28:26 19 MR. BROWN: No, sir, Your Honor. And, very
16:28:27 20 briefly, if I -- if Your Honor would like me to go
16:28:29 21 to it?

16:28:30 22 THE COURT: Why don't we.

16:28:31 23 MR. BROWN: I'm sorry?

16:28:32 24 THE COURT: Why don't we.

16:28:34 25 MR. BROWN: Yes, sir.

16:28:34 1 I got a phone call contrary to what the police
16:28:38 2 report says from a lieutenant, I believe, with SLED.
16:28:41 3 Excuse me, Special Agent Lawrence Wiggins, and he says
16:28:45 4 he doesn't represent Mr. Ritter and he's involved in
16:28:49 5 an investigation of a double homicide in Hampton county
16:28:57 6 and in the area of Gifford and it occurred it looks
16:29:02 7 like somewhere in August of 2018 and, Your Honor, he
16:29:05 8 says, you know, that these people -- he thought my
16:29:09 9 client might be able to help them out with the case and
16:29:12 10 that they were people of interest, and that's why --
16:29:18 11 and that's why. The first I've heard of it.

16:29:20 12 And if I could maybe hand up the motion with the
16:29:23 13 attachment if Your Honor doesn't -- and you may not
16:29:26 14 have gotten a copy of that, and that's all I have.
16:29:30 15 Besides the phone call, that's you have what I have,
16:29:32 16 that article.

16:29:33 17 THE COURT: What did he say when you asked how
16:29:35 18 your client's a person of interest in this?

16:29:39 19 MR. BROWN: No, no, no. Not my client being a
16:29:41 20 person. That these people were persons of interest in
16:29:45 21 his case because I said what does Mr. Ritter have to
16:29:48 22 do --

16:29:48 23 THE COURT: Right. What did he say?

16:29:49 24 MR. BROWN: Well, he said that they were persons of
16:29:51 25 interest and he thought that my client might be able to

16:29:54 1 help with that and I did make a statement to him that if
16:29:58 2 there's something in it for my client, which he says
16:30:00 3 he talked to Deputy Solicitor Sean Thornton in the
16:30:04 4 Fourteenth Circuit and that if my client provided
16:30:09 5 valuable information that was used in the prosecution
16:30:10 6 in the Fourteenth Circuit, they would call the Eleventh
16:30:10 7 Circuit.

16:30:13 8 If they have nothing, Your Honor, they don't, but
16:30:14 9 -- I mean, if these guys have some relationship to this
16:30:18 10 case in West Columbia -- because I will tell you this,
16:30:20 11 Your Honor. I don't know this SLED agent from Adam's
16:30:24 12 house cat and he called me asking about Mr. Ritter.

16:30:27 13 THE COURT: What was his name again?

16:30:30 14 MS. FULLER: Your Honor, the agent's here.

16:30:30 15 THE COURT: Oh, okay.

16:30:33 16 Have you talked to him?

16:30:34 17 MS. FULLER: Yes, and he submitted -- I requested
16:30:36 18 that he do a memorandum of that conversation so that
16:30:38 19 we can just clear the issue and have him here to answer
16:30:42 20 any questions, but in his memorandum that he -- that I
16:30:45 21 turned over to defense counsel, I received it yesterday,
16:30:48 22 he stated that -- he said he knew -- I can't find it
16:30:52 23 right now, but it said he may or may not be. I don't
16:30:55 24 know. I wasn't involved in the investigation of that
16:30:58 25 case.

16:30:58 1 THE COURT: Okay.

16:30:59 2 MR. BROWN: If he's -- if there's no information
16:31:02 3 that these deceased were persons of interest in the
16:31:06 4 Lexington county murders, we're done.

16:31:09 5 THE COURT: Are they --

16:31:10 6 MS. FULLER: Well -- so is the -- is the question
16:31:13 7 that you don't know those defendants' names from
16:31:16 8 discovery?

16:31:18 9 MR. BROWN: No. A person of interest is the exact
16:31:22 10 same phrase used to describe Mr. Ritter when the phone
16:31:26 11 call was made from West Columbia to Hampton county, was
16:31:30 12 that Mr. Ritter was a person of interest in the Lexington
16:31:34 13 county murders. That was the exact phrase.

16:31:35 14 THE COURT: They -- they use that now because if
16:31:37 15 they use suspect, then that's actionable. So a person
16:31:39 16 of interest -- you can't get sued apparently if you
16:31:42 17 call somebody a person of interest. If you call them
16:31:46 18 a suspect, then all of a sudden you're -- it's libel
16:31:48 19 and slander, so. But I see no difference as a practical
16:31:52 20 matter.

16:31:53 21 All right. Do we need clarification on this? Do
16:31:55 22 you need to speak to the officer further or the agent
16:31:58 23 further?

16:31:59 24 MS. FULLER: Well, Your Honor, I guess the reason
16:32:00 25 why I'm asking is because information regarding Jerrelle

16:32:02 1 Campbell is in the discovery and so that's why I'm not --
16:32:06 2 I'm asking that if they need more information in
16:32:09 3 regards to Jerrelle Campbell and what was relayed to
16:32:15 4 law enforcement, it's in discovery and that's all we
16:32:16 5 have.

16:32:16 6 THE COURT: Okay. So the guy who wound up dead
16:32:19 7 around late August of 2018, Jerrelle Campbell, I'm
16:32:24 8 looking at the Augusta Chronicle article, is somehow
16:32:27 9 tied into this case?

16:32:28 10 MS. FULLER: He -- he's not tied in that we can
16:32:30 11 prove. He was spoken -- law enforcement went to Estill
16:32:32 12 and they interviewed him prior to his murder.

16:32:32 13 THE COURT: Okay.

16:32:35 14 MS. FULLER: So that was my -- if they're moving
16:32:37 15 to compel, that's all we have and it was provided in
16:32:40 16 discovery on page 34 from September 6th of 2018 and
16:32:43 17 on page 26 to 27 on February 26, 2019, and that's all
16:32:51 18 I can represent is that's the information on Jerrelle
16:32:55 19 Campbell. The other individual's name, I don't know
16:32:57 20 him.

16:33:01 21 THE COURT: Okay. Well --

16:33:13 22 MR. BROWN: And I will say this, Judge, and it
16:33:16 23 may be I'm -- there's something I'm missing, but it's
16:33:21 24 not something that I need to know maybe, I don't know,
16:33:24 25 but there's a good question about the timing in a

16:33:28 1 25-month-old murder in another county that my client
16:33:33 2 was in jail at the time, and, Lord, they've listened to
16:33:35 3 every jail phone call about playing poker and smoking
16:33:39 4 pot and, I mean, we've heard a lot of it. I'm not
16:33:44 5 exactly sure -- I mean, honestly, my take is more like
16:33:50 6 they're -- and I'm just guessing, I was trying to read
16:33:53 7 into it that they thought that -- that the deceased
16:33:56 8 Mr. Campbell was somehow or another a retaliatory
16:34:01 9 killing made back against Mr. Ritter because that was
16:34:04 10 his friend.

16:34:05 11 THE COURT: Okay. Well, let's -- we're getting
16:34:07 12 a little far afield perhaps in the material that's
16:34:12 13 somewhat collateral. Can we leave it like this?
16:34:14 14 Apparently the SLED agent has provided the State with
16:34:18 15 a memorandum of some kind or a statement of some kind
16:34:21 16 about how all this is tied in. Why don't you take a
16:34:23 17 look at that, give that to your investigator, let him
16:34:27 18 run with it, see what he can find out and if he's --
16:34:30 19 or if somebody tells me that these homicides might be
16:34:34 20 connected, yeah.

16:34:34 21 MS. FULLER: The memorandum was just I had him
16:34:37 22 document the conversation with Mr. Brown because I
16:34:41 23 didn't want the issue to come up that we were hiding
16:34:44 24 some person of interest or not turning over any
16:34:45 25 information, but any information as relates to one

16:34:45 1 person in the attachment that he submitted in his
16:34:50 2 filing is in the discovery, but that's all that we
16:34:53 3 have. So that's why I want to make sure it's clear.
16:34:55 4 I'm not -- I don't want to -- I don't know what they're
16:34:57 5 specifically wanting out of me to confirm. Like it's
16:35:00 6 been turned over.

16:35:01 7 THE COURT: All right. And I'm not quite certain
16:35:03 8 either. Let's do this. If you -- if you would -- as
16:35:06 9 an officer of the Court, would you please at some point
16:35:09 10 in the future have a discussion with the -- with the
16:35:11 11 SLED agent, ask him if he feels -- based upon his
16:35:15 12 investigation if these two incidents could somehow be
16:35:19 13 related or if he has -- or had a theory that they maybe
16:35:23 14 have been related. I'm not necessarily wanting to put
16:35:27 15 him on the spot right now in the middle of court. I
16:35:29 16 want him to be able to reflect on this and figure out
16:35:32 17 and -- and simply answer the question for your benefit
16:35:35 18 and you can then relay to them, you know, why did he
16:35:38 19 make this phone call to them and he can give you an
16:35:43 20 answer after looking back at his notes and reflecting
16:35:46 21 on this a little bit more and --

16:35:47 22 MS. FULLER: I do know the answer.

16:35:48 23 THE COURT: Okay. Well, fire away.

16:35:50 24 MS. FULLER: Sorry. I wasn't sure if you wanted
16:35:52 25 to hear from him.

16:35:52 1 THE COURT: Last time you did this though there
16:35:55 2 was not a CI, remember?

16:35:57 3 MS. FULLER: Well, that's not the exact quote I
16:36:00 4 gave, but okay. And he's here so he can correct me,
16:36:02 5 but he reached out to Mr. Brown to interview his client
16:36:06 6 because he believed his client may have information on
16:36:10 7 a homicide. That's -- that's pretty much it. I don't
16:36:13 8 know --

16:36:13 9 THE COURT: The fifty cent question is why and
16:36:17 10 that's probably what has not been answered and that's
16:36:17 11 what they want to know.

16:36:20 12 MS. FULLER: The reason why --

16:36:23 13 MR. BROWN: Well, I've got a thought. Sorry.

16:36:26 14 MS. FULLER: -- is the investigation still pending,
16:36:26 15 but I don't know if that wants to be broadcast, the
16:36:26 16 reason why.

16:36:29 17 THE COURT: That's probably why he needs to talk
16:36:29 18 to you, which is what I suggested about ten minutes
16:36:32 19 ago before we had this discussion. So he's gonna talk
16:36:35 20 to you, you-all are gonna compare notes and that way
16:36:38 21 we're not doing this out in open court with an open
16:36:39 22 investigation and all that information being nicely
16:36:43 23 disseminated because I have respect for what he has to
16:36:46 24 do and probably the need to maintain some measure of
16:36:49 25 discretion at this point shall we say.

16:36:52 1 Okay. Very good. I think we've covered enough
16:36:57 2 bases today. You-all get with me at later point in
16:37:03 3 time and we'll reconvene.

16:37:05 4 You had something else, Mr. Phillips?

16:37:07 5 MR. PHILLIPS: Yes, Your Honor. Don't hate me.

16:37:09 6 So I will say that I wanted to renew -- I know we
16:37:12 7 dealt with this once before where I had responded to
16:37:16 8 your December 11th order and I renewed our motion for
16:37:20 9 electronically stored information. We believe in light
16:37:24 10 of the testimony and evidence that's been presented at
16:37:27 11 this hearing that motion is without a doubt ripe.

16:37:31 12 Going back to quotes, one of the things that you
16:37:33 13 said the reason we weren't able to get it is because it
16:37:36 14 wasn't unusual circumstances or an unusual situation, to
16:37:40 15 quote you directly, and I think now that we've had this
16:37:43 16 testimony and the evidence all put together because --
16:37:46 17 and before we hadn't laid out every single affidavit,
16:37:49 18 as well as the testimony of Mr. Adkins. We believe
16:37:54 19 that that motion at this point has been triggered.
16:37:58 20 We've crossed the threshold that Your Honor said we
16:38:01 21 were unable to do, and with the testimony and evidence
16:38:03 22 that's been presented, so we would ask that it be
16:38:06 23 limited in scope, but we would like to renew that
16:38:09 24 motion.

16:38:10 25 I'm -- Madam Court Reporter, what number are we on?

16:38:30 1 THE COURT REPORTER: 8.

2 THE COURT: 6 probably.

3 THE COURT REPORTER: No, it's 8.

4 THE COURT: It's 8?

5 THE COURT REPORTER: Yeah.

6 THE COURT: Well, I'm missing something.

7 THE COURT REPORTER: I've got 6 and 7 here.

8 MR. BROWN: Those were the affidavit of service and

9 the subpoena, Your Honor. I apologize.

10 THE COURT: Okay.

11 MR. BROWN: My bad and I messed my own co-counsel

12 up, too.

13 (Defendant's Exhibit Number 8 was marked for

14 identification.)

16:38:31 15 THE COURT: All right.

16:38:31 16 MR. HUBBARD: But the suggestion is we're hiding

16:38:33 17 something? I mean --

16:38:34 18 THE COURT: This is -- yeah, you're late to the

16:38:36 19 game.

16:38:36 20 MR. HUBBARD: He was really upset earlier today

16:38:39 21 about his integrity being attacked and we're hiding

16:38:42 22 something?

16:38:42 23 THE COURT: I don't think they're looking -- it

16:38:43 24 was limited to Hampton county, right?

16:38:45 25 MR. PHILLIPS: And it was limited to law

16:38:47 1 enforcement. I think somebody coming in late to the
16:38:49 2 game and then making that accusation --

16:38:51 3 MR. HUBBARD: From law enforcement's electronic
16:38:53 4 stuff or --

16:38:53 5 MR. PHILLIPS: We've had a whole hearing on this.
16:38:56 6 Yes.

16:38:56 7 THE COURT: Let's -- let's handle it like this.
16:38:57 8 Refresh my memory. I thought it was focussed
16:38:59 9 mostly on Hampton.

16:39:01 10 MS. FULLER: No.

16:39:03 11 MR. PHILLIPS: So we did an error preservation
16:39:06 12 request and Your Honor granted it. That was part of
16:39:07 13 the motion. We had specifically requested and we
16:39:08 14 agreed during that hearing to limit the scope to the
16:39:10 15 communications from law enforcement regarding the CI
16:39:14 16 specifically.

16:39:15 17 THE COURT: Right.

16:39:15 18 MR. PHILLIPS: We -- we took away all the extra
16:39:18 19 fluff and said we want to narrow down the scope of this
16:39:21 20 request to information and communications related to
16:39:24 21 law enforcement regarding the confidential informant.
16:39:27 22 The date range that we have as -- as the testimony that
16:39:30 23 was presented today is July 6th of 2018 to November 14th
16:39:35 24 of 2019, the affidavit of Singleton. So essentially
16:39:39 25 that July 6th of 2018 is the trigger date that we heard

16:39:42 1 today was when the first notes were made from Aldridge
16:39:45 2 making the phone call with Hampton County Sheriff's
16:39:48 3 Office to Singleton's affidavit stamping that there was
16:39:53 4 a confidential informant on November 14th of 2019.

16:39:57 5 So limiting all the communications related within
16:40:01 6 that date range regarding the confidential informant I
16:40:05 7 believe is absolutely necessary.

16:40:10 8 MS. FULLER: Your Honor, the initial motion that
16:40:12 9 was filed was for the Eleventh Circuit, West -- I think
16:40:16 10 it said Lexington County Sheriff's Department first,
16:40:18 11 then West Columbia and then Hampton. At that order
16:40:20 12 you directed that Hampton County preserve their ESI
16:40:26 13 and their metadata. It wasn't all law enforcement,
16:40:30 14 first of all, and then that would still -- that
16:40:33 15 preservation would still include our communication to
16:40:36 16 them.

16:40:37 17 I don't know since this order what has really
16:40:39 18 changed. At the time you were -- you were aware that
16:40:41 19 they were challenging the search warrant. You --
16:40:44 20 nothing -- nothing has really changed since then as
16:40:49 21 it relates to whatever we heard today in court, so I
16:40:52 22 don't even know how that is -- is ripe per se. I think
16:40:57 23 you've already ruled on the issue. The informant was
16:41:01 24 at issue, he's coming in here, but nothing has really
16:41:04 25 changed. His testimony I don't think impacts what your

16:41:07 1 decision was back then.

16:41:09 2 THE COURT: The decision back then related to a
16:41:11 3 couple of things if memory serves me and you-all can
16:41:14 4 correct me if I'm wrong. Number one was the scope.
16:41:17 5 I said it was extremely overly broad because it
16:41:20 6 basically required everything to be turned over,
16:41:25 7 including extraneous unrelated investigations and I
16:41:29 8 basically said, if I'm not mistaken, that I'm -- I'm
16:41:31 9 not gonna authorize an entire database of investigations
16:41:39 10 to be turned over or otherwise preserved and then we --
16:41:44 11 we narrowed it -- we narrowed the preservation issue
16:41:47 12 down only to that confidential informant and any
16:41:51 13 communications concerning that. That was only as it
16:41:53 14 related to preservation and not access.

16:41:57 15 Am I correct that that's kind of how it played?

16:42:00 16 MR. PHILLIPS: That's correct.

16:42:01 17 THE COURT: Okay.

16:42:02 18 MR. PHILLIPS: That's where it ended, so I'm
16:42:03 19 renewing that in light of the testimony and evidence
16:42:06 20 presented today, specifically having the sworn testimony
16:42:08 21 and Your Honor being able to weigh the credibility of
16:42:11 22 that witness and I think when you add that -- and
16:42:15 23 certainly -- and Daes testimony is important in the
16:42:18 24 sense that he under oath said there were communications,
16:42:22 25 communications he was not privy to himself and was not

16:42:25 1 able to testify about.

16:42:27 2 THE COURT: Okay. And so correct me if I'm wrong,
16:42:31 3 but the scope of the -- the scope of what you're asking
16:42:34 4 is that basically now that we have had this hearing,
16:42:39 5 the order that I issued for preservation of the
16:42:43 6 electronic records only as it relates to the narrow
16:42:48 7 issue of a confidential informant that that -- those
16:42:52 8 records, anything electronic, be turned over at this
16:42:56 9 point?

16:42:56 10 MR. PHILLIPS: Yes. And so -- and to be more
16:43:00 11 specific, as to e-mails, that's where the ESI part
16:43:04 12 comes in. E-mails and text messages on their -- on the
16:43:08 13 law enforcement cell phones about this. We specifically
16:43:11 14 have testimony from Investigator Daes that there was
16:43:14 15 contact.

16:43:15 16 He -- he admitted he heard that or at least through
16:43:17 17 somebody, he couldn't say who, that there was reluctance,
16:43:21 18 we have that through the solicitor's officer, from the
16:43:22 19 sheriff that had to intervene in Hampton county, so there
16:43:25 20 was absolutely communications through law enforcement
16:43:28 21 that had to go to a point -- and this is, again, building
16:43:32 22 evidence to win the Franks hearing, it's not a fishing
16:43:37 23 expedition, but we know that at some point the solicitor's
16:43:39 24 office or someone in law enforcement at the West Columbia
16:43:43 25 Police Department had to intervene and get the sheriff of

16:43:44 1 Hampton county involved, had to get the supervisor of
16:43:46 2 Investigator Singleton to basically essentially give us
16:43:51 3 this affidavit because he was reluctant to provide the
16:43:54 4 name.

16:43:55 5 There were plenty of communications that were
16:43:57 6 referenced by Investigator Daes that he could not say
16:44:00 7 he was privy to, but he knew that they existed as far
16:44:04 8 as the reluctance, the sheriff being involved, the
16:44:04 9 name change. These issues all trigger that there was
16:44:06 10 exchanges where he was not involved and we're not gonna
16:44:10 11 be able to elicit that specifically or, you know -- but
16:44:13 12 you can't know the unknown.

16:44:15 13 I've had this problem in arguing these motions and
16:44:18 14 have been successful before. In and of itself there is
16:44:21 15 a little bit of a fishing expedition because we can't
16:44:25 16 know the unknown and that's the request for it, but when
16:44:28 17 we limit it in scope that makes -- we believe it makes
16:44:30 18 it reasonable.

16:44:31 19 THE COURT: Okay. Let me ask -- a lovely legal
16:44:37 20 argument. Let me ask a practical one. For the same
16:44:40 21 reason that I'm not inclined to let the State go combing
16:44:43 22 through your files and your hard drive, I'm not inclined
16:44:47 23 to let you necessarily go combing through theirs.

16:44:50 24 MR. PHILLIPS: I understand that part.

16:44:51 25 THE COURT: What mechanism would you suggest as

16:44:54 1 being fair for purposes of obtaining this information
16:44:56 2 and making it available?

16:44:58 3 MR. PHILLIPS: So with the limited scope, we're not
16:45:01 4 saying that we want all of the solicitor's notes or
16:45:05 5 anything, but specific communications to the Hampton
16:45:09 6 County Sheriff's Department related to the CI. It's so
16:45:12 7 specific. Because we have the issue that we have the
16:45:15 8 threshold now, we've beat that preponderance of -- you
16:45:22 9 know, preponderance of evidence threshold --

16:45:22 10 THE COURT: Right.

16:45:22 11 MR. PHILLIPS: -- to now get the Franks hearing,
16:45:24 12 but we still have to win the Franks hearing. As
16:45:29 13 you said, you didn't make that, and so we need that
16:45:30 14 additional evidence and there may be some critical
16:45:30 15 impeachment evidence. I haven't hit on that yet, but
16:45:34 16 as Your Honor knows I routinely beat the drum of Kyles
16:45:39 17 versus Whitley in attacking essentially the credibility
16:45:41 18 of -- of the State's witnesses and we won't be able to
16:45:44 19 properly and adequately cross-examine these witnesses
16:45:48 20 when there's possible impeachment evidence through those
16:45:51 21 communications when we know there was reluctance in
16:45:54 22 providing the name and that a sheriff had to get involved.

16:45:55 23 THE COURT: I understand. My question still stands.

16:45:58 24 I'll let you speak in a minute.

16:46:00 25 What's the mechanism?

16:46:02 1 MR. PHILLIPS: The logistics are difficult. I
16:46:04 2 understand Your Honor's --

16:46:04 3 THE COURT: Right, and that's what I'm asking about
16:46:05 4 because there's gonna be a burden argument that I'm
16:46:08 5 anticipating coming from her because I'm not stupid,
16:46:10 6 so she's gonna argue burden, she's gonna argue
16:46:13 7 confidential, she's gonna argue some other stuff that
16:46:15 8 I'm already thinking, so tell me how laborious this is
16:46:20 9 going to be and what you propose to do to take care of
16:46:23 10 the concerns which you should know I have.

16:46:25 11 MR. PHILLIPS: Yes, Your Honor. And I do. We
16:46:27 12 addressed this at the last nearing. I think we beat it
16:46:31 13 fairly well, that horse was dead, so I want to make
16:46:33 14 sure that -- Your Honor, the way legally it says under
16:46:38 15 Pennsylvania v. Ritchie, and I hate to do this again,
16:46:40 16 but it's one of those where the State has to mark all
16:46:43 17 of this evidence and obtain it and it does go to Your
16:46:46 18 Honor, and I know that you gave me your distaste for
16:46:49 19 this part of it, it has to go in camera and be reviewed
16:46:53 20 by Your Honor to ensure that the integrity of the work
16:46:56 21 product is not disclosed to us, that any work product
16:46:59 22 would be withheld. And unfortunately the gateway, the
16:47:03 23 threshold, for that is Your Honor. And I know Your Honor
16:47:04 24 doesn't want to have to comb through everything, but
16:47:07 25 unfortunately the case law says that that's the only

16:47:11 1 mechanism to ensure that you're the filter between the
16:47:13 2 information we possibly need because it exists and the
16:47:16 3 information that's non -- you know, non-discoverable,
16:47:18 4 work product.

16:47:19 5 THE COURT: And the tragic fallacy for that very
16:47:23 6 holding is that I don't know what you are looking for
16:47:25 7 because I'm not as privy to the underlying facts of
16:47:28 8 your client's defense so I don't know what it is that
16:47:31 9 I'm trying to find. I also may not fully appreciate
16:47:34 10 who the players are in various conversations and
16:47:37 11 whether that information is germane or otherwise
16:47:40 12 protected and that puts the Court in an absolutely
16:47:43 13 impossible situation.

16:47:44 14 MR. PHILLIPS: I agree. I mean, because we make
16:47:46 15 the argument all the time that the way it's commonly
16:47:49 16 couched as far as a discoverable information from the
16:47:52 17 prosecutor's standpoint is that the only people that
16:47:55 18 can decide whether it's relevant is defense counsel
16:47:59 19 because, as you said, they don't understand our theory,
16:48:02 20 you know, of the case.

16:48:02 21 THE COURT: Right, which in the context of, you
16:48:06 22 know, confidential information about psychological or
16:48:08 23 sexual records from counseling, I basically order it
16:48:12 24 put under seal, give it to the defense, let the lawyer
16:48:15 25 look at it, not the client, because they know what's

16:48:19 1 relevant, and that's the standard, anything in there
16:48:20 2 that could be relevant. That's not gonna work in this
16:48:22 3 kind of a case.

16:48:23 4 But let's go at this a different way, okay? This
16:48:25 5 whole issue arose when you initially brought up the
16:48:29 6 question of who is this confidential informant, all
16:48:34 7 right? So that's -- that's kind of the triggering
16:48:36 8 event. Your theory of the case is that Detective
16:48:40 9 Singleton, either recklessly or intentionally created
16:48:44 10 this fiction of a confidential informant to in order to
16:48:48 11 bolster the underlying affidavit. He would not be privy
16:48:51 12 to that line of attack until such time as the solicitor
16:48:56 13 started asking questions about that, until you raised
16:48:59 14 the motion, so I think going back all the way to July 6th
16:49:03 15 of 2018 is probably -- you're not gonna document and --
16:49:08 16 I really don't think you're gonna find an e-mail from
16:49:12 17 Detective Singleton saying I am so clever because I
16:49:15 18 created this fictitious straw man in this affidavit in
16:49:19 19 order to erroneously and in violation of Franks v.
16:49:20 20 Delaware obtain access to Mr. Ritter's house thereby
16:49:24 21 foiling the -- the whatever, okay? So you're not gonna
16:49:28 22 find that e-mail probably ever.

16:49:33 23 The only time that such a discussion would have
16:49:37 24 taken place is, again, after you raised the subject,
16:49:41 25 after the solicitor made that communication. Now we've

16:49:44 1 got communications between the solicitor and Singletary
16:49:48 2 {sic}, that's one thing. She's an officer of the Court.
16:49:51 3 She's gonna turn over whatever is -- you know, whatever
16:49:54 4 communications she has had. She's pretty much put the
16:49:58 5 cards out there for the whole time, so anything that
16:49:59 6 she has had with Singletary, you've already got because
16:50:03 7 she's been quite upfront about all that.

16:50:04 8 MR. PHILLIPS: And to make the records clear, I
16:50:07 9 know things -- we got off on an interesting foot there
16:50:09 10 for a second, that's not what I was arguing.

16:50:11 11 THE COURT: Right. But if it's a -- if it's a
16:50:18 12 conversation -- my point is this. If you're looking for
16:50:22 13 something about that CI and if we're limited to that
16:50:25 14 kind of scope, the only real communication about that
16:50:27 15 topic is going to be between Ms. Fuller and Singletary
16:50:31 16 or perhaps between the sheriff down there in Hampton
16:50:35 17 and Singletary.

16:50:39 18 MR. PHILLIPS: Or -- or Captain Bruce Wade or
16:50:41 19 anyone else that was involved.

16:50:41 20 THE COURT: All right. Maybe Bruce Wade or somebody
16:50:43 21 else.

16:50:48 22 MR. PHILLIPS: And specifically the sheriff. I
16:50:48 23 mean, clearly he was involved, so there's communications
16:50:52 24 with him.

16:50:52 25 MR. BROWN: We don't know who called the sheriff.

16:50:52 1 THE COURT: I'm sorry?

16:50:54 2 MR. BROWN: I am curious who called the sheriff.

16:50:57 3 THE COURT: Well, I think one of the -- one of the
16:50:59 4 investigators did, but that's not --

16:51:01 5 MR. BROWN: That's what we don't know.

16:51:03 6 THE COURT: All right. Somebody called the sheriff.
16:51:05 7 Have we asked the sheriff?

16:51:07 8 MR. BROWN: No, sir, but it sounds like he may be
16:51:09 9 coming to our Franks hearing.

16:51:11 10 THE COURT: Well, before you invite him, why don't
16:51:14 11 somebody -- somebody talk to him so that we're not
16:51:18 12 inconveniencing the guy like we did the magistrate,
16:51:18 13 okay?

16:51:21 14 Yes?

16:51:21 15 MS. FULLER: I can clarify this, Your Honor. I
16:51:23 16 won't go into argument because I think you know what
16:51:26 17 I'm gonna argue, but I wrote the letter clearly. I
16:51:28 18 always have my investigator with me. Singleton, who
16:51:33 19 was scared, like I wrote in the letter that another
16:51:36 20 homicide would happen, that this person is connected
16:51:39 21 to Ritter and he doesn't -- he wants to be anonymous,
16:51:41 22 he doesn't want to talk. So when he wouldn't give us
16:51:46 23 -- and it was coming up -- it was approaching your
16:51:47 24 45-day order and I told him either you're gonna give us
16:51:52 25 his name or the judge is probably gonna hold you in

16:51:53 1 contempt, so what do you want me to tell this judge? He
16:51:53 2 wouldn't budge. That's when I had my investigator contact
16:51:55 3 the sheriff to say okay, if you don't comply with this
16:51:59 4 judge's order, then someone come and explain that to
16:52:03 5 the judge, and then in the last quarter, literally the
16:52:09 6 last minute of your 45-day -- I think it was 45 days,
16:52:11 7 it may be 40, that's when he called with the information,
16:52:13 8 but he was not happy to turn it over.

16:52:15 9 THE COURT: Okay. So we know who called the
16:52:20 10 sheriff.

16:52:23 11 MS. FULLER: And, Your Honor, I apologize. The
16:52:24 12 Solicitor just reminded me that he's the one that told
16:52:27 13 us to make sure we call the sheriff because now the
16:52:30 14 agency would be potentially in jeopardy because of your
16:52:34 15 order.

16:52:34 16 THE COURT: Got you.

16:52:36 17 Here's how I would like to address this or here's
16:52:39 18 how I would like to deal with it. As a threshold matter,
16:52:42 19 I'm more than happy to ask the solicitor to -- first of
16:52:49 20 all, I don't know how the sheriff approached Singletary.
16:52:58 21 It's Hampton. It may have been simply, you know, walking
16:53:01 22 next door to the office next door, it would have been a
16:53:04 23 phone call. It's not gonna be I don't think something
16:53:08 24 that's documented in a personnel file, okay? I think I
16:53:10 25 gave you authority to find three of them. You may have

16:53:13 1 already looked at Singletary, so I'm not sure.

16:53:16 2 But I'm gonna ask the solicitor to ask -- as it
16:53:26 3 relates to the sheriff and his communication with
16:53:29 4 Singletary about the CI, I'm gonna ask as it relates
16:53:34 5 to the two investigators and any communications
16:53:39 6 electronic-wise that they may have had with the CI or
16:53:40 7 about the CI concerning the Ritter case, that's what I'm
16:53:43 8 gonna ask her to look into. And technically that should
16:53:49 9 not be either, A, overly burdensome or, B, terribly
16:53:54 10 difficult.

16:53:55 11 And, again, you know, she can -- if there are
16:53:59 12 problems with doing that, Ms. Fuller, just let me know,
16:54:02 13 but -- but let's at least make the inquiry to see how
16:54:06 14 laborious that would be to do any kind of check of the
16:54:10 15 computers.

16:54:12 16 MR. HUBBARD: What computers, Your Honor, are we
16:54:15 17 talking about? Are these phone calls?

16:54:17 18 THE COURT: I'm assuming the lap -- I'm assuming
16:54:18 19 they're laptops that we're talking about. And, again,
16:54:20 20 we're only talking about the timeframe from when you
16:54:22 21 initially made the inquiry because that's the only
16:54:25 22 timeframe that would be relevant. I think it is
16:54:28 23 probably gonna ultimately be a fishing expedition. I
16:54:32 24 don't think that there's likely much there, but they do
16:54:34 25 have a right to at least ask the question and for us to

16:54:36 1 look.

16:54:37 2 MR. HUBBARD: Your Honor, may I make it even more
16:54:39 3 simple? If they want to put my investigator on the
16:54:45 4 stand as opposed to me trying to go through his phone,
16:54:45 5 they're still gonna have the question. They need to
16:54:46 6 talk to the body. If they want to talk to the
16:54:50 7 investigator and say did you call him, yeah, on this
16:54:52 8 date, I talked to him and I conveyed the message the
16:54:55 9 solicitor told me to convey, which is if you don't
16:54:57 10 comply your tail's coming up here to explain to the
16:55:01 11 judge why you shouldn't be going to jail.

16:55:06 12 THE COURT: And I'm -- I'm fine and we can go there
16:55:07 13 at a later point in time if need be. I don't know that
16:55:09 14 they're so concerned about your investigator. I think
16:55:11 15 their concern is information -- and he's shaking his head
16:55:14 16 no, I'm not concerned too much about the investigator,
16:55:16 17 but --

16:55:16 18 MR. PHILLIPS: And I even know the investigator and
16:55:19 19 he is absolutely -- his integrity is without question.

16:55:22 20 THE COURT: Right. I think everyone here is
16:55:24 21 probably as well, but your concern is you want for us
16:55:26 22 to verify. So I think they're talking about just the
16:55:29 23 two investigators that went down and talked to the CI,
16:55:33 24 any e-mails or communications that they may have had
16:55:36 25 along those lines. I'm trusting you-all to ask them

16:55:38 1 about it --

16:55:38 2 MR. HUBBARD: We will.

16:55:39 3 THE COURT: -- and I'm trusting you-all to look
16:55:40 4 at it and look into this and if it's gonna be a major
16:55:44 5 headache, let me know.

16:55:46 6 MR. HUBBARD: Yes, sir.

16:55:46 7 THE COURT: If it's not gonna be a major headache
16:55:48 8 and they're able to check -- you know, do a search on
16:55:50 9 their e-mail, Ritter, and search their -- their computer
16:55:53 10 file with Ritter, confidential informant, and then the
16:55:57 11 guy's name, Scott or Adkins, then that will produce what
16:56:01 12 they are potentially looking for.

16:56:03 13 MR. HUBBARD: We'll ask them that and if there's any
16:56:06 14 issue, we'll let you know if we have a problem.

16:56:06 15 THE COURT: That would be perfect.

16:56:07 16 MR. HUBBARD: That's Investigator Daes and -- and
16:56:08 17 Captain Wade.

16:56:09 18 MR. PHILLIPS: And to me the investigator I was
16:56:12 19 referring to was -- well, I only know -- I'll call him
16:56:13 20 Sully, but Mr. Sullivan.

16:56:16 21 THE COURT: Okay.

16:56:16 22 MR. HUBBARD: You-all don't want anything from him.
16:56:19 23 Just to make it clear.

16:56:20 24 MR. PHILLIPS: No. Look, if he's made communication
16:56:22 25 to them of just saying comply, our focus, again, is the

16:56:24 1 Hampton county issue.

16:56:25 2 THE COURT: I got you.

16:56:25 3 MR. BROWN: And I will say, I think my subpoena
16:56:27 4 probably encompasses any and all communications, notes,
16:56:31 5 the like, that I sent regarding the CI, and I don't mean
16:56:36 6 it like that, but it probably has some overlap.

16:56:39 7 THE COURT: Okay.

16:56:40 8 MR. BROWN: So we are kind of back to whether
16:56:45 9 Hampton County wants to come up here with the records.

16:56:48 10 THE COURT: I understand. I need you-all to
16:56:49 11 understand where I am coming from, okay? I had a recent
16:56:53 12 case involving med mal where I was provided with this --
16:56:55 13 all this stuff that I had to review and it involved the
16:56:59 14 -- the protocol where something goes bad and the judge
16:57:02 15 then has to look at the afteraction report and then you
16:57:07 16 look through all the medical records and what I found
16:57:10 17 out, and it was -- yeah, it was a needle in a haystack,
16:57:14 18 but what I did ultimately discover, and I know why you're
16:57:18 19 asking, but what happened is when you looked at the
16:57:22 20 metadata the doctor said initially I'm discharging the
16:57:24 21 patient to go home with medicines X and Y and then he
16:57:28 22 goes back later like an idiot and he changes the chart
16:57:31 23 to say I encouraged the patient to stay at the hospital
16:57:35 24 and strongly recommend that they not be going home and
16:57:38 25 I'm really am concerned that something bad might happen.

16:57:42 1 Yeah, that case is not gonna be tried.

16:57:44 2 So I know what you're looking for, it's the metadata,
16:57:48 3 that kind of a thing, they know what you're looking for,
16:57:51 4 we're gonna be file.

16:57:52 5 All right. I'm tired. Let's call it a day.

16:57:53 6 MR. PHILLIPS: Thank you, Your Honor.

16:57:55 7 THE COURT: We'll talk later about rescheduling
16:57:59 8 this and thank you-all very much.

9 (Whereupon, the proceedings were concluded at
10 4:57 PM.)

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C E R T I F I C A T E

I, Stacy S. Johnson, Official Court Reporter
for the Eleventh Judicial Circuit of the State of South
Carolina, do hereby certify that the foregoing is a
true, accurate and complete transcript of record of all
the proceedings had and the evidence introduced in the
hearing of the captioned case in Circuit Court on the
22nd day of October, 2020.

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I do further certify that I am neither of kin,
counsel, nor have an interest to any party hereto.

March 18, 2021

/s/ Stacy S. Johnson
STACY S. JOHNSON
CIRCUIT COURT REPORTER

STATE OF SOUTH CAROLINA
 COUNTY OF LEXINGTON

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA	)	
	)	
PLAINTIFF,	)	2019-GS-32-02887-02893
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
DAMIEN LAVAR RITTER,	)	FRANKS HEARING
DEFENDANT.	)	
_____	)	

APRIL 12, 2021
 LEXINGTON , SOUTH CAROLINA

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE

A P P E A R A N C E S:

ATTORNEYS FOR THE PLAINTIFF:
 SUTANIA A. FULLER, ESQUIRE
 DAVID SHAWN GRAHAM, ESQUIRE

ATTORNEYS FOR THE DEFENSE:
 JAMES ARTHUR BROWN, JR., ESQUIRE
 DAYNE C. PHILLIPS, ESQUIRE

TARA T. SCOTT, CVR
 CIRCUIT COURT REPORTER

I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
CAROLYN WILLIAMS	5	17	29	
MATTHEW DAES	35	69	110	
CHAUNCEY SOLOMAN	118	127	136	
ASHLEY ALDRIDGE	138	149	158	160

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CAROLYN WILLIAMS: DIRECT EXAMINATION

4

1 THE COURT: We're going to go on the record if we
2 could. We are assembling again in the case of the State v
3 Damien Ritter. I think the indictments are 19-2887, -2888,
4 -2889, -2893, -2890, -2891, - 2892. That may be all of
5 them. We have, of course, everybody knows everybody I
6 assume. We have a number of matters that we are going to
7 address today. The intention or the thought had been
8 initially to lead with the *Franks* hearing, and I think that
9 the plan is still to do the same. The record will reflect
10 that we did meet a moment ago in the jury room in the back
11 to discuss some matters that Ms. Fuller brought to our
12 attention and I asked the parties to follow up accordingly
13 on those questions that were raised or those issues that
14 were brought to our attention, and it relates of course to
15 the last hearing that we had concerning *Franks*. Everybody
16 is ready to proceed then I assume, Solicitor?

17 MS. FULLER: Yes, Your Honor. The State is ready.

18 MR. BROWN: Yes, Your Honor. The Defense is ready.

19 THE COURT: Very good. Where we left off I think I
20 essentially said that the Defense was entitled to a *Franks*
21 hearing on the question of the affidavit and search warrant,
22 or the affidavit in support of the search warrant, rather.
23 At this point in time I think that the appropriate thing to
24 do would be to let the State call whoever they need to call.
25 I understand that we may need to address this further on

CAROLYN WILLIAMS: DIRECT EXAMINATION

5

1 Wednesday, but if you have witnesses available at this time,
2 Ms. Fuller, happy to hear from you.

3 MS. FULLER: Thank you, Your Honor. The State calls
4 Magistrate Carolyn Williams.

5 CAROLYN WILLIAMS, having first been
6 duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MS. FULLER:

9 Q Good morning, Judge Williams. Thank you for being
10 here. Can you please explain, tell the judge -- you are
11 currently a magistrate judge?

12 A I'm retired.

13 Q If you can, move the mic just a little bit closer to
14 your mouth. Thank you. Where did you serve when you were
15 an active magistrate court judge?

16 A Hampton County.

17 Q How long have you served as a magistrate judge?

18 A Approximately 23 years.

19 Q During that time, has that entirely been in Hampton
20 County?

21 A Yes.

22 Q This might be a tough question, but throughout your
23 career how many warrants do you believe you have served -- I
24 mean, have signed?

25 A Probably about 1,000.

CAROLYN WILLIAMS: DIRECT EXAMINATION

6

1 Q Let's jump right into the reason why we're here. Are
2 you familiar with Investigator Perry Singleton?

3 A Yes.

4 Q And how do you know Investigator Perry Singleton?

5 A I worked with him approximately 20 years.

6 Q Do you know where Investigator Perry Singleton is now?

7 A Deceased.

8 Q Do you know when he passed away?

9 A (NO RESPONSE)

10 Q Was it some time last year?

11 A Yes.

12 Q Does July sound accurate?

13 A That's about right.

14 Q In your time of working with Investigator Singleton,
15 would this have been in his capacity as a law enforcement
16 officer?

17 A Could you repeat that for me?

18 Q The period of time that you have known him, are you
19 familiar with him because of his - in his capacity as a law
20 enforcement officer?

21 A Yes.

22 Q During that time period of knowing him, did he ever
23 present warrants to you?

24 A Yes.

25 Q Throughout the time that you knew him, I believe you

CAROLYN WILLIAMS: DIRECT EXAMINATION

7

1 said twenty -

2 A Twenty-something years.

3 Q --- something years, do you remember approximately how
4 many warrants he had submitted to you based on probable
5 cause?

6 A My guess would be about a hundred. I'm guessing.

7 Q During that time, have you ever had any reason to
8 question his truthfulness each time he's presented either an
9 arrest warrant or a search warrant based on probable cause?

10 A No.

11 Q When he presents warrants to you, do you place him
12 under oath?

13 A Yes.

14 Q What does it mean to be under oath?

15 A You have to tell the truth, swear to it.

16 Q Did it appear to you that Investigator Perry Singleton
17 understood what it meant to be under oath?

18 A Yes.

19 Q And he understood the impact of his statements when
20 they're made to you under oath?

21 A Correct.

22 Q And as a Magistrate Judge, do you understand your duty
23 to be fair and impartial in the exercise of your duties?

24 A Absolutely.

25 Q I want to hand you a copy of the search warrant. It's

CAROLYN WILLIAMS: DIRECT EXAMINATION

8

1 already been pre-marked as Court's Exhibit 1 for the purpose
2 of this hearing. Can you review this and tell me if you
3 recognize it?

4 A Yes, this is a search warrant that was given to me on
5 the day that I signed by Officer Perry Singleton --
6 Lieutenant Perry Singleton.

7 Q I am going to approach. Just so I can keep my mask off
8 and my voice up, I am going to display it over here and ask
9 you some questions. Just to confirm, let the record reflect
10 that I am displaying it on the overhead projector the
11 Exhibit sticker is Exhibit 1 that you just reviewed?

12 A Yes.

13 Q Showing you the face of the search warrant, can you
14 show the Court how you recognize it to be a search warrant
15 that you issued?

16 A It says, "Certified true copy". That's my signature
17 and that's my stamp.

18 Q Your stamp includes your name as well?

19 A Correct.

20 Q Looking at the second page of the search warrant,
21 please tell the Court if you recognize your name on the
22 second page as well.

23 A Yes.

24 Q On page two of Court's Exhibit 1, where I am pointing
25 at the bottom of the search warrant, is that where you

CAROLYN WILLIAMS: DIRECT EXAMINATION

9

1 recognize your signature?

2 A Correct.

3 Q Do you recognize the date that you signed it?

4 A Yes.

5 Q What is the date?

6 A July 18, 2018.

7 Q I'm going to ask that you speak into the microphone.

8 A I'm sorry.

9 Q No, no, you're fine. I just want to make sure.

10 Looking at the next page of the search warrant, do you

11 recognize the signature of the Affiant?

12 A Yes.

13 Q Who is that?

14 A Perry Singleton.

15 Q Do you recognize your signature as well?

16 A Correct.

17 Q And the date?

18 A Yes.

19 Q It's the same, July 18, 2018?

20 A Yes.

21 Q Turning to this portion of the search warrant, would

22 this be referred to as the affidavit?

23 A Yes.

24 Q And this would be the affidavit that you reviewed prior

25 to signing the search warrant?

CAROLYN WILLIAMS: DIRECT EXAMINATION

10

- 1 A That's part of it.
- 2 Q Okay, and thanks for mentioning that. I'll turn to the
- 3 next page. Do you recognize this as well?
- 4 A Yes.
- 5 Q And would this be the rest of the affidavit that you
- 6 would have reviewed?
- 7 A Yes.
- 8 Q Just to confirm again, the Affiant there is Perry
- 9 Singleton?
- 10 A Correct.
- 11 Q Do you recognize your signature on this page of the
- 12 search warrant?
- 13 A Yes.
- 14 Q And back to the first page of the affidavit, do you
- 15 recognize Perry Singleton's signature?
- 16 A Yes.
- 17 Q And your name as well?
- 18 A Yes.
- 19 Q Looking at the last page of the search warrant, what
- 20 page is this?
- 21 A That's the return.
- 22 Q Do you recognize it as being the return for this search
- 23 warrant?
- 24 A Yes.
- 25 Q How do you recognize it?

CAROLYN WILLIAMS: DIRECT EXAMINATION

11

- 1 A My signature.
- 2 Q What date was this return filed?
- 3 A The 23rd day of July, 2018.
- 4 Q Looking at the bottom of the return, do you recognize
- 5 the executing officer's signature?
- 6 A Yes.
- 7 Q Who is that?
- 8 A James Brooker.
- 9 Q Who is James Brooker?
- 10 A He was a detective.
- 11 Q With what agency?
- 12 A Hampton County Sheriff's Department.
- 13 Q Do you know where Mr. Brooker is?
- 14 A He, too, is deceased.
- 15 Q When you review -- when this search warrant was
- 16 presented to you by Investigator Perry Singleton, you
- 17 generally spoke about placing him under oath when he
- 18 presented any search warrant. For this particular one, do
- 19 you recall whether or not you placed him under oath in
- 20 similar fashion?
- 21 A Yes.
- 22 Q How do you remember that you did that?
- 23 A Because I do it routinely.
- 24 Q For this particular search warrant, did it also appear
- 25 that he understood what it meant to be under oath?

CAROLYN WILLIAMS: DIRECT EXAMINATION

12

1 A Yes.

2 MS. FULLER: Your Honor, with the next witness I'll
3 actually publish the probable cause, but with her I'm just
4 going through it. The record will reflect I'm calling her a
5 little out of order because she has another engagement.

6 Q Now, after reviewing both pages of the probable cause
7 and in speaking with Investigator Singleton, did you
8 determine if you had any conflict as to why you couldn't
9 sign the search warrant?

10 A After reading it and speaking with him, no.

11 Q Did you have any personal connection to any party or
12 property in this case?

13 A No.

14 Q Did you have any personal interest in this case?

15 A No.

16 Q When looking at the second page of the affidavit, there
17 is a sentence in there that is the subject of this hearing.
18 I will point it out to you. Do you see my pen where it says
19 July 9 through Estill, South Carolina?

20 A Yes.

21 Q Looking at Court's Exhibit 4, which would just be that
22 sentence in the affidavit portion -- and I'll read it for
23 the record. "On July 9, 2018 information was received from
24 an Investigator Singleton from the Hampton County Sheriff's
25 Office that a confidential informant witnessed Mr. Ritter's

CAROLYN WILLIAMS: DIRECT EXAMINATION

13

1 Tahoe with bullet holes in it earlier that day at Ritter's
2 home at ■ Roberts in Estill, South Carolina." Just so the
3 record is clear, you recall that sentence being in the
4 search warrant that day?

5 A Yes.

6 Q When Investigator Singleton presented the search
7 warrant to you, did you ask him any questions about the
8 confidential informant referenced in this sentence?

9 A Yes.

10 Q And what did you ask him?

11 A I asked him the standard questions. Are you familiar
12 with the informant? How are you familiar with the informant?
13 Have you ever used the informant? Has he ever given you any
14 information that has been proven to be truthful?

15 Q Do you recall investigator Singleton's response?

16 A He said yes.

17 Q At the time, prior to signing the search warrant, did
18 you have any reason to question Investigator Singleton's
19 truthfulness in one, presenting the entire search warrant
20 affidavit to you, and two, including this sentence in the
21 affidavit?

22 A No.

23 Q Because you did, in fact, sign the search warrant?

24 A Correct.

25 Q Hypothetically, if this sentence was not in the search

CAROLYN WILLIAMS: DIRECT EXAMINATION

14

1 warrant presented to you on July 18, 2018, would you have
2 signed the search warrant based on the remaining portions of
3 the affidavit?

4 A Yes.

5 Q Why is that?

6 A Because of all the other information inside of that
7 affidavit.

8 Q Any other information that's included, you believe that
9 probable cause existed?

10 A Correct.

11 Q With the inclusion of this sentence, you still believe
12 probable cause existed?

13 A Correct.

14 Q Do you believe when you signed this search warrant that
15 you were misled in anyway?

16 A No.

17 Q If there was any sort of misstatement in the affidavit,
18 having known Investigator Terry Singleton for over 20 years
19 and having signed at least 100 warrants on his behalf based
20 on probable cause, would you believe that the inclusion of
21 this questioned sentence was intentional?

22 A No.

23 Q Do you believe that it was intentional to mislead you
24 in any way?

25 A No.

CAROLYN WILLIAMS: DIRECT EXAMINATION

15

1 Q Do you believe that it was included with reckless
2 disregard to mislead you in any way?

3 A No.

4 Q Because you are technically the issuing magistrate?

5 A Correct.

6 MS. FULLER: Beg the Court's indulgence.

7 Q And then just to reiterate, in speaking -- the specific
8 responses I believe you said yes to the question when you
9 asked Investigator Perry Singleton about the confidential
10 informant's reliability and he answered affirmatively, do
11 you remember the actual dialogue and what he said about the
12 confidential informant?

13 A As far as I can recall, I think he said that he had
14 used them before and the information that he had gathered
15 from him had proven to be truthful and therefore he believed
16 that this information would be truthful.

17 Q And reviewing the affidavit along with this
18 information, that was enough for you to determine the
19 reliability of that information that was presented ---

20 A Yes.

21 Q --- by the confidential informant.

22 A Yes.

23 Q Sorry. And then the last question before I sit down.
24 While you are asking these questions, he was under oath at
25 the time?

CAROLYN WILLIAMS: DIRECT EXAMINATION

16

1 A Yes.

2 Q There were just -- I misspoke when I said last
3 question. There were two more exhibits I wanted to present
4 to you. These are highlighted portions of the affidavit.
5 It's previously marked as Courts Exhibit 2, should be the
6 first portion. Referring to the highlighted language. Do
7 you see that first highlighted -- those two highlighted
8 sentences?

9 A Yes.

10 Q Where it starts with, "Mr. Furtick retrieved his gun
11 from his vehicle." And then the second sentence ends with,
12 "While the cousin fired at Mr. Furtick, who was returning
13 fire." And this would have been while the Defendant was in
14 -- or the cousin was in that Tahoe speeding away. In that
15 sentence?

16 A Yes.

17 Q And that highlighted sentence was included in the
18 affidavit for you to review at the time?

19 A Yes.

20 Q Looking at this bottom portion. In terms of the name
21 of that cousin -- let me get my pen. This portion, "On July
22 6, speaking with Ms. Maxwell, she stated her nephew's name
23 was Damien Ritter. A DMV search revealed that registered to
24 him was a Chevy Tahoe that appeared to be red in color."
25 This information was also in the affidavit for you to review

CAROLYN WILLIAMS: CROSS-EXAMINATION

17

1 prior to signing as well?

2 A Yes.

3 Q And in terms of his home address, that highlighted
4 portion would be, "Recent change to the location of the
5 home, ■ Roberts to ■ Roberts." As well as,
6 "Investigators on July 13, speaking with the Defendant's
7 mother, confirmed that that's where he lived and that he
8 drove a Tahoe." Those two sentences -- three sentences,
9 were also included at the time on July 18 for you to review?

10 A Yes.

11 Q So, in the challenged statement where it includes the
12 Defendant's home, the Tahoe information, and information
13 about the bullet holes, it all naturally lined up in the
14 affidavit?

15 A Yes.

16 MS. FULLER: Thank you, Judge Williams. No further
17 questions at this time.

18 CROSS-EXAMINATION

19 BY MR. BROWN: As a matter of housekeeping, we have
20 transcripts from the previous hearing. I actually have an
21 extra copy for the prosecutor, but there is some rule about
22 making copies, and I'm not sure if Your Honor wants a copy
23 as well. I have one for each of y'all.

24 THE COURT: It may not be a bad idea if I have one at
25 the very least. I will, unfortunately, have to return it to

CAROLYN WILLIAMS: CROSS-EXAMINATION

18

1 you after I'm finished.

2 MR. BROWN: We have one for Your Honor to keep.

3 MS. FULLER: Your Honor, we paid for a copy as well.
4 We paid the copy rate.

5 MR. BROWN: And I don't mind giving them another copy,
6 but I don't want to violate the rule.

7 THE COURT: I'll definitely take you up on your offer.

8 MR. BROWN: I'm just going to maybe mark this as a
9 Court's exhibit. (HANDS UP DOCUMENT TO THE COURT.)

10 MR. BROWN: It also has a transcript of the jail phone
11 call in the back that was part of a motion that they had
12 that's not here today. It does not have the exhibits, which
13 leads to this housekeeping question. I'm assuming that this
14 court reporter still has the exhibits that we entered from
15 the last hearing. The previous court reporter does?

16 THE COURT: Somebody has them, I'm sure.

17 MR. BROWN: If the Clerk has them, I'd like to reuse
18 those if possible.

19 THE COURT: Since it's the official record, I don't see
20 any reason to make this an independent exhibit, because I
21 may take some of this under advisement. I can hang onto it
22 without having to shuffle back and forth in the locker
23 downstairs.

24 MR. BROWN: With that, Your Honor, if I can argue from
25 here for a moment I'm just going to ask some questions.

CAROLYN WILLIAMS: CROSS-EXAMINATION

19

1 THE COURT: Sure.

2 CROSS-EXAMINATION

3 BY MR. BROWN:

4 Q Let me start, Judge Williams, do you know who Melody
5 Shantae Williams is?

6 A That's my daughter.

7 Q Has your daughter ever invited Mr. Ritter over to your
8 house before?

9 A (NO RESPONSE)

10 Q Have y'all ever had --

11 A It seems ---

12 Q -- conversations -- you and Mr. Ritter had
13 conversations in your house?

14 A Seems like he was to my house one time to help her move
15 some furniture.

16 Q Do you know whether she's actually had phone calls to
17 Mr. Ritter while at the jail?

18 A I have no idea.

19 Q Okay. Have you ever asked her about that?

20 A I have no reason to.

21 Q When you mentioned that there was no personal
22 connection, how do you fit that in? Or -- is she about his
23 age?

24 A How old is he?

25 Q Early twenties.

CAROLYN WILLIAMS: CROSS-EXAMINATION

20

1 A She's a little bit older.

2 Q Do you know how she would've known him?

3 A I guess just like anything else they know each other
4 from being in the neighbor -- I don't know.

5 Q Okay. So, again, you had mentioned there were no
6 personal connections to Mr. Ritter. Is that somewhat
7 personal? He had been to your house before.

8 A Not just someone who came to move my furniture, no.

9 Q Moving your daughter's furniture, or yours?

10 A My daughter's furniture.

11 Q Okay, so she had a friend move her furniture. Was she
12 moving out?

13 A It was moving a bed, I think. I can't recall exactly
14 what it was, because I had no interest in it.

15 Q Well, let me ask you. If it would've been you believed
16 it was too much of a personal connection, what would the
17 Hampton County Magistrate's Office policy have been?

18 A If it was something personal between myself and the
19 gentleman, or very personal between my daughter, and I had
20 plenty of knowledge of it, I would not of taken it, but I --
21 I don't know him personally.

22 Q Right. What would've happened?

23 A What do you mean what would've happened?

24 Q Well, I understand you wouldn't have taken it, but in
25 my experience there is not many judges over in Hampton

CAROLYN WILLIAMS: CROSS-EXAMINATION

21

1 County and at one time it was you and another magistrate
2 whose wife worked for the prosecutor's office.

3 A At that time, I think it was just one other magistrate
4 if I'm not mistaken. Judge Solomon in Estill.

5 COURT REPORTER: Can you repeat the name, please.

6 WITNESS: Soloman. S-o-l-o-m-o-n-s.

7 Q What would Judge Solomon have done of his law partner
8 had been Mr. Ritter's lawyer?

9 A Then we would have to go to court administration to
10 have a new person appointed for that particular case.

11 Q And then, let me ask you a little bit about those
12 questions about familiarity with Mr. Ritter. What did Mr.
13 Singleton say about his sister, Obretta?

14 A Mr. Singleton said about his sister?

15 Q Uh-huh. (AFFIRMATIVE)

16 A He didn't speak about a sister.

17 Q Did he tell you that his sister and Mr. Ritter had had
18 a falling out?

19 A No.

20 Q From a romantic relationship?

21 A No.

22 Q If he would have told you that, how would that have
23 impacted your evaluation of first, whether or not you could
24 have still considered the warrant or, second, the
25 reliability of the informant, Mr. Atkins or -- I'm sorry,

CAROLYN WILLIAMS: CROSS-EXAMINATION

22

1 not Mr. Ritter. Mr. Atkins had dated Obretta, his sister.
2 If he had told you that the informant, in fact, has dated
3 his sister and they had a falling out, how would that have
4 affected this?

5 MS. FULLER: Your Honor, I don't necessarily -- not an
6 objection, but a point of just clarification for -- it seems
7 to be some confusion. Are you asking -- is the defense
8 asking if Mr. Ritter --

9 MR. BROWN No, it's Mr. Atkins.

10 WITNESS: Okay.

11 Q Did Mr. Atkins -- and you may not know this. There is
12 a John Atkins that we've been given information was the
13 informant.

14 A Okay, I didn't know who it was.

15 Q Okay. If you were told by Mr. Singleton that he knew
16 the informant because his sister had a falling out with that
17 informant from a romantic relationship ---

18 A No.

19 Q --- that went sour, what would you have told him then?

20 A If we had of discussed that, but normally I don't ask
21 questions about the informant.

22 Q I understand. And you've been asked to make some
23 hypothetical decisions about if something was not in the
24 warrant would you have still signed it. So, I'm going to
25 ask you in the same likeness, same hypothetical, if that

CAROLYN WILLIAMS: CROSS-EXAMINATION

23

1 same search warrant affidavit was presented and Lieutenant
2 Singleton would have said, "Judge, I need to let you know
3 Mr. Atkins and I don't get along. I've arrested him before,
4 and he had a falling out from a romantic relationship with
5 my sister." What would you have done then?

6 A I probably would have asked a few more questions and
7 seen where it would lead, and then I would make a decision
8 based on that.

9 Q What would you have done if, in fact, Lieutenant
10 Singleton would have told you that he only knew Mr. Atkins
11 for sixteen months, and then Lieutenant Singleton told you
12 that he had sworn in a different affidavit that he had known
13 him for eight years.

14 A For how many years?

15 Q Eight.

16 A Eight years?

17 Q That's a little bit longer than 16 months, isn't it?

18 A Yes.

19 Q So, if you had a statement from Lieutenant Singleton
20 that says he had only known the informant for 16 months on
21 one hand -- if I may approach the elmo. I apologize. I'll
22 just put this up there. I'm just going to walk you through
23 this. So we have -- just so we can get the header.

24 (READING) Solicitor's Office investigator. It says on this
25 date. Lieutenant Singleton stated he has only known

1 informant for sixteen months. Now, if he told you that and
2 then the next sentence says, affidavit, right here, I am
3 Perry Singleton -- and I'm going to scoot it up and show
4 that it's been signed. If he would have -- the next
5 sentence says, I've known this source for eight years. What
6 would you have asked him then? Or how would you have felt
7 about that information?

8 A Once again, I probably would've asked him what's the
9 discrepancy between the two year differences, and then, once
10 again I would just make a decision based on what I've heard
11 from that information.

12 Q Okay, but that would cause you to, at least, hesitate
13 to sign it based on what you were presented at the time?

14 A I wouldn't necessarily say hesitate. I would
15 investigate further by asking more questions.

16 Q Okay, right, but until you knew those answers would you
17 be willing to sign it?

18 A No, not until I got some appropriate answers to those
19 questions.

20 Q I appreciate that. I am going to ask you just one
21 follow-up, and I don't need the elmo for this. There was a
22 question in there about the search warrant affidavit and it
23 talked about there being identification of a cousin and then
24 identification of a Tahoe. What tie, absent the statement
25 of the informant, did you have to the home and the Tahoe? In

CAROLYN WILLIAMS: CROSS-EXAMINATION

25

1 other words, besides the informant's statement, what put the
2 Tahoe back at the home after the killings? Besides that
3 informant's statement?

4 A I would have to look back at the affidavit.

5 Q I'm going to put that back up. If I can approach, Your
6 Honor. We'll start with this. If you have just this
7 information here, with the rest of the information. If you
8 take this sentence out ---

9 A Okay.

10 Q --- which is on the second page and I can't put it up
11 there. Do you see anything that says that evidence from a
12 July shooting would have been -- a July 5 shooting -- that
13 that Tahoe ever went back to that house? I don't mind
14 moving it over. I mean, I can't fit them both on. If you
15 just tell me which page you want me to look at.

16 THE COURT: She may not be able to read it. You may need
17 to hand that to her and let her look at it.

18 MR. BROWN: Sure. Would you prefer -- listen, I know
19 too.

20 WITNESS: Yes.

21 Q So, Judge Williams, anything that says that that vehicle
22 went back to the house after July 5, besides the statement
23 of the informant? Besides this portion of that search
24 warrant affidavit. The one that's marked as Courts Exhibit
25 number 4.

CAROLYN WILLIAMS: CROSS-EXAMINATION

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1 A Other than (READING) on July 13, 2018 Investigator
2 spoke with Mr. Ritter's mother, and Annette Maxwell, who
3 confirmed that he lives at [REDACTED] Roberts Street in Estill with
4 her.

5 Q Well, let me ask you this. So, what did Lieutenant
6 Singleton say when he says, "Hey, I got a phone call on the
7 9th and says that vehicle was there earlier in the day", and
8 I'm assuming you said, "Did you go by and see it? Did you
9 go by and seize it?"

10 A Could you repeat that for me?

11 Q Sure. I mean, it just kind of -- I wonder -- y'all
12 weren't searching inside the home. There wasn't a search
13 warrant inside the home looking for the Tahoe, was there?

14 A No.

15 Q Because it wouldn't be practical that the Tahoe would
16 be hidden in the house?

17 A Correct.

18 Q All right. So, what did Lieutenant Singleton say when
19 he told you that he had information on the 9th that the
20 Tahoe was there on the 9th, and he went by there and it
21 wasn't there, or he went by and saw it and didn't do
22 anything, or just drove by and waved, or he confirmed it at
23 all, or he called Estill police and said, "Hey, can you look
24 out for it."

25 A He just said that the informant said that he had seen

CAROLYN WILLIAMS: CROSS-EXAMINATION

27

1 the vehicle at that location and that he needed a possible
2 search warrant to -- because of the vehicle possibly being
3 involved in a incident in Lexington County. He did not say
4 he saw it himself, he just said that the informant saw it.

5 Q But wouldn't it be curious that nobody rode by and
6 seized it if they were looking for it, because they wouldn't
7 need a search warrant just to pull up and see the vehicle
8 there and block it in.

9 A I can't tell you why an officer did what they did.

10 Q Unfortunately I can't ask him. But he never said, "We
11 went by and didn't see it", or, "We went by and did see it."

12 A Not that I can recall.

13 Q Let me ask you, what did he tell you about them keeping
14 records of informants?

15 A What he said about keeping records of the informants?

16 Q Yes, ma'am.

17 A What do you mean by that?

18 Q Well, he told you he had used this fellow before.

19 A Correct.

20 Q Does that sound right?

21 A Yes.

22 Q I think you said he was familiar with him, that he had
23 used them before, that he had proven to be truthful because
24 the law enforcement actions taken based upon his information
25 turned out to be fruitful?

1 A Yes.

2 Q Now, I want to ask you to take a look at this affidavit
3 again and see how -- I may have to zoom it in. See how this
4 plays into it. That he's not had any recorded conversations
5 with this source. Not used this source in any transactions
6 that required an audio or video, and has not used him as a
7 witness, and did not have any records of this source.

8 A And what was the question?

9 Q Does that sound the same as he's used them before and
10 he's been truthful and it led to fruitful actions by law
11 enforcement?

12 A No, they sound contradictory.

13 MR. BROWN: I do want to mark this, if I may, as
14 Defendant's 1 for today's hearing. It's already been
15 introduced at a previous one, but for housekeeping.
16 Just for the record so the court can see I've marked this
17 investigative one as Defendant's 2.

18 Q I've got one more I do want to point out. Likewise, if
19 the Sheriff's Department would have indicated that they also
20 had no recordings or records on this case, is that
21 consistent with what your experience has been? That if they
22 talk to a source and obtain a search warrant and execute a
23 search warrant and then there's no records at all? Does
24 that sound accurate? I mean, I don't know. I'm asking what
25 your experience has been with them.

CAROLYN WILLIAMS: REDIRECT EXAMINATION

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1 A I don't know what the Sheriff's Department does. I can
2 answer anything with the Sheriff's Department.

3 Q Fair enough.

4 MR. BROWN: If we could mark this as Defendant's 3.
5 (WHEREUPON, was marked Defendant's Exhibit No. 3 for
6 identification.)

7 MR. BROWN: Beg the Court's indulgence. Your Honor, we
8 don't have any other questions of this witness. Your Honor,
9 I'm just going to hand these exhibits back. This is Court's
10 4 and Defendant's 1, 2, and 3. I don't have any other
11 questions.

12 MS. FULLER: Your Honor, briefly?

13 REDIRECT EXAMINATION

14 BY MS. FULLER:

15 Q Judge Williams, just a couple of things. I'm going to
16 try to keep it in order just to clarify a few things.
17 Defense counsel was asking you or mentioned the name of the
18 informant that Investigator Perry Singleton later disclosed
19 at a hearing not before you. He indicated that the person's
20 name is John Atkins was asking questions about who he dated
21 in that relationship. My question for you is, if you knew
22 the name of the witness who made that statement, the
23 challenged statement, would you have even had to have
24 questioned -- made any -- asked any questions about the
25 reliability -- any of that information mattered simply

CAROLYN WILLIAMS: REDIRECT EXAMINATION

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1 because that person had given their name and was included in
2 the search warrant? Does that make sense?

3 A Can you rephrase that for me a little bit?

4 Q So, and I can do it this way. Look at the affidavit.

5 THE COURT: Which one are you looking for?

6 MS. FULLER: The search warrant affidavit.

7 Q I'll give you the highlighted one. I'm looking at
8 Court's 2, which as attachment "A" of the search warrant, is
9 it accurate to say the majority of the search warrant is
10 based on eyewitness testimony and in line four you have the
11 name of the surviving victim. Is that correct?

12 A Correct.

13 Q That person is named in the search warrant?

14 A Correct.

15 Q And because that person is named in the search warrant,
16 did you have to ask Investigator Perry Singleton any
17 reliability questions of that person?

18 A No.

19 Q So, my question to you is, when defense counsel was
20 asking you if you look at the challenged statement -- if you
21 look at the challenged statement, and if it said on July 9,
22 and carries on that John Atkins witnessed Mr. Ritter's
23 Tahoe, would you have had to ask any reliability questions
24 there?

25 A No.

CAROLYN WILLIAMS: REDIRECT EXAMINATION

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1 Q Because the person would've been named?

2 A Correct.

3 Q In looking at the search warrant, did you have any
4 question -- looking at the search warrant affidavit,
5 referencing Court's 2 and 3, did you have any questions as
6 to why law enforcement had the Defendant as a suspect in
7 this case?

8 A It was stated in the affidavit.

9 Q So, it was very clear why law enforcement was pursuing
10 Damien Ritter in this case?

11 A Correct.

12 Q Looking at the affidavit, did you have any question as
13 to Damien Ritter's last known address?

14 A It states it in the affidavit.

15 Q When investigators listed out the entire affidavit as
16 to why he was a suspect, listed out referencing to in the
17 highlighted portion that he had a Chevy Tahoe registered to
18 him, which just further confirms his identity, and his home
19 address, did you have any questions that you needed to ask
20 for clarification as to why law enforcement was looking at
21 Mr. Ritter?

22 A No.

23 Q And so, when investigators wished to search the
24 location for evidence to the murder on July 18, did you need
25 any more information as to why law enforcement was present

CAROLYN WILLIAMS: REDIRECT EXAMINATION

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1 and wanted to search his home?

2 A No.

3 Q While defense was questioning you they referenced
4 affidavits that Investigator Perry Singleton -- one
5 affidavit that he swore out following a court hearing which
6 you, of course, you hadn't heard that before, because you
7 weren't present in the courtroom for that. And there was
8 some -- there were two portions of it that you are called to
9 offer an opinion on, so I shall do the same. I have pre-
10 marked the same exhibit, but since it is pre-marked I'll
11 reference mine. It's Court's 10, which, this is what they
12 handed out to you, or asked you to offer an opinion on.
13 Already setting aside if you had known who the person was,
14 you would have asked reliability questions, but looking at
15 this, Investigator Perry Singleton stated here that during
16 the time he was assisting West Columbia he received a call
17 from an unpaid confidential source. (READING) I have known
18 the source for approximately eight years.

19 My question to you is, without Investigator Perry
20 Singleton here to explain that, what -- how would you --
21 what would be your interpretation of this sentence?

22 A Of the defendant?

23 Q Of this sentence. I have known this source for
24 approximately eight years. Does this indicate anything in
25 terms of whether they given me information for eight years

CAROLYN WILLIAMS: REDIRECT EXAMINATION

33

1 or whether he's just simply known who they are for eight
2 years?

3 A Known of the person for eight years.

4 Q And that would be your basic understanding, without
5 knowing more, of this sentence?

6 A Correct.

7 Q With this simply knowing someone for a time period and
8 presenting a warrant to you, you knew the person's name,
9 would this have been even relevant?

10 A (NO RESPONSE)

11 Q Would it have even mattered if the person's name was
12 listed in the affidavit?

13 A If the informant's name was here? No.

14 Q There would've been no reason for you to ask that
15 question?

16 A Correct.

17 THE COURT: Just to save the Defense the trouble of
18 recross, the next sentence, "I've known this source for
19 approximately eight years. During which time he has been
20 provided reliable information to me."

21 MS. FULLER: I was getting to that.

22 THE COURT: I'm saving them the trouble on that.

23 MS. FULLER: Thank you, Judge.

24 Q And in the next sentence, during that time period, are
25 you interpreting that to be the entire eight year period or

CAROLYN WILLIAMS: REDIRECT EXAMINATION

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1 without knowing more you don't know?

2 A I don't know.

3 Q And the information has been accurate through a course
4 of several investigations. Does this say whether or not --
5 explain whether or not this person was a confidential
6 informant per se, or just a person who gave random tip
7 information? Do you know that without knowing more?

8 A No.

9 Q So, when you jump down to what you stated was
10 inconsistent, without knowing more, can you really say that,
11 "I have not used him in a way that would be recorded", would
12 that be inconsistent without knowing more?

13 A No.

14 MS. FULLER: No further questions.

15 THE COURT: Judge, thank you for coming. Sorry for the
16 inconvenience. Enjoy your retirement. I hope to do that one
17 day myself. Take care of yourself and drive safe.

18 MS. FULLER: Your Honor, may she be excused?

19 THE COURT: By all means, yes. Mr. Brown, the Clerk has
20 brought up the exhibits and evidence.

21 MR. BROWN: Thank you so much.

22 THE COURT: Solicitor, you've got another witness on
23 this?

24 MS. FULLER: Yes, Your Honor. Your Honor, the State
25 calls -- he just stepped out.

MATTHEW DAES: DIRECT EXAMINATION

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1 THE COURT: Let's take five minutes for ourselves.

2 We'll be right back on the record in a few minutes.

3 (WHEREUPON, THERE WAS A BRIEF RECESS.)

4 THE COURT: were back on the record in *State v Ritter*.

5 Ms. Fuller, call your next witness please

6 MS. FULLER: Thank you, Your Honor. The State calls
7 Investigator Matt Daes of the West Columbia Police
8 Department.

9 MATTHEW DAES, having first been duly
10 sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. FULLER:

13 Q Investigator Daes, where are you employed?

14 A The West Columbia Police Department.

15 Q What is your current rank?

16 A I am a Detective III or Detective/Sergeant.

17 Q Jumping right in, were you the investigating officer in
18 this case against Damien Ritter?

19 A Yes, ma'am.

20 Q As the investigating officer, were you involved in a
21 search warrant executed on July 18, 2018 at the Defendant's
22 residence in Estill?

23 A Yes, ma'am.

24 Q I'm going to go ahead and display on the overhead
25 States Exhibit -- I apologize -- Court's Exhibit 1. Please

MATTHEW DAES: DIRECT EXAMINATION

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1 tell the court if you recognize this document.

2 A Yes ma'am, I recognize it.

3 Q If you can, pull the mic a little bit closer to you.

4 How do you recognize this?

5 A I recognize that as one of our standard search

6 warrants, and that is my handwriting at the bottom.

7 Q And you said our standard search warrants. Can you
8 explain to the court what you mean by that.

9 A The West Columbia Police Department has a general, I
10 guess you would call it a format, for our search warrant on
11 the Microsoft Word document and on the form actually. On
12 the form. It's a general form.

13 Q Pointing to the top of Court's 1 it says County of.
14 What county is listed?

15 A Hampton.

16 Q Who would've typed that?

17 A I would have.

18 Q Down here the date July 18, 2018, who would've typed
19 that?

20 A I would have.

21 Q It says officer, and it's a handwritten name. Who
22 would've written that?

23 A I wrote that. Investigator Singleton.

24 Q If you could keep your voice just a little bit
25 elevated. On the cover of the search warrant there's this

MATTHEW DAES: DIRECT EXAMINATION

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1 handwriting there. Do you recognize that handwriting that
2 I'm pointing to?

3 A I can't say whether I do or not. I don't know whether
4 that's my handwriting or not.

5 Q But you do recognize this as the search warrant?

6 A I do. That's the one. Yes, ma'am.

7 Q If you can, explain to the Court what was the purpose
8 of obtaining and executing this particular search warrant?

9 A Because, based off of the facts from our investigation
10 we felt like we had probable cause to search Mr. Ritter's
11 home for evidence related to this crime.

12 Q I'm going to show you the second page of the search
13 warrant. When it says description of premises. I'm going to
14 run through it just so it's clear on the record. At the top
15 of the search warrant it is state of South Carolina, county
16 of, and Hampton is typed in. Who, again, typed that?

17 A I did.

18 Q On the second line where you have to indicate the
19 county of jurisdiction, and Estill is written, who wrote
20 that?

21 A I typed that in.

22 Q I apologize. Who typed that?

23 A Yes, ma'am.

24 Q In looking at what is displayed on the overhead
25 projector it has the description of premises, person, place,

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1 or thing in parentheses to be searched. Can you please
2 publish for the record what is written on those lines?

3 A I wrote, "██████ Roberts Street in Estill, SC. This
4 residence is a beige trailer with red trim around the top
5 and around the windows. This residence was formerly listed
6 as ██████ Roberts, but changed. Both addresses are listed on the
7 trailer which has a screened in porch on the right side."

8 Q Who hand wrote that?

9 A I wrote that.

10 Q Why did you hand write that description?

11 A Because we didn't know the description of the residence
12 prior to going down there. Everything else that is typed is
13 information that I knew prior to going down there. I left
14 those areas blank, like Investigator Singleton and the
15 description, so that I could put accurate information as I
16 learned it.

17 Q Just so that it is one hundred percent clear on the
18 record, this homicide occurred in West Columbia jurisdiction
19 in Lexington County; is that correct?

20 A Yes, ma'am.

21 Q The purpose of going to Hampton County, specifically
22 the town or city of Estill, is because you determined that
23 this is where the defendant suspect/cousin resided?

24 A Yes, ma'am.

25 Q You actually drafted this document?

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1 A Yes, ma'am.

2 Q How did Investigator Perry Singleton get involved in
3 this case?

4 A Well, it's standard for us when we go to another
5 jurisdiction. I would not have had the authority in Hampton
6 County to sign for a search warrant with a magistrate. I
7 needed someone that had jurisdiction, so it's customary for
8 us to get with other investigators in other jurisdictions
9 and we usually find someone that's kind enough to help us.

10 Q And you indicated kind enough to help us. Was the
11 person you're referring to Investigator Perry Singleton?

12 A Yes, ma'am.

13 Q I guess -- just take The Court through it. How was he
14 selected? Because I'm sure there were other officers at the
15 Hampton County Sheriff's office. How did Investigator.
16 Singleton actually get involved?

17 A So, it's my understanding that the first person that
18 became involved from the Hampton County Sheriff's Department
19 was through Investigator Aldrich, and that was with
20 Investigator Singleton. When we went down there,
21 Investigator Singleton had met with him at the Sheriff's
22 Department. Investigator Singleton was there, but there were
23 also other investigators and, as is common when
24 investigators get together, we all discussed the case. We
25 all talked and it just so happened that Investigator

1 Singleton would be the one that would be the affiant. That's
2 why I didn't know who was going to do it prior to going
3 there, I just wrote his name in when it was established that
4 he would.

5 Q So, it's clear when you left West Columbia Police
6 Department on July 18 to execute the search warrant you did
7 not know who would actually swear out the affidavit in this
8 case as it relates to the search warrant?

9 A No, I had no clue. I just knew that I would find
10 someone willing to help me.

11 Q I'll get to some follow-up questions shortly. Looking
12 at the description of property, can you please publish on
13 the record what you are looking for?

14 A Sought are all firearms and accessories, ammunition,
15 currency, safes and locked containers, cell phones,
16 computers, hard drives, drugs, drug paraphernalia, clothing,
17 blood, DNA or deoxyribonucleic acid, fingerprints, trace
18 evidence, GPS devices, receipts, and any other paperwork or
19 documents and any other item that would aid in the
20 investigation of these homicides.

21 Q So, the purpose of this search warrant was to seek out
22 any information as it relates to the crime that occurred in
23 your jurisdiction?

24 A Yes, ma'am.

25 Q This is the affidavit portion, or the sworn portion of

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1 the affidavit. Can you also publish the county?

2 A Hampton.

3 Q The affiant's name is typically listed at the top of
4 the search warrant as well as signed at the bottom. Who is
5 listed?

6 A Investigator Singleton.

7 Q Who wrote that?

8 A I did.

9 Q How do you know you wrote that?

10 A That's my handwriting and I remember doing it. I
11 remember where I was when I did it.

12 Q Looking at the description of property sought, is that
13 the same that you published on the previous page of the on
14 the actual search warrant?

15 A Yes, ma'am. I always make sure that those two blanks
16 are always the same.

17 Q Is it cut and paste?

18 A Usually, yes.

19 Q Looking at the description of premises to be searched,
20 that is handwritten?

21 A Yes, ma'am.

22 Q Is that the same information on the search warrant
23 portion is on the affidavit?

24 A Yes, ma'am.

25 Q And that's also handwritten. Who wrote that?

1 A I did.

2 Q And the portion that says reason for affiant's belief
3 that the property sought is on the subject premises. Can
4 you publish what's written on that line?

5 A See attachment "A".

6 Q Why was that done?

7 A Because the probable cause for this, for why I had
8 reason to go into his home, was so numerous that I needed
9 additional paperwork to list it out.

10 Q And you keep saying "I". Just so it's clear as well,
11 for what we would call the probable cause section the
12 reasons why the affiant believed the premises should be
13 searched, "I" would indicate on the record that you actually
14 typed that as well.

15 A I did type that.

16 Q And generally speaking, can you explain to the Court
17 your method of -- how do I say this. Can you explain to the
18 Court when you -- what you understand your burden should be
19 when obtaining a search warrant?

20 A My burden is to take articulable facts to where I can
21 explain to a magistrate why I have the right to go in as an
22 exception to someone's Fourth Amendment rights to be able to
23 go into their home and search for things.

24 Q And that is what we would generally refer to as you
25 know that you have to establish probable cause?

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1 A Yes, ma'am.

2 Q Still working on Courts Exhibit 1 where, looking at the
3 top portion, where it says "Attachment A part 1 of 2".
4 Again, just for the record, to be clear who typed that?

5 A I did.

6 Q I'll refer to it as the paragraph. That follows who
7 typed that?

8 A I did.

9 Q There's a line for the affiant to sign. And who signed
10 that?

11 A Perry Singleton.

12 Q Can you tell the Court whether or not you were present
13 when he signed that?

14 A I was.

15 Q I'll ask some more detailed questions about that after
16 I publish part two of two. Same questions. Who typed the
17 rest of the paragraph carrying over to the second page?

18 A I did.

19 Q And the affiant who signed it?

20 A Perry Singleton again.

21 Q Dated?

22 A It was on July 18, 2018

23 Q Can you explain to the Court your -- I was going to ask
24 general method earlier, but in this situation you are going
25 to assist an agency. What do you remember about engaging

1 Investigator Singleton to sign this affidavit prior to him
2 actually presenting it to the judge?

3 A Well, I know the process of getting search warrants
4 signed or an arrest warrant and I know that you have to
5 explain your probable cause to the judge, so I have to get-
6 - I have to explain my case to other departments, or in this
7 case to someone who is going to sign as my affiant. I have
8 to explain to him my probable cause and make sure that he
9 understands it so that he can intelligently answer any
10 questions given to him by the magistrate, and once he feels
11 comfortable with probable cause then we can go forward with
12 getting it signed.

13 Q Once you explained all this to Investigator Perry
14 Singleton did he have any questions or eventually get to the
15 point that he was comfortable with presenting this?

16 A Yes, he did get to the point of being comfortable with
17 it.

18 Q But it took you going through and explained to him what
19 you had in there?

20 A Yes, ma'am. I detailed I would imagine pretty much
21 everything that we had in the case so far.

22 Q When you are explaining all this to Investigator Perry
23 Singleton, was he at all outside of -- you mentioned the
24 initial contact with Investigator Aldrich and that
25 information given. Was he at all privy to all of these

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1 details that you developed in your investigation?

2 A Are you talking about prior to me going down there?

3 Q Yes.

4 A I wouldn't imagine that he wouldn't have known
5 everything that was in there.

6 Q So, is it safe to say that Investigator Perry Singleton
7 couldn't have written this on his own?

8 A Correct.

9 Q That only the investigating officer, or someone with
10 your agency with knowledge of the case, would have written
11 this?

12 A Yes, ma'am.

13 Q Were you present when Judge Williams, who just
14 testified, actually signed this search warrant?

15 A Yes.

16 Q Can you share with the Court what you recall?

17 A I recall the judge reading the warrant and I recall
18 Investigator Singleton swearing to it, and then him signing
19 as affiant and the warrant being signed before we left to go
20 execute them.

21 Q Do you recall if Investigator Singleton was placed
22 under oath in your presence?

23 A I believe he was.

24 Q Just for the record, what does it mean "under oath"
25 generally? When you're placed under oath.

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1 A It means that you're swearing to specific facts. You're
2 not giving an opinion. You're stating these are true facts
3 that I'm going to give.

4 Q Now, we know that Investigator Singleton was the one
5 that actually swore out the affidavit. If you were placed
6 under oath for this exact search warrant on July 18, 2018,
7 would you have taken that same oath?

8 A Yes, ma'am.

9 Q What you have presented this same search warrant?

10 A Yes, ma'am.

11 Q The contents of the affidavit, would you have been
12 affirming that to the best of your knowledge that this was
13 true?

14 A Yes, ma'am.

15 Q And that this was the basis for your probable cause.

16 A Yes, ma'am.

17 Q And then, for the record, I'll have you publish the
18 probable cause.

19 A It says, (READING) Attachment "A" part one of two. On
20 July 5, 2018 at approximately 2:19 PM a call came in to the
21 West Columbia -- and I'm sure that I meant to say Police
22 Department -- about shots fired at [REDACTED] Glenn Street,
23 Apartment [REDACTED], West Columbia. Units arrived on scene and
24 located two people unresponsive in the kitchen with apparent
25 gunshot wounds to their heads. Outside of the apartment was

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1 Rodney Furtick. Mr. Furtick was suffering from a gunshot
2 wound to his left leg as he explained that he came over to
3 see Samir Atkins. Someone called for Mr. Atkins and he did
4 not answer saying that he did not recognize the number. The
5 number called again and Mr. Atkins answered. He said to Mr.
6 Furtick that it was his cousin and that he was on his way
7 over. The two entered the home and a short time later a
8 black male with a low haircut and gold teeth came in.

9 Mr. Atkins introduced him as his cousin and the cousin
10 and Mr. Atkins went into the kitchen. Mr. Furtick heard a
11 gunshot and ran towards the back of the apartment. The
12 cousin caught up to him and ordered him at gunpoint into the
13 kitchen. Mr. Furtick saw Mr. Atkins dead on the floor and
14 was ordered to lay down next to him. Another individual was
15 ordered by the cousin to hold him there at gunpoint while
16 the cousin went throughout the house, after having asked
17 where everything was. When the cousin returned he heard him
18 say to give him the gun and then ordered someone else down
19 to the ground. Mr. Furtick heard a gunshot looked up and saw
20 the cousin pointing the gun at him. He pulled the trigger
21 but nothing happened. It was at this time that Mr. Furtick
22 grabbed the cousin who was telling someone else to shoot.
23 Mr. Furtick threw the cousin into this person and ran out of
24 the apartment.

25 As Mr. Furtick retrieved his gun from his vehicle, the

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1 cousin and another person exited the house and entered a
2 burgundy Chevy Tahoe. The Tahoe drove south on Glenn Street
3 towards Airport Boulevard while the cousin fired at Mr.
4 Furtick, who was returning fire. EMS pronounced Mr. Atkins
5 dead in the kitchen, but transported who was established to
6 be Elzie Mack based on a vehicle parked in front of the
7 apartment. The scene was processed and evidence gathered
8 supported Mr. Furtick's statement.

9 Investigators then spoke with Nikki Hicks, Mr. Atkins'
10 girlfriend. She was given the description of a cousin with
11 the identifiers provided to investigators by Mr. Furtick.
12 Ms. Hicks said that Mr. Atkins had a cousin named Damien
13 that people call "Black" who drove a red Chevy Tahoe.
14 Investigators then spoke with Mr. Atkins' mother and
15 grandmother. His grandmother, Betty Martin, provided a
16 number for Damien's aunt, Loretta Maxwell. On July 6, 2018 I
17 spoke with Ms. Maxwell. She said that her nephew's name was
18 Damien Ritter. A DMV search revealed that registered to him
19 was a Chevy Tahoe that appeared to be red in color based off
20 of an old LPR hit. A lineup was obtained and Ms. Hicks
21 identified Mr. Ritter as -- this is attachment "A" part two
22 of two -- as the cousin whom she was describing. Likewise,
23 Mr. Furtick picked Mr. Ritter out of a lineup as the person
24 that was identified as Mr. Atkins' cousin who ended up
25 shooting all three people.

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1 On July 9, 2018 information was received from an
2 Investigator Singleton from the Hampton County Sheriff's
3 Department that a confidential informant witnessed Mr.
4 Ritter's Tahoe with bullet holes in it earlier that day at
5 Ritter's home located at ■■■ Roberts in Estill, South
6 Carolina. It should be noted that county officials recently
7 changed the address to ■■■ Roberts Street in Estill, SC. On
8 July 13, 2018, investigators spoke with Mr. Ritter's mother,
9 Annette Maxwell. She confirmed that her son lived with her
10 at ■■■ Roberts Street in Estill and that she knew him to
11 drive that Tahoe. Investigators wish to search this location
12 for evidence from this murder.

13 Q And this is the affidavit, the probable cause that you
14 had to search Mr. Ritter's residence?

15 A Yes, ma'am.

16 Q In this affidavit, you were able to articulate to the
17 issuing magistrate why Mr. Ritter was a suspect in this
18 case?

19 A Yes, ma'am.

20 Q And you were able to articulate to the issuing
21 magistrate some of the corroborating information from the
22 surviving victim in this case?

23 A Yes, ma'am.

24 Q And you are able to articulate to the magistrate Mr.
25 Ritter's home address and where he resided?

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1 A Yes, ma'am.

2 Q In looking at the challenged statement, and I know I
3 just jumped into it, but you acknowledge that Court's 4 is a
4 sentence from the search warrant that you typed?

5 A Yes, ma'am.

6 Q A sentence specifically from the affidavit?

7 A Yes, ma'am.

8 Q If you can, read that challenge statement for the
9 record.

10 A On July 9, 2018, information was received from an
11 Investigator Singleton from the Hampton County Sheriff's
12 office ---

13 Q And I'll stop you right there. Can you explain to the
14 Court why you included that portion of the sentence and how
15 did you come about that information?

16 A You're talking about the next portion?

17 Q No, the first portion that I stopped at.

18 A Oh, from a conversation that I had with Investigator
19 Aldridge.

20 Q And that's where you obtained the date?

21 A Yes, ma'am.

22 Q Based on the conversation that you had with
23 Investigator Aldridge, did you believe that he received a
24 phone call on July 9?

25 A Absolutely.

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1 Q Do you believe that he received a phone call from
2 Investigator Singleton from the Hampton County Sheriff's
3 office?

4 A Yes, ma'am.

5 Q If you'll publish the rest of the sentence.

6 A That a confidential informant witnessed Mr. Ritter's
7 Tahoe with bullet holes in it earlier that day at Ritter's
8 home located at ■ Roberts in Estill South Carolina.

9 Q In regards to the rest of the sentence, putting it all
10 together, where did you receive that information from as
11 well?

12 A I received that information from Investigator Aldridge.

13 Q Do you believe that Investigator Aldridge, on July 9,
14 received that information?

15 A Absolutely.

16 Q Any doubt in your mind that he received it on July 9?

17 A Not at all. I work with Investigator Aldrich. He told
18 me the truth about that.

19 Q In terms of Mr. Ritter's Tahoe, during the
20 investigation were you able to verify that Damien Ritter had
21 a Tahoe?

22 A Yes.

23 Q In looking at Court's 2 down here, was some of your
24 investigation in confirming that he had a Tahoe in the
25 highlighted portion down here?

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1 A I'm sorry. What was your question?

2 Q I apologize. Some of the information that Mr. Damien
3 Ritter -- throughout your investigation, you were able to
4 determine in multiple different ways that Mr. Ritter had a
5 Tahoe.

6 A That's correct.

7 Q In the actual four corners of the document in the
8 affidavit, was that also detailed for the issuing
9 magistrate?

10 A Yes, ma'am.

11 Q And can you publish that portion?

12 A On July 6, 2018 I spoke with Ms. Maxwell. She said
13 that her nephew's name was Damien Ritter. A DMV search
14 revealed that registered to him was a Chevy Tahoe that
15 appeared to be red in color based off of an old LPR hit.

16 Q And the relevance that the cousin was driving, is that
17 reflected in this highlighted portion as well?

18 A Yes, ma'am.

19 Q Can you publish this middle highlighted portion for the
20 record?

21 A Yes, ma'am. As Mr. Furtick retrieved his gun from his
22 vehicle, the cousin and another person exited the house and
23 entered a burgundy Chevy Tahoe. The Tahoe drove south on
24 Glenn Street towards Airport Boulevard while the cousin
25 fired at Mr. Furtick who was returning fire.

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1 Q And when you included that sentence -- those sentences
2 in the search warrant affidavit, what was the relevance of
3 this sentence?

4 A So, it was establishing that the witness, Mr. Furtick,
5 saw this person matching a particular description driving a
6 Tahoe and then once we were able to get a name associated
7 that and speak with his family we confirmed that not only
8 did he match that description given by Mr. Furtick, but also
9 he drove a Tahoe.

10 Q And when Mr. Furtick indicated that he was returning
11 fire, what did you understand that to be and what did you
12 mean by including it in the search warrant?

13 A Oh, it's that we were probably looking for a vehicle
14 that had been shot up given that Mr. Furtick fired at it.

15 Q And this was included in the original affidavit for the
16 issuing magistrate?

17 A Yes, ma'am.

18 Q In terms of bullet holes, in your investigation were
19 you expecting, or anticipating, or hoping to find this Tahoe
20 with bullet holes in it?

21 A I was expecting that would be what I would find were I
22 to find the Tahoe.

23 Q And in your investigation, can you explain to the Court
24 if you received any other information about bullet holes in
25 the Tahoe.

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1 A I did from multiple other people in this investigation.

2 Q Can you explain that to the Court?

3 A I had an interview with Beverly McGruder in Hephzibah,
4 Georgia and she did tell to me that she saw a bullet hole in
5 his windshield that she saw the Defendant put a rock in, she
6 said, to make it look like it got hit by a rock. Also, in
7 speaking with Tayanna Sanders, who is a girlfriend I believe
8 of Mr. Ritter's, when we spoke with her she advised that Mr.
9 Ritter told her that his -- I believe he said his windshield
10 and his tire were shot on his Tahoe.

11 Q In speaking about Ms. Sanders, did she later in some way
12 attempt to recant her statement?

13 A Yes, she said that she said those things because she
14 was mad.

15 Q But she did give the specific details about bullet
16 holes?

17 A Yes.

18 Q You may not recall when you actually spoke with her,
19 but this was after the search warrant?

20 A It was. It was well after.

21 Q If you had spoken with her before the search warrant,
22 would you or would you have not included that statement in
23 your probable cause?

24 A It would have been relevant. I probably would have put
25 it in there.

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1 Q And now that she has somewhat recanted, backtracked,
2 and gone back and forth, would that have impacted what you
3 knew on July 18, 2018?

4 A You said would that have what?

5 Q Would that have impacted your probable cause on July
6 18, 2018 if her statement was included and she later
7 recanted?

8 A No, it would not have changed my opinion on whether or
9 not I had probable cause to search his home.

10 Q Because at the time of drafting this document you
11 believed the information that you had to be true?

12 A Yes, ma'am.

13 Q And, true not in the sense that it may or may not be
14 disputed later on, but at the time of swearing it out you
15 believed you were relying on information that you thought
16 was truthful?

17 A Correct. I had faith that these were true facts.

18 Q And if you had any doubt that this was not a true
19 statement, would you or would you have not included it in
20 your search warrant?

21 A If I had doubt that these were not true, I would have
22 provided the relevant facts that should also be considered
23 and weighed.

24 Q If you had known that any witness had given conflicting
25 stories or recanted, would you have included -- if you

1 needed it for your probable cause, would you have included a
2 full description of that in your probable cause and
3 explained it to the issuing magistrate?

4 A Absolutely.

5 Q But at the time of 2018 -- drafting this document and
6 getting it signed and executed, did you have any reason to
7 believe that the informant would later recant his story?

8 A I had no reason to believe that.

9 Q And his recantation now, do you believe it impacts your
10 probable cause then?

11 A Not at all.

12 Q Looking back at Court's 4, on July 18, 2018, did you
13 have any -- did you know that you would not -- let me ask
14 you this. Has the Tahoe been recovered in this case?

15 A It has not.

16 Q Do you know what happened to it?

17 A I do not know.

18 Q When you drafted this document on July 18, 2018, did
19 you know that the Tahoe would not be recovered?

20 A I did not know.

21 Q And if you knew you July 18, 2018 that the Tahoe would
22 not have been recovered, so would not have been able to
23 prove or disprove this statement, would then including this
24 statement potentially rise to intentionally trying to
25 mislead a magistrate?

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1 A Would doing what?

2 Q Would you have believed that you were misleading the
3 magistrate if at the time you didn't know whether or not it
4 would be recovered?

5 A No, because even though I did and still do take this to
6 be true information, the probable calls without this would
7 stand on its own without, you know, someone having seen that
8 the car was shot up. I'd still have probable cause to
9 believe that he committed this murder and that he was there
10 at this residence and needed to go there to find fruits of
11 this crime.

12 Q And in terms of you mentioned living there, and that's
13 the address you were given, that your investigator was given
14 on July 9 of ■ Roberts?

15 A I don't know whether it said ■ Roberts or ■, but it
16 would be one of the two.

17 Q Okay. And then so looking at Court's 3, did you have
18 another means of verifying his address and was that detailed
19 also in the affidavit?

20 A Yes.

21 Q And can you publish that for the record?

22 A (READING) It should be noted that county officials
23 recently changed the address to ■ Roberts Street in
24 Estill, South Carolina. On July 13, 2018, investigators
25 spoke with Mr. Ritter's mother, Annette Maxwell, she

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1 confirmed that her son lived with her at [REDACTED] Roberts Street
2 in Estill and that she knew him to drive that Tahoe.

3 Q And speaking about the Tahoe, we know as of today,
4 April 11, that it has not been recovered.

5 A Correct.

6 Q Have you, throughout the investigation, actively
7 searched for this Tahoe?

8 A Extensively.

9 Q And you have not been able to recover it?

10 A Just about every person that we've talked to we've
11 asked them about it and we can't find it.

12 Q And so it's not for a lack of trying?

13 A Correct.

14 Q Back on July 18, I know you drafted the document. You
15 were present when it was sworn and presented to the
16 magistrate. Did you participate in the execution of the
17 search warrant?

18 A Yes, ma'am.

19 Q When the search warrant was obtained and you knew it
20 was signed, did you rely in good faith that you had a valid
21 search warrant?

22 A Yes, ma'am.

23 Q Did you have any reason to doubt that you had a valid
24 search warrant?

25 A Not at all. I knew I was legally there.

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1 Q Looking at the last page of the search warrant, can you
2 describe to the court what page of the search warrant this
3 is?

4 A This is a return. That's where we detail out every item
5 that we took and we leave a copy of that with a resident so
6 that they can be fully informed of what government officials
7 did on their property.

8 Q Just to confirm, you did actually leave this document
9 at the residence?

10 A Yes, ma'am.

11 Q What other involvement in completing the return did you
12 have?

13 A So, someone with jurisdiction would swear in front of
14 the magistrate, the same magistrate that issued it, that
15 these are the items and the only items and all the items
16 that were taken and they would sign stating that.

17 Q And for the inventory portion of the affidavit, who
18 wrote this?

19 A I did.

20 Q And you recognize your handwriting?

21 A Yes, ma'am.

22 Q And what items were inventoried as being seized during
23 the search warrant?

24 A I took four items. I took a black Luger LCP .380
25 pistol with magazine with four rounds with the serial number

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1 372020872. I took a small black Glock magazine. I took a
2 black Pro mag magazine with extender. Lastly, I took a Night
3 Owl DVR with serial number 508A070096 with an HDMI power
4 cord and mouse.

5 Q Is this the address listed here that a copy of the
6 search warrant was left?

7 A Yes, ma'am.

8 Q And who wrote this?

9 A I did.

10 Q Looking at the bottom of the document, the inventory
11 was made in the presence of who?

12 A Myself, Investigator Singleton, and Investigator
13 Brooker.

14 Q And who completed that portion?

15 A I did.

16 Q The signature of the executing officer, who signed
17 that?

18 A Investigator Brooker.

19 Q Can you tell the court when this return was filed?

20 A It appears to have been filed on July 23, 2018.

21 Q Thank you.

22 MS. FULLER: Your Honor, I believe I placed this on the
23 record, but just let the record show that Exhibit 1 is
24 actually a certified true copy. That may have come out
25 already, but I wanted to make sure it was on the record.

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1 Q Turning to -- I want to hand you a copy of another
2 search warrant in this case. It has been pre-marked as
3 Court's Exhibit 5. I'm going to hand it to you and ask if
4 you recognize it.

5 A Yes, ma'am.

6 Q How do you recognize it?

7 A I recognize this as one of our standard search
8 warrants.

9 Q Who is the affiant on this search warrant?

10 A I am.

11 Q I'm going to retrieve it from you. What is the county
12 listed on the search warrant?

13 A Lexington.

14 Q Who would have typed that?

15 A I did.

16 Q What was the date of the search warrant?

17 A July 23, 2018.

18 Q The officer?

19 A My name. Investigator Matthew Daes.

20 Q And this is a copy of a certified true copy?

21 A Yes, ma'am.

22 Q What was the search warrant for?

23 A It was a search warrant for the various cell phones
24 that we recovered during this investigation.

25 Q And who typed this out?

MATTHEW DAES: DIRECT EXAMINATION

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- 1 A I did.
- 2 Q And the description of property?
- 3 A Do you wish for me to read that?
- 4 Q No. Who typed that as well?
- 5 A Oh, I did.
- 6 Q And you are just searching for texts, anything else
- 7 that you can find on the devices?
- 8 A Yes, ma'am.
- 9 Q And who was the issuing magistrate?
- 10 A Judge Kenneth Ebener. (PHONETIC)
- 11 Q When was this search warrant worn out or presented to
- 12 the magistrate?
- 13 A July 23, 2018.
- 14 Q And this was during the investigation of the case?
- 15 A Yes, ma'am.
- 16 Q And whose signature on the next page is as the affiant?
- 17 A Mine.
- 18 Q And again, same description of property? Description
- 19 of property sought. Description of premises. Listing out
- 20 all of the cell phones you sought to get extracted in this
- 21 case?
- 22 A Yes, ma'am.
- 23 Q And the probable cause section we've already described
- 24 indicates to "See attachment A".
- 25 A Yes, ma'am.

MATTHEW DAES: DIRECT EXAMINATION

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1 Q And who typed that?

2 A I did.

3 Q Again, the purpose on this particular search warrant,
4 why you typed, "See attachment A".

5 A Because again, the probable cause was too numerous to
6 fit onto the allowed space on that form.

7 Q Generally speaking -- or, let's just say this. What
8 does the top of this affidavit say?

9 A Attachment A part one of two.

10 Q And this would be considered the affidavit for this
11 search warrant?

12 A Yes, ma'am.

13 Q More or less, the beginning portion if you can see my
14 pen from the top throughout is exactly similar to the
15 affidavit. And I'll just, for ease, publish Court's 2 that
16 you used in the July 18, 2018?

17 A Yes, ma'am. It's largely the same.

18 Q And here, the specifics of the cell phone is included?

19 A Yes, ma'am.

20 Q Let's look now to Attachment A part two of two. Again,
21 that's your signature as the affiant?

22 A Yes, ma'am.

23 Q Do you see the challenge line that we've identified in
24 Court's 4 that we've identified in this search warrant as
25 well?

MATTHEW DAES: DIRECT EXAMINATION

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1 A The part about the conversation with Investigator
2 Singleton?

3 Q Yes. And I'll publish Court's 4 again.

4 A No, ma'am. I don't believe so.

5 Q On July 9, 2018, and then looking at ---

6 A Oh, yes.

7 Q On July 9, 2018 -- can you read that sentence?

8 A (READING) On July 9, 2018 information was received from
9 an Investigator Singleton from the Hampton County Sheriff's
10 Office that a confidential informant witnessed Mr. Ritter's
11 Tahoe with bullet holes in it earlier that day at Mr.
12 Ritter's home located at ■ Roberts in Estill, South
13 Carolina.

14 Q Okay. We can double check, but is that almost word for
15 word the challenge sentence here today?

16 A I believe so.

17 Q And when you included it on July 23, 2018 and
18 presented it to -- who is the issuing magistrate for this
19 warrant?

20 A Judge Kenneth Ebener.

21 Q Did you have any reason to question the truthfulness
22 or validity of that sentence?

23 A No, ma'am.

24 Q And when you presented it to this judge on July 23 did
25 you intend to deceive him or mislead him in any way?

MATTHEW DAES: DIRECT EXAMINATION

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1 A Not at all.

2 Q Do you believe you were reckless in including that
3 statement?

4 A No, ma'am.

5 Q And did you include it because you believed that your
6 fellow colleague received that phone call with that
7 information?

8 A Yes, ma'am.

9 Q And it's included in this separate search warrant
10 that's not being challenged here today?

11 A Yes, ma'am.

12 Q And then just to show you also signed and filed a
13 return in this case?

14 A Yes, ma'am.

15 Q During the last hearing, were you present when John
16 Atkins testified?

17 A Yes, ma'am.

18 Q Prior to that hearing, did you come to learn about John
19 Atkins' relevance to this case?

20 A Yes, ma'am.

21 Q What did you learn about John Atkins' relevance to this
22 case?

23 A I learned that Investigator Singleton disclosed that
24 the person to whom he was referring that gave him
25 information about seeing Damien's Tahoe with bullet holes

MATTHEW DAES: DIRECT EXAMINATION

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1 was who we later identified as John Atkins.

2 MS. FULLER: Just since I'll be referencing, Your Honor,
3 I have marked John Atkins' testimony as Courts 6. It's
4 probably in there. For the record, it's pages 35 through
5 63.

6 Q Based on the information you received, did you obtain a
7 phone number for John Atkins?

8 A I did.

9 Q If you can take a moment and publish that phone number
10 for the record.

11 A (READING) I made contact with Mr. Atkins at phone
12 number [REDACTED].

13 Q Were you able to confirm with him that that was the
14 phone number he had back in July 2018?

15 A (NO RESPONSE)

16 Q Well, Let me ask you this. Were you present in the
17 courtroom during his testimony?

18 A Yes, ma'am.

19 Q Publishing additional portions, Court's 7. When Mr.
20 Atkins was testifying, he was asked what number did you have
21 back in 2018? Can you publish his answer?

22 A He said the same number that I gave to the previous
23 question, [REDACTED].

24 Q And that is the phone number that you actually made
25 contact with him. Do you remember when you made contact

MATTHEW DAES: DIRECT EXAMINATION

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1 with him as it relates to this case?

2 A January 7, 2020 at 11:24 AM.

3 Q Further down it says, "And that's the number that Perry
4 Singleton would have had for you then?" And his answer?

5 A Yes.

6 Q And that's on page 55 of the October 22 transcript. And
7 again, on redirect, do you see the number there again?

8 A Yes, ma'am.

9 Q And that's [REDACTED]?

10 A Yes, ma'am.

11 Q And that's Exhibit 7. When you spoke with him, did you
12 have any phone records with you at the time?

13 A No, ma'am.

14 Q Did you think about obtaining phone records when you
15 spoke with him at that time?

16 A No, ma'am.

17 Q I'm going to show you what will be authenticated later,
18 but for the purpose of this hearing Courts Exhibit 8 and
19 just have you glance at it and see if you are familiar with
20 what that is.

21 A Yes, ma'am.

22 Q What is that?

23 A This was a Verizon phone record for phone number [REDACTED]

24 [REDACTED], which is for Perry Singleton.

25 Q Just based on your experience, or just knowledge as a

MATTHEW DAES: DIRECT EXAMINATION

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1 person that may have a cell phone, does this appear to be
2 portions of call details from a phone bill?

3 A Yes, ma'am.

4 Q On Court's 8, starting here, do you recognize the same
5 number that you communicated with John Atkins on this
6 record?

7 A Yes, ma'am.

8 Q Where do you see it?

9 A I see it many times on the left column on [REDACTED]
10 [REDACTED].

11 Q On July 9 do you see that phone number on these
12 records?

13 A Yes, ma'am. At 9:05 AM on July 9.

14 Q At what time on July 9?

15 A It says 9:05 AM.

16 Q The first time on July 9.

17 A Oh, I apologize.

18 Q I'll zoom in.

19 A Yes, there are two up above that. One at 7:48 AM and
20 another at 8:33.

21 Q Okay. Just so the record is clear, this is a redacted
22 portion of the phone bill. On July 9, based on your
23 communication with Mr. Atkins, who do you believe that phone
24 number to be on those records?

25 A I believe that to be Mr. Atkins' phone number.

MATTHEW DAES: CROSS-EXAMINATION

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1 MS. FULLER: Beg the Court's indulgence. No further
2 questions at this time.

3 MR. BROWN: Beg the Court's indulgence.

4 THE COURT: Sure.

5 CROSS-EXAMINATION

6 BY MR. BROWN:

7 Q Let me just start. We've kind of been over some phone
8 records, so I'm going to start with a little follow-up from
9 your previous testimony. Do you recall testifying that you
10 had actually looked at ---

11 A Pardon me?

12 Q --- the phone of Mr. Atkins while he was in front of
13 you?

14 A I believe that I did. Yes, sir.

15 Q Okay, and that you didn't see any phone records on it.

16 A Explain again what you're asking.

17 Q Do you recall testifying that (READING) He let me look
18 in his phone and I saw that there was -- there were no phone
19 calls. Question. And that satisfied your inquiry? Answer.
20 He answered my question.

21 A I recall that.

22 Q Okay. How does that jive with these phone records?

23 A So, I believe that when I was looking at his phone it
24 was that day. I was looking at records from right then. The
25 date that I spoke with him was, what did I say, January 27

1 of 2020. Were talking about a phone conversation that
2 happened back on July 9 of 2018. Those records wouldn't have
3 been there anymore.

4 Q Okay, hold on.

5 A On his phone. Physically for me to see.

6 Q When you said at the October hearing that you were
7 satisfied after searching his phone, what did that mean
8 then? What were you satisfied that you had not located.

9 A Well, if you could refresh my memory what you are
10 asking so that could give me some introspect into what I was
11 saying when I said I was satisfied.

12 Q Oh, absolutely. Let me do this. I'm going to put my
13 mask on and see if I can pass up the transcript that is
14 sitting beside the judge to you and then we can let you read
15 your testimony.

16 A Sure.

17 THE COURT: Can you give him a page number?

18 Q Look at page 88.

19 A Yes, sir. I'm ready.

20 Q It just dawned on me. I'm going to actually hand you
21 another copy of this. I've got an extra. You can hand that
22 back to His Honor.

23 A Thank you. You said page 88?

24 Q Yes, sir. And your testimony obviously precedes it and
25 follows as well.

MATTHEW DAES: CROSS-EXAMINATION

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1 A I read page 88 and 89.

2 Q What was satisfactory back then that wasn't
3 satisfactory at the time, I guess, we got these phone
4 records?

5 A Well, you were asking me in this question whether or
6 not that satisfied my curiosity. It appears as though what I
7 was answering was to the question of whether or not he had a
8 phone conversation with Mr. Singleton on that day prior to
9 me coming there. That's what I was looking for. I wouldn't
10 have checked back to see phone records from July 9, 2018,
11 because I knew they wouldn't be in his phone.

12 Q Well, that's interesting. Why would you actually think
13 to look at his phone about whether he had talked to Perry
14 Singleton the day you are interviewing him in January 2020.

15 A It's just a conversation and a question that I asked.

16 Q But why did you suspect that he had had a conversation
17 with Mr. Singleton that day?

18 A So, when I called to get information on Mr. Atkins
19 prior to -- and that should be in my notes -- prior to going
20 down there, someone with the Sheriff's Department told me
21 that when I asked about that name they said, "Oh, that
22 person was just here. They talked to the Lieutenant." But I
23 established from talking with Mr. Atkins that it was
24 actually a different Lieutenant with whom he had that
25 conversation. There were two Lieutenants there, Singleton

MATTHEW DAES: CROSS-EXAMINATION

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1 and the other.

2 Q So, you're saying that Mr. Atkins had actually been at
3 the Sheriff's Department about another event?

4 A I believe that's what is in the notes on that day.

5 Q And you were trying to judge his credibility as to
6 whether he had been there or not?

7 A No. The woman told me on the phone that he was there. I
8 believe him that he was there.

9 Q I'm having trouble figuring out why you would look into
10 his phone at all. If it wasn't to do with the search
11 warrant -- let's be clear. The issue that led you to go and
12 interview him in January 2020 was this search warrant at the
13 house in Estill, wasn't it?

14 A Could you repeat that?

15 Q What was the purpose of your follow-up interview in
16 January 2020?

17 A Well, we were given the information -- we being the
18 police department, were given information of who, as it was
19 labeled, the CI was, so we went down there to interview him
20 to see if he could give us a statement about what he had
21 told investigator Singleton.

22 Q And you're talking about what he told Singleton in July
23 2018?

24 A Correct.

25 Q Okay. So what in the world did that have to do with

MATTHEW DAES: CROSS-EXAMINATION

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1 verifying whether he was telling you the truth or not about
2 being at the Estill Police Department in January 2020?

3 A I believed in going down there that he had that
4 conversation with investigator Singleton, and I was --
5 pardon?

6 Q I hate to interrupt you ---

7 A The July 9, 2018 conversation ---

8 Q You believe he had that conversation?

9 A I do.

10 Q Okay, so what were you looking for a January 2020 phone
11 record for?

12 A It's a conversation starter. Maybe, you know I look in
13 there and hey, you're talking with Investigator Singleton
14 here. Come on, let's talk about the conversation you had
15 back in 2018. But it turns out it was a different
16 investigator he was talking with at the Sheriff's
17 Department.

18 Q Let me ask you this. Can't your testimony that is
19 before you be read as you were looking for proof of the July
20 2018 calls?

21 A Can it be read that way?

22 Q Yes.

23 A I can't speak as to how you interpret ---

24 Q Well, what makes you think you are looking for the --
25 that when you testified you were implying you were looking

1 for January 2020 phone calls and that phone? I mean, I've
2 got to be honest. None of us read it that way. Of course,
3 it could be ambiguous, and I'm trying to find out why you
4 believed -- what context of my questions led you to believe
5 I was asking you about looking in his phone in January 2020
6 for January 2020 records? Where did you get that context
7 from?

8 A I'm not sure.

9 Q Let me ask you this. You had heard the testimony from
10 Mr. Atkins before you testified on pages 87, 88, 89, etc.,
11 right?

12 A I believe that he went first.

13 Q Didn't we, in fact, have a big issue that day about
14 whether anybody had verified his phone records for July
15 2018?

16 A I believe that it was brought up.

17 Q And then you testified that you actually had, in fact,
18 looked in his phone.

19 A So, when you say phone records, do you include that to
20 mean looking into a physical device?

21 Q Yes.

22 A I didn't take that to ---

23 Q For the record recorded --

24 A --- mean ---

25 Q --- in the device. I apologize.

MATTHEW DAES: CROSS-EXAMINATION

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1 A So, to me when someone says "phone records" I take it
2 to mean that I served legal process on an entity, like
3 Verizon Wireless for instance, and they provided me with
4 records.

5 Q What I'm asking you is this. When Mr. Atkins had
6 previously testified October 22, 2020, that you had looked
7 at his phone, that he had offered you a look at his phone;
8 do you remember that?

9 A Yes, sir.

10 Q Then you took the stand and I asked if, in fact, when
11 you looked in his phone if you saw any records of a phone
12 call with Perry Singleton, you didn't think I was talking
13 about the July 2018?

14 A I took it as just what you said. Did you see any
15 contacts with him, and I said no.

16 Q Fair enough. So, that's a great segue to this. Have
17 you ever seen any Verizon phone records before today?

18 A I have seen many Verizon phone records.

19 Q Have you ever seen these phone records before today?

20 A I believe today was the first time that I saw those
21 specific records.

22 Q Today was the first time you've ever seen them?

23 A I believe so. Yes, sir.

24 Q Okay. And but for the Perry Singleton name, why would
25 you say those are Perry Singleton's phone records?

1 A I didn't go and retrieve those. I don't know that I
2 could say how they established that number to be his.

3 Q Let's talk about that. When did you find out that they
4 were looking for these records?

5 A I was not aware.

6 Q Ever?

7 A Well, I can't sit here and say that I remember them
8 saying, or anyone saying we're going to get Investigator
9 Singleton's phone records.

10 Q Let me back up and ask you something I asked you at the
11 last hearing. Are you in charge of this investigation or
12 not?

13 A I'm in charge of the investigation that was done, up
14 until this point, on my end of this investigation.

15 Q That's a lot of qualifiers. So, who's in charge of the
16 investigation at the West Columbia Police Department?

17 A I am.

18 Q Who keeps the case file in this case?

19 A I keep the case file.

20 Q What do you have in that case file about these phone
21 records, Court's 8?

22 A I don't have anything in my case file about -- I don't
23 have those records or anything about them.

24 Q So, who is working behind your back on the
25 investigation that you don't know about? And I hate to

MATTHEW DAES: CROSS-EXAMINATION

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1 characterize it as that ---

2 A I wouldn't say based off of the words anyone is working
3 behind my back, but there are also -- I don't know who
4 obtained the phone records, but I know the Solicitor's
5 Office has investigators. It's an ongoing investigation.
6 There are many people looking into this case.

7 Q So, we'll talk about that part too. Do you remember
8 talking about a trip you made to talk to Investigator
9 Singleton?

10 A A trip that I made to talk to him?

11 Q Yeah.

12 A I never made a trip specifically to go and talk to
13 Singleton.

14 Q Do you remember the trip you made with your boss?

15 A Yes.

16 Q Okay. We talked about that --

17 A Are you talking about to go see Atkins?

18 Q And meet with Singleton.

19 A I ---

20 Q I'm talking about Singleton's reluctance to talk to
21 y'all. You had to get the Sheriff involved.

22 A I don't think that we tried to speak with Singleton.

23 Q I'm going to let the record speak for itself on that.

24 Are you sure you don't want -- as we keep going into this,
25 you don't want to take a moment to refresh your

1 recollection?

2 A So -- when ---

3 Q You don't recall ---

4 A When I hear you say to go down there to see Singleton,
5 I'm taking that to physically see him down there. Now, I
6 did speak with him on the phone prior to going down there.
7 But you said see him, is what I took it.

8 Q Do you recall about Singleton being reluctant to talk
9 with y'all?

10 A I believe that -- well, no I remember that he was
11 reluctant to give the name of his CI.

12 Q Do you recall having to get the Sheriff involved ---

13 MS. FULLER: Objection, Your Honor.

14 Q --- to get Singleton ---

15 MS. FULLER: Just so the record is clear and
16 protected, I know where the Defense is going, but that's not
17 what the testimony is. We established at the last hearing
18 and I told Your Honor he's referring to a letter that I
19 wrote at your direction. You've got on record is that he
20 told our office to call the chief to give us the name,
21 because Singleton was reluctant. So, we went through this.

22 THE COURT: Let's let him cross the witness the way he
23 wants. If you need to, you can clean it up. Go ahead, Mr.
24 Brown.

25 Q Do you recall that?

MATTHEW DAES: CROSS-EXAMINATION

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1 A Could you repeat it?

2 Q Sure.

3 A Because there's been a lot of conversation. I
4 appreciate it.

5 Q Do you recall trying to follow up with Lieutenant
6 Singleton after a court hearing we had, and there being
7 reluctance on his part to talk with you?

8 A I never followed up to him and got reluctance.

9 Q You do not recall testifying to that very effect in
10 October 22, 2020?

11 A I believe that I recall - and if you'll give me a page
12 number where I can go back and look -- that I know --

13 MR. BROWN: Well, I would ask that he read his
14 transcript testimony. I don't know if we need to take a
15 break?

16 THE COURT: No, no, no. I don't want y'all talking
17 over each other for the benefit of her. If you want to show
18 him the portion of the transcript, or I can hand it to him,
19 because I've got it right here. You just need to tell me
20 where.

21 MR. BROWN: Well, I'll just be honest. Since he
22 doesn't recall any of his testimony, I'm going to ask that
23 he read all of it. I didn't know it was going to be this
24 kind of hearing. It's about 30 pages.

25 THE COURT: We're not doing that at 10 minutes until

1 one. So, we can either take a break and come back, or you
2 can point to him and show him exactly what were talking
3 about.

4 MR. BROWN: He hasn't remembered any of his testimony.
5 I think we're better off doing the latter. But I don't mind
6 asking him the question I'm going to ask him to follow up
7 with. Does he recall Perry Singleton ever telling him that
8 he had phone records supporting his conversation, that he
9 had a conversation with John Atkins?

10 A Perry Singleton never told me that he had phone records
11 supporting ---

12 Q Did you ever ask him that?

13 A No.

14 Q And he explained his reluctance at that time for the
15 safety of Mr. Atkins?

16 A Not to me. I was told by other people that he was
17 reluctant to give the name, but he never expressed that to
18 me.

19 Q Okay. Let me ask you this. What does your file say
20 about the discussion y'all had about there being no CI?

21 A What does my file say about there not being a CI?

22 Q That's correct. After hearing on November 11 -- excuse
23 me, November 6, 2019 that led to a November 11, 2019 court
24 order.

25 A No paperwork that I have here says anything about there

MATTHEW DAES: CROSS-EXAMINATION

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1 not being a CI.

2 Q You've never heard that?

3 A I have heard that that was said.

4 Q And you don't know who said that?

5 A I believe that I was told that Investigator Fuller said
6 that, but the context that it was described to me in is that
7 they were saying there's no CI, as in there's not some
8 documented CI. That it was inferred that -- my
9 understanding at the third hand hearing of it that they were
10 saying that it is a different title of a type of person.
11 That it's someone who's given information in the past, not a
12 documented CI That's my understanding.

13 Q Who is investigator Fuller?

14 A Investigator Sutania Fuller.

15 MS. FULLER: Prosecutor.

16 A I apologize. Prosecutor. Assistant Solicitor.

17 Q Okay, so that your source of the notice. That's where
18 your understanding goes back to?

19 A No, she didn't tell me that. I don't recall -- I don't
20 even think that I was present for the hearing.

21 Q What's your understanding of the source of that
22 statement, is my question?

23 A Like, who told me that she said that?

24 Q No. Who said that there was no CI?

25 A It's my understanding that Assistant Solicitor Fuller

1 said that.

2 Q Okay, and that's the source of that information? Like,
3 the root source. You may not know. I don't know. I'm
4 asking. I'm trying to get to the bottom of it. Who ---

5 A The root ---

6 Q --- listen, the fact that there's no CI helps us. I
7 want to find out where that came from.

8 A I was told, because I don't believe that I was present
9 at that hearing when that was said, that this is something
10 that she said, but the way that it was explained to me was
11 that they were talking in terms of there's no "this type of
12 person", it is actually "this type of person".

13 Q What part of that "this type of person" or "that type
14 of person" was presented to Judge Williams?

15 A I believe that the search warrant stands for itself.
16 That's what it said in there, that he was a criminal
17 informant. That was the phrase that I was given at the time
18 by Investigator Aldridge, and that's what I included in my
19 affidavit.

20 Q What part of it wasn't "this type of person", it was
21 "that type of person" was presented to Judge Williams?

22 A What was presented to Judge Williams was exactly what
23 was written in that affidavit. I think it said a criminal
24 informant.

25 Q What, besides what was presented in that affidavit, was

MATTHEW DAES: CROSS-EXAMINATION

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1 presented to Judge Williams?

2 A Just the affidavit and then the questions that she
3 asked.

4 Q Okay. And what was told to her in response to her
5 questions?

6 A I believe just that it was someone who had given good
7 information in the past is all I can remember.

8 Q Okay. And how about the fact that Perry Singleton's
9 sister had dated the informant?

10 A That was not brought up.

11 Q How about the fact that he had known him for 16 months?

12 A That was not brought up.

13 Q How about the fact that he had known him for eight
14 years?

15 A That was not brought up.

16 Q All right. How about the fact that the suspect had a
17 personal relationship with Ms. Williams? Did she bring that
18 up?

19 A That was not brought up.

20 Q Was there any question of who Damien Ritter was when
21 y'all were talking to her?

22 A He was described as Damien Ritter who lives at [REDACTED]
23 Roberts.

24 Q No question at all about that?

25 A No sir.

MATTHEW DAES: CROSS-EXAMINATION

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1 Q And y'all even identified that you had a vehicle
2 registration.

3 A Correct.

4 Q Linked to him.

5 A Yes, sir.

6 Q So, y'all knew which Damien Ritter you were talking
7 about at that time?

8 A Yes, sir.

9 Q And what supplemental report were you provided from the
10 Hampton County Sheriff's Department related to their
11 participation in this case before last month?

12 A I don't -- I would have to go through my file, but I
13 don't believe that I was given a supplemental report being,
14 like, an incident report with a case number detailing out
15 you know witnesses, who all was present. I think the only
16 documents I received from them in relation to this case was
17 the return on that search warrant.

18 Q But you have, since the last month, been aware that
19 there is a supplemental report about their assisting with
20 some interviews?

21 A I don't have any knowledge of a supplemental report
22 from them. That I can think of right off hand.

23 Q No report that you were given about two weeks ago?

24 A I don't have one.

25 Q Let me ask you, on July 9 that's the date that the call

MATTHEW DAES: CROSS-EXAMINATION

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1 was made to Estill, right?

2 A What call was made to Estill?

3 Q The call -- investigators from the West Columbia Police
4 Department y'all met with them.

5 A Are you referring to Investigator Aldridge's
6 conversation?

7 Q Let me just ask you to take a look at this. It's
8 marked as Defendant's -- This is a copy of Court's 10. There
9 is a defendant's copy as well. All right, on this day right
10 here.

11 A Yes, sir.

12 Q All right. Do you recall that day?

13 A Yes, I recall that day.

14 Q Okay. And, so, tell me this. Y'all drove to Estill?
15 Was that before or after the phone call that came in that
16 day?

17 A We drove down to Estill for the first time, "we" being
18 the West Columbia Police Department, on July 18.

19 Q Who is "we"?

20 A I did, along with Investigator Thomas Griffin.

21 Q Then, when you go back to look at this search warrant
22 -- take a page out of the back. Where were y'all when the
23 phone call referenced right here came in?

24 A The one where on the second line where it says on July
25 9?

1 Q That's the same July night isn't it? Same year?

2 A Yeah, so on July 9 I would've been at the West Columbia

3 -- I would've been in West Columbia.

4 Q Maybe I'm missing something here. See, that's ---

5 A (READING) On July 9, 2018, Investigators from the West

6 Columbia Police Department came to Estill. That's ---

7 Q You said "they" were you.

8 A No, so that appears to be in error. The first time

9 that I've ever been to Estill, South Carolina in my life has

10 been on July 18, 2018. That appears to just be an error.

11 Q This is a sworn fact.

12 A I can't speak as to what he wrote.

13 Q Okay, I mean -- let me ask you this. Do you see that

14 name right here?

15 A Yes.

16 Q Do you see this part says sworn and subscribed?

17 A Yes.

18 Q And its notarized?

19 A Yes.

20 Q Sworn statement?

21 A Yes.

22 Q Of Perry Singleton?

23 A Yes, sir.

24 Q So, who's telling the truth about the West Columbia

25 Police Department going to Estill on July 9, 2018?

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1 A Me, looking at ---

2 Q You or Perry Singleton?

3 A Me, looking at that it was an error that there was a
4 conversation he had with us. No one from our department
5 went down there on July 9.

6 Q Let me ask you question them. So, that fact is not
7 correct?

8 A That appears to be an honest mistake.

9 Q That's not -- how can you judge the honesty of that
10 mistake?

11 A Because I don't see the -- I don't see the intent
12 behind it or the motive to say that we were down there
13 versus it was a phone call.

14 Q You don't see a motive to misrepresent?

15 A Right.

16 Q Was this statement not made after a discussion about
17 Perry Singleton providing false information? This was made
18 after the hearing. It was made on November 14, 2019; right?
19 Do you see that date right there?

20 A Yes, sir. I see that.

21 Q In the hearing, in the court order it said no CI was
22 the November 6, 2019 hearing with a November 11 '19 order
23 asking the detective to explain why he said there was a CI
24 and why we are now being told no CI. And in response he
25 provides a mistake that says y'all drove -- very detailed --

1 y'all drove to Estill, that you think that's honest, because
2 there's no reason that he would put false information in
3 this affidavit.

4 A That's the way that I take it. I mean, I can't speak as
5 to why he wrote that in your asking for my opinion. That's
6 my opinion.

7 Q Well, it's funny -- what I'm getting to, but I am while
8 we're talking about why there's just mistakes in here. How
9 about this part that says he's known the source for eight
10 years?

11 A What's your question about that, sir?

12 Q You see that part where he says -- I apologize.

13 A Yes, sir.

14 Q All right. How honest is that statement about eight
15 years in light of this statement right here is says he had
16 known him for 16 months?

17 A So, could you pull it down so I could see what more of
18 the sentence and what he said about knowing Damien?

19 Q Which part?

20 A Not Damien. Knowing Mr. Atkins. On the back, the
21 affidavit. So, it says there ---

22 Q Bear with me. I'm going to try to get them both up
23 here. This is what we've got.

24 A And what is your question again?

25 Q Okay. What's honest about the discrepancy and how long

MATTHEW DAES: CROSS-EXAMINATION

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1 they've known Mr. Atkins?

2 A I ---

3 Q --- very question that is being raised in November

4 2019, November 2019, January 2020, drove you and your boss

5 down there, have a phone call with the Sheriff to figure out

6 why Lieutenant Singleton wouldn't talk to y'all about it.

7 You've got a guy named John Scott, but he turns out to be

8 John Atkins. All of this stuff. Got some personal

9 relationship with Lieutenant Singleton, So what makes you

10 think this is just an honest mistake on the number of years?

11 A Well, you could say that one statement about 16 months

12 is referring to knowing him in his capacity as a person

13 providing information, and then in the other one is to as a

14 historical fact that I knew this person for eight years.

15 Q So, it really needs to say not he's known the

16 informant. He's known him "as an informant" for 16 months.

17 A That would be a much more specific way to describe it.

18 Q You mean, that would be a way that fits your theory?

19 A Well, I can't speak as why he said that. It sounds like

20 you're asking me my theory, sir.

21 Q Well, you've injected that it's an honest mistake, and

22 I'm trying to find out what's honest about it.

23 A Well, I say that because meeting with him I never found

24 him to be a dishonest man.

25 Q I got you. Fair enough. Fair enough. Do you find Mr.

1 Atkin's testimony that Mr. Singleton is a crooked and
2 dishonest cop to be false?

3 A Based off of my knowledge of Mr. Singleton, absolutely.

4 Q So, Mr. Atkin's statement is false?

5 A Well, he also testified that he never talked with him.
6 Is that correct? And the record shows that he did.

7 Q Well, we're back to those records again aren't we. But
8 your phone search didn't go back to 2018.

9 A My -- when I physically looked at his device, no I didn't
10 search back to anything from 2018.

11 Q Even though your interview was after all of this
12 information. After the November 19 hearing. After the
13 November -- with no CI. After the November 14 statement.
14 After the January 6, 2020, this interview, and when you're
15 talking to Atkins you're not looking for anything about the
16 July 2018

17 A So, I can tell you that -- you're talking about after
18 all the -- of this information. I never saw that affidavit
19 from him prior to coming to court when John Atkins
20 testified.

21 Q So you're limited in the impact of your testimony
22 regarding the affidavit, the statement about the CI and Mr.
23 Singleton ---.

24 A To the extent

25 Q Voracity ---

MATTHEW DAES: CROSS-EXAMINATION

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1 A --- I'm sorry. To the extent of your questions, it
2 appears so.

3 Q All my questions, you're limited in your knowledge.

4 A All I can tell you is I never saw those documents when
5 I went down to talk with Mr. Atkins.

6 Q And there's no question that y'all weren't there on
7 July 9, 2018?

8 A I was not there on July 9.

9 Q Okay. So, how was it that they were put on notice to
10 look out for Mr. Ritter?

11 A Who is "they"?

12 Q The Hampton County Sheriff's Department.

13 A Are you referring ---

14 Q Why were they looking for Mr. Ritter? Why was the
15 Hampton Sheriff's Department looking for him?

16 A When?

17 Q In July -- before he was arrested on July 13, 2018.

18 A Why was Hampton County looking for Ritter on July 13?

19 Q What put them on alert that they were looking for Mr.
20 Ritter?

21 A Well, we had conversations with them that we believed
22 he was involved in a murder.

23 Q Fair enough. When?

24 A (NO RESPONSE)

25 Q It was obviously between July 5 and July 13. I get

MATTHEW DAES: CROSS-EXAMINATION

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1 that.

2 A (NO RESPONSE)

3 MR. BROWN: And I thought this would explain it, so I
4 apologize, Your Honor.

5 A So, the first knowledge that I can think of that we had
6 contact with Hampton County would have been on July 6 with
7 Investigator Aldrich initiating a contact with Hampton
8 County Sheriff's office.

9 Q All right. So, three days later on the 9th Hampton
10 County knows to look out for Mr. Ritter?

11 A Yes, sir.

12 Q All right. What information did you have about a Tahoe
13 on July 6? Did you already know you were looking for a red
14 Tahoe?

15 A I did. I knew on July 5 that I was looking for a red
16 Tahoe.

17 Q And how about the registration on that Tahoe

18 A I don't think I discovered that until the 6th.

19 Q Until the 6th?

20 A I can go back and check.

21 Q Okay.

22 A (REVIEWS DOCUMENT) Yes, sir. On July 6 I discovered
23 that information.

24 Q Okay. Is there any question they knew you were looking
25 for Mr. Ritter's red Tahoe?

MATTHEW DAES: CROSS-EXAMINATION

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1 A Who is "they"? Hampton County?

2 Q The Hampton County Sheriff's office.

3 A (NO RESPONSE)

4 Q I mean, they were looking for it.

5 A I don't know what information was disseminated from
6 Investigator Singleton to the rest of the deputies. Looking
7 at the notes and talking with investigator Aldrich,
8 Investigator Singleton was aware that we were interested in
9 that Tahoe.

10 Q So, when there is a phone call that comes in,
11 specifically that information is provided, what information
12 do you have about the attempt to seize the Tahoe that day?

13 A I don't have any information for whether they did or
14 did not go after it and try to get it, and if they did go to
15 check it if it was there or not. I don't know.

16 Q You don't know. You have no record of anybody even
17 tried to go down there?

18 A From someone from the Hampton County Sheriff's
19 Department going down there?

20 Q It's funny you mentioned that. Do you know whether the
21 Estill Police Department ever made contact -- let's just say
22 about Mr. Atkins about a subpoena I was serving for him
23 related to this case? Are you aware that there was some --
24 the Estill Police chief and another officer met with Mr.
25 Atkins about his being subpoenaed to the October 22 hearing?

- 1 A I believe I recall something about that.
- 2 Q Okay. And they are right there? Estill is tiny isn't
- 3 it?
- 4 A Yes, it's a small town.
- 5 Q How many stop lights would you say?
- 6 A I don't know, sir.
- 7 Q Less than -- less than -- You can count them on one
- 8 hand?
- 9 A I would imagine so, sir.
- 10 Q Okay, fair enough. I say that -- how long would it take
- 11 to call Estill and ask them to go by this house?
- 12 A How long would it take for them to drive over there?
- 13 Q Yeah.
- 14 A I believe it would be less than a mile.
- 15 Q Fair enough. So, if Perry Singleton, and you said knew
- 16 on July 6 you were looking for Ritter, and he knew when
- 17 y'all knew that there was a Tahoe that you were looking for
- 18 -- does that sound right?
- 19 A Yes, sir.
- 20 Q All right, when he gets a call on the night and says
- 21 earlier that day there's a Tahoe there, you don't have any
- 22 information anybody even went over there and try to find it?
- 23 A Correct, and I also don't have information that shows
- 24 that they didn't.
- 25 Q Sure. And how many people did you ask that question

MATTHEW DAES: CROSS-EXAMINATION

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1 to?

2 A I didn't.

3 Q Okay, didn't try to find out? Why didn't you go get
4 it.

5 A No, I didn't ask them that question.

6 Q Okay. And are you familiar with a Night Owl DVR?

7 A Yes, sir.

8 Q And regarding the statement that the Night Owl DVR
9 would capture the home that day, what have you found -- what
10 evidence on that DVR have you found that shows that this
11 Tahoe was ever in that driveway?

12 A So, that's multiple pieces. So, first I have evidence
13 showing that it was there on -- you're asking was -- what
14 evidence do I have to show that it was there on July 9?

15 Q Or any time after July 5.

16 A I don't -- thinking back to looking at that footage, in
17 my cursory review of that footage through fast forwarding, I
18 didn't see it showing up.

19 Q Okay. So, the DVR video actually contradicts this
20 statement that's contained on Court's exhibit number 4?

21 A By some logic, yes.

22 Q Help me with this. Where's the video so we can play it
23 for the judge? Do you know?

24 A I have a -- I have a DVR in my evidence.

25 Q You have a complete copy of it?

1 A Yes, and I provided a the Solicitor's office as well.

2 Q And the original DVR, actual hard drive, do you know
3 who has that?

4 A The West Columbia Police Department has that.

5 Q Okay, y'all have that in your evidence?

6 A Yes, sir.

7 MR. BROWN: Judge, Mr. Phillips and I talked about
8 it. We think it would be best to actually, since we would
9 offer that as some information that this isn't true, since
10 we're dealing with veracity ---

11 THE COURT: Let's handle it this way. I assume the
12 State's had an opportunity to review the same DVR. Would
13 y'all stipulate that there's no burgundy Tahoe pictured in
14 the DVR footage that's been obtained?

15 MS. FULLER: No, Your Honor.

16 THE COURT: You would agree then ---

17 MS. FULLER: I would not stipulate.

18 THE COURT: You would not stipulate. Oh, there is a
19 Tahoe in the footage then?

20 MS. FULLER: On other occasions, Yes, sir.

21 THE COURT: Okay.

22 MS. FULLER: As it relates to July 9, I have not
23 watched that footage. So, no, I can't. But they have a full
24 cloned copy of the hard drive, so if they want to publish
25 something that I haven't watched they can.

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1 MR. BROWN: We don't have a player. It's proprietary.

2 THE COURT: When did you see a Tahoe? Was it the 5th
3 or the 5th through the 9th? Any time between the 5th
4 through the 9th. Did you see a Tahoe on the DVR?

5 MS. FULLER: Your Honor, I haven't watched it.

6 THE COURT: You haven't -- I thought you said you had
7 watched it.

8 MS. FULLER: I've watched July 5th, but I have not
9 watched July 9th, no. I didn't say that.

10 THE COURT: That's a great project for you to do over
11 lunch. I'll see you guys back at 2:30. That will give
12 everybody a chance to watch the DVR and look for a red Tahoe
13 while I get something to eat.

14 Please step down don't discuss your testimony with
15 anybody while we are having lunch. I'll see you back.

16 (WHEREUPON, A RECESS WAS HELD UNTIL 2:30 PM)

17 THE COURT: We are going back on the record. Ms.
18 Fuller, my clerk did get your Message about not being able
19 to view the video. No worries. No problem. No stress. We are
20 still with Investigator Matt Daes. I think we were still on
21 cross, so go right ahead.

22 MR. BROWN: May it please the Court.

23 THE COURT: Yes, sir.

24 RESUME CROSS-EXAMINATION

25 BY MR. BROWN:

1 Q Investigator Daes, I was asking you a little about the
2 video. Just make sure it is there. I don't know if you
3 confirmed that the actual video is in the West Columbia
4 Police Department evidence?

5 A Yes, sir. We have it.

6 Q As far as the ability to play that video, is the player
7 so to speak -- which I understand the software actually, is
8 that with that video?

9 A Yes, sir. We have a player.

10 Q Okay, so there's an ability to play the video that's
11 in evidence?

12 A Yes, sir.

13 Q Fair enough. Moving forward a little bit with the
14 assisting agency report. I apologize. I'm going back over
15 some old stuff. Do you have any assisting agency reports
16 from Hampton County at all?

17 A No, sir. I do not believe that I do.

18 Q Is that something that you would never, I mean, ask
19 them to provide you? When do y'all get those?

20 A I would say that it's neither routine nor non-routine.
21 Sometimes other agencies just give us back returns on search
22 warrants. Sometimes they do write up full reports. It just
23 depends.

24 Q Now, you mentioned at the very beginning of your
25 testimony that there was a meeting where I believe you were

MATTHEW DAES: CROSS-EXAMINATION

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1 there and -- I don't want to give the wrong -- Investigator
2 Aldrich -- Detective Aldrich?

3 A What date are you referring to, sir?

4 Q Well, I don't know the date. Multiple people were
5 there. Investigator Singleton and others.

6 A Are you referring to when I was talking about the
7 meeting prior to getting the search warrant signed?

8 Q Yes, sir.

9 A So, that would be on July 18.

10 Q Do you know who else was there?

11 A Investigator Griffin, Investigator Singleton, and the
12 only other one I can say for certain was there was
13 Investigator Brooker. There were other people there, but I
14 do not know their names.

15 Q Okay, so you, and Aldrich, that's five. About how many
16 other ---

17 A Me, it was Investigator Thomas Griffin, if I said
18 Aldrich I apologize. It's me, Investigator Thomas Griffin
19 with the West Columbia Police Department, and then present
20 from the Hampton County Sheriff's Department for certain
21 that I know was Brooker and Investigator Singleton.

22 Q Do you know how many other people were there?

23 A I think that -- I mean, we were in the middle of a
24 Sheriff's Department. Some people walked in and out from the
25 central room where we were meeting.

1 Q At the Hampton Sheriff's Department?

2 A Yes, sir.

3 Q And that's not the Estill sub-station, or was it?

4 A No, sir. We were at the -- It was the one that has
5 their detention center located in it.

6 Q Cemetery Road?

7 A You have the Sheriff's Department, and then there's a
8 small breezeway and you go across that into the magistrate's
9 office and then the detention center is behind it.

10 Q Not a very far walk from the Sheriff's Department to
11 the magistrate's office?

12 A Thank goodness, no. It was hot.

13 Q Fair enough. How are y'all communicating besides when
14 you talked face-to-face?

15 A I believe that Investigator Griffin made contact with
16 Investigator Singleton in order to facilitate that times
17 were good for us to meet up.

18 Q And then there was a lot of discussion about who typed
19 what and who wrote what. For instance, the search warrant.
20 Did you just make copies of those and drive them down there?
21 Did you bring them down there?

22 A I don't know which day I typed those on before the
23 18th, but I typed it. I printed off so it would be ready,
24 and I left the appropriate spaces blank for information that
25 I didn't yet have.

MATTHEW DAES: CROSS-EXAMINATION

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1 Q And so you typed that, each section of the affidavit,
2 right?

3 A Yes, sir.

4 Q You typed it here?

5 A I typed it at the City of West Columbia Police
6 Department.

7 Q And then you drove it down there on the 18th?

8 A Yes, sir.

9 Q And did you ever send it to them first?

10 A I don't believe so.

11 Q So you just showed it to them when you got there?

12 A Yes, sir, and we discussed it.

13 Q And do you recall how you obtained the detail that you
14 put into that affidavit?

15 A Through my personal experience and notes, my memory and
16 my notes, and from talking with other investigators.

17 Q Let me do this. I'm going to walk over and I'm going
18 to put up Courts 2 and 3. You typed this detail from your
19 notes?

20 A Yes, sir.

21 Q Those notes you got from a phone call or how?

22 A In speaking with Investigator Aldrich, he detailed that
23 information to me and I also have his notes.

24 Q So, the detail about the phone call that Lieutenant
25 Singleton received, that was -- how many sources did it go

1 through to get to you?

2 A I learned of it from Investigator Singleton, and that
3 was it. Not -- I apologize. I learned of that from
4 Investigator Aldrich. He told me that.

5 Q Okay, so you didn't actually have the call with
6 Investigator Singleton when he gave that detail?

7 A Correct. I learned that from Investigator Aldrich.

8 Q Do you know how he got it from Lieutenant Singleton?

9 A I can refer to his notes. (REVIEWS DOCUMENT)
10 Investigator Aldrich wrote that he received a call from
11 Detective Singleton.

12 Q What discussion was had with the judge regarding the
13 details of the incident when the statement another
14 individual was ordered by the cousin to hold them at
15 gunpoint. Do you remember that part ever being discussed? I
16 know it's kind of outside of the *Franks* statement that we
17 are looking at, but there's been a large discussion about
18 what's left even if you excise that statement and so I don't
19 want to get too far afield, but I do want to ask you about
20 that.

21 A I don't recall any discussion about that specifically,
22 but I do know that the magistrate read the warrant.

23 Q Did y'all volunteer to her that at least at some point
24 not too much earlier that there have been a sworn statement
25 that Mr. Mack was the second gunman?

MATTHEW DAES: CROSS-EXAMINATION

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1 A I don't believe -- no. No one said anything about that,
2 but where is the sworn statement that he was a second
3 gunman.

4 Q So nobody told Judge Williams that somebody had sworn
5 to a different version of events on a different search
6 warrant?

7 A No. I'm not sure that that occurred that someone swore
8 to that.

9 Q I don't know if you've got the file with the Bate's
10 stamping number on it or not. I just mentioned that because
11 -- do you have a 525 page Bate's stamped -- you don't have
12 any Bate's stamped ---

13 A No, sir.

14 Q Do you have the search warrant that Investigator Todd
15 signed on July 6 that he was the affiant?

16 A I can get it. I have them in my file, but I didn't
17 bring that file.

18 Q Let me just do this. I don't have a copy to enter, but
19 I'm just going to show it to you for demonstrative purposes.
20 And just ask -- well, first I'm going to ask if you see
21 this.

22 A Yes, sir.

23 Q It's got a date.

24 A Yes, sir.

25 Q And you're familiar with him?

1 A If I could see the date one more time, sir?

2 Q Sure. (HANDS WITNESS DOCUMENT)

3 A Thank you.

4 Q Then we go in and this is what's being requested and
5 it's asking for some information about DNA and the property
6 sought inside the home where the killings occurred?

7 A Yes, sir.

8 Q If you go over to what is listed on this as Attachment
9 "B". I'm going to try to put them both up here, but I'm
10 going to have to -- that's "B" and then it continues over
11 here and then I'm going to magnify really fast.

12 A Yes, sir.

13 Q And you see where the deceased, Elzie Mack, is listed
14 as the second suspect?

15 A I see that.

16 Q Does that refresh your memory? This was a search
17 warrant that was signed -- I don't recognize, Judge
18 Valentino.

19 A Marta Valentino, she was our maybe associate judge. I
20 forget the other term.

21 Q And she signed permission to search based upon, in
22 part, a statement that indicated Mr. Mack was a second
23 suspect?

24 A Yes, sir. And you had asked me a question about that
25 earlier. What was that question?

MATTHEW DAES: CROSS-EXAMINATION

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1 Q The question was whether or not y'all told Judge
2 Williams that?

3 A We did not explain -- it did not -- we did not explain
4 to her the nature of how we came to establish that Mr. Mack
5 was not a suspect at the time that that document was
6 written, because of how -- what happened to Mr. Furtick in
7 the way that he explained to us that at the time he was
8 explaining the story that's all he knew is that someone had
9 a gun on him and from our limited knowledge on the 5th we
10 were still investigating to find out exactly what happened
11 we did not explain that detail.

12 Q Okay, but I am going to gently pursue that. Somewhere
13 though you had information that made y'all feel firm enough
14 to swear to the fact that Mr. Mack was the second suspect?

15 A At that point in time on the sixth when that -- I don't
16 know what time that was written, but I know that on the
17 sixth that for instance the only date and time that I can
18 speak to in terms of when that possibility was in the air
19 was prior to talking with Mr. Furtick and prior to finding
20 out that Mr. Mack was not over there to commit any robbery
21 or to commit any assault. That he came over there to see Mr.
22 Atkins. So we learned that through time, through our
23 investigation, so you will find that things change from the
24 fifth through the rest of it.

25 Q Bear with me. And that's what I'm trying to find out is

1 the thing that changed.

2 A So, in speaking with Mr. Furtick, without repeating
3 verbatim what he said, he told me in effect I came in -- so,
4 let's fast-forward to the point that he heard the gunshot.
5 He runs to the back of the house. He comes -- he is drawn
6 back at gunpoint by the defendant. He is brought back and
7 laid on the floor, where he sees Mr. Atkins deceased. He is
8 put face down on the ground and he hears discussion from the
9 defendant telling someone else, here take the gun hold it on
10 him. So he does not know who is holding a gun on him. All
11 he knows is that when he hears a second shot he looks over
12 and sees, to him, what is in my understanding is an unknown
13 individual laying face down that had just been shot. He sees
14 what's happened and now the gun is being pointed at him and
15 he's in the fight for his life. So, at this point in time we
16 had -- we knew who Elzie Mack was after an investigation,
17 but we didn't -- we were still in the early part of this
18 investigation as in less than 24 hours later, where we're
19 trying to put all these pieces together. So, to go through
20 and reduce an entire -- so that's from the 5th to the 18th.
21 Thirteen days of an investigation, would go way beyond the
22 two-page affidavit.

23 Q Fair enough. I'm trying to find this out. Was there
24 anything, aside from Mr. Furtick, that said that Mr. Mack
25 was a second suspect or that later excluded him as a second

MATTHEW DAES: CROSS-EXAMINATION

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1 suspect, aside from --

2 MS. FULLER: Objection, Your Honor. That's a little
3 mis-characterization. The witness never said that Mr. Mack
4 was a second suspect. The witness, the victim, never made
5 that statement, so that's a mis-characterization.

6 THE COURT: I think he's asking -- correct me if I'm
7 wrong, but are you asking -- why don't you ask it a
8 different way, because I didn't quite understand the
9 question.

10 Q What evidence, besides -- Mr. Furtick is the only
11 person that's given a statement that claimed to have been
12 there at the incident; right?

13 A During the actual shooting, yes. Inside the apartment.

14 Q Inside the apartment. That's the only person y'all got
15 the statement from?

16 A Yes, sir.

17 Q Aside from his statement, what evidence pointed to Mr.
18 Mack as the suspect, even just at July 6. I know y'all may
19 have changed your theory, but what evidence did you have
20 then? His body was there? I know he was still alive.

21 A Other than the fact that an unknown person was told by
22 the defendant to train a gun on Mr. Furtick, there was
23 nothing else other than that's the only other person that
24 was left inside that apartment to say that. Otherwise there
25 were things that -- there was nothing else.

MATTHEW DAES: CROSS-EXAMINATION

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1 Q There was an unexplained role that Mr. Mack may have
2 played, because his person was there and at least received a
3 bullet wound?

4 A At that point in time, I wouldn't say that we were
5 comfortable drawing a hard conclusion of what his role was.

6 Q You did swear that though.

7 A Pardon?

8 Q Y'all did swear to that. I mean, that's a sworn
9 affidavit, right?

10 A Sir, you'll have to talk to Investigator Todd to
11 determine that.

12 Q Fair enough. Was there any physical evidence that
13 changed your theory that Mr. Mack was instead a victim and
14 not a suspect?

15 MS. FULLER: Objection, Your Honor. This isn't a
16 theory and I don't want the record to be wrong, essentially.
17 That's a mis-characterization of what happened here and
18 you're asking an investigator on the stand who didn't even
19 draft this document to explain something that he didn't
20 draft.

21 THE COURT: Overruled. You can answer. Why did you
22 change -- why did you -- I think he's essentially asking how
23 did you rule out Mack as being a participant in this
24 homicide.

25 WITNESS: Over the course of time, looking at phone

MATTHEW DAES: REDIRECT EXAMINATION

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1 records, his reasoning for being over there was apparent.

2 MR. BROWN: Well, that begs the question ---

3 THE COURT: And what reason would that be, sir?

4 WITNESS: Reading through phone records, it shows that

5 Elzie Mack told Atkins that he was on his way over there.

6 So, the Defendant told him by his cell phone that he was

7 arriving, called him twice, then texted that he was

8 arriving, and it was -- I'd have to go back to look at the

9 exact times, but it was around that same time that Mr. Mack

10 said that he was coming. Looking at video surveillance, you

11 see him show up shortly before Mr. Furtick is driving away

12 from the scene to go seek help. It didn't appear to us that

13 he was a suspect in this case.

14 Q Any other physical evidence that excludes him as a

15 suspect? You didn't say he wasn't there very long.

16 A Correct, he wasn't there very long.

17 Q Anything else?

18 A I mean, without having those text messages and things

19 like that. You would have, I imagine, the phone records

20 from the phone dumps. There are text messages between the

21 two. I don't have them in front of me to ---

22 Q He doesn't say hey, I'm coming over but I'm not coming

23 to kill you, does he?

24 A No, he didn't say that.

25 Q So it's not actually the contents of the message.

MATTHEW DAES: REDIRECT EXAMINATION

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1 You're just saying from the context of the conversation it
2 didn't sound adversarial or something of that nature?

3 A I would have to have those records in front of me to be
4 able to speak more eloquently about it.

5 Q Fair enough. Any other information that you recall
6 hearing conveyed to Judge Williams about Mr. Atkins, the
7 alleged informant's, prior use as an informant for Hampton
8 County?

9 A Other than what we've already discussed, no, sir.

10 Q No timeframe of 16 months or eight years?

11 A No, sir.

12 MR. BROWN: I don't have any other questions, Your
13 Honor.

14 THE COURT: Redirect?

15 MS. FULLER: Thank you, Your Honor. Briefly.

16 REDIRECT EXAMINATION

17 BY MS. FULLER:

18 Q Investigator Daes, just to be clear, cross started at
19 12:34. I'm not sure what time it is now, but all the
20 information, all the questions that you've been asked or
21 after the fact. Does any of that change the probable cause
22 that you knew and had on July 18, 2018?

23 A No, sir. No, ma'am. I apologize. Sorry.

24 Q Just run through a few things. It went on for quite a
25 while, so I'm trying to remember everything. Just to clarify

MATTHEW DAES: REDIRECT EXAMINATION

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1 just for you, when you testified at the last hearing and
2 when you are speaking with John Atkins, you've had a cell
3 phone for how long in your life? Just estimate it.

4 A Since I was 17 or 18.

5 Q So, common knowledge. When you pick up a cell phone
6 device and you just -- do you have an iPhone?

7 A Yes, ma'am.

8 Q When you scroll through the call logs without deleting
9 it, do you roughly know how far back it goes?

10 A I think that there are different options. You can keep
11 them forever. You can keep them for just a few days. You
12 can keep them 30 days. It depends on the setting.

13 Q So if I said I scrolled back through mine today and it
14 went back through to last Tuesday, that's an option on the
15 phone?

16 A I would imagine so.

17 Q Would you have expected to find messages or phone
18 calls, well, calls specifically, on my device from two years
19 ago?

20 A Probably not.

21 Q So when you were doing that, to you it was clear that
22 you weren't looking on his physical device in front of you
23 to look for calls from 2018 based on your training and
24 experience?

25 A No, ma'am.

MATTHEW DAES: REDIRECT EXAMINATION

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1 Q And so -- I don't want to say common sense. What you
2 interpreted the question to be was just asking to explain
3 what you were doing, but you were just in my words building
4 rapport for a conversation with Mr. Atkins?

5 A Yes, ma'am. It's commonplace when I talk -- it's not
6 every single person, but it's very common that I ask to see
7 people's cell phones and there's no telling what could be on
8 there. He could've said hey, I've got to see this cop
9 because he's asking me about what I told this guy. There's
10 no telling what it would've said, so it's just good practice
11 to ask sometimes.

12 Q But you weren't looking at it expecting to see things
13 from 2018?

14 A No, ma'am.

15 Q And that wasn't your intent?

16 A No, ma'am.

17 Q When you testified, you testified that the challenged
18 statement -- I'm not sure where the Court's exhibit is, but
19 I think it's 4. That you had no doubt that whomever was
20 identified as this confidential informant, in this case John
21 Atkins, made that statement?

22 A I believed that to be true.

23 Q So when you were interviewing him, what was your
24 mindset in terms of the validity of his statement?

25 A That it was valid. That I could think of, you know,

MATTHEW DAES: REDIRECT EXAMINATION

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1 just like Mr. Brown brought up with a small town, maybe five
2 traffic lights. It's a small town. He didn't want it out
3 there that he's telling on someone that he's related to. I
4 wouldn't want to have that against me, but right is right
5 and wrong is wrong.

6 Q And so your expectations of that conversation, what
7 were they?

8 A I always go in expecting to get what I want, however, I
9 definitely wouldn't have bet my next paycheck that he was
10 going to tell me that yeah, I told Investigator Singleton
11 that, but I gave it my best shot.

12 Q In terms of -- I don't think I need to go into too
13 much, but that other search warrant just so it's clear on
14 the record, you didn't write that affidavit?

15 A I did not.

16 Q Just so it's 100% clear, your eyewitness, the surviving
17 witness in this case, never said Elzie Mack was a suspect in
18 this case?

19 A No, he never said Elzie Mack is a suspect in this case.

20 Q So, if there was a conclusion or anything drawn that
21 made it into an affidavit, that was not coming from Rodney
22 Furtick?

23 A Correct.

24 Q The defense went into --

25 MS. FULLER: I will ask the Court -- I should've

MATTHEW DAES: REDIRECT EXAMINATION

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1 pulled it out. I apologize. It's not marked yet, because I
2 didn't think we would have to go there, because -- well,
3 it's not on the record. You shook your head acknowledging
4 this statement, but I'm going to mark it now as Court's
5 Exhibit Number 14. It's a letter that I drafted on January
6 27, 2020 at the Court's direction regarding disclosure of
7 the confidential informant. I'm going to hand it up because
8 I do want part of the record. I'll show Investigator Daes
9 Court's 14.

10 Q You didn't draft this?

11 A No, ma'am.

12 Q You aren't part of this?

13 A No, ma'am.

14 Q So any mis-characterization in questioning you and
15 forcing you to offer opinions on this -- my question was
16 improper, so I won't ask it. But you had no knowledge of
17 the contents of this?

18 A That's correct.

19 Q But you did receive information from our office that
20 the court had required the information to be turned over and
21 it was turned over to you to follow up in your
22 investigation.

23 A That's exactly how it rolled out to me.

24 MS. FULLER: That's all I believe I needed to clarify,
25 Your Honor.

MATTHEW DAES: REDIRECT EXAMINATION

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1 THE COURT: Any brief recross?

2 MR. BROWN: Very briefly.

3 RECROSS EXAMINATION

4 BY MR. BROWN:

5 Q Does your agency keep records of informants?

6 A I imagine that they do. I've never actually
7 dealt with that before.

8 MR. BROWN: Thank you.

9 THE COURT: Sir, thank you very much for coming back.
10 Take care.

11 MS. FULLER: Your Honor, as to the matter that I
12 emailed you about, do you want any follow-up in terms of
13 him? I know he's testified, but I figure it's better to
14 handle it in court. I don't want to talk to him outside of
15 everyone's presence since he was under oath.

16 THE COURT: He's off the stand now. I sort of assumed
17 that since the central issue in this case is whether or not
18 someone could have witnessed the Tahoe being there between
19 the incident date and July 9 I sort of assumed the video had
20 already been checked for the presence or absence of a Tahoe.

21 MR. BROWN: We checked what we received and don't see
22 it.

23 MS. FULLER: Your Honor, for the record to be clear,
24 they have received the entire DVR.

25 THE COURT: Right. They're saying ---

1 MS. FULLER: Understanding they -

2 THE COURT: --- that they have not. They're saying
3 that they have not seen a Tahoe in it in that timeframe, is
4 what I'm hearing them say.

5 MR. PHILLIPS: So, what have is a hard drive. We do
6 not have the Night Owl DVR to play the whole thing. What we
7 have been given our clips to show what, I assume, the state
8 wants to try to present at trial. What they have sent us in
9 these clips there is no red burgundy Tahoe. We're not
10 trying to say they're hiding it from us. It takes a special
11 player to play this.

12 THE COURT: And I was informed of this previously that
13 it's a special device that has to be used to play the video.

14 MS. FULLER: Your Honor, I don't want the Court to
15 think it's some special device. You can go into the store
16 and just buy any Night Owl DVR and watch the ---

17 THE COURT: That's neither here nor there. I'm
18 assuming that if the State had seen a red Tahoe, especially
19 one with bullet holes, at that location anywhere during the
20 relevant timeframe that we are addressing, that would be
21 exhibit "A" in the State's case, because we have a red Tahoe
22 that was shot at per the surviving victim. We have some
23 talk about bullet holes in the thing. We have someone
24 saying that it was parked outside the Defendant's house
25 there. So, I take it that the State will concede that

1 nowhere on the video is there a picture of a red Tahoe,
2 because if there was, that would be what your opening
3 argument is about. Right?

4 MS. FULLER: Well, I don't want to disagree with what
5 you're reasoning, Your Honor. I'll have the investigator go
6 watch the video. I don't have the cloned copy. I'll have
7 him watch it and be better to answer your question on the
8 night. I have not personally watched it. I know he
9 testified that he's fast forwarded through it. To say that
10 he watched every minute of hours, days, months of
11 recordings, no. But on that day he can watch it and I will
12 report back on Wednesday, Your Honor.

13 THE COURT: Solicitor, what I am trying to avoid and
14 what I don't want to be dealing with is surprises, okay?
15 That's why I am asking for the State to definitively say, so
16 that come June we're not all of a sudden dealing with this
17 case's dynamics changing dramatically because footage has
18 now been seen and observed. That's why I am now asking a
19 very direct question that requires only a yes or no answer.
20 I'll give you time to look at it. I'll give the
21 investigator time to look at it, but I want it pinned down
22 as to whether or not -- this is an issue that obviously is
23 relevant for this hearing today. If nowhere -- if that
24 recording captured the events leading up to the 9th of July
25 and there's no Tahoe there, obviously that's relevant to the

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1 very issue that I have to decide today. And that's why I'm
2 pressing you on that, Solicitor. I think you appreciate
3 that. You understand?

4 MS. FULLER: I do.

5 THE COURT: Okay. And that's probably something that,
6 no offense, really -- if it wasn't done it needs to be done
7 and probably should have been done. Because if the Tahoe is
8 there and you're able to catch a picture of the tag number
9 and everything else and maybe even zero in and see bullet
10 holes in it, I mean, golly. That would be pretty darn good
11 evidence that I think the State would be interested in using
12 at trial. But I'm not trying to force anybody to try their
13 case a particular way. Call your next witness.

14 DIRECT EXAMINATION

15 BY MR. GRAHAM:

16 CHAUNCEY SOLOMAN, having first been
17 duly sworn, testified as follows:

18 Q It's Lieutenant Solomon, is that correct?

19 A Yes.

20 Q Where you employed, Lieutenant?

21 A I'm employed at the Hampton County Sheriff's Office.

22 Q How long have you been in law enforcement?

23 A Twenty-six years.

24 Q How much of that time has been at the Hampton County
25 Sheriff's office?

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1 A Basically all of it, however the last 10 years I've
2 been assigned to Drug Enforcement Administration, the DEA,
3 out of Charleston.

4 Q So how long -- as a Lieutenant, what are your job
5 responsibilities now?

6 A The narcotics division. I am the Lieutenant over the
7 narcotics division.

8 Q How long have you been the Lieutenant over the
9 narcotics division?

10 A 2009.

11 Q How long have you known, or did you know Perry
12 Singleton. Tell me about your background with him.

13 A We actually went to junior high school together, went
14 to high school together, and apparently he was in law
15 enforcement -- he came in in 1988 and I came in 1995.

16 Q So why did you join law enforcement?

17 A Perry Singleton. Perry Singleton wanted guys from the
18 south-side, meaning Estill, Furman, Scotia, Garnett area,
19 And he actually recruited a lot of us.

20 Q He was the first black male officer with Hampton
21 County? Is that right?

22 A I won't say he's the first, but in our era he was one
23 of the first African-American officers and he recruited
24 young black officers, young black males in the area. He
25 would come and ask us, you should become an officer. That

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1 type of thing.

2 Q So, in your 26 years in law enforcement, is all of your
3 time in Hampton County you worked with ---

4 A Uh-huh. Yes.

5 Q --- Lieutenant Singleton, until he passed?

6 A Yes.

7 Q What was your involvement in Hampton County's assisting
8 West Columbia and Lexington County as far as Damien Ritter's
9 arrest or warrants served?

10 A I wasn't around. Like I said, since 2010 I've been
11 working with the DEA out of Charleston. I wasn't there
12 those particular days when that happened. I did receive a
13 phone call from Lieutenant Singleton. Obviously, I worked
14 narcotics and therefore I have control of confidential
15 sources or just basic information that people will, you
16 know, you can call and ask around about what's going on or
17 what happened. So I received a phone call from Perry asking
18 can I look into my people or talk to some of my people,
19 whether I heard anything about that shooting that took place
20 in Lexington County.

21 Q Based on his request, did you go do that?

22 A I did. Someone called me the same day or maybe the
23 next day and told me that they needed to look into Shercon
24 (PHONETIC) Davis and them. That's what they said. You need
25 to look into Shercon Davis and them.

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1 Q As far as Damien Ritter and a burgundy SUV, did any of
2 your sources provide you any information with that?

3 A No, sir.

4 Q So as a narcotics Lieutenant or narcotics officer, when
5 we talk about a confidential informant, what does that mean
6 to a narcotics officer?

7 A Well, as far as narcotics there's a difference between
8 narcotics and criminal investigation obviously. Narcotics
9 investigations you kind of understand the logo (SIC) the
10 theory behind a confidential source or a confidential
11 informant is someone who's maybe working per se working for
12 the Hampton County Sheriff's office, actually did paperwork,
13 signed up, did fingerprints, and they'll actually provide
14 information or work as in going to buy drugs and things like
15 that for the Sheriff's office.

16 Q So for a confidential informant working for Hampton
17 County in your area, narcotics, you have files on those
18 people?

19 A Yes.

20 Q You have there fingerprints? You have agreements about
21 what they can do and not do, whether they're getting paid,
22 whether they've got charges and trying to work off charges?

23 A They sign an agreement and they sign an agreement
24 saying that you may have to testify. Those things are done
25 up front. You're exactly right, some of them are paid, some

CHAUNCEY SOLOMAN: DIRECT EXAMINATION

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1 of them are working off charges, but they all sign an
2 agreement to the fact that you are a confidential informant.

3 Q So, Lieutenant Soloman, you're in narcotics. What did
4 he do in his career?

5 A Perry was a criminal investigations investigator.

6 Q So he did crimes against people?

7 A Crimes against persons, homicides, things of that
8 nature.

9 Q In your time with Hampton County, was he ever a
10 narcotics officer or supervisor over narcotics?

11 A No, he never worked narcotics.

12 Q So do you have any idea when Lieutenant Singleton,
13 Investigator Singleton, when he used the term confidential
14 informant what it is that mean to him? Just from your
15 observation in working with him.

16 MR. PHILLIPS: Objection.

17 MR. GRAHAM: It's his opinion, Your Honor.

18 THE COURT: Overruled. You can answer.

19 A I think I can speak to that, because with me, with us,
20 it's the same way. Sometimes, Perry being an older
21 investigator, sometimes you use the word confidential
22 informant and you just really basically mean someone giving
23 you information. You just have to know the difference
24 between the two, the language, especially when it comes to
25 affidavits and things like that. If someone gives me

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1 information, like the person who called, they were not an
2 informant per se, just someone called me and gave me
3 information and said you need to look into Shercon Davis.
4 It's a source. It's a source of information, but he's not
5 actually a confidential informant meaning a documented
6 confidential informant.

7 Q To the best of your knowledge working with Lieutenant
8 Singleton for almost 26 years, did he have confidential
9 informants or did he have people who gave him information?

10 A I can't say whether he had informants or not, but I
11 know he would be one of those guys who people would give
12 information. He's one of those guys that if you need
13 information, you need to know where someone is at, Perry had
14 -- you know, Perry had been doing this since 1988. He's
15 connected to the community, especially the south-side. He
16 can get information. He could call people and be like I
17 need to know about this that and the other, and people would
18 call him. Not meaning they were actually documented
19 informants.

20 Q Do you know whether there was any animosity or ill will
21 from Lieutenant Singleton and Damien Ritter?

22 A I can't say that. I know the young man. I know his
23 family really well. I can't say there would be no animosity
24 between them.

25 Q So do you know of any reason, from your experience in

CHAUNCEY SOLOMAN: DIRECT EXAMINATION

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1 working with Lieutenant Singleton, that he would make up a
2 story about Damien Ritter?

3 A No. No. He wouldn't do that.

4 Q So you're down in Charleston working with the DEA Task
5 Force. What's your understanding of Lieutenant Singleton's
6 involvement and West Columbia coming down, Lexington County,
7 and the Marshall's units coming down looking for Damien
8 Ritter? What's your understanding of what was going on
9 during that early July time?

10 A Just basically what Perry told me. He told me there
11 was a shooting and that he needed some information,
12 basically some information about that. Just basic
13 information. Whatever it is that he told me, whether or not
14 they were going down there to look for a car -- a truck or
15 something.

16 Q Did he share with you the language in the affidavit?
17 Did you know that he claimed that someone told him ---

18 A Yes, he did. He said that it was a vehicle down there
19 with bullet holes in it. He did share that with me, yes.

20 Q Did he tell you the name of the person that he got that
21 information from?

22 A No, that's one of the things that we don't do even with
23 each other. It's just common practice. You just don't tell
24 where you get your information from.

25 Q So other than what you got from the CI about the other

CHAUNCEY SOLOMAN: DIRECT EXAMINATION

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1 individual that you mentioned earlier, all of your
2 information came from Lieutenant Singleton?

3 A Yes. That would be correct.

4 Q Do you remember if you had any conversations, either in
5 person or on the phone, with West Columbia about this case?

6 A They called me also and I provided that information.
7 They asked me did I heard anything else and I told them only
8 what I heard from Perry, along with the Shercon Davis.

9 Q All of your career at Hampton County you worked with
10 Lieutenant Singleton. What was his reputation in the
11 community for truthfulness?

12 A Perry don't -- he's not just out telling lies, if
13 that's where you're going. Perry was a -- he was a good
14 officer. He was an old school officer.

15 Q What you mean when you say old school?

16 A When I say that I mean -- education is not his strong
17 point. If you need information, you need to know something
18 about gathering information or getting people, Perry when it
19 comes to that he was on point. Now, when it came to writing
20 affidavits, the new era, the new way of policing writing
21 affidavits, knowing the difference between a confidential
22 informant and just someone that's snitching and giving you
23 information, just knowing that difference and knowing how to
24 put it together now wasn't his strong point. But so far as
25 him being a good officer, Perry was a good dude.

- 1 Q So he had a reputation for telling the truth?
- 2 A Yes.
- 3 Q You never heard otherwise?
- 4 A Nothing otherwise.
- 5 Q Until this allegation here in this case?
- 6 A Yes.
- 7 Q The first time that you've ever heard anybody say that
- 8 he's not being truthful?
- 9 A Yes.
- 10 Q Your opinion, your personal opinion -- so we talked
- 11 about his reputation among other people. Your personal
- 12 opinion?
- 13 A About Lieutenant Singleton?
- 14 Q Yes, sir.
- 15 A He was -- Perry was a good dude. He was a good, honest
- 16 police officer.
- 17 Q And knowing what you do about what we're talking about
- 18 today, that doesn't change your opinion, does it?
- 19 A Just give me a minute. I don't know where all this came
- 20 from about -- Perry was a good officer. He was a good
- 21 officer and a good person. He's the reason why a lot of us
- 22 are here, in the blue.
- 23 Q And if he said something you would believe him?
- 24 A Yes.
- 25 MR. BROWN: Your Honor, even though Mr. Phillips

CHAUNCEY SOLOMAN: CROSS-EXAMINATION

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1 objected, if I may do the examination?

2 THE COURT: Sure, go ahead.

3 CROSS-EXAMINATION

4 BY MR. BROWN:

5 Q Investigator Soloman, let me just ask you a couple of
6 things. Well, let's start with some general stuff. What is
7 the official policy of the Hampton County Sheriff's
8 Department regarding informant files?

9 A We have an informant file that we have. We have an
10 informant file, as far as the Hampton County Sheriff's
11 office narcotics division. I'm actually in control of that,
12 so we have a documented notebook if you will, a binder with
13 all of our documented informants with fingerprints,
14 pictures, pedigree information, that kind of information.

15 Q Does it contain information about the other times that
16 people have provided information and whether it turned out
17 to be truthful?

18 A Does it have information on how many times that we
19 actually worked with that person?

20 Q And whether it was fruitful.

21 A No.

22 Q So it doesn't have like a batting average?

23 A No.

24 Q What do you do when you find out information you have
25 been provided is not accurate? How is that documented in

CHAUNCEY SOLOMAN: CROSS-EXAMINATION

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1 their files?

2 A Well, if you happen to run across a situation that way
3 you probably would have to get rid of the informant. If he
4 gives you information --

5 Q --- for the next officer --

6 A --- and it's not true ---

7 Q I'm sorry.

8 A Say that again.

9 Q Go ahead and finish your sentence.

10 A If you run across an informant or a confidential source
11 who gives you information that's not true or you find out
12 that he's not reliable or he did something that's not
13 according to policy you would get rid of that informant.

14 Q Right. And how do you make sure that the next
15 detective after you retire, or the next one that comes
16 along, doesn't use that same guy?

17 A It should be noted in the informant's packet.

18 Q Who would know about the records kept for informants
19 outside of the narcotics division? Who at your agency is in
20 charge of that?

21 A Well, every particular division has their own Lieut..
22 Whose over that division I would say, for instance, I
23 wouldn't know what Lieutenant Perry Singleton and his people
24 would -- there informants. I would have no idea who would
25 they use for an informant. I wouldn't know that.

CHAUNCEY SOLOMAN: CROSS-EXAMINATION

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1 Q Right, so someone -- well, help me with this, was
2 Lieutenant Singleton in charge of the detectives?

3 A He was the lieutenant over the criminal investigations,
4 yes.

5 Q He's what we call Chief of D's, something like that?

6 A Chief of investigations.

7 Q Who would be above him though?

8 A The captain over operations, which would have been
9 Anthony Russell.

10 Q Who, today, would know the policy regarding the
11 detectives division and their informant records?

12 A Well, they have a new one. They have a new Lieutenant.
13 A gentleman by the name of Marty Clapp. He's the new
14 lieutenant over the criminal investigations.

15 Q So, for instance, I'm going to just show you this. So,
16 if in fact I served a subpoena looking for any informant
17 records, it shouldn't go to Ms. Williams? That would be the
18 wrong person to ask for it?

19 A No, that would be the correct. She's over that
20 division where it comes to Rule 5's.

21 Q Well, I'm talking about informant records like the
22 secret records you've got. That informant file you've got.
23 It would be in charge of those records, let's say between
24 now and Wednesday, to bring those records from Lieutenant
25 Singleton's department?

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1 A I would say if any informants -- if they have any
2 informant documentation it would be Lieutenant Marty Clapp
3 whose over the division per se.

4 Q There's times you use informants and they don't get
5 signed up, right?

6 A Like I said, the term informant it's basically someone
7 giving you information.

8 Q So, when you say somebody has been reliable in the
9 past, how do you track that if you don't write it down?

10 A Well, the officer tracks it. If I use ---

11 Q Honestly, my memory is probably not as good as yours,
12 but ---

13 A If I use you 10 times, if I need information from you,
14 you're not documented but I call you and say I need to know
15 such and such, such and such, and you call me back several
16 times and say yeah, this guy gave me good information.

17 Q Mr. Atkins came in and said he'd never been an
18 informant for Mr. Singleton, Lieutenant Singleton, but then
19 in turn Lieutenant Singleton comes in and says, no, I've
20 known this guy for eight years, and then turns around and
21 tells a different person that he's known him for 16 months
22 and somebody like His Honor would like to know which one it
23 really is, where would we find that answer?

24 MR. GRAHAM: Objection. He can't answer that question.
25 He doesn't know what was meant. You're looking at a

CHAUNCEY SOLOMAN: CROSS-EXAMINATION

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1 document that really is hearsay, that Singleton did not have
2 a chance to address. It was made -- a statement to somebody
3 else. We don't know -- he's trying to characterize what it
4 means and have somebody else interpret two other people's
5 meanings when they wrote something and try to get him to
6 justify it. The question is would he tell the truth or lie,
7 and I don't think this is the appropriate way to confront
8 him.

9 MR. BROWN: I've got to be honest. I am shortcutting
10 it. I am just trying to issue a subpoena to get the right
11 person to bring those records on Wednesday.

12 THE COURT: I think he indicated Lieutenant Marty Clapp
13 would have the information on that sort of thing about all
14 the CIs that had worked with the narcotics division.

15 WITNESS: No, not the narcotics division. Criminal
16 Investigations division. Narcotics is me.

17 THE COURT: I'm sorry. I stand corrected. Thank you
18 for clarifying that.

19 WITNESS: If there is such a thing. I just know
20 normally criminal investigations, if I need something it
21 don't have to be documented. I can call you and say can you
22 find out where is the car or did you seen a person. Do you
23 know where someone is at. That doesn't necessarily mean
24 that that person is a documented informant. Someone you get
25 information from.

CHAUNCEY SOLOMAN: CROSS-EXAMINATION

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1 Q Will let me ask you this, when you're swearing out a
2 search warrant -- well, let me just show you this one. I
3 think it's been up several times and you've been in here
4 this morning. That says confidential informant. Now, I've
5 heard testimony that that was typed by a West Columbia
6 police officer and I've also heard testimony that it was
7 typed from information provided by Lieutenant Singleton. So
8 how would I now find out to provide his honor the
9 information about whether that was really an informant or
10 merely a tipster? Given that those words are used
11 interchangeably sometimes.

12 A You would have to have Perry.

13 Q Okay, but we don't. That helps us, because he's not
14 here to tell us and we assume it meant the lower level
15 tipster or do we assume it meant informant?

16 A If you're asking me my opinion, I would think it's the
17 lower level because of Lieutenant Singleton, me knowing him.

18 Q Right. He had a lot of street information?

19 A Yes.

20 Q Fair enough. Do you know why he didn't just go by
21 (UNINTELLIGIBLE) when he got the phone call?

22 A Say again?

23 Q I mean, there's no easy way out of Estill. You can't
24 just escape to some other city real fast, can you? I mean,
25 with due respect.

CHAUNCEY SOLOMAN: CROSS-EXAMINATION

133

1 A Hampton County is 565 square miles. It's pretty big.

2 Q But there's no town you can get to within thirty
3 minutes except Hampton, is it?

4 A Well, if you're in Garnett it would take you about 45
5 minutes to get to Yamasee.

6 Q Fair enough. It's a quiet place.

7 A Yes. God's country. Just for the record.

8 THE COURT: I've been down there. Very nice.

9 MR. BROWN: I've been down there to watch a basketball
10 game. Y'all usually have some big lower state games in
11 basketball.

12 Q But you don't have any idea why they just didn't get
13 the Tahoe, did you?

14 A Can you repeat that. I didn't ---

15 Q Yeah, I mean, you may not know, because you haven't
16 really been involved in the case very much, but you never
17 heard why they didn't just get the Tahoe, did they? Did
18 you?

19 A Get the what?

20 Q The Tahoe. Just drive over there and get it.

21 A From what I'm seeing they got a search warrant to go
22 there.

23 Q Right, but they got a search warrant nine days later.
24 They got a tip on the 9th. On the night they got a tip that
25 the Tahoe was sitting there.

CHAUNCEY SOLOMAN: CROSS-EXAMINATION

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1 A I don't know. Maybe he went. I have no knowledge of
2 what happened. I don't know whether they went or not. I
3 really don't.

4 Q And you don't know who told the State that there was no
5 CI in this case, do you?

6 A No, sir. I don't.

7 Q And do you recall any information about there being
8 reluctance on Lieutenant Singleton's part to speak with the
9 State?

10 A The only thing I know is Perry was trying to protect
11 the person who was giving him his information because he
12 didn't want the retaliation. That came from Perry Singleton
13 to me. He said that he didn't want that information because
14 he was afraid for his informant. It's our job to protect
15 informants, people who give us information, because
16 obviously when people know you are snitching or giving
17 information they come try to hurt you. So Perry was trying
18 to protect his informant.

19 Q What he tell you about his feelings about Mr. Atkins
20 and Obretta, his sister?

21 A It was his sister. He was dating his sister.

22 Q Right. But they had been broken up by that time,
23 right?

24 A I think they're back together. I was told the other
25 day that they're together.

CHAUNCEY SOLOMAN: REDIRECT EXAMINATION

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1 Q Do you know if they are living in Orangeburg or living
2 in Hampton?

3 A In Hampton, back in Scotia.

4 Q Do you think y'all can find him, Mr. Atkins?

5 A I don't think he's hiding.

6 Q Fair enough. I take that as a yes.

7 MR. BROWN: I don't have any other questions, Your
8 Honor.

9 THE COURT: What is the population of Estill?
10 Ballpark.

11 WITNESS: Estill or Hampton County?

12 THE COURT: Estill. If you are in the city limits of
13 Estill, the area surrounding it. Maybe 3,000?

14 WITNESS: Maybe. Top end.

15 THE COURT: Top end. Not counting the prison.

16 WITNESS: Actually, the prison is right outside of
17 Estill. It's in the county. About 3,000.

18 THE COURT: So, probably a lot of people know each
19 other. 3,282 in 2019, so you were pretty close. Small
20 town. Lots of people know each other. Would that be an
21 accurate statement?

22 WITNESS: Oh, yes. Yes.

23 THE COURT: Follow up based on my questions?
24 Solicitor?

25 MR. GRAHAM: I just want to clear up one point, Your

CHAUNCEY SOLOMAN: REDIRECT EXAMINATION

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1 Honor, so there isn't any confusion.

2 REDIRECT EXAMINATION

3 BY MR. GRAHAM:

4 Q Do you remember talking, yourself, to two West Columbia
5 officers about Damien Ritter and the murders that West
6 Columbia was investigating?

7 A I did spoke with a West Columbia investigator. I don't
8 remember everything that we spoke about. Obviously, it was
9 on the phone, but I did spoke with them, yes.

10 Q So, you do remember talking. You don't remember
11 exactly what was said?

12 A Not every detail, no.

13 Q Hypothetically, if a West Columbia officer says that
14 they spoke with you and they got information about a
15 confidential informant seeing bullet holes in the car driven
16 by Damien Ritter at his house, if that happened, you don't
17 remember whether it did or not; correct?

18 A No.

19 Q If it did happen, that information came from Perry
20 Singleton to you?

21 A That would be correct. That would be correct.

22 MR. GRAHAM: Thank you.

23 THE COURT: Thank you. You can step down. Drive
24 safe. Let's go ahead and take a brief comfort break. Back
25 on the record in ten or fifteen minutes.

1 (WHEREUPON, A BRIEF RECESS WAS HELD.)

2 THE COURT: We will go back on the record. I think the
3 State has one more witness. Mr. Phillips is standing.

4 MR. PHILLIPS: I just had a quick question Your Honor.
5 There was testimony about Marty Clapp who might actually be
6 the right records custodian and the person to get the
7 informant documents for criminal investigations. We were
8 discussing, obviously, the need if we were to have a
9 follow-up query on Wednesday for which this seems necessary.

10 THE COURT: And likely.

11 MR. PHILLIPS: As far as doing a subpoena and then
12 having him served, obviously with the limited timeframe for
13 some logistics issues there.

14 THE COURT: I'd really suggest the last witness,
15 Lieutenant Soloman, seemed like a very helpful sort of
16 fellow. Maybe just fax it to him and ask him to let Mr.
17 Clapp know that he's needed here and figure out what would
18 be best to fit into his schedule, and maybe y'all could make
19 that call to see if he's willing to come as a courtesy,
20 especially with such little notice.

21 MS. FULLER: Your Honor, we'll make the call. We've
22 already discussed it.

23 THE COURT: Thank you.

24 MR. PHILLIPS: Do you want to stop also fax it, or
25 because they're making the call I just want to make sure

ASHLEY ALDRIDGE: DIRECT EXAMINATION

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1 were not double dipping.

2 THE COURT: Yes, by all means. It sounds like he's
3 going to be on the way. Do you have an additional witness,
4 Ms. Fuller?

5 MS. FULLER: Yes, Your Honor. Thank you. Investigator
6 Ashley Aldridge.

7 WHEREUPON, ASHLEY ALDRIDGE, having
8 first been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. FULLER:

11 Q Thank you, Investigator Aldridge. Where you currently
12 employed?

13 A West Columbia Police Department.

14 Q What is your current rank there?

15 A An investigator in narcotics.

16 Q Do you also have any other titles? Do you work for any
17 other agency?

18 A No, just West Columbia.

19 Q Okay, I'll get to it later. I apologize. I'm going to
20 approach the witness and hand you what's been re-marked as
21 Court's Exhibit 9. I'm going to ask if you recognize it.

22 A I do.

23 Q What do you recognize that to be?

24 A My handwritten notes during the Ritter case.

25 Q And would this be all the notes that you've made during

ASHLEY ALDRIDGE: DIRECT EXAMINATION

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1 this case?

2 A They are.

3 Q What's displayed here on the overhead, are these your
4 notes from July 6, 2018?

5 A Yes.

6 Q And how do you recognize those to be your actual notes?

7 A They're in my handwriting. I also remember writing
8 them.

9 Q Can you explain to the Court your note taking procedure
10 generally?

11 A Usually, once I start a line of notes, on the left-hand
12 column I will put the date and time, notating or
13 memorializing when I started a correspondence and when I
14 start a new one I put another date and time, knowing that
15 it's a different correspondence.

16 Q Before we dive briefly into your notes and your
17 involvement, can you explain to the Court how you became
18 involved in this case to begin with?

19 A Upon discovering that we were investigating a double
20 homicide, all the investigators, regardless of assignment,
21 pitch in and assist with the major investigation.

22 Q So even though you weren't the actual case assigned
23 officer, you stepped in and perform some duties in this
24 case?

25 A That's correct.

ASHLEY ALDRIDGE: DIRECT EXAMINATION

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1 Q And since this isn't your case, would you be solely
2 relying on notes that you took back then?

3 A That's correct.

4 Q I'll ask this as plain as I can. If you wrote it down
5 would you stand by what you wrote?

6 A I would.

7 Q You describe your note taking method, and you said July
8 6, 2018 at 9:02, would that indicate that this is when you
9 began this note or close in time, or something of that
10 nature?

11 A That's correct.

12 Q And can you let the Court know what did you do at 9:02
13 approximately on July 6, 2018?

14 A At 9:02 on July 6, 2018 I called Hampton County
15 Sheriff's office in reference to a request to assist
16 identifying an individual known as Damien, AKA "Black".

17 Q Did you ask for a specific person when you called the
18 Hampton County Sheriff's office?

19 A I initially requested someone who's in either street
20 crimes or narcotics.

21 Q And who did you end up speaking with?

22 A I ended up speaking with Lieutenant Singleton.

23 Q Just so it's clear, did you have options when you spoke
24 with him in terms of we have so and so, and so and so, and
25 so and so available, and you chose Singleton?

ASHLEY ALDRIDGE: DIRECT EXAMINATION

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1 A No, I was directed on opening contact with Detective
2 Singleton.

3 Q Just so it's clear, prior to this day and time did
4 Detective Singleton ever reach out to you?

5 A No.

6 Q Did he ever reach out, to the best of your knowledge,
7 the day before wanting to get involved in this case?

8 A He did not.

9 Q So, is it safe to say his involvement was initiated by
10 your contact looking for information?

11 A That is correct.

12 Q What information did you provide to Lieutenant
13 Singleton?

14 A I provided a set of descriptors for our person of
15 interest in this case, being a black male between 20-25
16 years old, 5'4-5'7, 165 pounds approximately, generally wore
17 a gold grill, drives a red Tahoe, dark-skinned male, known
18 as Damien, AKA "Black".

19 Q After that conversation with Detective Singleton, was
20 he able to provide you with a full name for the suspect that
21 you had at the time?

22 A He did. He provided me with the name Damien Ritter.

23 Q Once he provided you with that information, did you use
24 that information for any follow-up investigation?

25 A I did. I used that name, conducted a search on DMV

ASHLEY ALDRIDGE: DIRECT EXAMINATION

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1 online, which is an investigative tool that we have, located
2 an individual known or listed as Damien Ritter. Bear with
3 me. This has been quite some time. I did a vehicle search
4 for that individual and it came back to a Chevy Tahoe with a
5 VIN number -- do you want me to read it out?

6 Q That's okay. But you were able to confirm that he had
7 a Chevy Tahoe registered to him?

8 A That is correct.

9 Q I want to back up for a second, because I'm not sure I
10 covered this with you, so it's not lost in the record. What
11 made you reach out to Hampton County to begin with?

12 A Just in our earlier meeting and discussion I received
13 information that the individual may be from the Estill area.
14 Knowing Estill is in Hampton County, I immediately reached
15 out to Hampton County just as an investigative hunch.

16 Q Perfect. Thank you for clarifying that. Once you are
17 able to confirm that a Chevy Tahoe was registered to Damien
18 Ritter, what else, if anything, did you do?

19 A I reached out to SLED for a request for information, or
20 an ROI, for any tags that matched the tag registered to the
21 Chevy Tahoe, which is 8839 LW I believe from my faded notes
22 here. SLED returned this information showing it on a red
23 Chevy Tahoe from 6/9/2018. That vehicle appeared to be
24 consistent with one described in the incident.

25 Q Do you know who described the vehicle?

ASHLEY ALDRIDGE: DIRECT EXAMINATION

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1 A I believe our surviving victim.

2 Q So, is it important to you as an investigator to
3 identify the color of the Tahoe that was registered to Mr.
4 Ritter?

5 A That is correct.

6 Q Just so it's clear, the registration information, it
7 does not contain the color of the vehicle?

8 A It does not.

9 Q And that's why you took the extra step to obtain LPR on
10 the vehicle?

11 A That is correct.

12 Q You received the name from Perry Singleton. Is it safe
13 to say that you relied on that information and it led to
14 corroborating information for the case you are investigating
15 against Mr. Ritter?

16 A That is correct.

17 Q I want to point you to the first page of your notes,
18 the top portion of it. You wrote a phone number at the top
19 in parentheses. What is the phone number that you wrote?

20 A [REDACTED].

21 Q And on the second page of your notes, the line where
22 you began at 9:32 AM you also recorded a phone number there?

23 A I did.

24 Q What phone number did you record there?

25 A [REDACTED].

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1 Q Who did you speak with on that phone number?

2 A Detective Singleton.

3 Q So, is it safe to say that you believe that is his
4 phone number?

5 A That is correct.

6 Q Because that's the phone number that you corresponded
7 with, it looks like, at least twice?

8 A Yes.

9 Q In looking at Court's 8, do you also see that phone
10 number on this Verizon portion of this Verizon bill?

11 A Yes.

12 Q Can you describe where it's located for the record?

13 A It's located next to the details for Perry Singleton
14 [REDACTED].

15 Q So, just common sense understanding, would you believe
16 that these were copies of his phone records?

17 A Yes.

18 Q Looking back at your notes were going to jump over now
19 to the last page on July 9, 2018. What time did you begin
20 this portion of your notes?

21 A 8:56 AM.

22 Q What happened at 8:56 AM?

23 A I received a call from Detective Singleton

24 Q. Now, you didn't write his phone number again they are,
25 but do you recall or believe it was the same phone number

ASHLEY ALDRIDGE: DIRECT EXAMINATION

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1 you corresponded with him three days prior?

2 A It was. He only called me from one number.

3 Q Looking back at Court's 8, looking at July 9 at 8:56

4 AM, can you please publish that number?

5 A [REDACTED].

6 Q Whose phone number is that?

7 A That's mine.

8 Q And is that your personal or County issued phone?

9 A It's my city issued phone.

10 Q At 8:56 AM on July 9, is it safe to say that you

11 communicated with Investigator Perry Singleton?

12 A Yes.

13 Q Just so the record is clear, do you see your number

14 three other times as well?

15 A I do. I see it at 8:59 and 9:15 and 9:17.

16 Q Going back to your notes, what information did you

17 receive, if any, on July 9, 2018 at approximately 8:56 AM or

18 in the minutes thereafter?

19 A I received a call from Detective Singleton who advised

20 the suspect vehicle was seen at [REDACTED] Roberts Lane in Estill by

21 a CI between the hours of 8:00 AM and 8:50 AM on 7/9/18.

22 Q You wrote "C slash I". What does that stand for for

23 you?

24 A Confidential informant.

25 Q Do you recall if those were your words or investigator

1 singletons words?

2 A They were his words.

3 Q Did you have any discussion in that conversation about
4 any of the details about the CI that he referenced?

5 A I just asked if the CI had provided valid information
6 in the past and if the CI was reliable.

7 Q Do you recall if you -- I think you're referring to the
8 bottom of those notes. Do you recall if you -- you're
9 referring to down here?

10 A Yeah, I was. My apologies.

11 Q I'm going to have you, just so it's clear before we
12 jump down there, publish all your notes into the record. I
13 think you stopped at...

14 A I stopped at 7/9/18.

15 Q Then keep reading.

16 A (READING) I spoke with Detective Solomon HCSO, Hampton
17 County Sheriff's office, who advised that the same CI
18 advised him that the vehicle had quote bullet holes end
19 quote in it. The CI also advised that two other subjects
20 were present. I was provided with the name of Shercon Davis,
21 black male, 30-35 -- I believe I meant to write as, but and,
22 the second subject would be provided later once the CI
23 advised us. Detective Solomon advised the CI had provided
24 valid information in the past and is reliable.

25 Q Okay, so in terms of this note, the information here

ASHLEY ALDRIDGE: DIRECT EXAMINATION

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1 it's a mix of getting information from Detectives Singleton
2 and Solomon?

3 A That's correct.

4 Q And before today had you seen him in person? I'm not
5 sure if you had met him before?

6 A Never.

7 Q But that's who you would have spoke to on the phone?
8 The individual that testified prior. Is -- I know it's been
9 a while, so in terms of the date and the time., And you just
10 tell me if you know the answer to this question or you don't
11 know. But at the time that you were collecting information
12 about looks like the vehicle and where it was, did you have
13 information whether or not the defendant was still a
14 fugitive at that time?

15 A I was under the impression he was still a fugitive.

16 Q Did you yourself ever go looking for him?

17 A I did not.

18 Q Did you have any knowledge of others looking to arrest
19 him?

20 A I was under the belief that they had been continuously
21 set out to try and locate the subject.

22 Q Do you know where they were looking to locate him?

23 A Hampton County.

24 Q Do you have any knowledge if anyone ever went to
25 Hampton County prior to his arrest on the 13th, of going

ASHLEY ALDRIDGE: DIRECT EXAMINATION

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1 down to Hampton County?

2 A Yes, the U.S. Marshall's Service.

3 Q And how do you know that information?

4 A At the time, I was a special deputy on the US
5 Marshall's Service.

6 Q And you are no longer serving with them now?

7 A No, they've ended the program.

8 Q But at the time you had that information?

9 A That's correct.

10 Q I know you may not remember the date, but do you recall
11 how you came about that actual information?

12 A Between speaking with my liaison at the Marshall's
13 service and my direct supervisor, Bruce Wade.

14 Q I don't believe you've seen the search warrant in this
15 case. I'm not sure, but if you could take a moment and read
16 this sentence.

17 A On July 9, 2018 information was received from an
18 Investigator Singleton from the Hampton County Sheriff's
19 office that a confidential informant witnessed Mr. Ritter's
20 Tahoe with bullet holes in it earlier that day at Ritter's
21 home located at ■ Roberts in Estill, South Carolina.

22 Q When it comes to that sentence, do you have any
23 knowledge whether that sentence is true or false?

24 A To the best of my knowledge that sentence is true.

25 Q And why do you believe that's true?

ASHLEY ALDRIDGE: CROSS-EXAMINATION

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1 A Because, in speaking with Investigator Singleton, he
2 provided me with information that reads the same.

3 Q And so this portion of the search warrant would have
4 come from information you provided to Investigator Daes when
5 he drafted the search warrant?

6 A That is correct.

7 MS. FULLER: No further questions at this time.

8 THE COURT: Cross?

9 CROSS-EXAMINATION

10 BY MR. BROWN:

11 Q Investigator Aldrich, let me ask you -- you've got some
12 involvement beyond just that next day. Do you recall that
13 statement that there was no CI?

14 A (NO RESPONSE)

15 Q Have you ever heard that before?

16 A That there was no CI?

17 Q Yes, sir.

18 A I've never heard that.

19 Q Did Singleton say he knew the CI for eight years?

20 A He never mentioned it.

21 Q How about 16 months?

22 A Never mentioned it.

23 Q Did he tell you there were two CIs?

24 A No.

25 Q He never said that.

1 A (NO RESPONSE)

2 Q Now, do you recall there being some reluctance for
3 investigator Singleton to speak about his informant?

4 A I do not.

5 Q Did you ever find him reluctant to speak?

6 A No.

7 Q I'm just going to -- that is a filed court order. Let
8 me -- in the very beginning and just kind of go through it.
9 Once the court reconvened, the State explained that --
10 having -- there actually was no CI.

11 MS. FULLER: Objection, Your Honor. We've covered
12 this, and it's just mis-characterizing what actually
13 happened on the transcript. This is a mis-characterization.
14 A mis-statement. At one point you even said this was a bond
15 order. I don't think this is appropriate for cross of this
16 witness.

17 MR. BROWN: Well, I'm not characterizing it.

18 THE COURT: That's my order, so I think I should take
19 ownership of it. I used CI as a term of art at the time as
20 opposed to --

21 MR. BROWN: I'm trying to find out where it came from,
22 Judge. I don't mind telling you exactly.

23 THE COURT: It came from my computer, so --

24 MR. BROWN: Noted, but that there was no CI, that
25 discussion is in that November transcript. It was

ASHLEY ALDRIDGE: CROSS-EXAMINATION

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1 telegraphed ---

2 MS. FULLER: What's clear in the transcript is that the
3 individual was not technically a documented confidential
4 informant. Your Honor, even at the end of that you even
5 said -- threw your hands up and said -- suggesting that it
6 was just mere, who knows. They could be a tipster. Could
7 be this. We knew that the person existed, what they were
8 classified as was the issue, so if he's constantly saying
9 there was no CI suggest there was no person and there is a
10 person. That has never been questioned. That has never
11 changed. Just what was represented to the Court is that a
12 confidential informant document did not exist. So, I think
13 this is a mis-characterization. I think it's improper and
14 it's definitely improper for this witness.

15 THE COURT: Here's how we are going to address it.
16 Obviously, let's assume for the moment that your
17 characterization of everything is reasonable and correct.
18 Obviously, a lot of the reason that were having this *Franks*
19 hearing in the first place is because of that very
20 characterization, okay? CI is a term of art. We know it is
21 a term of art. It's like negligence, okay? Confidential
22 informant and negligence may have common meanings to
23 ordinary people or John Q. Public, but it has specialized
24 meaning to us. I acknowledge that. I understand that. I'm
25 going to let him ask this witness questions. The record

1 reflects what the record reflects, and we'll simply see
2 where this goes, so objection is noted. It's overruled.
3 You can continue.

4 Q Thank you, Your Honor. I just wanted to ask you, do
5 you know anybody that's ever said something about that?

6 A No.

7 Q Okay. Just -- I'm going to ask very broadly and open,
8 have you ever heard anything -- open question, what have you
9 ever heard about a tipster or what have you heard about
10 there being a source, or no CI, or a source that was not a
11 CI but a source? I mean, what can you tell us about
12 anything that might help understand -- and already put this
13 back -- what that -- how this could have come up?

14 A You asked a couple of questions ---

15 Q Okay, because I tried to -- I'm trying to not twist up
16 words. I'm trying to make it as open as possible. While
17 this statement right here and it goes over to this page, and
18 I'm hoping you can tell me what you know about the substance
19 of that statement. I don't know how to ask it any broader.

20 A Well, that's my first time seeing that statement.

21 Q You may not know anything about it.

22 A So, just to clarify on your question, sir, I was
23 informed that it was a CI. In response to finding out it
24 was a CI I asked the question -- sorry for the redundancy,
25 but if that individual has provided valid information in the

ASHLEY ALDRIDGE: CROSS-EXAMINATION

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1 past and is reliable. That was the only measure that I had
2 in speaking with Detective Singleton in validating his CI.

3 Q Okay. And you wanted to know, because it does make a
4 difference whether somebody is a mere source or there
5 actually a reliable person that you can go take action based
6 upon their word.

7 A In some instances, yes.

8 Q Fair enough. So, let me ask you this. When you got
9 Investigator Solomon -- and let me just for the record --
10 you were in here for his testimony, right?

11 A I was.

12 Q And did you hear him mention that he keeps files on his
13 confidential informants?

14 A I did hear him say that.

15 Q Is there any question that Detective Solomon told you
16 that this person had provided reliable information in the
17 past?

18 A I'm sorry. Say that one more time.

19 Q That it was not Singleton, but Solomon says -- I'm
20 trying to hold you there, provided reliable information in
21 the past. Do you see that?

22 A Yes, it's possible. I do remember speaking to both of
23 them, and I believe as the individual testified earlier that
24 there have been some cross information between the two
25 validating said information between the two of them.

1 Q Okay, is that in some notes?

2 A You have my notes.

3 Q Okay, about there being some cross information between
4 the two of them, them being Singleton and Solomon?

5 A No, you have my notes. I mean, that's how I received
6 the information.

7 Q Okay. If it involved you, who was driving, Soloman or
8 Singleton?

9 A Soloman.

10 Q And Solomon told us today he has files on his
11 informants.

12 A Yeah.

13 Q Okay. And do we know why we are getting information
14 from the Sheriff's Department that there's no records
15 related to this case?

16 A I wouldn't have a clue.

17 Q Okay, because if Solomon keeps records and Solomon told
18 you that the informants reliable in the past, there's some
19 reason to believe there's some records in Solomon's
20 informant file, right?

21 A That would be a great question for Solomon. I can't
22 attest to Hampton County's policies or procedures.

23 Q You got it. Up here on this, the vehicle had bullet
24 holes in it. Now, are these two different phone calls? Or
25 what?